

---

## **Report to the Local Board of Member Vernon Tava**

### **October 2018**

---

#### **Purpose**

This report covers my Waitematā Local Board Activities in mid-September to October 2018 as Lead of the Planning and Heritage portfolio; co-holder of the Transport portfolio; Local Board representative on the Parnell Business Association; and member of the Auckland Domain Committee.

#### **Executive Summary**

- I will be moving a motion to support the re-installation of bollards in Saint Patrick's Square in principle and request a rough order of costs from Auckland Transport.
- I led the Heritage Foreshore Guided Walk – a 3.5-hour walk that traces the pre-1840 shoreline of Auckland – on Sunday 30 September. This was the Local Board's contribution to the Auckland Council Heritage Festival. More details below
- I took part in a Resource Management Act Commissioner's Forum on 25 September at the Town Hall Council Chambers
- I attended the Parnell Business Association's AGM on the evening of 27 September as the Local Board's representative
- I attended the Parnell Heritage AGM on 13 September
- I keep track of resource consent applications as they are received by Council, requesting further information, plans and Assessments of Environmental Effects for applications of interest. Significant applications are referred to the relevant residents' associations for their input which I then relay to planners as part of the Local Board's input. Reporting of resource consent applications, planning portfolio input, hearings and decisions in the Local Board area for this month is detailed in the Heritage, Urban Design and Planning section of this report under the headings 'Planning': 'Resource Consents'

## Recommendation

That the Waitematā Local Board:

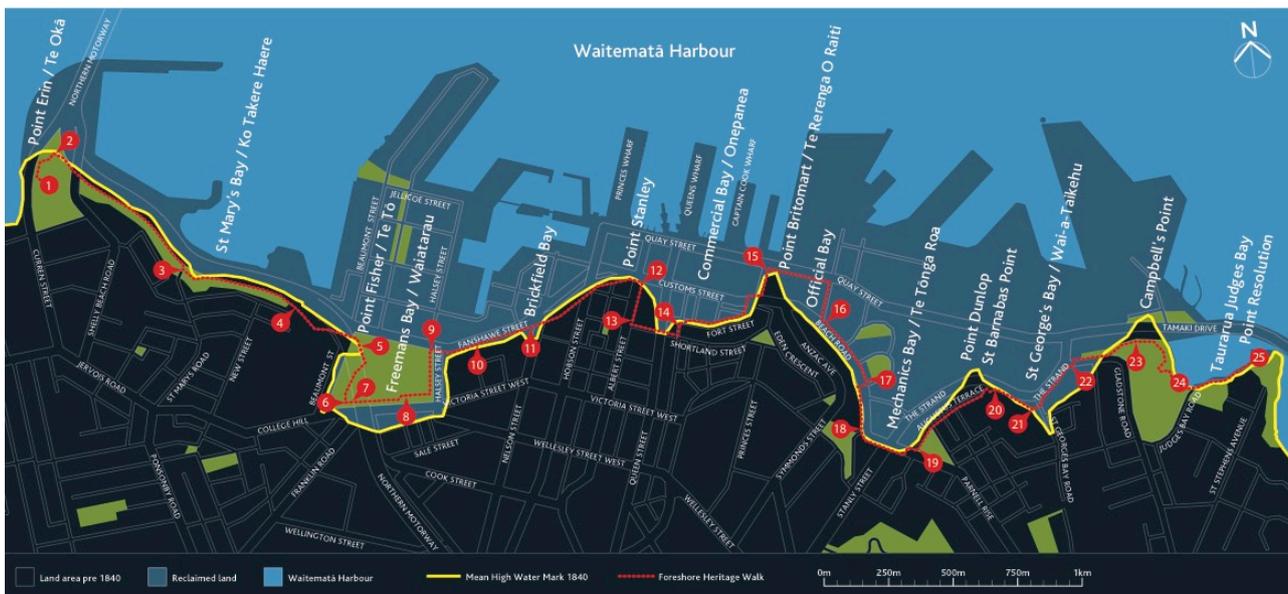
- a) Receive the Monthly Report of Member Tava

## Portfolio Report: Heritage and Planning

### Portfolio Responsibilities

Heritage, Urban Design and Planning covers a mix of regulatory and non-regulatory activities including city planning and growth, heritage protection, urban design requirements, Local Board resource consent application input, and bylaw development, including advocacy to achieve local priorities relating to heritage preservation, good urban design and spatial planning. Regulatory and policy oversight of local liquor licensing, signs & billboards, and brothels.

### Heritage Foreshore Guided Walk



I led the Heritage Foreshore Guided Walk along the original foreshore of central Auckland on Sunday 30 September. This was the Local Board's contribution to the Auckland Council Heritage Festival. 25 members of the public attended along with Local Board Chair, Pippa Coom, and Member Northey. The walk took 3 and a half hours and 10 hardy souls reached the end of the trail at Point Resolution | Taurarau.



The following introduction from the Auckland City Council research, on which the walk is based, summarises the nature of the work well:

'The original shoreline in Auckland has been changed dramatically by reclamation works in the 19th to early 20th centuries, the development of rail connections, and the construction of the Harbour Bridge and motorway in 1950s and 60s. The marinas and commercial wharves, which now stretch from Westhaven through to Judge's Bay, are very different from the foreshore sighted by the first settlers to Auckland.

Tāmaki Herenga Waka – 'Tāmaki – the Destination of Voyagers' is an ancient name for the Auckland Isthmus. This narrow piece of land between the Pacific Ocean and Tasman Sea was known well by the great Polynesian navigators who settled Aotearoa a thousand years ago. Waka (canoes) arriving from the Pacific Islands with new seed stocks and migrants sought the narrowest part of the isthmus at Otāhuhu, a mere 800m portage between our two great oceans. Later voyagers found Tāmaki heavily populated with some marrying into local communities while others continued south in search of new lands. With excellent gardening soils, fish stocks and natural fortifications – the volcanic cones, Tāmaki became and still is today, the centre of the largest Māori civilisation in the world. The foreshore served identical purposes for both Māori and later European settlers: closeness to the bounty of the sea, and supplies for communities, a means of travel in an era where roads were either non-existent or extremely poor, while the headlands served as defensive points.

There were a number of Māori pa sites along the original foreshore in central Auckland including Oka at Shelly Beach and Point Erin Park, Te Tō at Point Fisher, Te Ngauwera close to where the Customhouse now stands, and Te Rerenga-oraiti on what was Point Britomart.

In 1840 Lieutenant Governor William Hobson selected Auckland as the new site of the capital city, relocating it from Kororareka or Russell in the Bay of Islands. Surveyor-General, Felton Mathew, narrowed the preferred site down to Horotiu Bay (at the bottom of present day Queen Street), principally as this area was the best place for transferring both goods and settlers from ship to shore. Ngati Whatua leader, Te Kawau gifted 3000 acres of land including Auckland's CBD to Governor Hobson enabling the establishment of the city. The British flag was unfurled on 16th September 1840 on the headland of Point Britomart, the first settlers and government officials arrived in 1841 and Auckland's shoreline began to be transformed.

The European names of the headlands and bays along this foreshore reflect the pattern of settlement – Horotiu Bay, at the bottom of present day Queen Street, was dubbed Commercial Bay, as this was the business centre for the young capital. It offered flat, wide beach areas and mudflats. Shortland Street was the early commercial focus, but as Commercial bay was filled in and more streets formed that focus shifted to Queen Street. Further east, Official Bay on the other side of Point Britomart was where government officers first pitched their tents. Mechanic's Bay was home to the first workmen ("mechanics") who built the city.

The first reclamation of Auckland's early foreshore was the formation of Fore Street (later Fort Street) from the shoreline of Commercial Bay, completed by 1850. Providing wharves was an early priority for the new settlement. The Auckland Provincial Council undertook to construct Wynyard

Pier between Official and Mechanic's Bays before the end of 1851, and commenced work on the first Queen Street Wharf in 1852. By 1859 reclamation work was in progress between Fort and Customs Streets. By 1870 the reclamation of Commercial Bay reached as far as Customs Street East and in the 1880s Quay Street was formed.

In 1871 the Auckland Harbour Board was formed which would oversee further dramatic changes to the original line of the foreshore. Once the British garrison had departed Fort Britomart, on Point Britomart headland in 1870, the new Harbour Board began in earnest to cut away the point to enable a rail connection out of Auckland. The excavated headland was used as fill for reclamations in Freeman's, Commercial, Official and Mechanics Bays between 1872 and 1886.

Major areas of reclamation occurred in Freeman's Bay from 1886-1917, Mechanic's Bay from 1872-1915, and St George's Bay from 1904-1916.

Many of Auckland's early industries from the 19th century vanished as the reclamations spread out and the bays ceased to exist. Freeman's and Mechanic's Bays were the sites of sawmills, and both bays were often filled with logs. Brickfield Bay, aside from being the home for early brickyards serving the new city, was also the site for the first gas works. The building of the approaches to the Auckland Harbour Bridge in the late 1950s sealed the fate of the thriving ship building industry in St Mary's Bay, as well as rowing regattas held by the West End Rowing Club. Of the foreshore from Pt Erin to Parnell, only Judge's Bay retains its original contours.

The alteration of Auckland's shoreline after 1840 until present day; from sandy beaches, rocky cliffs and mudflats – to modern wharves for passengers and container traffic illustrates the change from colonial port to modern city. In tracing the line of the original foreshore we can see the history of the development of Auckland.'

### **Validity of Consents in the Special Character Area**

Auckland Council announced on the 28<sup>th</sup> of August that about 420 property owners to reapply for already issued resource consents to protect them from possible legal challenges. And the council says some of those who reapply may not get a resource consent after seeking a new one! It may be that as many as 130 of the affected property owners have already obtained building consents for work on their dwellings.

The re-applications will be fee-free and expedited as quickly as possible. Council have done this so that issued consents are not vulnerable to being overturned by judicial review after building has been completed – which would be far more expensive and inconvenient. The issue arose when the Auckland Unitary Plan became operative in part in November 2016. The final wording of the rules for Special Character Overlay Areas and the underlying Single House Zones were, in places, inconsistent and created uncertainty about which should take precedence.

It is important to note that Auckland Council obtained external legal advice to determine the correct interpretation of the rules. They adopted an approach that was consistent with this advice when processing resource consents between December 2016 and December 2017. This approach was that the Special Character Areas Overlay rules took precedence over the underlying zone rules.

Because there was still some uncertainty, Auckland Council sought clarification on the rules from the Environment Court. On 19 December 2017 the Court agreed that the relevant Unitary Plan rules were not clear and thanked the Council for seeking clarification. The Environment Court did not agree with Council's existing interpretation of the rules and declared that both sets of rules – the Special Character Areas Overlay and the underlying zoning rules – should apply when considering resource consent applications.

Council immediately changed their resource consents practice following the court ruling and began to apply both sets of rules to resource consent applications, in line with the Court's decision.

Although existing resource consents remain valid as they can only be cancelled by the High Court, an interested party (for example a neighbour) could make an application to the High Court seeking a judicial review of an affected resource consent. This is why Council are recommending that all affected consent holders apply for a new resource consent; this would remove any uncertainty about potential issues with their consent. They are also recommending that people do not progress with a Building Consent application or begin work on the property until a new resource consent is in place.

Council do not have the power to order that work stops on any of the affected sites as they are still validly granted consents, but they are vulnerable to judicial review in the High Court. Some property owners may well choose to wager that no one will be willing to go to the considerable trouble and expense of court action.

Council's analysis indicates that, for the majority of consent holders, updating their resource consent should be relatively straight-forward.

The Environment Court proceedings concluded in March 2018. After the December 2017 interim decision, detailed analysis was carried out of the impact of the decision on the AUP to understand what Plan changes may be required. A report was prepared and filed in court in July 2018.

In relation to consents granted during the relevant period, initially Council were trying to address each one on a case-by-case basis. They also carried out a thorough review to identify the number potentially impacted and then formulate an appropriate strategy to manage potential issues with these consents. As a result of that work, a public announcement was made on 29 August and a plan of action implemented to assist consent holders through the issue. There is now a dedicated team dealing with these consents.

Regulatory Services Director, Penny Pirrit, has said Auckland Council would be looking at changing the Unitary Plan so the overlay rules take precedence. However, a plan change will take until mid-to-late 2019 to complete at the earliest.

I am dealing with local instances that have been brought to the Local Board's attention.

### **Parnell Plan**

The Parnell Plan working group met on 8 October. The group are in the final stages of community consultation and refinement of the implementation plan. The Parnell Plan will set a 30-year vision for Parnell, with a 0-10 year implementation plan. Local Board Chair, Pippa Coom, and I have been confirmed as the Board's representatives with Member Northey as the alternate.

### **Resource Consents**

The portfolio request information on resource consent applications of interest as a matter of course. The Local Board can have input into the decision on public notification of a resource consent application and can also comment on the substantive matters of the application. The input of the Local Board is not binding on the commissioner or hearings panel making the decision but we are able to appear at notified hearings to speak on behalf of the Local Board. This is not treated as a submission for the purposes of the Resource Management Act but it is given weight by a hearings panel or commissioner according to the merit of the arguments made.

- 74-80 Wellesley Street West, Auckland Central. LUC60325501. The application involves the demolition of the existing buildings on site and the construction of a new 10-storey hotel building (Hotel Grand Chancellor) to incorporate 152 hotel rooms, associated restaurant and internal loading and servicing. The reasons for consent include: new building within the Business City Centre Zone; demolition of

buildings within the City Centre Zone; a building which exceeds the maximum total floor area ratio Of 6:1 with the proposed floor area being 6.6:1; the creation of bonus floor area due to the provision of the residential bonus feature; construction of a vehicle crossing where a vehicle access restriction applies; construction of a vehicle crossing which is 4.8 metres in width. Overall the proposal is a non-complying activity. The Local Board did not have formal input on this application.

- 40 St Stephens Road, Parnell. LUC60324087. Application to extensively landscape the back yard of the site. Significant earthworks across an area of 319.08m<sup>2</sup> are proposed to recontour the steep terrain and construct the swimming pool. Retaining walls measuring a maximum height of 3.0m not including the safety barriers are proposed to provide a levelled lawn area. General compliance is achieved with the relevant bulk and locations standards in the zone, except for the location of timber posts in the side yards and a minor HIRB (height in relation to boundary) infringement from a balustrade. No changes to the dwelling are included under this application. The Local Board did not have input into this application.
- 462 Parnell Road, Parnell. LUC60325749. Remove or demolish existing dwelling and garage and construct new two-level dwelling with associated earthworks. The proposal requires consent for earthworks, construction of a new building and a building that does not comply with height in relation to boundary but complies with alternative height in relation to boundary. Overall consent is required for a restricted discretionary activity. The Local Board did not have input into this consent.
- 25 Picton Street, Freemans Bay. LUC60325588. External alternations to dwelling in Residential Isthmus A Special Character Overlay. Stirling Trust have applied to undertake minor additions and alterations to the dwelling at 25 Picton Street in Freemans Bay. These include the addition of a bay window to the rear of the dwelling, adding windows along the side of the dwelling and installing new skylights. The site is zoned Single House and is covered by the Residential Isthmus A Special Character Overlay. The proposal requires consent due to additions and alterations being a restricted discretionary activity under the SCAR (Special Character) overlay. The Local Board did not have input for this application.
- 50 Sentinel Road, Herne Bay. LUC60325790. Resource consent Council reference R/LUC/2016/3669 was granted for additions and alterations to the front and rear of the existing dwelling including additions to the rear, new swimming pool and decking at the rear, a new carport at the front, 1.8m high fencing along the side and rear boundaries and a 1.2m high picket fence along the front boundary on 10

January 2017. The garage at the front of the site has already been removed, as has the rear lean-to and rear shed. Foundations have been laid for the rear addition. These works have been undertaken via resource consent R/LUC/2016/3669 (as varied by LUC60124607-A on 21 December 2017). However, the applicant has determined that a fresh consent is required "*in order to address deficiencies in the underlying consent*" (as the underlying zone provisions were not considered). This current application for resource consent is therefore put forward as an alternative to the existing resource consent. The proposal differs from that granted consent (as varied) in the following ways: the proposed northern wall of the lounge in the addition will be set back from the northern boundary by between 1.0m and 1.034m, as opposed to 0.716m in the approved consent. It will extend for 8.4m parallel to the boundary, as opposed to 7.0m in the approved consent; the proposed southern wall of the dining and kitchen area in the addition will be set back from the southern boundary by between 0.26m and 0.275m, and there will be an overall southern side yard infringement length of 14.212m. This is as opposed to a setback of 0.3m, and there will be an overall southern side yard infringement length of 13.6m, in the approved consent. The Local Board did not have input into this consent.

- 94 Crummer Road, Grey Lynn. LUC60325931. The application is for additions and alterations to the dwelling including an extension to the rear, removal of existing accessory buildings, demolition of the existing lean-to and construction of new internal boundary fencing. Additionally, the proposal includes the construction of a car parking pad within the front yard which will require the construction of retaining walls to the front boundary and partial excavation under, and alterations to, the front of the dwelling to accommodate. Resource consent has been applied for as the site is covered by the Special Character Overlay so ads and alts trigger a reason for consent. There are also further infringements to standards under both the overlay and the Single House zone. Still awaiting completion of the application.
- 59 O'Neill Street, Ponsonby. LUC60325466. Additions and alteration to the existing dwelling and all associated works. The front portion of the site will be excavated down to footpath level to provide vehicle access to the property. An undeveloped subfloor area will be excavated and developed into a basement consisting double car garage with a 4.8m wide door, a bedroom, ensuite, a media room, toilet and laundry. There will be a new deck extending from the media room. A staircase will connect the basement to the ground floor level. The finished floor level of the

existing ground level will remain unchanged and the floor plan will be reconfigured to provide for three bedrooms, two bathrooms and an open plan kitchen dining and lounge. A new deck and timber stairs will be located at the front of the dwelling and a new deck will be located at the rear of the dwelling. As a result of the changes proposed to the interior of the house, the existing brick chimney will be demolished. Reasons for consent applied for include: the proposed works require 456m<sup>3</sup> of earthworks in total and this is a restricted discretionary activity pursuant to Standard E12.4.1(A8); the proposed vehicle crossing exceeds 3m where 4m is proposed and this is a restricted discretionary activity pursuant to Standard E27.6.4.3.2(T149); the proposal involves external alterations or additions to a building on all sites in the Special Character Areas Overlay–Residential and this is a restricted discretionary activity pursuant to Standard D18.4.1(A4); the proposal exceeds the 3m+45 degree and this is a restricted discretionary activity pursuant to Standard D18.6.1.2; the proposal exceeds the 2.5m+45 degree and this is a restricted discretionary activity pursuant to Standard H3.6.7; the proposal exceeds the maximum 40% building coverage and this is a restricted discretionary activity pursuant to Standard D18.6.1.4; the proposal exceeds the maximum 35% building coverage and this is a restricted discretionary activity pursuant to Standard H3.6.10; the proposal exceeds 1.2m fence height, and this is a restricted discretionary activity pursuant to Standard D18.6.1.7. The Local Board did not have input into this application.

- 30-38 Princes Street. LUC60326694. The applicant seeks to carry out seismic strengthening works of the Student Union Building (#1927, Category B Historic Place under the AUP (OP)). The Local Board did not have input on this notification.
- 5 Gunson Street, Freemans Bay. LUC60121174-A. Resource consent was granted in 2014 for the relocation and additions and alterations to the existing dwelling on site, amongst other works. The dwelling was granted 38% demolition. The entire house has now been demolished, exceeding the 38% consented. Applicant proposes to rebuild dwelling to match approved plans from 2014. The Local Board did not have input on this notification.
- 5 Renall Street, Freemans Bay. LUC60327198. The proposal involves internal alterations to the existing building such as removal of internal walls, stairs, and plumbing fittings, and removal of the existing roof and construction of a new roof for a roof top terrace. Heritage team will review. No Local Board input.

- 89 Saint Marys Road, Ponsonby. LUC60327330. Demolition of an existing (villa) building which appears to be very run-down and 'is uneconomic to restore to a fit state for habitation'. Number 89 runs up against the reserve land next to the motorway. Application is by the owner of adjacent 83-85 Saint Marys Road properties who do not have a proposal at this point to replace the building. No Local Board input.
- 4 Ring Terrace, Ponsonby. LUC60327234. Application to remove an internal fire place and associated external chimney structure. Also includes on additional window installed in a bedroom. Site is subject to Special Character area overlay where external additions or alterations (including chimney removal and new windows) requires consent. To be reviewed by Council's Heritage team to assess impact on streetscape character. No input on this application.
- 6 Almorah Place, Epsom. LUC60327114. Application by Education Trust to demolish the existing standalone dwelling and construct a new dwelling with one half basement level and two above ground levels. The site is subject to myriad overlays, including Special Character Area (although not subject to demolition rules), Outstanding Natural Features and Outstanding Natural Landscapes. The proposal involves a significant volume of cut (earthworks) to construct the basement level and rock breaking may be required. No input on this application.

### Significant Resource Consent Matters

#### 246 Queen Street, Auckland Central – Application GRANTED to remove public toilet on the basis that the removal was 'not a resource consent matter' due to changed Unitary Plan rules allowing bonus floor space to be compensated by other means

As per my September report: LUC60324811. Application to reconfigure the ground and first floors of the building. This includes **removing the public toilet** 'due to the lack of purposeful use by the public and the issue of anti-social behaviour' and 'reconfiguring the existing through-site link to ensure a continuous pedestrian accessway through the building, removal of the existing mezzanine level to create a double height space on Queen Street and new glazed shopfronts.' It is also proposed to reconfigure the upper levels of the building for new office tenancies, including reconfiguration of the central light well. In October 2003, a variation of consent (PO/02/00188) was granted to change the alignment, design and size of the through-link, reduce the size of the public toilets from 87m<sup>2</sup> to 62m<sup>2</sup>, through-site link from 657.44m<sup>2</sup> to 578.44m<sup>2</sup>, and increase the amount of

artwork provided for the work of art bonus feature. The TSL provides a bonus area of 1665m<sup>2</sup>. The application is for therefore a restricted discretionary activity. The Local Board was strongly opposed to the removal of the public toilet and I asked for **public notification** of the consent on this basis. There is a strong and demonstrated public interest in the issue of public toilet provision (and the lack of) in the inner city as evidenced recently in the media attention and public response to the recent removal of the public toilet at the SAP Building. If the toilet was not being used by the public I would suggest that is more to do with inadequate signage than lack of demand. With the loss of this toilet, shortly after the decommissioning and removal of the 151 Queen Street facility, the shortage in the central city becomes more acute.

#### 144 Parnell Road, Windsor Hotel Development

R/LUC/2017/87. This consent was **GRANTED** on 10 August 2018. Conversion of the Heritage listed former Windsor Castle Hotel building for residential and commercial use and construction of a new 5-level apartment building in an L-shape around the Heritage building (in total 13 apartments and 3 food & beverage tenancies). Breach of the Auckland War Memorial Museum view shaft control (max. infringement of 2 metres at the lift shaft). Breach of maximum building height control, with 13 metres permitted, and an approximately 18.2 metre roof height proposed. The Local Board requested **public notification** of this project given its scale and impact on a significant streetscape. A decision was made to publicly notify this application on 7 August 2017. The hearing was held on 9 July 2018. I appeared before the panel to provide Local Board comment.

My submission on behalf of the Local Board to the hearings panel for this consent was as follows:

#### **Height and Bulk**

*The building is between 5 and 6 metres higher than the 13-metre height limit. This is more than 40% over height. The reference point for its height being taken from the Heard Building is to be cautioned against given that the Heard Building's height and bulk is offset by the significant open space of Heard's Park. A sensible balance must be struck on a case-by-case basis between the objectives of increased intensification and the special character status of an iconic Heritage B-scheduled building on a corner site, one of the oldest buildings in the oldest suburb in Auckland. Context is important: although, for instance, there is provision for height limits as high as 27 metres nearby, that is in a mixed-use, non-special character area near the bottom of a precipitous slope leaving an effective height limit of ~13 metres relative to the main road. It is the Local Board's*

*submission that the new building as proposed overwhelms, and inadequately relates to, the Windsor Hotel building. Furthermore, it is excessively tall and bulky for the site on which it would sit.*

### **Legibility of Levels of Building**

*The scheme should relate more legibly with the scheduled building. The parapet of the Windsor Castle Hotel would read better if it were roughly level with the balcony of level 3 of the new building. This would necessitate one less floor for the building to be do this and be an acceptable height. The floor levels appear to relate to the neighbouring building at 156 Parnell Road rather than the building it surrounds. See Auckland Unitary Plan D18.8.3(13) and D18.8.1.2(1(b), (c) for the Unitary Plan requirement for consistency with the adjacent building in a special character, town centre area.*

### **Museum Viewshaft**

*The Local Board have heard very clearly from constituents, on numerous occasions, that they highly value the viewshafts protected in the Unitary Plan. The Museum viewshaft does not need to be infringed by the building if its height is reduced by as little as two metres.*

### **Conclusion**

*The Local Board submits that the building should be one storey lower with levels that match those of the Windsor Castle Hotel building for the first two storeys. This would satisfy all of the concerns raised above. If this cannot be done, the consent should be declined.*

### **Signatory**

Author	Vernon Tava
--------	-------------