

17 March 2022

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**Hon Michael Wood**  
Minister of Transport

**Action required by:**  
Monday, 21 March 2022

**Hon Grant Robertson**  
Minister of Finance

**Hon Dr Megan Woods**  
Minister of Housing

## **FEE EXCEPTION FOR THE AUCKLAND LIGHT RAIL BOARD**

### **Purpose**

Seeks approval for the Minister of Transport to consult the Minister for the Public Service, on behalf of Government Sponsors for Auckland Light Rail, on a proposed fee exception for the Auckland Light Rail Board members.

### **Key points**

- In December 2021, Cabinet noted that an exception from the Cabinet Fees Framework (the Framework) would likely be sought for roles on the Auckland Light Rail (ALR) Board given the complexity and scale of the project (*CAB-21-MIN-0531 refers*).
- Exceptions to the Framework may be sought from the Minister for the Public Service where a compelling case can be made to support the payment of fees above the levels set in the fee scales.
- We consider that a fee exception is justified, and are proposing that Ministers agree to a fee of \$2,100 per day for the Chair and \$1,650 per day for members of the ALR Board. This fee is comparable to the remuneration received by the Kāinga Ora and City Rail Link Limited Boards.
- To confirm the exception, a letter has been prepared for the Minister of Transport to send on behalf of Sponsors to the Minister for the Public Service (**Appendix One**), as well as a document outlining the full rationale.

Note that the fees ultimately agreed are lower than those in this briefing; As of 1 September 2022, the current fees as agreed by the Minister for the Public Service are \$1,428 per day for the Chair, and \$1,190 for members.

**IN CONFIDENCE AND BUDGET SENSITIVE**

- Our early consultation with Te Kawa Mataaho officials indicates that this proposal may meet resistance. The feedback received at that time has been considered, nonetheless our advice remains that the proposed fee is appropriate.
- We will require urgent decisions from yourselves and the Minister for the Public Service for the fees to be considered at the same time as the priority board appointments going to Cabinet in April.

PROACTIVELY RELEASED BY  
TE MANATŪ WAKA MINISTRY OF TRANSPORT

**Recommendations**

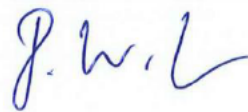
We recommend you:

Note that the fees ultimately agreed are lower than those in this briefing; As of 1 September 2022, the current fees as agreed by the Minister for the Public Service are \$1,428 per day for the Chair, and \$1,190 for members.

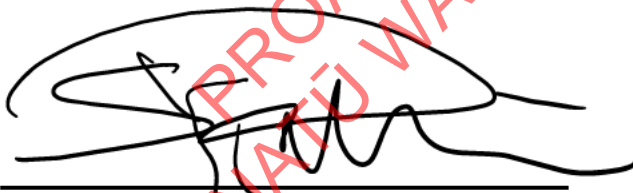
		Minister of Transport	Minister of Finance	Minister of Housing
1	<b>agree</b> to propose the following fee for the Auckland Light Rail Board: <ul style="list-style-type: none"> <li>\$2,100 per day for the Chair, and</li> <li>\$1,650 per day for members</li> </ul>	Yes / No	Yes / No	Yes / No
2	<b>approve</b> the contents of the letter to the Minister for the Public Service, including the document with the supporting rationale	Yes / No	Yes / No	Yes / No
3	<b>authorise</b> the Minister of Transport to consult the Minister for the Public Service on behalf of Government Sponsors for a fee exception for Auckland Light Rail Board members	N/A	Yes / No	Yes / No
4	<i>Minister of Transport only</i> <b>sign and send</b> the attached letter at <b>Appendix One</b> to the Minister for the Public Service	Sent / Not Sent		



Gareth Fairweather  
Acting Director, System Strategy and Investment, Ministry of Transport



David Taylor  
Manager, National Infrastructure Unit, The Treasury



Saskia Patton  
Manager, Policy and Legislation Design, Ministry of Housing and Urban Development

Hon Michael Wood  
Minister of Transport

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Hon Grant Robertson  
Minister of Finance

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Hon Dr Megan Woods  
Minister of Housing

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**IN CONFIDENCE AND BUDGET SENSITIVE**

- Minister's office to complete:**
- Approved
  - Declined
  - Seen by Minister
  - Not seen by Minister
  - Overtaken by events

**Comments**

**Contacts**

Name	Telephone	First contact
Gareth Fairweather, Acting Director System Strategy & Investment, Ministry of Transport	s 9(2)(a)	
Chris Gulik, Auckland Strategic Adviser, Ministry of Transport		
Jono Reid, Principal Adviser, Governance, Ministry of Transport		✓
Fiona Stokes, Principal Advisor, National Infrastructure Unit, Treasury		
Mary Barton, Senior Policy Advisor - Places and Partnerships, Ministry of Housing and Urban Development		

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 TE MANATŪ WAKA MINISTRY OF TRANSPORT

## FEE EXCEPTION FOR THE AUCKLAND LIGHT RAIL BOARD

### Background to the Cabinet Fees Framework

- 1 The Cabinet Fees Framework (the Framework) covers all statutory bodies and committees that are not covered by the Remuneration Authority's, or other fee-setting bodies', jurisdiction. It provides a basis for judgement in setting fees for Crown bodies that:
  - 1.1 ensures a consistent approach to remuneration across all statutory and other Crown bodies;
  - 1.2 supports the appointment of appropriately qualified and diverse body members;
  - 1.3 contains expenditure of public funds within reasonable limits; and
  - 1.4 provides flexibility within clear criteria.
- 2 Judgement is required when applying the Framework as it covers a wide array of bodies and is not intended to be prescriptive.
- 3 Any fee set under the framework must reflect "an element of public service and community commitment, the personal contribution and recognition of the intangible benefits to the member, balanced by a number of factors", including:
  - the complexity of the functions and the expertise required;
  - recruitment and retention issues;
  - the potential risk to reputation – either publicly or professionally; and
  - affordability.

#### *How fee exceptions are sought*

- 4 Exceptions to the Framework may be sought by the Responsible Minister/fee setting Authority where it is considered there is a case to be made to operate outside the parameters of the Framework. In such cases, the Responsible Minister must consult with the Minister for the Public Service on any proposed fee exceptions. Te Kawa Mataaho should also be consulted in advance of a proposal being made.
- 5 A compelling case is required to support the payment of fees above the levels set in the fee scales. Justification should include (where practicable):
  - 5.1 evidence of an adequate, robust and appropriate selection process and consideration of potential candidates;
  - 5.2 any difficulties in recruitment or retention; and/or
  - 5.3 particular skills and expertise that are required for a specific task.
- 6 As a Ministerial Advisory Committee, the Auckland Light Rail Board is classified as a Group 4, Level 1 Body under the Cabinet Fees Framework. For this Group, the

## IN CONFIDENCE AND BUDGET SENSITIVE

Minister for the Public Service may agree to the proposal when the rationale for the proposed fee is strong and does not exceed the daily fee payable to a High Court Judge (\$2,047 per day). Alternatively, he may recommend that the proposal is considered by Cabinet's Appointment and Honours Committee (APH).

- 7 Given the quantum of fee, and the significance of the appointment, we expect the proposed fee structure for ALR will be referred to APH.

*We do not consider that the Fees Framework allows for remuneration that reflects the complexity of tasks required of the ALR Board*

- 8 The maximum allowance for a Group 4, Level 1 Body is \$540 - \$1,150 per day for the Chair and \$405 - \$865 per day for members. The framework does not indicate the maximum number of days a committee can work (except for a multiplication amount for working days if a member is considered to work full time).
- 9 The definitions and scoring methodology contained in the framework indicates that the ALR Board will receive the maximum fee allowed by the Framework (**Annex A** summarises our assessment of the ALR Board against the Framework). However, we do not consider that this is sufficient given the scale and complexity of the Board, and its responsibilities. We are recommending that an exception to the Fees Framework is sought.

### The proposed ALR Board fee structure

- 10 The proposed ALR Board fee structure, including maximum expected working days and cost per annum is set out in the table below. These proposed figures are consistent with the costs for the ALR Board submitted as part of Budget 2022.

Role	Proposed Rate	Estimated working days	Estimated maximum cost per annum
Chair	\$2,100 per day	20 days per month, across a 12-month period.	\$504,000, plus any reasonable travel costs and expenses.
Members	\$1,650 per day	3 working days per month, across a 10-month period (same expected workload as a Crown Entity Board member)	\$49,500 per member, plus any reasonable travel costs and expenses.

- 11 These proposed fees closely align with the Boards of Auckland Transport, Eke Panuku, Kāinga Ora and City Rail Link Limited. However, they are higher than both KiwiRail Holdings Limited and Waka Kotahi NZ Transport Agency – whose fees are dated and have not been reviewed for some time. Details of these fees for comparison are listed in the below **Annex B**.
- 12 The most significant difference in the rates for the ALR Board is the expected workload of the Chair. The Fees Framework indicates that a Chair is expected to work for, on average, 50 working days per year. We estimate that the ALR Chair will have a considerably higher workload due to their additional role of Senior

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## IN CONFIDENCE AND BUDGET SENSITIVE

Responsible Officer<sup>1</sup>. The Senior Responsible Officer role will require a considerably larger time commitment in comparison to other Chair roles, as this individual will be required to devote a considerable amount of time to political discussions with Ministers and Council, front stakeholder meetings and lead commercial negotiations on behalf of the Board.

### **There a compelling case to support the payment of fees above the levels set in the fee scales**

- 13 The scale and complexity of the ALR project make a strong case for remunerating board members beyond the current limit of the Fees Framework.

*The Board's role will be significant in the project's success*

- 14 While the ALR Board will not be responsible for a significant budget or large entity during the detailed planning phase, its responsibility is to plan a complex project that will provide the parameters for how a significant budget will be spent over the next ten years.
- 15 Progressing the project requires the Board to oversee an integrated transport and urban development work programme, and the alignment of decision-making across central government and Auckland Council. Navigating the relationships and decisions required to progress the project across partner agencies and elected members will be a significant challenge. In addition, the ALR Board will need to build and maintain support for the project among communities and businesses in Auckland.
- 16 As New Zealand's most complex transport infrastructure project, the fees paid to the board members will set a precedent. We consider that it would be appropriate to, at least, benchmark the fees members of the ALR Board to that of similar boards in the sector. The individuals sought to date for the ALR Board are of a similar level of skill and experience to the Boards we have benchmarked against.

*There will be both local and national benefits for the projects*

- 17 The level of benefits for New Zealanders is something Te Kawa Mataaho recommends is considered when determining fees. The project will achieve outcomes at both the national and regional level. The scale of urban development anticipated will support the government's housing priorities. Investment of this scale in public transport will also contribute to reducing carbon emissions in the way New Zealanders travel.
- 18 Aucklanders will benefit from better access to opportunities around their city, which will benefit the wider New Zealand economy. The project will support thinking and progress towards a nationwide approach for planning, funding and delivering rapid transit in New Zealand.

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<sup>1</sup> The person with single point accountability for the project. The SRO is ultimately accountable for the delivery of the project and for ensuring the project meets its objectives, delivers the projected outcomes, and realises the required benefits.

## IN CONFIDENCE AND BUDGET SENSITIVE

*The final delivery entity is likely to be remunerated at a higher rate than the daily allowance provided by Group 4, Level 1 Bodies*

- 19 The ALR Board is designed to endure through the detailed phase into a final delivery entity. While the final type of entity has not yet been determined by Cabinet, s 9(2)(f)(iv)
- 20 It is highly likely that the final fee paid to the Delivery Entity Board, will be higher than the maximum daily rate allowed for while this Board is operating as a Group 4 Level 1 Ministerial Advisory Committee.
- 21 As such, we consider that it is reasonable for this ALR Board to be remunerated at a fee that more closely resembles what they will receive once it has transitioned to a legal statutory entity.

*A possible need to remunerate candidates at a higher rate in order to ensure the role is attractive*

- 22 The recruitment for this Board is currently underway, with the initial focus being on three priority appointments being made by the end of April 2022. The remaining member appointments are expected to take place across May and June 2022.
- 23 Views on fees are mixed with appropriate remuneration a factor in some candidates prioritising potential roles in their portfolios.
- 24 The ability to pay higher fees could become more pertinent for Board members with specific rare technical skill sets, possibly recruited from overseas.

**Despite the case for increased remuneration, there might be resistance to the fee**

- 25 Te Kawa Mataaho guidance recommends that early engagement between officials is carried out when fee exceptions are sought. The Ministry of Transport met with Te Kawa Mataaho officials on 28 February 2022 with an early draft of our proposal to discuss the rationale.
- 26 Te Kawa Mataaho officials did not indicate what their Minister's view will be, but advised they had the following concerns about the proposal: the quantum of fees in comparison with other Group 4, Level 1 Bodies; the challenges of fee exceptions in an environment of pay restraint; and the comparison of ALR against bodies with a national focus.
- 27 Te Kawa Mataaho's feedback has been considered and reflected in our reasoning above, as well as both the letter to the Minister for the Public Service and the supporting document. Taking account of the scale and complexity of this project, current pay restraints within the public sector, and balancing the need for the ALR Board to be both enduring and competitive alongside other boards in the sector, we consider that the proposed fee strikes the right balance.



## IN CONFIDENCE AND BUDGET SENSITIVE

- 28 The overall per annum estimate for the Chair's fee may also draw public criticism and scrutiny. While the total figure is high, this is reflective of the number of days the Chair is expected to work as Senior Responsible Office – a role that is normally delegated to a Senior Executive.<sup>2</sup> In the absence of a single legal entity within Government, who can deliver both transport and urban development outcomes, it was determined that the Chair of the Board would be the most appropriate individual to hold this role. We expect this role will be the responsibility of the executive in the final delivery entity, and the workload of the Chair will change as a result.
- 29 As part of considering feedback from Te Kawa Mataaho, we discussed whether it would be appropriate to lower the proposed fees. The preference is to maintain our view given the undesirable precedent a smaller fee would set for a establishing a major public infrastructure board.
- 30 In addition to the above reasoning, the Ministry of Transport's research also identified little evidence of fee exceptions existing for other significant Ministerial Advisory Committees such as the Strategic COVID-19 Public Health Advisory Group.

s 9(2)(g)(i)

### Next Steps

- 31 Should you agree to this fee proposal, you will need to agree to send the letter attached at **Appendix One** to the Minister for the Public Service, seeking agreement to this proposal. The Minister for the Public Service will then either agree to the recommendation, or recommend the proposal is considered by APH.
- 32 Given the quantum of fee, and the significance of the appointment, we expect the proposed fee structure for ALR will be referred to APH.

*We will require urgent decisions from both yourself and the Minister for the Public Service in order for the fees to be considered at the same time as the three priority appointments*

- 33 As you know the appointment process for the ALR Board Chair, Leigh Auton, and a member with a credible voice with mana whenua voice is being expedited to meet the April 2022 timeframe you requested. Fees for a member are generally confirmed at the same time as their appointment.
- 34 To meet the timeframes set, we are planning to provide you with advice on preferred candidates by 25 March 2022 with paperwork for Cabinet's Appointment and Honours Committee (APH) to lodged by 7 April 2022 for the APH meeting on 13 April 2022. The views of the Minister for the Public Service will need to be incorporated into the APH paper and as such, we recommend you ask for his feedback by 28 March 2022.

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<sup>2</sup> For example, the Senior Responsible Office for City Rail Link Limited is their Chief Executive.

**Annex A: Assessment of ALR Board Fees against the Fees Framework**

*Explanatory note*

Ministerial advisory committees are classified as Group 4 bodies under the Fees Framework. Given the board array of organisations, sectors and groups covered by these bodies, fee structures are scored according to four criteria, listed in bold in the table below.

Framework Definition	Score	Rationale
<p><b>Skills Knowledge and Experience</b>                      – <b>Pre-Eminent:</b> Outstanding and authoritative knowledge, recognised nationally and internationally for expertise in a particular field.</p>	12	<p>We will be seeking highly experienced New Zealand directors, as well as canvassing the international market for some candidates.</p> <p>The experience levels sought for this Board matches many of the larger Crown transport and urban development Boards, and the political navigation skills required for the Chair are similar.</p>
<p><b>Function, level and scope of authority:</b> Sets policy or work programme for a major area of economic activity or policy area of importance to the Government's strategic priorities.</p>	6	<p>"Building Light Rail from Auckland City Centre to Māngere and the Airport" is a Labour Party manifesto commitment for the 2020 Election. The project is also estimated to cost \$14.6 billion and, as such, is a major economic commitment and investment decision by Government.</p>
<p><b>Complexity of Issues – Innovative:</b> The development of new concepts is required to find innovative and pathfinding solutions. There will be little or no external guidance (NZ or internationally) to aid resolution of these issues.</p>	5	<p>Planning a project of this scale with both a regional and national lens and as an integrated transport and urban programme has not been done before. This project has a long history demonstrating the challenges and complexity of progressing it.</p> <p>Light Rail does not currently exist in New Zealand. It is assumed that we will be able to draw on international guidance for the ALR project, however it will need to be tailored for New Zealand. Learnings from the ALR project will be applied to the planning, funding and delivery of future rapid transit projects in New Zealand.</p> <p>It is also expected that the project will contain a number of complexities from a Treaty of Waitangi perspective, with 15 iwi affected along the proposed route selected by the Government during the indicative business case.</p>
<p><b>Public Interest and Profile:</b> Widespread public interest in outcomes would be expected. Member/s will attract strong media interest. Potential risk to personal and/or the body's reputation is high.</p>	5	<p>Auckland Light Rail has attracted strong media and political interest for several years. It is expected that the project will continue to do so, with interest intensifying during the detailed planning phase as the Government starts to implement and 'lock in' key decisions.</p> <p>The detailed planning phase will also be occurring during Local Government Elections in 2022, and possibly the 2023 General Election. As with many crown roles, Board member's reputations may be affected by political decisions.</p>

**Annex B: Fee Comparison Tables for Transport and Urban Development Crown Boards (Central and Auckland Local Government)**

Board	Entity Type	Chair Fee	Daily Rate	Member Fee	Daily Rate	Scope of Functions (High Level)	Assumed Working Days	Other Notes
Auckland Transport	Council Controlled Organisation	\$108,000	\$2,160	\$54,400	\$1,800	Responsible for regional transport services in Auckland (excluding State Highways).		Working days are not factored into Auckland Council's fees formula. Daily rate calculated against the Fees Framework.
Eke Panuku	Council Controlled Organisation	\$108,000	\$2,160	\$54,400	\$1,800	Delivers urban regeneration in Tamaki Makaurau.		As above.
Kāinga Ora	Crown Entity	\$98,000	\$1,960	\$49,000	\$1,633.33	Provider of housing, accommodation and housing related services to those in need. Responsible for a number of urban development functions.	50 Chair, 30 member	
City Rail Link Limited	Schedule 4A Public Finance Act Company	\$98,000	\$1,960	\$49,000	\$1,633.33	Deliver the City Rail Link Project - estimated project cost \$4.4bn.	50 Chair, 30 member	
KiwiRail Holdings Limited	State Owned Enterprise	~\$80,000	\$1,600	\$40,000	\$1,333.33	Provide freight and rail services across NZ, maintain rail network, involved in rail safety.	50 Chair, 30 member	
Waka Kotahi NZ Transport Agency	Crown Entity	\$71,400	\$1,428	\$35,700	\$1,190	Build and maintain State Highway Network (~\$59bn in value), manage and invest NLTF (~\$4bn), regulation of land transport across NZ (\$200+m).	50 Chair, 30 member	