**Date:** Thursday 19 April 2018  
**Time:** 9.30am  
**Meeting Room:** Reception Lounge  
**Venue:** Auckland Town Hall  
301-305 Queen Street  
Auckland

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**Governing Body**

**OPEN MINUTE ITEM ATTACHMENTS**

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**Note:** The attachments contained within this document are for consideration and should not be construed as Council policy unless and until adopted. Should Councillors require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Land Transport Management (Regional Fuel Tax) Amendment Bill

19 April 2018
Land Transport Management (Regional Fuel Tax) Bill

- The Bill passed its first reading on 28 March 2018
- Referred to the Finance and Expenditure Select Committee, which has called for written submissions (due on 20 April 2018)
- It is enabling legislation
- An RFT scheme can only triggered by a proposal prepared by a regional council (and approved by Ministers)
- Initially only available to Auckland, other regions from 1 January 2021
- We are seeking Governing Body approval of an Auckland Council submission to the Select Committee
Auckland Council submission

- The key submission points are:
  - Support the policy of the Bill to enable councils to obtain additional funding for transport infrastructure
  - Support the transitional provisions
  - Support the Bill’s approach to establishing and maintaining an RFT scheme
  - Support a clearly defined exemption and rebate scheme
  - Suggested improvements:
    - Interest recognised at a programme level
    - Variation and termination
    - Other minor technical issues
Local Board feedback

- Three Local Boards have provided formal feedback on the RFT Bill, which will be provided to the Select Committee with the submission.
- The Great Barrier Local Board would like the Bill to be amended to allow it to be excluded from the region for which a fuel tax applies. It also wants to ensure fuel for generators, as well as for boats, are exempt or subject to a rebate.
- The Rodney Local Board suggest that the Bill should:
  - reflect that congestion issues need to be addressed by other funding sources
  - ensure that farming, rural operations or marine activities are exempt or subject to a rebate
  - require a council to assess the impact of the tax on road users or others who may be impacted by it
  - require councils to assess and address any disproportionate impact of the tax and determine if it is an appropriate financial tool in any given circumstance
  - require that a capital project that is included in a proposal will have benefits that extend across the region
Local Board feedback

- The Franklin Local Board:
  - supports the introduction of a mechanism to fund transport infrastructure programmes that would otherwise be delayed or not funded
  - is not convinced a regional fuel tax is an appropriate long-term funding mechanism
  - if a regional fuel tax is introduced it should be a temporary measure leading to the development of a congestion charging mechanism
  - part of the tax revenue gained should be applied to development of infrastructure to enable congestion charging
  - an RFT scheme should be reviewed in 10 years (a maximum 10 year duration is not supported)
CONFIDENTIAL: Chief Executive's Employment Review Process

File No.: CP2018/04449

Matapatutanga / Confidentiality

<table>
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<th>Reason:</th>
<th>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</th>
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| Interests: | s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person.  
            | s7(2)(ii) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). |
|          | In particular, the report contains information that relates to the Chief Executive’s employment review process. Committee members may discuss matters relating to the Chief Executive’s current performance, changes to the Chief Executive’s contract, and the terms and conditions of the Chief Executive’s employment. |
| Grounds: | s48(1)(a)  
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7. |

Te take mō te pūrongo / Purpose of the report

1. To advise the Governing Body of its options in relation to the expiry of the Auckland Council Chief Executive’s employment contract, and to consider a request from the Appointments, Performance Review and Value for Money Committee to amend that committee’s Terms of Reference to enable it to conduct an employment review of the Chief Executive.

Whakarāpopotangatanga matua / Executive summary

2. The Chief Executive’s employment contract expires on 31 December 2018. The Governing Body has two options:
   - publicly advertise the vacancy for a new five-year term, or
   - extend Mr Town’s current contract by up to a further two years without the need to advertise the vacancy.

3. Mr Town advised the Appointments, Performance Review and Value for Money Committee that he would like an extension to his contract to be considered.

4. A local authority cannot automatically reappoint the Chief Executive on expiry of their contract. Under the Local Government Act 2002 (LGA 2002) the Governing Body must first complete an employment review of the Chief Executive. This should be completed not less than six months before the expiry of the Chief Executive’s contract. For Auckland Council, this would need to be completed by 30 June 2018.

5. Under Schedule 7 of the LGA 2002, the employment review must assess:
   - the performance of the Chief Executive
   - the mix of skills and attributes possessed by the Chief Executive, and the degree to which they are consistent with the skills and attributes that the council considers necessary for the future
   - any other factors the council considers relevant.
6. It is the Governing Body’s responsibility to ensure the employment review is completed within the required timeframes. The Governing Body can either undertake the employment review itself or it can ask the Appointments Performance Review and Value for Money Committee (APRVFM Committee) to complete the review. A review by the APRVFM Committee would be consistent with the intent of that committee.

7. Ultimately, only the Governing Body can appoint the Chief Executive and so the decision to advertise a vacancy or extend the Chief Executive’s contract can only be made by the Governing Body. The APRVFM Committee’s role would be to manage the Chief Executive’s employment review process and to make a recommendation to the Governing Body.

8. The APRVFM Committee’s delegation is not currently broad enough to fulfil the obligations under Schedule 7, LGA 2002. The APRVFM Committee’s Terms of Reference need to be amended to include the employment review.

9. If agreed by the Governing Body, the proposed timetable for the employment review is:
   - 19 April 2018: The Governing Body receives advice on the Chief Executive’s terms of employment and agreement is sought to amend the APRVFM Committee’s Terms of Reference to undertake an employment review
   - 3 May and 7 June 2018: The APRVFM Committee receives advice to support its conversation with the Chief Executive, and the committee completes its requirements under the LGA 2002 by 30 June 2018
   - from late June 2018: The Governing Body receives advice from the APRVFM Committee and considers its options in relation to the Chief Executive’s contract.

10. The APRVFM Committee considered advice at its meeting on 4 April 2018 (refer to Resolution number APP 2018/21), and recommends the options contained in this paper to the Governing Body.

Ngā tūtohunga / Recommendation/s

That the Governing Body:

a) note that the Auckland Council Chief Executive’s employment contract expires on 31 December 2018 and that the Governing Body can either publicly advertise a vacancy or extend the incumbent Chief Executive’s contract by up to a further two years without advertising a vacancy.

b) note the process required under Schedule 7 of the Local Government Act 2002 for Auckland Council to undertake an employment review of the Chief Executive before 30 June 2018.

c) agree that the Appointments, Performance Review and Value for Money Committee has formal delegation from the Governing Body to undertake the Chief Executive’s employment review to be completed by 30 June 2018.

d) agree the following changes to the Appointments, Performance Review and Value for Money Committee’s Terms of Reference:

   [Existing delegation remains]
   “Review the Chief Executive’s performance and recommend to the Governing Body the terms and conditions of the Chief Executive’s employment, including performance agreement measures and annual remuneration.”

   [Additional delegation]
   “Conduct and complete a review of the Chief Executive’s employment under clause 35 Schedule 7 Local Government Act 2002 and make a recommendation to the Governing Body under clause 34 Schedule 7 Local Government Act 2002.”
Governing Body
19 April 2018

e) agree that the Appointments, Performance Review and Value for Money Committee will report back to the Governing Body from late June 2018 on the outcome of the Chief Executive employment review.

f) note that the Governing Body alone has the legal authority to extend the Chief Executive’s contract and that a decision is required as soon as practicable after the Appointments, Performance Review and Value for Money Committee reports back with its recommendation to the Governing Body from late June 2018.

Restatement

H) agree that this report will remain confidential until the conclusion of the Governing Body meeting on 19 April 2018.

Horopaki / Context

11. Mr Town was appointed by the Governing Body to the role of Chief Executive of Auckland Council in November 2013 following an open international recruitment process. In relation to that process:
   • a total of 118 applications were received for the position, with a large proportion of applications received from overseas
   • three shortlisted candidates were presented to the Governing Body for interview
   • the Governing Body interview was supported with an evaluation report for each candidate completed by an expert external recruitment agency, reference enquiries on each candidate, and psychometric assessment summaries
   • the recruitment process took 12 months to complete, from the initial process approval by the Governing Body through to contract signature.

12. Mr Town is the first Chief Executive appointed by the Governing Body, with the former Chief Executive appointed by the Auckland Transition Agency.

13. Mr Town was appointed for a five-year term commencing from January 2014. Mr Town’s contract expires on 31 December 2018.

14. Under the Local Government Act 2002, a local authority Chief Executive is appointed for a five-year term. At the expiry of the first term, a local authority can either publicly advertise the vacancy for a new five-year term, or it can extend the incumbent Chief Executive’s term by mutual agreement for a further two years without having to advertise the position. The position must be advertised at the completion of a five plus two-year term.

Tātaritanga me ngā tohutohu / Analysis and advice

15. To exercise the option of extending the Chief Executive’s employment contract, the Governing Body is required to undertake an employment review at least six months before the Chief Executive’s current contract expires. This means a full employment review for Mr Town will need to be completed by 30 June 2018.

16. Under Schedule 7 of the LGA 2002, the employment review must assess:
   • the performance of the Chief Executive
   • the mix of skills and attributes possessed by the Chief Executive, and the degree to which they are consistent with the skills and attributes that the council considers necessary for the future
   • any other factors the council considers relevant.

17. The Governing Body can either undertake the employment review process itself or it can delegate the task to the APRVFM Committee.
18. The APRVFM Committee agreed to seek formal delegation from the Governing Body to perform the employment review (Resolution number APP 2018/21). The Governing Body will still make the final decision on whether to offer a contract extension to the Chief Executive, as this decision cannot be delegated.

19. If the Governing Body agrees, then the APRVFM Committee’s Terms of Reference need to be broadened to fulfil the obligations of Schedule 7 of the LGA 2002. While the APRVFM Committee already has responsibility for reviewing the Chief Executive’s performance, the employment review obligations under the legislation requires a broader view of the Chief Executive’s employment, including determining the skills and attributes that the council considers necessary in a Chief Executive for the period covering any contract extension.

20. It is recommended that the following delegation should be added to the APRVFM Committee’s Terms of Reference (as resolved by that Committee):

"Conduct and complete a review of the Chief Executive’s employment under clause 35 Schedule 7 LGA 2002 and make a recommendation to the Governing Body under clause 34 Schedule 7 LGA 2002."

21. The APRVFM Committee will report back to the Governing Body by 30 June 2018. It will then be the Governing Body’s decision whether to extend the incumbent Chief Executive’s contract or advertise the vacancy.

**Proposed structure for the employment review**

22. It is proposed that the APRVFM Committee considers the performance of the Chief Executive at its meeting on 3 May 2018. This will cover the period January 2014 to April 2018. The committee will be supported by information provided by staff, which will consist of copies of previous performance reviews completed by the former CEO Review Committee and the Appointments and Performance Review Committee, plus an overview of performance and achievements since Mr Town’s appointment. Local Board and IMSB views will be collated to inform the meeting. Mr Town has nominated external referees to also provide feedback on his performance.

23. On the 7 June 2018, the APRVFM Committee will undertake an assessment of the mix of skills and attributes possessed by the Chief Executive, and the degree to which they are consistent with the skills and attributes that the council considers necessary for the future, along with any other relevant factors. The committee’s discussion will be informed by one-on-one interviews between an external consultant and individual councillors. The committee will receive a summary of feedback from local board chairs and the IMSB for this part of the review also.

24. The APRVFM Committee is expected to conclude the employment review at its meeting on 7 June 2018.

25. The APRVFM Committee Chair will invite all councillors to participate in its committee meetings on 3 May and 7 June 2018.

**Employment Relations Act**

26. Councillors are reminded that they are the Chief Executive’s employer for the purpose of this process and the decisions regarding the Chief Executive’s contract. The obligation of good faith imposed by the Employment Relations Act on all employers and employees requires the parties to be active and constructive in maintaining a productive employment relationship. Part of this broad obligation, reinforced by the Privacy Act, is a requirement that the confidential nature of this report and the committee’s discussions is respected at all times.
Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views

27. Responsibility for employing the Chief Executive rests with the Governing Body. The APRVF M Committee recommends that the views of Local Boards are sought as part of the employment review. Local Board Chairs were informed of the process on 9 April 2018 and were advised that feedback would be sought from them subject to the outcome of the Governing Body’s decision on 19 April 2018.

Tauākī whakaaweawe Māori / Māori impact statement

28. The Chief Executive plays a key role in discharging Auckland Council’s Treaty of Waitangi and statutory obligations to Māori. Those obligations are reflected in the Chief Executive’s current performance objectives which expire on 31 December 2018.

29. The Independent Māori Statutory Board (IMSB) Chair has requested that IMSB contribute to the employment review process.

Ngā ritenga ā-pūtea / Financial implications

30. There are no financial implications associated with the recommendations contained in this paper.

Ngā raru tūpono / Risks

31. The risks associated with the approach outlined in this report is one of timeliness. It is a legislative requirement that the council undertake an employment review not less than six months before the expiry of the Chief Executive’s contract.

32. There is sufficient time to complete the employment review process by 30 June 2018. This is predicated on the APRVF M Committee undertaking the employment review. Therefore, it is important that the Governing Body modifies the APRVF M Committee’s Terms of Reference to ensure the APRVF M Committee has at least two formal meetings to consider the review in partnership with the Chief Executive.

33. It is recommended that the Governing Body considers the advice of the APRVF M Committee as soon as practicable after the employment review is completed in June 2018. This is to provide certainty to the Chief Executive, staff and stakeholders. Alternatively, a new recruitment process will take at least six months and this needs to be considered against the expiry of Mr Town’s contract in December 2018.

Ngā koringa ā-muri / Next steps

34. Subject to the decision of this meeting, staff will work with the APRVF M Committee Chair, Deputy Chair and the Chief Executive to assist in the employment review. The APRVF M Committee meets on 3 May and 7 June 2018, which should be sufficient to complete the employment review process and for the recommendations to be presented to the Governing Body from late June 2018. Staff will work with the APRVF M Committee to identify the information committee members require to complete the review process.
35. A recommended timetable is:

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<td>19 April 2018</td>
<td>Governing Body approval is sought to broaden the APRVFM Committee's Terms of Reference to undertake an employment review.</td>
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<tr>
<td>3 May 2018</td>
<td>APRVFM Committee undertakes employment review and prepares recommendations for the Governing Body. Feedback is sought from Local Board Chairs and IMSB.</td>
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<tr>
<td>7 June 2018</td>
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<tr>
<td>Late June 2018 onwards</td>
<td>Governing Body considers APRVFM Committee's recommendation.</td>
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<td>31 December 2018</td>
<td>Expiry of the Chief Executive’s current contract.</td>
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Ngā tūpirihanga / Attachments

There are no attachments for this report.

Ngā kaihaina / Signatories

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<tr>
<th>Author</th>
<th>Patricia Reade - Director People and Performance</th>
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<tr>
<td>Authoriser</td>
<td>Phil Wilson - Governance Director</td>
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CONFIDENTIAL: Chief Executive’s Employment Review Process