## Devonport-Takapuna Local Board

### 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.
RESULTS OF SURVEY OF CENTRAL TAKAPUNA BUSINESSES ON CENTRAL CAR PARK
10-13 April 2018

Summary

- 150 businesses responded
- 65% of respondents (mainly business owners or managers) were unaware of the proposal to sell the car park and remove the short term parking there. This is astounding given that Panuku has supposedly consulted the business community on this proposal.
- The Central Car Park was rated as important to very important for the ongoing success of 78% of businesses overall and for 86% of retail businesses and 100% of personal and health care businesses.
- 63% of all businesses felt that the short term parking on the gasometer site would not meet the needs of their clients much or at all. This figure rose to 82% for retail businesses.
- The selling of the Central Car Park and its replacement with short term parking on the gasometer site was predicted to have either moderate or significant adverse effects on 67% of businesses overall and 81% of retail businesses.
- 71% of businesses support redevelopment of the Central Car Park provided that an equivalent number of spaces are provided in a parking building somewhere on the site.
- A large majority of businesses in the “retail heart” of Takapuna are very concerned about the Panuku proposal and believe it will have a significant adverse effect on their businesses.
- Retailers and hospitality businesses in central Takapuna are united in their opposition to Council and Panuku’s proposal to remove the 270 short term parking spaces from the Central Car Park.
- Only 4% of retailers felt the proposal would have a positive effect on their business and these tended to be those located closer to the gasometer site.

Purpose and Methodology

Purpose of survey: to determine the importance of the Central Car Park to Takapuna businesses and to what extent the proposed short term car park on the gasometer site would meet the needs of businesses.

The survey was carried out in the “retail heart” of Takapuna shown on the attached map from 10-13 April. It covered all businesses in this area. It was undertaken by AUT in conjunction with the Takapuna Coalition and following discussions with the TBDA and the Devonport – Takapuna Community Board.

150 responses were received from face to face interviews undertaken mainly by AUT Masters students. Where possible the survey was completed by the business owner or manager.
Results

Q1 Type of business:
- Retail 30%
- Hospitality 30%
- Personal & Health Care 24%
- Professional Offices/other 16%

“Q2 Were you aware that Auckland Council proposes to remove all 270 short-term public parking spaces from the Central Car Park (40 Anzac Street) and replace them with a similar number of parking spaces on the old Gasometer site.”

No 65%
Yes 35%

“Q3 How important is the Central Car Park, to the ongoing success of your business?”

<table>
<thead>
<tr>
<th>Business</th>
<th>Important to very important</th>
<th>Less important to not important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Businesses</td>
<td>86%</td>
<td>5%</td>
</tr>
<tr>
<td>Hospitality</td>
<td>77%</td>
<td>6%</td>
</tr>
<tr>
<td>Personal Care</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>Health Care</td>
<td>60%</td>
<td>20%</td>
</tr>
<tr>
<td>Offices</td>
<td>64%</td>
<td>32%</td>
</tr>
<tr>
<td>All Businesses</td>
<td>78%</td>
<td>8%</td>
</tr>
</tbody>
</table>

“Q4 If Auckland Council was to develop a multi storey short stay public car park on the old Gasometer site to replace the Central Car Park, how well would this meet the needs of your clients, in terms of accessibility, distance walked, pedestrian safety and weather?”

<table>
<thead>
<tr>
<th>Business</th>
<th>Not much to not at all</th>
<th>Mostly to Completely</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Businesses</td>
<td>82%</td>
<td>7%</td>
</tr>
<tr>
<td>Hospitality</td>
<td>70%</td>
<td>5%</td>
</tr>
<tr>
<td>Personal Care</td>
<td>71%</td>
<td>0%</td>
</tr>
<tr>
<td>Health Care</td>
<td>20%</td>
<td>30%</td>
</tr>
<tr>
<td>Offices</td>
<td>42%</td>
<td>19%</td>
</tr>
<tr>
<td>All Businesses</td>
<td>63%</td>
<td>10%</td>
</tr>
</tbody>
</table>
“Q5 If the Council sells the Central Car Park for redevelopment and builds a replacement car park on the Old Gasometer Site, what effect would this have on your business?”

<table>
<thead>
<tr>
<th>Business</th>
<th>Adverse to Significant Adverse Effects</th>
<th>Some to Significant Positive Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Businesses</td>
<td>81%</td>
<td>4%</td>
</tr>
<tr>
<td>Hospitality</td>
<td>64%</td>
<td>9%</td>
</tr>
<tr>
<td>Personal Care</td>
<td>80%</td>
<td>0%</td>
</tr>
<tr>
<td>Health Care</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>Offices</td>
<td>35%</td>
<td>8%</td>
</tr>
<tr>
<td>All Businesses</td>
<td>67%</td>
<td>6%</td>
</tr>
</tbody>
</table>

“Q6 Would you support some commercial development on the central car park if approximately 270 short term parking spaces were provided in a parking building on the site?”

- Yes: 71%
- No: 29%

Discussion

Over the past year many parties have commented on the perceived impact of relocating the short term car parks from the Central Carpark to the Gasometer site at the corner of Huron Street and Auburn Street. However the Council and Panuku have not done the obvious which is to ask those most affected, the retail, hospitality and other business owners in central Takapuna, their views.

This survey has done that and the results clearly demonstrate that Council and Panuku have got it wrong. There is no support for the removal of short term public carparking from the Central Carpark. There is also no support for the planned carpark on the gasometer site. Council is building a white elephant and the business owners and shoppers who visit Takapuna will suffer from Council ineptitude.

Most businesses support some development on the Central Carpark but only if the existing 270 car parks are replaced in a multi-level parking building in the same area close to Hurstmere Road, not 450m down a side road.

Lack of short term parking is already a major issue in Takapuna and Council’s proposal will make this much worse driving visitors away to the detriment of the centre.

In addition, anecdotally the following observations are made based on the comments of those interviewed:

- Retailers, cafes and “personal care” businesses (hairdressers, beauty therapists etc.) are very alarmed that there will be no short term parking on the Central Carpark site.
- The proximity of short term parking, whether on the street, in the Central Car Park or in parking areas along The Strand, was of paramount importance.
- Some retailers said clients tended to park on Hurstmere Rd, clearly unaware that half the parking will disappear with the upgrading of the road.
A number of businesses referred to staff using the Central Car Park. One large company with 200 employees made particular mention of staff parking there and also, but to a lesser extent, in the Bruce Mason car park. Some also mentioned Shore City as being a favoured parking area for staff and clients because it was free for up to 3 hours.
Regards  
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Devonport Takapuna Local Board

Local Grants Programme 2018/19

Our Local Grants Programme aims to provide contestable and discretionary community grants to local communities.

Outcomes sought from the local grants programme

Our grants programme will be targeted towards supporting the following outcomes, as outlined in our local board plan:

- Quality parks, beaches and open spaces that everyone can enjoy
- A place of natural beauty and rich culture
- Efficient public transport and roads that keep people moving
- Our communities are empowered, engaged and inclusive
- Our area has a thriving local economy and vibrant, unique town centres

Our priorities for grants

The Devonport-Takapuna Local Board welcomes grant applications that align with the following local board plan priorities:

Note: these priorities relate to the local board initiatives as outlined in the local board plan.

- activities that enhance and conserve our unique beaches, open spaces and parks
- support for our sports clubs and recreation facilities
- activities that conserve our valued heritage sites, including built heritage
- activities that protect and enhance our natural environment
- communities are empowered to deliver placemaking projects including arts, culture and events
- our communities celebrate diversity and feel a sense of belonging
- support for local economic development

Note: All applicants are expected to outline in their application how their project will contribute to at least one of the outcomes outlined in the Devonport-Takapuna Local Board Plan.

Higher priority for eligibility:

- Community Match Fund (groups who demonstrate that 40% of project costs have already been met, including the approximate value provided by volunteer contribution to projects, events and /or initiatives)

Lower priorities for eligibility:

- events which clearly benefit the region rather than just the local area, and which can, therefore, apply for regional or central government grants
- event management costs
- groups and/or activities taking place outside the local board area, unless the applicant can clearly demonstrate the benefit to local board members.
- catering
- commercial events or events that promote a brand or company.
- events that raise money for third party fundraising
In addition to the eligibility criteria outlined in Auckland Council’s overarching Community Grants Policy, the Devonport-Takapuna Local Board will not fund:

- wages and salaries for ongoing administration for an organisation
- retrospective costs, unless this is necessary as a condition of the grant, or the local board is satisfied that there are mitigating circumstances
- groups which have failed to meet accountability obligations from previous Council grants will not be funded except in exceptional circumstance, and/or by stipulating that completing accountability is a condition of grant payment.

Groups with no formal legal structure
Groups with no formal legal structure may apply for grants of up to $1,000 through the local board grants programme; however, the board expects to see evidence from the group indicating community support for the activity and its objectives.

Investment approach
The Devonport-Takapuna Local Board has allocated budgets to support the local grants programme as follows:

- Quick Response Local Grants
  - Maximum amount per grant: $2,000
- Local Grants
- Discretionary Grants (for emergency response)

Application dates
Grant rounds for 2018/2019 will be as follows:

**Quick Response**

<table>
<thead>
<tr>
<th>2018/19 grant rounds</th>
<th>Opens</th>
<th>Closes</th>
<th>Decision made</th>
<th>Projects to occur after</th>
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</thead>
<tbody>
<tr>
<td>Round one</td>
<td>20 August 2018</td>
<td>14 September 2018</td>
<td>16 October 2018</td>
<td>1 November 2018</td>
</tr>
<tr>
<td>Round two</td>
<td>24 September 2018</td>
<td>19 October 2018</td>
<td>20 November 2018</td>
<td>1 December 2018</td>
</tr>
<tr>
<td>Round three</td>
<td>8 April 2019</td>
<td>3 May 2019</td>
<td>18 June 2019</td>
<td>1 July 2019</td>
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**Local Grants**

<table>
<thead>
<tr>
<th>2018/19 grant rounds</th>
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<th>Closes</th>
<th>Decision made</th>
<th>Projects to occur after</th>
</tr>
</thead>
<tbody>
<tr>
<td>Round one</td>
<td>18 June 2018</td>
<td>27 July 2018</td>
<td>18 September 2018</td>
<td>1 October 2018</td>
</tr>
<tr>
<td>Round two</td>
<td>11 February 2019</td>
<td>22 March 2019</td>
<td>21 May 2019</td>
<td>1 June 2019</td>
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Multi-board Grants
In principle, the Devonport-Takapuna Local Board supports multi-board applications and will consider them on a case-by-case basis.

<table>
<thead>
<tr>
<th>Multi-board grant round</th>
<th>Open date</th>
<th>Close date</th>
<th>Decision date</th>
<th>Projects to occur after</th>
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<tbody>
<tr>
<td>Local Grant Round One</td>
<td>18 June 2018</td>
<td>17 August 2018</td>
<td>18 September 2018</td>
<td>1 November 2018</td>
</tr>
<tr>
<td>Local Grant Round Two</td>
<td>21 January 2019</td>
<td>22 March 2019</td>
<td>21 May 2019</td>
<td>1 June 2019</td>
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Accountability measures
The Devonport-Takapuna Local Board requires that all successful applicants provide:
- evidence that the use of the funds matched their application,
- evidence that the project or event has delivered set outcomes/objective
- a completed accountability form within two months of project completion
- the contribution of the local board is acknowledged in all publicity and signage
- any events funded or partially funded by the local board are to be smoke-free
Chairperson’s Report 17 April 2018

Members, the issue of the Anzac Quarter has occupied our minds for some years now. After much consultation, including formal consultation, informal consultation and petitions, this Local Board developed the Takapuna Centre Plan - Implementing “The Takapuna Strategic Framework - 2014-2044”. The Takapuna Centre Plan supported some private development but emphasised space for the Sunday Market and retaining substantial car-parking on the site (starting with at least the existing short term parking capacity of 270 and possibly up to 400 spaces p.24). In this timing is significant as the Plan was dated 2014. The Local Government Act 2002 was amended in 2014 to clarify the allocation of decision-making and to allow for disputes over the allocation of decisions. This was the time that the Devonport Takapuna Area Plan and the Takapuna Centre Plan was being finalised. So had started prior to the passing of the amending legislation and yet approved by the Governing Body after the passing. The decision about the Anzac Quarter, even if not the Area Plan, at this point was undoubtedly one that should have been that of the local board. Regardless the local board had argued for more car-parking. “Encourage underground car-parking and other car-parking options (aiming for 400 rather than the current 270+) to support Hurstmere Road becoming a shared and/or pedestrian only open space and the possibility of a portion of The Strand becoming a pedestrian only open space.” The Officers comments presented to the committee were that “The final outcome on page 24 refers to provision for at least 270 short term parking spaces. This has been amended to add ‘and possibly up to 400’”. This was approved and the Plan published. Two issues arise. First the Devonport Takapuna Local Board should have been delegated the decision-making powers over the Takapuna Centre Plan upon the Local Government Act amendment had been amended. And certainly, if the plan was to be amended removing a major aspect of it, that the Board argued for and was agreed to by the Development Committee, the Board should have decision-making powers over any amendment of the plan. This has not happened and the plan amended against the wishes of the Board.

The Takapuna Centre Plan was the basis for “overall guiding strategy” for revitalising Takapuna, in the Board’s 2017 Plan. While there has been mixed views on the level of property sale and the level of open space there has been a strengthening of the community and Board view of retaining carparking on the Central Carpark as well as the proposed Gasometer site.

This view has been consistently discarded by both Panuku and the Governing Body. Most recently at the recent Planning Committee meeting. This meeting resolved two issues in contradiction of the Local Board’s resolutions: to investigate parking in the surrounding streets, and to allow the community and local board a role only in the public realm aspect of the site.

While it could be conceded that the Governing Body has a regulatory role in deciding to change the use of the site the other aspects are clearly the role of the local board under cl.48k of the Local Government Act (updated 2017).

So the Governing Body has failed to allow the Local Board decision-making at several points: the approval of the Takapuna Centre Plan, and the amendment (de facto), by removing carparking, of the

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1 As a new sub-part 1A inserted via the Local Government Act 2002 Amendment Act 2014; assented August 2014.
2 [D/2014/297]
4 Resolution number AUC/2014/175
Takapuna Centre Plan and the retention of decision-making over the public realm/open space aspects of the projects.

Decision making should be allocated to the local board on 2 principles: a non-regulatory activity unless the nature of the activity is such that decision making on a district-wide basis will better promote the interests of the communities based on three criteria. Firstly, because the impact of the decision will extend beyond the local board area and this criterion does not apply here. The Takapuna development is clearly separate from other local board areas’ developments and the Governing Body and Panuku consider them as different. Secondly, if it requires alignment or integration with other decisions that are the responsibility of the governing body. This also does not apply as the project is distinctly separate from other Governing Body projects and decisions. The only project close by of any significance is the Gasometer project and that sits within the Devonport Takapuna Local board area. The Anzac Quarter development does not sit alongside any regional planning or other regional transport project and so is distinctly local. Thirdly, the decisions can rest with the Governing body “if the benefits of a consistent or co-ordinated approach in the district[6] will outweigh the benefits of reflecting the particular needs and preferences of the communities within the local board area”. Again this does not apply as it relates to an approach that is required for the whole of Auckland Council. The development of the Anzac Quarter is a large project allowing for growth, but is not of regional (ie District) significance. There is an understanding that regional growth and regional growth strategies are of regional significance but that should be focussed on planning. There is nothing in the project that should allow its planning and design to outweigh the “needs and preferences of the community”. Car parking on the site will not impact on the areas ability to accommodate growth or even impact on the ability for Takapuna to develop into a Metropolitan centre.

The community has quite clearly stated its views on retaining the site and in particular car parking via submissions to the Board, submissions to the Hearing Panel (57% submitters opposed any development p.93), the petition, and additional informal submissions. The Board has consistently supported the community’s view.

So the decision-making should rest with the local board and in this case the Devonport-Takapuna Local Board.

Next steps. The Governing Body has clearly retained decision-making in areas that are the prerogative of the local board. I believe we should raise a dispute under section 48R of the Local Government Act 2002 because we are dissatisfied with a decision of the governing body under section 48(1) that Decision-making responsibility for any non-regulatory activity within our local board area must be allocated by the governing body to the local board. This has clearly not happened.

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[6] It was developed by the Board but the Board at that stage did not have direct decision-making over the Takapuna Centre Plan, had to request endorsement by the governing body (Auckland Development Committee).

[6] district means the district of a territorial authority (Local Government Act 2002, sec. 5)

[7] For example: In December 2017, “a survey to the members of the T3BA reported an overwhelming majority favouring the redevelopment of the 40 Anzac Street site with the vast majority of the proposal being supported with further consideration needed around the provision of adequate public short stay car parking in the Anzac Street development. This would be in addition to the redevelopment of the Gasometer site to deliver a large high-tech multi-level public car parking facility with additional capacity and covered access ways into Takapuna’s retailing hub”. Press release 14 February 2018: Takapuna Beach, OVERWHELMING BUSINESS SUPPORT TO ADVANCE TAKAPUNA DEVELOPMENT.
If a dispute is raised the local board and the governing body must make reasonable efforts to reach a mutually acceptable and timely resolution of the dispute, having regard to the requirements of this Act; and the current and future well-being of the communities of the district, and the interests and preferences of our local community.

If the dispute is still unresolved we can apply, in writing, to the Local Government Commission for a binding determination.

Recommendations.

1. That the Chairman’s report be received.
2. That the Devonport Takapuna Local Board raise a dispute with the Governing body over the non-allocation of decision-making to the Devonport Takapuna Local Board, of the project on Anzac Quarter.
3. That if the dispute is not resolved, the Devonport Takapuna Local Board consider referring the dispute to the Local Government Commission for a binding determination.
4. That Local Board officers are requested to assist with the documentation and advice required for cl. 2 and 3 above.

Appendix

Planning Committee 6 March 2018

Resolution number FLA/2018/23 MOVED by Mayor P Goff, seconded by Deputy Mayor BC Cashmore: That the Planning Committee: a) approve the recommendation of the hearing panel to change the use of 40 Anzac Street, Takapuna from a car park to mixed use with the following conditions: i) includes a town square ii) investigate short-stay public parking in the surrounding streets iii) complete the Gasometer car park before the Anzac car park is closed iv) undertake further community engagement on the design of public space at 40 Anzac Street. c) agree that the Devonport-Takapuna Local Board, North Shore ward councillors and Panuku Development Auckland will work together to develop and undertake community engagement for site planning of the public realm component on 40 Anzac Street, fully complying with the Hearing Panel and Planning Committee decision. Planning Committee 06 March 2018 Minutes Page 10 d) agree that Panuku Development Auckland will bring the draft design solutions to a Planning Committee workshop after the work identified in clause c) above. e) agree that the town square created will follow Auckland Council’s Open Space Provision Policy 2016 guidelines for a Civic Space. f) note that Panuku will work with Auckland Transport to ensure that the design of any future development integrates an upgraded Takapuna Transport Centre. g) note that Panuku, through development agreements, will ensure an outcome that is people-friendly, creates public amenity, retains and enhances the existing Potters Park and creates connections to Hurstmere Road

Local Government Act 2002 extracts.

48J Decision-making responsibilities of governing body
(1) The governing body is responsible and democratically accountable for—
(4)
the decision making of the unitary authority in relation to any regulatory responsibility, duty, or power conferred on, or applying to, the unitary authority under this Act or any other enactment (for example, the responsibilities, duties, or powers conferred on, or applying to, a local authority under the Resource Management Act 1991, the Health Act 1956, the Building Act 2004, and the Civil Defence Emergency Management Act 2002); and

(b) the decision making of the unitary authority in relation to—

(i) transport networks and infrastructure; and

(a) any non-regulatory activities of the unitary authority that are allocated to the governing body in accordance with section 481; and

(c) the decision making of the unitary authority in relation to the establishment and maintenance of capacity to provide, or to ensure the provision of, services and facilities (including local activities) by the unitary authority; and

(d) the decision making of the unitary authority in relation to the governance of its council-controlled organisations; and

(e) the decision making of the unitary authority in relation to compliance with section 101 (which relates to the financial management of a local authority); and

(i) reaching agreement with each local board (as set out in each local board agreement) in respect of local activities for the local board areas.

(2) Before making a decision described in subsection (1)(a) to (d), the governing body must—

(a) comply with any requirement of this Act; and

(b) comply with any requirements of any other enactment; and

(c) consider any views and preferences expressed by a local board if the decision affects or may affect the responsibilities or operation of the local board or the well-being of communities within its local board area.

48K Decision-making responsibilities of local boards

(1) Despite section 41(3), each local board is responsible and democratically accountable for—

(i)
the decision making of the unitary authority in relation to the non-regulatory activities of the unitary authority that are allocated to the local board in accordance with section 48L; and

(b) identifying and communicating to the unitary authority the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the unitary authority; and

(c) identifying and developing bylaws specifically for its local board area, and proposing them to the governing body under section 150B; and

(d) reaching agreement with the governing body (as set out in the local board agreement) in respect of local activities for its local board area.

(2) In carrying out the responsibilities described in this section, a local board must comply with the requirements of sections 76 to 82 as if every reference in those sections to a local authority were a reference to a local board.

(3) In carrying out the responsibilities described in this section, a local board must collaborate and co-operate with 1 or more other local boards or any other body or entity if the local board is satisfied that the interests and preferences of communities within the local board area will be better served by doing so.

48L Principles for allocation of decision-making responsibilities of unitary authority

(1) Decision-making responsibility for any non-regulatory activity of the unitary authority within a local board area must be allocated by the governing body—

(a) to either the governing body or the local board for that area; and

(b) in accordance with the principles set out in subsection (2); and

(c) after considering the views and preferences expressed by the local board.

(2) The principles are—

(a) decision-making responsibility for a non-regulatory activity of the unitary authority within a local board area should be exercised by the local board for that area unless paragraph (b) applies;

(b) decision-making responsibility for a non-regulatory activity of the unitary authority within a local board area should be exercised by its governing body if the nature of the activity is such that decision making on a district-wide basis will better promote the interests of the communities in the district because—

(i) the impact of the decision will extend beyond the local board area; or
effective decision making will require alignment or integration with other decisions that are the responsibility of the governing body; or

(ii) the benefits of a consistent or co-ordinated approach in the district will outweigh the benefits of reflecting the particular needs and preferences of the communities within the local board area.

Local Board Plan 2017
The Takapuna Centre Plan is our overall guiding strategy to revitalise Takapuna town centre. The Unlock Takapuna project, led by Panuku Development Auckland, aims to start carrying out parts of the plan by focusing on the Anzac Street carpark and the Gasometer site. The Anzac Street carpark sits right in the centre of Takapuna, and its size and location provide an exciting opportunity for great open spaces, new shops, business and places to live that unify the heart of Takapuna. This project has the goal of creating a more connected and attractive town centre. The local board wants the Sunday market to stay in Takapuna and will examine how best to make this happen alongside Unlock Takapuna.

Takapuna Centre Plan
The popularity of the Sunday market hints at the site’s potential to provide activities that can inject life into the centre, not just in the weekend, but throughout the week. It is important that these activities continue. The council believes that the right combination of high quality mixed use development, incorporating convenient public short term car parking and focussed around connected public open spaces and laneways, can help drive the growth of a more lively and attractive metropolitan centre. Making Anzac Quarter a success will require collaboration between the council and private developers. Offering the private sector the opportunity to build a compatible high quality mixed use development provides the council with the ability to achieve public open space and car parking benefits for the community while offsetting or minimising the cost to ratepayers. p.23 in relation to Anzac Quarter

Car parking (starting with at least the existing short term parking capacity of 270 and possibly up to 400 spaces) that achieves good urban design outcomes and supports the retail and entertainment identity of Hurstmere Road and the centre’s heart, and helps compensate for any possible pedestrianising of existing parking on, and adjacent to, the Strand. p.24 in relation to Anzac Quarter.

Disputes between local boards and governing body

48R Disputes about allocation of decision-making responsibilities or proposed bylaws
(1)
Subsection (2) applies if—
(a)
1 or more local boards are dissatisfied with a decision of the governing body under section 48L(1); or
(b)
a local board is dissatisfied with a decision of the governing body under section 150B(3)(b) or 150E(3)(b).
(2)
The local board or boards concerned and the governing body must make reasonable efforts to reach a mutually acceptable and timely resolution of the dispute, having regard to—
(a)
the requirements of this Act; and
(b)
the current and future well-being of the communities of the district, and the interests and preferences of the communities within each affected local board area.
(3)
If, after acting under subsection (2), the dispute is still unresolved, 1 or more local boards may apply, in writing, to the Commission for a binding determination on the matter.
(4)
An application must be accompanied by copies of all reports, correspondence, and other information that are relevant to the matter and held by the local board or boards.
Advice to Devonport-Takapuna Local Board – Chairperson’s Report

Further to my email below distributing Grant’s report for the meeting tonight, I feel it is important to provide you with some advice around my concerns with the process through which this matter of business is being put forward for your consideration this evening. Although I also have concerns around the content of Grant’s report, I think reasonable people could disagree around the conclusions drawn and the basis upon which they were reached.

I have expressed my views to Grant regarding content separately, but ultimately it is a matter for the board to consider as part of debate, and also for subject matter experts in council to respond to in due course if/when the board pursues the course of action sought here.

Therefore, the focus of the advice to follow is on the process of bringing this matter to the DT LB, with concerns expressed in the following areas:

- Potential failure to meet the decision-making requirements of the Local Government Act 2002 (LGA) and meeting information requirements under the Local Government Official Information and Meetings Act 1987 (LGOIMA); and
- Potential difficulties of staff to support the DT LB in the processes put forward as requested through the Chairperson’s recommendation #4.

Decision-making requirements under LGA2002

The majority of DT LB members were present last month prior to the March business meeting when I voiced concerns around the ongoing use of members reports to seek resolutions from the board, particularly when those reports were received inside the two working days requirement of s46A of LGOIMA. Although the board’s standing orders do allow for a Chairperson’s report (and various things can be done through them as described in Standing Orders), the board must also be conscious of the principles of good decision-making required in the LGA2002.

Of particular concern here is potential violation of s14 of the LGA, which states that in performing its role, a local authority should conduct its business in an open, transparent and democratically accountable manner. As the Chairperson’s report was only finalised and distributed to members this morning, local board members have had limited opportunity to understand what the overall intent and recommendations sought through this report. I appreciate that Grant emailed all members on Sunday afternoon signalling an intent here, but this was not open, transparent or democratically accountable. In addition the full content of the report was not provided at the time, and the full justification / explanation around why these recommendations were not provided until this morning.

Furthermore, as this is now a tabled report, the public has had limited opportunity to understand and ‘see’ what is going on here. It can be argued that the process followed here has allowed the public no opportunity to influence decision-making – which should be a strong consideration of the board given the significant amount of public interest in the 40 Arcata St issue. This would also be in
keeping with the underlying intent of s14 of the LGA2002, and well as those clauses contained with Part 6 of the LGA2002 as described below.

In addition to my concerns around s14, I also have concerns that elements of s77 and s79 of the LGA2002 may have been breached here. Section 77 provides that a local authority must, in the course of the decision-making process, seek to identify all reasonably practicable options for the achievement of the objective of a decision; and assess the options in terms of their advantages and disadvantages. The Chairperson’s report does not provide any assessment of options – it seeks a course of action from the board in the absence of any advice around the pros, cons, implications, costs, resource requirements etc in relation to raising a complaint to the governing body – and potentially the Local Government Commission. In my view this does not constitute sound decision-making, and could be a point raised in objection around process.

In carrying out this responsibly, s79 of the LGA2002 also requires a local authority to make, in its discretion, judgments about how to achieve compliance with s77 that is largely in proportion to the significance of the matters affected by the decision. There has been no contemplation or recognition of this requirement within the Chairperson’s report. It is also salient to note that, to my knowledge:

- To date there has never been a complaint made by a local board to the governing body in relation to a decision they have made; or
- To date there has never been a complaint made by a local board to the Local Government Commission about an unresolved dispute between a local board and the governing body.

As there is no precedent to draw from here, one could argue that the course of action sought by the local board here is significant, and therefore a higher level of consideration should be given to the decision-making requirements of the LGA2002 than has been done here (i.e. a ‘higher decision-making bar’ in terms of ensuring good decision-making processes). In addition, due to the lateness of finalising and distributing the report, I have had limited time to seek advice from relevant council officers on the potential impact of the recommendations sought, or any advice to assist the board in considering whether or not to support the Chairperson’s recommendations as proposed. Again, the opportunity to seek advice / information to assist the board in meeting its statutory requirements as set out in LGA2002 has not been provided – further increasing the risk to any decision the board makes against this report.

Requirements under LGOIMA

Members will be well aware of the requirement under LGOIMA that agendas for business meetings must be made publically available at least 2 working days clear of the meeting. Section 46A(1) of LGOIMA provides that any member of the public may, without payment of a fee, inspect, during normal office hours, within a period of at least 2 working days before every meeting, all agendas and associated reports circulated to members of the local authority relating to that meeting. Due to the late receipt of the Chairperson’s report, however, this requirement of LGOIMA has not been met.

Section 46A of LGOIMA, however, does contemplate that not all materials for a meeting may be available for inclusion on the agenda in accordance with the provision above, so there is a provision for ‘extraordinary business’. As such, s46A(7) provides that an item that is not on the agenda for a meeting may be dealt with at the meeting if:
the local authority by resolution so decides; and

- the presiding member explains at the meeting at a time when it is open to the public,—
  o the reason why the item is not on the agenda; and
  o the reason why the discussion of the item cannot be delayed until a subsequent meeting.

This particular requirement of LGOIMA has been previously discussed at length with members, both prior to and part of the recent review of the board's Standing Orders. The key here, however, is the requirement around the reasoning as to why the item cannot be delayed until a subsequent meeting. There is no indication within the Chairperson's report to this effect, which again raises concern. It appears that the board is introducing extraordinary business in a way that skirts the legislative requirements, would could be a point of interest in the event the board's decisions get challenged. It is also unclear what reasoning could be provided at this point around why discussion of this item cannot be delayed until a subsequent meeting.

If the board resolves to deal with an extraordinary item, s7A of LGOIMA becomes important. Where an item is not on the agenda for a meeting, that item may be discussed at that meeting if:

- that item is a minor matter relating to the general business of the local authority; and
- 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.

However the important thing to note here is that 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. Therefore, even if the board was to resolve to consider this matter as an extraordinary item, it may only be discussed — but the only action the board could take would be to refer the matter to a subsequent meeting of the board for discussion and decision-making.

Summary / conclusions

Based on my understanding of the LGA2002 and LGOIMA, I have significant concerns around the status of any decision the board may make against the Chairperson's report at this meeting. Due to the nature of the recommendations sought here, I would think the matter would be of significant public and organisational interest — and therefore the process through which the local board arrived at its resolutions are likely to be heavily scrutinized, regardless of the content of the report itself.

If the board proceeds to resolve as recommended against this item as presented this evening, I have real concerns that any board decision could be determined to be ultra-vires, or not in keeping with the legislative requirements as outlined above. This would negatively impact on the board's ability to raise the concerns identified within the report, as errors in process would allow for the matters raised to potentially be dismissed out of hand.
Therefore, my strong advice to the board is to consider one of the following courses of action:

1. Withdraw the recommendations associated with the Chairperson’s report, and allow Local Board Services to work with DTLB leadership and organisational staff who hold expertise in the areas covered in the Chairperson’s report to provide information and advice as to the best way to proceed, given the issues raised. It is likely that this advice would come back to the board in an informal fashion (possibly via a memo), and the board could then consider at that point the appropriate mechanism to use that is in keeping with the provisions contained within the LGA2002 and LG01MA.

2. Recast the recommendations present to request information / advice from relevant council staff as to the correct process and procedure for (a) raising complaints with the governing body in line with the intent of s48R of the LGA2002, and (b) in the event that a dispute cannot be resolved between the governing body and the local board, that the board receive advice around the process / procedure for laying complaints against the governing body with the Local Government Commission, or any other body which may have jurisdiction over the matter. The board should also question information as to the pros, cons, implications, costs (resource and dollar) and timelines for each of these processes. Once the board receives this advice, it can then consider with full knowledge of each process the course of action it may wish to take at that time.

Concerns about the impartiality of staff

In addition to above, I also have some concerns around the Chairperson’s request that Local Board Services staff support the DTLB in its potential complaint against the governing body, and potentially support the lodging of a complaint with the Local Government Commission. As all council staff (and especially LBS staff) are to be impartial, objective and neutral in their advice, it is unclear what LBS’s role may be in supporting the local board in either of the processes identified. It is unclear whether or not LBS should / can play a role here and to what degree – therefore it would be prudent to seek advice on this aspect prior to resolving a formal position of the board. I appreciate that it seems the support role would be predominantly administrative, but my concern remains.

In the event the board was of a mind to consider either of the alternative approaches above, it is suggested to include this element in any request for more information / advice from relevant officers.

I appreciate there is a lot here, and that it is very late in the piece to be providing this advice. Therefore, I would appreciate the opportunity to speak to the above at the business meeting, and I will be providing members with hard copies of this advice for their information.
Report Name: Board member report – Deputy Chairman George Wood

Report Period: From 20/03/2018 – To 17/04/2018

1. D-T LB Relationships with Maori:

The issue that I wish to report on is our dialogue with Maori, both tangata whenua and mtaawaka. With the advent of the Auckland Council I believe there is confusion as to who the Devonport-Takapuna Local Board should be in consultation with to fulfil our legal obligations especially under the Resource Management Act and the Local Government Act.

The RMA it talks about consulting tangata whenua and mana whenua but the LGA talks about consulting Maori. Maori in this context means both tangata whenua and mtaawaka.

I would like some more in-depth understanding of who constitute the tangata whenua and mana whenua of the Devonport-Takapuna Local Board area. Also who should be consulted as Maori under the LGA. I have my views on this issue but believe we should get some expert advice on the subject.

2. Obtain a valuation report on 40 Anzac Street and the Gasometer site:

The D-T LB is told that Panuku Development Auckland intend to sell off two thirds of the Central carpark (40 Anzac Street) and use the proceeds for providing a civic open space development and also for work in building a carpark on the Gasometer site (Huron Street, Takapuna). At the same time the Gasometer site is being divided into two parcels of land; one to be used to construct a carpark building and the other to be sold on the open market.

At this time we have not seen an up-to-date valuation from a registered independent valuer indicating what the 40 Anzac Street carpark and Gasometer sites are worth on the open market. I believe that the D-T LB should know these valuation figures and therefore request that the board pay to have valuations of these two sites completed.

I therefore will move and Michael Sheehy second:

That an independent valuation be undertaken to ascertain the market value of the land at both 40 Anzac Street and the Gasometer site (Huron Street)

Meetings attended March/April

20 March (Saturday) Meet with members of the Milford Residents Assn regarding the replacement of the Milford beach toilet and changing rooms building. Members O’Connor and McKenzie also present.
21 March (Sunday) LTP engagement at “Have Your Say” meeting – Takapuna Markets
21 March (Sunday) LTP engagement at Sunnynook Community Centre, with local residents.
29 March (Monday) Regional Cluster Workshop at Takapuna
29 March (Monday) Disorder issues at Movies in the Parks meeting at Takapuna
29 March (Monday)  Support for LB deputy chairs Skype meeting
4 April          Attended discussion on how Auckland Transport handled LGOIMA and
elected members' requests for service at Auckland Transport office in Fanshawe Street.
13 April (Friday) Sunnyhock Area Plan working party to sign off draft plan
9 April (Monday) Auckland airport to City Centre light rail spatial planning site visit along the
route

Community events attended
29 March (Thurs)   RNZN Fleet Divisional parade at Ngataringa Bay sports field

Signatories

| Author | George Wood – Member, Devonport-Takapuna Local Board |

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Devonport-Takapuna Local Board update
Councillors Chris Darby and Richard Hills
17 April 2018

29 THOUSAND HAVE THEIR SAY

March was ‘Have Your Say’ month, with all of Council seeking feedback on both the 10-year Budget and Auckland Plan Refresh. The goal of 10,000-15,000 pieces of feedback was well exceeded, with 29,000 pieces received across the 29 days via more than 90 events across the region. Teams are now working on summarising the comments and feedback.

We're now well into the ‘deliberations on consultation feedback’ stage, and local and regional workshops will be held to discuss themes, budget issues, implications, and trade-offs. By considering Auckland in both the short and long term, we’ll be well placed to use all information received to finalise both the 10-year budget and Auckland Plan.

UPDATE: DEVONPORT NAVY BASE CONTAMINATION

As you will be aware, the New Zealand Defence Force have announced contamination at Devonport Navy Base, caused by PFAS and PFOA found in now-banned fire-fighting foam.

Since the initial announcements, Cr Darby has challenged the timing with which NZDF shares information with Council, as the regulatory authority, and with the Devonport community, as the affected party. Cr Darby notes that NZDF should have advised both council and the community much earlier than they did and is continuing to enquire for updates and progress.

PFAS (or per – and poly – fluoralkyl substances) is a class of man-made, long-lasting, toxic chemicals. It was used in firefighting foam from the 1970s until the early 2000s in international aviation because the foams put out liquid fuel fires quickly. Since 2011, no import, manufacture or use of PFOS compounds is permitted in New Zealand (other than for specified, identified uses, such as laboratory analysis). Australia has banned the use of the substance since the early 2000s.

Defence tests undertaken in 2016 showed contamination at Devonport. The public were first advised in December 2017. A large-scale investigation into the chemicals across New Zealand is underway, after the public were first advised in early December 2017.

Because it is extremely persistent, testing is exceedingly difficult to undertake. Cr Darby is continuing to seek updates and the timely and frank release of information.
COMING UP AT PLANNING COMMITTEE: PORTS OF AUCKLAND 30 YEAR MASTERPLAN

The next Planning Committee meeting will take place on 3 May and will include the Ports of Auckland Limited 30-Year Masterplan. This follows the recent workshop, which provided direction for the recommendations to Planning Committee, the drivers and narrative for Ports of Auckland.

As with the workshop, the local board chair (or their nominee) is invited to attend the Planning Committee meeting. Any requests to speak during local board input should be referred to Kalinda.Gopal@aucklandcouncil.govt.nz.

A SUMMIT FOR SMARTER CITIES

In late March, Cr Darby attended the 2018 Smart City Mayor’s Summit and Expo in Taipei. The summit enables like-minded cities to compare approaches, learnings and interests in order to better design our future cities.

The summit attracted 300 delegates, from 120 cities in 50 countries. In total, 150,000 people attended the expo, with 1,512 being international visitors. Cr Darby presented to the summit on developing sustainable cities that connect with industries, and joined a number of panels to discuss common issues and proposed solutions.

The trip, which was funded by the Taiwanese Economic and Cultural Office, also enabled exploration of Taiwan’s bike share scheme, sustainable private business practices and urban design.

CR HILLS SPEAKS AT AUCKLAND CLIMATE CHALLENGE

Cr Hills recently attended AUT to present to the Auckland Climate Challenge group on the power of youth in politics at the group’s first conference.

A youth for youth project, which includes many young people from the North Shore, Auckland Climate Challenge started in 2015. Cr Hills’ presentation looked into the power of a collective youth voice, ways to become involved in politics and issues of interest, and how methods of political participation have changed over time.

Cr Hills also covered key projects of Council’s Empowerment unit, angled towards increasing participation and awareness of young people in areas such as select committees, liquor licensing and providing feedback on measures to address the use of synthetics.

CATCHING UP WITH COMMUNITY CONSTABLES

A recent catch-up with the Waitemata Police District Community Constables proved useful on both ends, with Cr Darby raising road safety as a key area of focus, especially following the previous day’s Local Government Road Safety Summit with Minister Julie-Anne Genter. This also followed the tragic news of a pedestrian fatality that morning, of a Council staff member and the seventh North Shore road death since January 1.

The Police responded with detail of the new Road Safety Strategy with a zero deaths focus. Other items included supporting youth and their success stories, the establishment of a new youth services team, homelessness, drug-use in public carparks and community housing for those on probation. Of particular interest was the discussion of a new Police training facility on the North Shore, removing the need for new recruits to travel to Porirua.

Cr Darby has instigated a six-monthly catch-up with the North Shore Area Commander and all Community Constables in the North Shore ward. Both he and Cr Hills invite the DTLB chair to attend the next meeting with them.