

## **RELEASE OF INFORMATION**

The attached decision/information was previously included in a confidential agenda/minutes for the Joint Shareholders Committee meeting on 27 April 2023.

The reasons for withholding the information no longer apply, the information is therefore being made publicly available.

### **Moved Councillor Maling/Councillor Dowler**

#### **JSC23-04-1**

#### **That the Joint Shareholders Committee**

- 1. receives the Reappointment of Directors to Port Nelson Ltd report, RJSC23-04-7; and**
- 2. reappoints Jonathan Safey to the Board of Port Nelson Limited for a three-year term beginning 1 June 2023 and ending on 31 May 2026; and**
- 3. notes that the Joint Policy of Nelson City Council/Tasman District Council for the appointment of directors to Council Controlled Organisations (CCOs) and Council Controlled Trading Organisations (CCTOs) has not been fully complied with; and**
- 4. authorises the Tasman District Council (the administering council) staff to give notice to Jonathan Safey and Port Nelson Limited of the appointment; and**
- 5. notes the reappointment by Tasman District Council of Paul Zealand for a further three years commencing on 1 July 2023 and ending on 31 July 2026; and**
- 6. agrees that the decision and report be made publicly available once the appointment process is finalised.**

**CARRIED**

2023

**9.3 REAPPOINTMENT OF DIRECTORS TO PORT NELSON LTD - CONFIDENTIAL**

<b>Report To:</b>	Joint Shareholders Committee
<b>Meeting Date:</b>	27 April 2023
<b>Report Author:</b>	Tim King, Mayor; Marie Callander, Senior Legal Advisor; Mike Drummond, Group Manager - Finance
<b>Report Number:</b>	RJSC23-04-7

This report is confidential in accordance with the Local Government Official Information and Meetings Act 1987 (s7(2)(a)) - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person.

**1 Purpose of Report**

- 1.1 To consider the reappointment of Jonathan Safey as a director of Port Nelson Limited (**PNL**) for a further term of three years.

**2 Recommendation**

**That the Joint Shareholders Committee**

1. receives the Reappointment of Directors to Port Nelson Ltd report, RJSC23-04-7; and
2. reappoints Jonathan Safey to the Board of Port Nelson Limited for a three-year term beginning 1 June 2023 and ending on 31 May 2026; and
3. notes that the Joint Policy of Nelson City Council/Tasman District Council for the appointment of directors to Council Controlled Organisations (CCOs) and Council Controlled Trading Organisations (CCTOs) has not been fully complied with; and
4. authorises the Tasman District Council (the administering council) staff to give notice to Jonathan Safey and Port Nelson Limited of the appointment; and
5. notes the appointment by Tasman District Council of Paul Zealand for a further three years commencing on 1 July 2023 and ending on 31 July 2026; and
6. agrees that the decision and report be made publicly available once the appointment process is finalised.

2023

**REAPPOINTMENT OF DIRECTORS TO PORT NELSON LTD**
**3 Background and Discussion**

- 3.1 At its meeting on 18 May 2020, the Joint Shareholders Committee approved the appointment of Mr Safey to the PNL board of directors for a term of three years commencing on 1 June 2020 and ending on 31 May 2023.
- 3.2 Mr Safey has informed the Board of PNL that he wishes to be reappointed for a further three-year term from 1 June 2023 and the Board, after noting the composition of the Board, resolved at its meeting on 21 February 2023 to support Mr Safey's reappointment for a further three-year term.
- 3.3 Mr Safey's reappointment was intended to be considered by IHL however, the delay in setting up IHL means that we need the Joint Shareholders Committee to make the reappointment.
- 3.4 A report recommending the reappointment of Paul Zealand to the Board of PNL is being presented to the Tasman District Council at its 27 April 2023 meeting. The Joint Shareholders Committee (at its meeting on 17 November 2020) approved the adoption of a policy of joint appointment by Nelson City Council and Tasman District Council of all directors of Council Controlled Organisations (and staff understand that it was the intention of both councils that the policy would cover PNL). However, due to the necessary amendments to the PNL constitution to provide for all directors to be jointly appointed not yet being completed, Mr Zealand's appointment needs to be made by Tasman District Council.

**4 Options**

- 4.1 The options are outlined in the following table.

<b>Option 1: Reappoint Mr Safey to the Board of PNL</b>	
Advantages	<ul style="list-style-type: none"> <li>Provides governance continuity for PNL.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>The Council does not have the benefit that may result from a market recruitment process.</li> </ul>
<b>Option 2: Not reappoint Mr Safey to the Board of PNL</b>	
Advantages	<ul style="list-style-type: none"> <li>The Council would have the opportunity to obtain any benefits that may result from a market recruitment process.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>Cost and delay inherent in initiating a market recruitment process.</li> </ul>

**Option 1** is recommended.

2023

**REAPPOINTMENT OF DIRECTORS TO PORT NELSON LTD**

<p><b>5 Considerations for Decision Making</b></p>
<p><b>5.1 Fit with Purpose of Local Government</b></p> <p>The reappointment of Mr Safey as a director of PNL is consistent with the purpose of local government to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.</p>
<p><b>5.2 Consistency with Community Outcomes and Council Policy/Legal requirements</b></p> <p>The Joint Policy of Nelson City Council/Tasman District Council around the appointment of directors to Council Controlled Organisations (<b>CCOs</b>) and Council Controlled Trading Organisations (<b>CCTOs</b>) has not been fully complied with in that:</p> <ul style="list-style-type: none"> <li>• the Joint Policy does not strictly include PNL which is a port company and not a CCO or CCTO (however, the Councils have, for practical decision-making purposes throughout the operation of the Joint Shareholders Committee, included PNL as if it were a CCO/CCTO under the Local Government Act 2002); and</li> <li>• the Co-chairs of the Joint Shareholders Committee have not made confidential enquiries of the chairperson of the PNL Board about the appropriateness of reappointing Mr Safey.</li> </ul> <p>Notwithstanding this non-compliance with the Joint Policy, given the support of the Board of PNL (recorded in a resolution at its meeting on 21 February 2023 noting the composition of the Board regarding directors' tenures) for the reappointment of Mr Safey, staff recommend that the Joint Shareholders Committee reappoint Mr Safey to the Board of PNL.</p> <p>Although PNL is not a CCO or CCTO and so the Joint Policy of Nelson City Council/Tasman District Council around the appointment of directors does not strictly apply to PNL, the Councils have for practical decision-making purposes throughout the operation of the Joint Shareholders Committee included PNL within the delegated authority of the Joint Shareholders Committee, including when appointing directors to PNL.</p>
<p><b>5.3 Strategy and Risks</b></p> <p>The recruitment and appointment of directors is a relatively routine matter and given the support of the Board of PNL for the reappointment of Mr Safey, staff are comfortable that the reappointment does not raise any issues in relation to Councils' strategy or increase risk for the Councils.</p>
<p><b>5.4 Financial impact/Budgetary implications</b></p> <p>There are no financial or budgetary implications for the Councils in the decision to reappoint a Director.</p>

2023

## REAPPOINTMENT OF DIRECTORS TO PORT NELSON LTD

The remuneration of Directors is a company matter and Directors' remuneration is met by the Company. Any successful appointee is remunerated by the Company in accordance with the current Directors' fee structure.

### **5.5 Degree of significance and level of engagement**

We assess the level of significance as low. This is a routine decision, and the Joint Shareholders Committee can rely on their knowledge of the views and preferences of the community.

### **5.6 Climate Impact**

There is no climate impact.

### **5.7 Inclusion of Māori in the decision-making process**

No engagement with Māori has been undertaken in preparing this report.

## **6 Conclusion and Next Steps**

- 6.1 An appropriate appointment process has been followed and the reappointment of Mr Safety would be an appropriate decision.

## **7 Attachments**

Nil