

I hereby give notice that an ordinary meeting of the Devonport-Takapuna Local Board will be held on:

Date: Tuesday, 20 June 2017
Time: 4.00pm
Meeting Room: Devonport-Takapuna Local Board Chamber
Venue: Takapuna Service Centre
Level 3
1 The Strand
Takapuna

Devonport-Takapuna Local Board OPEN ADDENDUM AGENDA

MEMBERSHIP

Chairperson	Dr Grant Gillon
Deputy Chairperson	George Wood, CNZM
Members	Mike Cohen, QSM, JP Jennifer McKenzie Jan O'Connor Mike Sheehy

(Quorum 3 members)

Karen Durante
Democracy Advisor

19 June 2017

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Takapuna Beach Holiday Park hearing preparation

File No.: CP2017/12022

Item 12

Purpose

1. To advise the Devonport Takapuna Local Board on options for the make-up of the Hearing Panel for the hearing of submissions as a result of public notification pursuant to the Reserves Act 1977 for the leasing of part of the Takapuna Beach Reserve for a holiday park.
2. To seek a decision from the local board on its preferred option and to appoint a hearing panel.

Executive summary

3. Land Advisory Services has sought advice from council's Democracy Services department on the optimal make-up of a hearing panel for the hearing of public submissions on the notification under Section 119 of the Reserves Act for the proposed granting of a lease to a private operator on Takapuna Beach Reserve.
4. Submissions closed on Friday 26 May 2017. The following is an early summary of the submissions received:

• Number of submissions	1,243 received in total
• Submissions in favour of the lease	977 (78.6% of submissions)
• Submissions against the lease	265 (21.3% of submissions)
• Number of submitters wishing to be heard	49.
5. Due to the number of submitters wishing to be heard, it will be necessary to conduct a hearing.

Recommendation/s

That the Devonport-Takapuna Local Board:

- a) adopts option five (panel of hearings commissioners) as contained in this report, appointing three independent commissioners to hear submissions and make a recommendation to the local board on the public notification of the proposed lease for a holiday park on Takapuna Beach Reserve pursuant to Section 54(1)(a) Reserves Act 1977.
- b) notes that, in the event the board resolves to appoint independent commissioners, a confidential report has been included on this agenda containing information and recommendations to assist the board in making appointments.

Comments

6. At its meeting on 21 February 2017, the local board requested council staff to progress with public notification of its intent to grant a lease on the northern end of Takapuna Beach Reserve for a campground / holiday park activity (resolution number DT/2017/17, resolution f), under the following terms:
 - a proposed lease term of an initial 20 years, with a further one 10 year right of renewal;

- that the proposed campground / holiday park activity lease area on offer be the same as the current Takapuna Beach Holiday Park leased area at the northern end of Takapuna Beach Reserve; and
- assuming successful navigation public notification, that Panuku Development Auckland conduct an expression of interest / tender process for the lease.

7. As the proposed lease is not contemplated in the operative reserve management plan for the reserve, public notification of the intent to lease was required pursuant to Section 54(1)(a) of the Reserves Act 1977. Submissions closed on Friday 26 May 2017, with the following high-level results:

- Number of submissions 1,243 received in total
- Submissions in favour of the lease 977 (78.6% of submissions)
- Submissions against the lease 265 (21.3% of submissions)
- Number of submitters wishing to be heard 49.

8. The local board is now asked to consider how it wishes to manage the hearings process, which is required due to the number of submitters wanting to be heard on the matter.

9. Possible options for the construction of the hearings panel are presented in the table below:

Option	Composition	Comment
1	The full local board	<p>The full local board would sit as the hearings panel. This would provide the appropriate mandate for the hearing panel to make the final decision without having to report back to the local board which will save time.</p> <p>The chairperson (usually the local board chairperson) would be responsible for ensuring all parties have a fair hearing and are heard, and for writing the decision following the hearing.</p> <p>However, staff note that some submitters may perceive the inclusion of independent members on the panel who are Reserves Act specialists to be more democratic than a panel consisting of local board members only.</p>
2	One independent commissioner (as chair) and the full local board	<p>As above, this would provide the appropriate mandate for the hearing panel to make the final decision without having to report back to the local board and will save time. This achieves the benefit of having a hearing chairperson who is experienced with the Reserves Act and hearings processes, combined with retaining the input of the local board.</p> <p>The independent commissioner would chair the hearing and write the decision on behalf of the local board, allowing all the local board members to listen and participate in the hearing without the added pressure of chairing the hearing.</p>
3	One independent commissioner (as member) and the full local board (with local board chairperson chairing hearing)	<p>As above, this would provide the appropriate mandate for the hearing panel to make the final decision without having to report back to the local board and will save time.</p> <p>The independent commissioner can provide guidance around the Reserves Act and possibly assist in the decision writing, but the responsibility for ensuring all parties have a fair hearing and are heard, and writing the decision will lie with the local board chairperson.</p>

4	One independent commissioner (as chairperson) and a number of local board members	<p>This will provide the benefit of having a hearings chairperson who is experienced with the Reserves Act and hearings processes, and can still include the input of the local board in the recommendation.</p> <p>The hearing panel can only make a recommendation to the full local board, which will incur a delay and those members of the local board who were not on the hearing panel, will not have heard the evidence.</p>
5 (preferred option)	All independent commissioners	<p>This will provide the benefit of having a hearings chairperson who is experienced with the Reserves Act and hearings processes, but the hearing panel will be lacking any input and knowledge of the area and issue from the local board itself.</p> <p>This could be seen by submitters as a positive or a negative. Some may see this as a positive, as the hearings would be completely independently heard with no potential perceived bias or political influence from the local board members.</p> <p>However, this approach could also be seen negatively, as there would be no one on the panel with no local board knowledge, and submitters could feel like they have not been heard directly by the ultimate decision makers, e.g. the local board members themselves.</p>

10. In any of the above options which contain local board members as hearings panellists, it is appropriate that, if any members believe they have a real or perceived conflict of interest, they exclude themselves from the hearing.
11. Possible independent commissioners, including a short summary of their background, can be found in the confidential section of this agenda.
12. The cost for the hearing, including payment of commissioners' fees, shall be borne by council's Democracy Services department, provided that commissioners are appointed from the department's pool of preferred commissioners.

Consideration

Local board views and implications

13. The local board has delegation to make a decision on the granting of a lease for a holiday park pursuant to Section 54(1)(a) of the Reserves Act 1977 and the Act requires prior public notification to be conducted under Section 119 and 120 with any submitters that request it being heard. The local board may make its decision after considering the Hearings Panel's recommendations.

Māori impact statement

14. Mana whenua engagement occurred concurrently with the general public notification and iwi were invited to submit via the Shape Auckland website.

Implementation

15. Upon the local board's decision and depending on the option adopted Land Advisory Services staff will, if required, request a purchase order from the Local Board Advisor and engage an independent commissioner or commissioners.
16. Land Advisory staff will liaise with Democracy Services and Local Board Advisory staff to make arrangements and set a date for the hearing.

17. An estimated timeline is as follows:

- July (second half) Hearing
- August Recommendation made by hearings panel
- September/October Decision of local board
- October/November Expressions of interest process (dependent on the decision).

Attachments

There are no attachments for this report.

Signatories

Authors	Allan Walton - Principal Property Advisor
Authorisers	Rod Sheridan - General Manager Community Facilities Eric Perry - Relationship Manager

Exclusion of the Public: Local Government Official Information and Meetings Act 1987

a)

That the Devonport-Takapuna Local Board:

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 Takapuna Beach Holiday Park hearing- selection of commissioners

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
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.	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 information that would breach the privacy of the individuals.	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.