I hereby give notice that an extraordinary meeting of the Appointments and Performance Review Committee will be held on:

Date: Tuesday, 8 September 2020
Time: 2.00pm
Meeting Room: This meeting will proceed via Skype for Business.
Venue: Either a recording or written summary will be uploaded on the Auckland Council website

Kōmiti Mō Te Kopou Me Te Arotake
Whakatutukitanga / Appointments and Performance Review Committee

OPEN AGENDA

MEMBERSHIP

Chairperson Hon Phil Goff, CNZM, JP
Deputy Chairperson Cr Christine Fletcher, QSO
Members Cr Josephine Bartley
Cr Pippa Coom
Cr Chris Darby
Cr Alf Filipaina
Cr Richard Hills
Cr Desley Simpson, JP
IMSB Chair David Taipari

Ex-officio Deputy Mayor Cr Bill Cashmore

(Quorum 4 members)

Suad Allie
Kaitohutohu Mana Whakahaere Matua / Senior Governance Advisor

3 September 2020

Contact Telephone: (09) 977 6953
Email suad.allie@aucklandcouncil.govt.nz
Website: www.aucklandcouncil.govt.nz

Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Terms of Reference

Responsibilities

The Appointments and Performance Review Committee is established to:

1. review the chief executive’s performance and recommend to the Governing Body the terms and conditions of the CE’s employment including any performance agreement measures and annual remuneration
2. make appointments to Council-Controlled Organisations (CCOs), Council Organisations (COs) and exempt CCOs and COs, with the exception of Ports of Auckland Limited and Auckland International Airport Limited
3. receive updates on appointments to the council organisations, Ports of Auckland Limited and Auckland International Airport Limited, as well as any relevant updates on shareholder voting undertaken at Auckland International Airport Limited annual general meetings
4. approve policies relating to the appointment of directors and trustees to CCOs and COs.

Powers

All powers necessary to perform the committee’s responsibilities.

Except:
(a) powers that the Governing Body cannot delegate or has retained to itself (section 2)
(b) where the committee’s responsibility is limited to making a recommendation only
(c) the power to establish sub-committees.
Exclusion of the public – who needs to leave the meeting

Members of the public

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

Those who are not members of the public

General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the chairperson is final.

Members of the meeting

- The members of the meeting remain (all Governing Body members if the meeting is a Governing Body meeting; all members of the committee if the meeting is a committee meeting).
- However, standing orders require that a councillor who has a pecuniary conflict of interest leave the room.
- All councillors have the right to attend any meeting of a committee and councillors who are not members of a committee may remain, subject to any limitations in standing orders.

Independent Māori Statutory Board

- Members of the Independent Māori Statutory Board who are appointed members of the committee remain.
- Independent Māori Statutory Board members and staff remain if this is necessary in order for them to perform their role.

Staff

- All staff supporting the meeting (administrative, senior management) remain.
- Other staff who need to because of their role may remain.

Local Board members

- Local Board members who need to hear the matter being discussed in order to perform their role may remain. This will usually be if the matter affects, or is relevant to, a particular Local Board area.

Council Controlled Organisations

- Representatives of a Council Controlled Organisation can remain only if required to for discussion of a matter relevant to the Council Controlled Organisation.
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</table>
1 Apologies

At the close of the agenda no apologies had been received.

2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

3 Petitions

At the close of the agenda no requests to present petitions had been received.

4 Public Input

Standing Order 7.7 provides for Public Input. Applications to speak must be made to the Governance Advisor, in writing, no later than one (1) clear working day prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of thirty (30) minutes is allocated to the period for public input with five (5) minutes speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

5 Local Board Input

Standing Order 6.2 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to five (5) minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give one (1) day’s notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 6.1 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.
6 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

(a) The local authority by resolution so decides; and

(b) The presiding member explains at the meeting, at a time when it is open to the public,-

(i) The reason why the item is not on the agenda; and

(ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

(a) That item may be discussed at that meeting if-

(i) That item is a minor matter relating to the general business of the local authority; and

(ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but

(b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”
Board Appointments - Auckland’s Council-Controlled Organisations

File No.: CP2020/11271

Te take mō te pūrongo
Purpose of the report
1. To receive information regarding:
   i) the appointment of directors to the entity created by the merger of Regional Facilities Auckland Limited (RFAL) and Auckland Tourism, Events and Economic Development Limited (ATEED)
   ii) amendment of skills for the Auckland Transport director brief
   iii) extending the term of one director on the board of Watercare Services Limited.
2. Decisions regarding these appointments will be made in the confidential part of this meeting.

Whakarāpopototanga matua
Executive summary
3. On Thursday 27 August 2020 the Governing Body agreed to merge RFAL and ATEED.
4. The intent is to have the merged entity operational by 1 December 2020.
5. An important first step is for this committee to ensure an appropriate board of directors is appointed as soon as possible. This will allow the board of the new entity to make decisions to help guide the merger, and help ensure that the current RFAL and ATEED’s work programmes will be continued by the new entity.
6. A confidential report on this agenda requests the committee to make decisions regarding:
   i) appointment of directors and a chair to RFAL, as it will be the surviving legal entity following the merger
   ii) to agree the terms of appointment of those directors
   iii) agree a board performance review be undertaken in June 2020.
7. It is proposed that the board of the new merged entity will initially be comprised of current ATEED and RFAL directors.
8. It is also proposed that the directors appointed to the merged entity would be appointed to the RFAL board as soon as practical, so they can oversee preparation for the merger. The current ATEED board would remain in place until that legal entity is wound up.
9. At the 25th August meeting this committee approved decisions regarding the board appointments and vacancies for its CCOs including Auckland Transport and Watercare.
10. A confidential report on this agenda requests the committee to make decisions regarding:
    i) amendments to the brief for an Auckland Transport director vacancy
    ii) extending the appointment of two directors to assist with continued expertise to the board during the period of recruitment and hand-over of portfolios.
Ngā tūtohunga
Recommendation/s
That the Appointments and Performance Review Committee:

a) note that two confidential reports are included on today’s committee agenda that provide information to make decisions regarding:

i) the appointment of directors and a board chair to Regional Facilities Auckland Limited (RFAL)

ii) amendment of the brief for the Auckland Transport director vacancy

iii) extension of the appointment of one director on the board of Watercare Services Ltd.

Horopaki Context

11. Following the Governing Body’s decision to merge RFAL and ATEED, there is the need to put in place a board of directors to oversee the merger, and to govern the new entity.

12. The intent is to have the merged entity operational by 1 December 2020.

13. It is proposed that the usual director appointment process is not followed in this instance, as council needs to appoint a board to implement the proposed merger of RFAL and ATEED as soon as possible. The board needs to oversee the preparation and implementation of the merger, and to govern the new entity from day one of operations.

14. Instead, it is proposed to make decisions regarding the skills and experience required on the board of the merged entity, and to appoint directors directly from the current ATEED and RFAL boards.

15. Following the merger, RFAL will be the surviving legal entity. It is proposed to appoint the directors for the new merged entity to the RFAL board immediately, so they can oversee preparations for the merger, and be in place for day one operations on 1 December 2020.

16. The current ATEED board would remain in place until that entity is wound up.

17. Due to timeframes we are unable to undertake the full process, however if vacancies result from the committee decisions, the board appointment process for CCOs will be followed and is outlined in the table below:

<table>
<thead>
<tr>
<th>Committee</th>
<th>Selection panel</th>
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</thead>
<tbody>
<tr>
<td>Approves retirement or reappointment of directors / board members</td>
<td>Considers the complete list of candidates</td>
</tr>
<tr>
<td>Approves skills required for director positions</td>
<td>Recommends the short-listed candidates to the committee</td>
</tr>
<tr>
<td>Approves members of the selection panel</td>
<td></td>
</tr>
<tr>
<td>Approves the short-list of candidates for interview</td>
<td>Interviews the short-listed candidates approved by the committee</td>
</tr>
<tr>
<td>Considers selection panel’s recommendations</td>
<td>Recommends preferred candidates to the committee</td>
</tr>
<tr>
<td>Makes appointments to the board</td>
<td></td>
</tr>
</tbody>
</table>
18. Staff have been advised of recent information affecting the board of Auckland Transport. The information impacts decisions already approved by this committee at its meeting on Tuesday 25 August.

19. Staff are seeking minor amendments to the decisions approved by this committee at its meeting on Tuesday 25 August 2020 as outlined in the additional confidential item on this agenda.

Tātārītanga me ngā tohutohu
Analysis and advice

20. Council’s appointment policy notes that board appointments will be made on the basis of the skills, knowledge and experience which the board as a whole requires, with due regard being given to the benefits of diversity on the board.

21. Council’s Inclusive Auckland Framework has a focus on increasing diversity on council-controlled organisations, and fostering a strong and diverse talent pipeline for its appointment process.

22. The council’s policy sets a maximum tenure of six years for the directors of substantive and nine years for board members of non-substantive CCO’s in order to achieve a balance of experience and fresh thinking on individual boards.

23. However, the policy also recognises that sometimes there are good reasons to approve extensions beyond the two three-year and nine-year terms, such as retaining the knowledge, skills and leadership on the board.

24. A confidential report on this agenda provides advice to assist the committee to make decisions regarding the appointment of a new board for RFAL who will work with the board of ATEED to amalgamate the CCOs into the merged entity.

25. The additional confidential report seeks approval for minor amendments to the decisions approved by this committee at its meeting on Tuesday 25 August 2020 concerning:
   i) changes to skill requirements for a director vacancy
   ii) short extensions of reappointment for two directors to assist with the timing in filling the vacancies and allowing for portfolio handovers.

Tauākī whakaaweawe āhuarangi
Climate impact statement

26. There are no negative climate impacts as a result of the proposed CCO board appointments.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera
Council group impacts and views

27. The appointment of appropriate directors to the CCO boards has an impact on the performance of the council group.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views

28. Board appointments to CCOs are the role of the Governing Body. Local boards can participate in the nomination process for each director vacancy. The nomination of a candidate requires the consent of that candidate.

29. The views of local boards have not been sought in relation to these appointments.
# Tauākī whakaaweawe Māori

## Māori impact statement

30. Auckland Council’s appointment and remuneration policy for board members of council organisations states that “The Selection Panel will interview and assess candidates against the required skills, knowledge and experience and may consider other factors such as:

- the council’s board diversity and inclusion policy (see section 4)
- candidates with knowledge of Te Ao Māori and established Māori networks.”

31. The policy therefore encourages the identification of experienced Māori directors for consideration for appointment to CCO and CO boards.

## Ngā ritenga ā-pūtea

### Financial implications

32. The costs associated with these appointments will be managed from existing budgets.

## Ngā raru tūpono me ngā whakamaurutanga

### Risks and mitigations

33. The risks associated with board appointments include confidential information relating to potential director appointments being made public. In past appointments processes confidential information has been released to media outlets, prior to this committee making its final decisions.

34. Breaches of confidentiality can:
   
i) damage trust and confidence in the council
   
ii) impact future board appointment programmes
   
iii) reduce the number of high-quality candidates
   
iv) reduce the total number of candidate applications.

35. There are risks that the merger may not be successfully implemented or that the new entity will not be able to perform its functions from day one.

36. These risks can be mitigated by having the merger overseen by a board made up of existing RFAL and ATEED board members, as these directors will be familiar with the activities of these entities, and therefore the activities that the new merged entity will have to undertake.

# Ngā koringa ā-muri

## Next steps

37. Staff will give effect to the committee’s resolutions.

## Ngā tāpirihanga

### Attachments

There are no attachments for this report.

## Ngā kaihaina

### Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Josie Meuli - Senior Advisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisers</td>
<td>Alastair Cameron - Manager - CCO Governance &amp; External Partnerships</td>
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<tr>
<td></td>
<td>Phil Wilson - Governance Director</td>
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</tbody>
</table>
Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Appointments and Performance Review Committee

a) exclude the public from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C1 Confidential: Board Appointments to Auckland's Council Controlled Organisations

<table>
<thead>
<tr>
<th>Reason for passing this resolution in relation to each matter</th>
<th>Particular interest(s) protected (where applicable)</th>
<th>Ground(s) under section 48(1) for the passing of this resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person. In particular, the report contains private information about the directors on Auckland Council’s council-controlled organisations.</td>
<td>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.</td>
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</table>

C2 Confidential: Amendments to the 2020 board appointment programme for Auckland's council-controlled organisations

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<thead>
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