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.
B. Resource Consent Hearing Process - 101 Kitchner Road and 1a Pierce Road
At a Board meeting held on Monday 10 December 2018 the DBA resolved:

3. That no payment be made to Panuku Development given
   a. Legal advice received
   b. No agreement to lease or deed of lease was concluded
   c. The $30,000 grant is held on trust

4. That the DBA BID will return the $30,000 grant to the DTLB, made for the benefit of Shore Coast Tourism to operate out of 3 Victoria Rd, Devonport, currently held by the DBA on trust subject only to the DTLB fully indemnifying the DBA BID against any future legal action initiated by Panuku Development Auckland or other party.
17 October 2018

Dear George

Response to Devonport-Takapuna Local Board resolutions 17 April 2018

At its 17 April 2018 meeting the Devonport-Takapuna Local Board (the board) resolved to raise a dispute with the Governing Body about the decision-making responsibilities as they relate to 40 Anzac Ave, Takapuna. In particular, the chairperson’s report that supported this resolution made the case that decision-making for the planning and town centre improvements taking place in Takapuna should be the responsibility of the board.

A number of actions have occurred in response to this resolution.
- Eric Perry, Relationship Manager, Devonport-Takapuna Local Board tabled advice at the board meeting on 17 April.
- A meeting on 3 May with yourself, Grant Gillon and Louise Mason, GM Local Board Services.
- A meeting on 17 September with yourself, Bill Cashmore, Deputy Mayor, Louise Mason and Christine Watson, Chief Advisor Deputy Mayor’s Office.

At the 17 September meeting I committed to providing you with comprehensive written advice about the allocation of decision-making and how this applies in the Takapuna context. This advice is attached to this letter. Please let me know if you would like this advice reported formally to the board.

This advice concludes that the Governing Body has been allocated decision-making responsibility for planning and improvements to town centres prioritised for growth. This is because planning for growth requires a regional response to coordinate the investment and provision of new infrastructure and services. Takapuna is a growth area, identified as such in the Auckland Plan. The board has decision-making responsibility for the look and feel of new local assets that will be created as part of the Takapuna development e.g. local parks. This is in line with the Local Government (Auckland Council) Act 2014 which sets out the principles for allocating non-regulatory decision-making between the Governing Body and local boards.

Given the steps now taken to respond to the board’s resolution, I have no further advice to provide on this matter. If the board is not satisfied with this advice, the next step is for the board to take its dispute to the Local Government Commission.
If the board wishes to do this:
- I request that you inform me of this decision so I can in turn inform the Governing Body. This is important as it is a decision of the Governing Body which the board is disputing.
- The board must be clear that their dispute is about how responsibilities have been allocated (that the Governing Body has decision-making for planning and town centre improvements in growth areas), not how the allocation of decision-making has been applied in the Takapuna context (that the Governing Body, or one of its committees, has made a decision that according to the allocation of decision-making is the responsibility of the board). The Local Government Commission has no role to play in the latter.

Kind regards

[Signature]

Louise Mason
General Manager Local Board Services

Copy to:  Grant Gillon, Deputy Chair Devonport-Takapuna Local Board
          Bill Cashmore, Deputy Mayor
          Eric Perry, Relationship Manager Upper Harbour, Kaipatiki, Devonport-Takapuna
          Phil Wilson, Director Governance
Devonport-Takapuna Local Board dispute about allocation of decision-making

1. Overview

This paper is a response to the Devonport-Takapuna Local Board Chairperson’s report and subsequent resolutions of the board at their 17 April 2018 meeting.

The Chairperson’s report raised concerns about the decision-making responsibilities as they relate to the current plans for growth in Takapuna. In particular the report claimed that:

- 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
- decision-making for the Takapuna Centre Plan should be the responsibility of the local board, not the Governing Body. As should any amendments to it
- decision-making for the Takapuna development should sit with the local board because:
  - the impact of the Takapuna development will not extend beyond the local board area
  - the Takapuna development is distinctly separate from other Governing Body decisions, it does not require alignment or integration with other Governing Body decisions
  - the Takapuna development is not of regional significance and therefore does not need a regionally consistent or coordinated approach taken
- decision making for the public realm aspects of the Takapuna development project should be made by the local board.

In response to this report the Devonport-Takapuna Local Board resolved the following:

a) receives the Chairperson’s report.

b) raises a dispute with the Governing Body over the non-allocation of decision-making to the Devonport-Takapuna Local Board of the project on 40 Anzac Street, Takapuna.

c) considers referring the dispute to the Local Government Commission for a binding determination should the dispute not be resolved with the Governing Body.

d) requests that local board officers assist with the administration required for resolution number DT/2018/51 b) and c) above.

e) receives the advice provided to the board by Eric Perry, Relationship Manager, in response to the Chairperson’s report. (Resolution number DT/2018/51)

This paper explains Auckland Council’s allocation of non-regulatory decision-making, in particular as it relates to decisions made about planning and town centres in areas prioritised for growth. The paper also discusses two recent Auckland Council initiatives to address concerns raised about the local board governance role in regeneration projects and the divestment of council assets.

In conclusion, the Governing Body has been allocated decision-making responsibility for planning and improvements to town centres prioritised for growth. This is because planning
for growth requires a regional response to coordinate the investment and provision of new infrastructure and services.

Takapuna has been identified as a development area, an area where significant growth is anticipated, in the Auckland Plan. Therefore the Governing Body has the decision-making responsibility for the planning of the development and improvements to the street environment and town centre.

Given the impact of this planning on the local area and community, this Governing Body decision-making requires a high degree of input from the Devonport-Takapuna Local Board and its community.

The Devonport-Takapuna Local Board has decision-making responsibility for the look and feel of new local assets that will be created as part of the Takapuna development e.g. local parks.

The policy which sets out the allocation decision-making for non-regulatory decisions between the Governing Body and local boards (allocation of decision-making) was recently reviewed and adopted in June 2018. During this process all local boards were given the opportunity to provide formal feedback on the allocation of decision-making. This took place in December 2017. The Devonport-Takapuna Local Board endorsed the allocation of decision-making and provided no further feedback.

2. **Purpose of local boards**

Local boards have a broad mandate including local decision-making, oversight of facilities in local areas, providing input to regional plans, policies and decisions and, engaging with communities to identify needs and preferences. Much of their work contributes to place making by working with communities to create unique places that integrate social, cultural, economic and environmental outcomes. Local boards are important in ensuring the local voice is heard within decision-making at Auckland Council and Auckland’s diversity is reflected in Auckland Council’s decisions.

The local board’s role is to:

- make governance decisions on local activities, issues and services
- adopt local board plans every three years in consultation with their communities
- agree annual local board agreements (with the Governing Body)
- provide input into regional strategies, policies and plans
- propose bylaws for the local area
- engage with and advocate on behalf of their communities.

The local boards’ responsibilities come from three different sources:

- those allocated by the Governing Body - discussed further in the next section
- those delegated by either the Governing Body or Auckland Transport - these can be regulatory and non-regulatory decisions. Where a responsibility or power is delegated, the Governing Body or Auckland Transport retains ultimate accountability for that activity
• those directly conferred by the Local Government (Auckland Council) Act 2009 (the Act) -
  o adopting local board plans
  o agreeing and monitoring local board agreements
  o identifying and communicating the interests and preferences of people in their local board area in relation to the content of regional policies, plans, strategies and bylaws
  o identifying and developing bylaws for their local board area and proposing them to the Governing Body

3. Allocated decision-making

The Act requires the Governing Body to allocate non-regulatory activities of Auckland Council to either the Governing Body or local boards. Section 17 of the Act provides as follows:

17 Principles for allocation of decision-making responsibilities of Auckland Council

(1) Decision-making responsibility for any non-regulatory activity of the Auckland Council must be allocated by the Governing Body—

(a) to either the Governing Body or the local boards; and

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

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

(2) The principles are—

(a) decision-making responsibility for a non-regulatory activity of the Auckland Council should be exercised by its local boards unless paragraph (b) applies:

(b) decision-making responsibility for a non-regulatory activity of the Auckland Council should be exercised by its Governing Body if the nature of the activity is such that decision making on an Auckland-wide basis will better promote the well-being of the communities across Auckland because—

(i) the impact of the decision will extend beyond a single local board area; or

(ii) effective decision making will require alignment or integration with other decisions that are the responsibility of the Governing Body; or

(iii) the benefits of a consistent or co-ordinated approach across Auckland will outweigh the benefits of reflecting the diverse needs and preferences of the communities within each local board area.

Under the allocation principles in the Act, the presumption is that local boards will be responsible for making decisions on non-regulatory activities except where decision-making on a region-wide basis will better promote the wellbeing of communities across Auckland because one of the following applies:
- the impact of the decision extends beyond one local board area or
- effective decision-making requires alignment or integration with other decisions that are the responsibility of the Governing Body or
- the benefits of a consistent or co-ordinated approach across Auckland outweigh the benefits of reflecting the diverse needs and preferences of the communities within each local board area.

The allocation of decision-making is contained in Auckland Council’s Long-term Plan. It provides local boards with significant decision-making responsibility for areas such as local parks and community facilities, local activities, such as events, and local projects such as community development initiatives.

The allocation of decision-making has been written on an inclusive basis. It does not contain an exhaustive list of all elements that make up an allocated activity. To aid interpretation, elements of the key decision-making responsibilities of local boards and the Governing Body are provided for each allocated activity.

It is intended that the allocation of decision-making be interpreted on a principled basis. Given the broad range of activities undertaken by Auckland Council it is not possible to list in precise detail all elements that are allocated to a local board or the Governing Body. Instead the allocation of decision-making is applied on a case-by-case basis taking into account the principles of section 17 of the Act.

**Reviewing the allocation of decision-making**

The allocation of decision-making is reviewed every three years alongside the development of each long-term plan.

A significant review of the allocation of decision-making was undertaken during the development of the Long-term Plan 2015-2025. That review concluded that a number of clarifications and text changes were required but no substantive changes were needed to the allocation of decision-making. The review concluded that the then allocation of decision-making had worked well and there had been a growing understanding and increasing sophistication of how to use it.

The Governance Framework Review (GFR) also involved an extensive review of the allocation of decision-making. The GFR was a two year project (2016 – 2017) that included extensive engagement with local boards and a joint Governing Body/local board political working party. As with the Long-term Plan 2015-2025 review the GFR found that the current allocation of decision-making is well understood, sensible, and generally works well. The issue the GFR identified with regards to the allocation of decision-making was not about the allocations themselves, but that local boards are not sufficiently empowered to deliver their decision-making.

The one substantive change proposed to the allocation of decision-making as a result of the work of the GFR was for local boards to be given decision-making responsibility for disposal and reinvestment of local assets in accordance with the service property optimisation approach. This was seen to better empower local boards to deliver on their decision-making.

The current version of the allocation of decision-making was adopted by the Governing Body at its 28 June 2018 meeting. Given the extensive review of the allocation of decision-making as part of the GFR, the scope of review of the allocation of decision-making alongside the
development of the 2018-2028 Long-term Plan was limited to reflecting the service property optimisation outcome from the GFR and ensuring references and language are current.

The Devonport-Takapuna Local Board provided the following feedback related to the allocation of decision-making as part of the GFR and the recent review of the allocation of decision-making.

August 2017
That the Devonport-Takapuna Local Board:

xxix. supports the devolution of as much decision-making as possible in accordance with the principle of subsidiarity as articulated in the Local Government (Auckland Council) Act 2009. (Resolution number DT/2017/181)

b) supports the allocation of decision-making regarding the exchange of reserve land to local boards, including the power of local boards to refuse the sale / disposal of reserve land currently used as local pocket parks, fee simple land, and road ends, but not yet designated as reserves. (Resolution number DT/2017/184)

December 2017
That the Devonport-Takapuna Local Board:

a) endorses the proposed allocation of non-regulatory decision-making as attached to the agenda report.

b) recognises the ongoing work underway with respect to how the wider council organisation and council controlled organisations support local boards in their governance role as part of the Governance Framework Review project. (Resolution number DT/2017/272)

4. Allocated decision-making for planning
Below is the current allocation for non-regulatory decision-making as it relates to planning, street environments and town centres.

<table>
<thead>
<tr>
<th>Local board non-regulatory responsibilities</th>
<th>Governing Body non-regulatory responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local boards are allocated decision-making responsibility for the following non-regulatory activities of Auckland Council.</td>
<td>Local boards are allocated decision-making responsibility for the following non-regulatory activities of Auckland Council.</td>
</tr>
<tr>
<td><strong>Local planning and development including:</strong></td>
<td><strong>Regional planning including:</strong></td>
</tr>
<tr>
<td>• local place-shaping activities, including local leadership to create a local identity</td>
<td>• Auckland Plan, area plans, regional spatial priority areas and prioritised development areas focusing on growth development and key infrastructure priorities</td>
</tr>
</tbody>
</table>
Attachment B

Item 12

- local strategic visioning, policy making and planning within parameters set by regional strategies, policies and plans.
- regional strategies, policies and plans
- Auckland-wide place-shaping activities, including regional leadership to create Auckland's identity.

**Street environment and town centres including:**

- maintenance of the local street environment and local centres, within parameters set by the Governing Body
- improvements to the local street environment and town centres excluding any improvements that are integral to centres prioritised for growth as set out in the Auckland Plan
- naming of roads pursuant to section 319(1)(j) of the Local Government Act 1974.

**Business area planning including:**

- local economic development plans, projects and initiatives (including local centre branding and marketing and local business events) within parameters set by regional strategies, policies and plans
- Business Improvement District (BID) programmes, including the strategic direction (in partnership with the business association), establishment of new BIDs within the parameters set by the BID policy and recommending BID targeted rates to the Governing Body.

**Economic development including:**

- regional economic development strategy and policy, such as Auckland economic development strategy, investment framework and BID policy
- international relationships, including entering into new relationships and ending existing relationships
- Auckland-wide economic development programmes and initiatives, including regional business events, and branding and marketing for the city centre, metropolitan centres and centres prioritised for growth as set out in the Auckland Plan.
Explanatory notes:

- Area plans will require a high degree of involvement from local boards.
- Regional strategies and policies are not intended to be prescriptive or unduly restrict the decision-making role of local boards. Where they relate to local activities, they provide regional parameters within which local boards then make decisions on local activities.
- Development of the city centre waterfront is the responsibility of Panuku Development Auckland.
- Auckland Transport has significant decision-making responsibilities within the street environment and town centres.
- A number of agencies will be involved in the delivery of transformation programmes.
- Major events, tourism and visitor centres, and business attraction and development are the responsibility of ATEED.

Local boards have the allocated responsibility for local place-shaping activities, including local leadership to create a local identity and local strategic visioning, policy making and planning within parameters set by regional strategies, policies and plans.

The Governing Body has the statutory responsibility for Auckland Council’s key spatial plans such as the Auckland Plan and Unitary Plan. Over time the allocation of decision-making has been amended to be explicit in giving the Governing Body decision-making responsibility for local area plans and areas prioritised for growth, development and key infrastructure.

The Governing Body has been allocated this decision-making as the planning for growth across the region requires a coordinated approach for the provision of new services and infrastructure (for example, essential services, transport, parks, community facilities). This requires a planned approach to the development of new infrastructure across the region, timed to meet areas of need and consistent with other planned infrastructure. If significant growth is planned for an area of Auckland, the Governing Body will need confidence that this will be supported by the appropriate infrastructure. While it may not provide the facilities itself, it is arguably in the best interests of the communities across Auckland for the Governing Body to take a region-wide, consistent and coordinated approach to growth planning and new infrastructure provision.

The Governing Body has a role in planning for areas that affect or impact on the overall well-being of the communities across Auckland. Planning for growth, as discussed above, is one such area. Others include region-wide approaches to issues such as homelessness and housing affordability. While the actual initiatives may well be best delivered at a local level, these types of issues need a regional approach and response if they are to be addressed in a holistic and long-term way.

Given the impact of such planning on local places, this Governing Body decision-making requires a high degree of input from the relevant local board/s and affected communities.
This rationale is consistent with the legislative principles for allocating non-regulatory decision-making.

5. The Auckland Plan

The Auckland Plan is the council’s long-term spatial plan. Part of the Auckland Plan is the Development Strategy which sets out how Auckland will grow and change over the next 30 years.

The Development Strategy recognises that growth is enabled throughout most of Auckland’s urban footprint, and all neighbourhoods are capable of accommodating growth to some extent. However, some existing urban areas are likely to undergo significant growth - these are known in the Auckland Plan 2050 as nodes and development areas.

Takapuna is identified as a development area in the Auckland Plan.

Development areas

Development areas are introduced as a comprehensive approach to servicing expected growth across the existing urban area.

They are specific locations that are expected to undergo a significant amount of housing and business growth in the next 30 years. Planning and investment will be targeted and prioritised to these areas where the greatest development capacity is taken up.

Development areas are not a prediction of where large scale redevelopment will happen, but rather where it is most likely to happen. This gives infrastructure and service providers a basis from which they can do their own long-term planning.

Characteristics of development areas

Development areas have a combination of the following characteristics:

- substantial capacity provided in the Auckland Unitary Plan for housing and business development
- access to a large number of jobs within a reasonable commuting time
- access to centres and the strategic public transport network within easy walking distance
- major public landholdings with intended or potential redevelopment
- current or planned infrastructure capacity that is likely to enable significant additional growth – for example, the expansion of the strategic transport network that improves connectivity
- market feasibility.

6. Addressing related concerns about the local board governance role

The local board governance role in Panuku transform and unlock locations

Issues have been raised about the local board input and decision-making responsibilities in the context of Panuku’s transform and unlock locations. While decision-making roles are
clear, what has not always worked well to-date is seeking the views and preferences of local boards at the right points of the process. In response to this council and Panuku staff have developed process maps for some parts of the regeneration process, for example the development of a local asset such as a park, which outline Panuku’s processes and clarify all local board points of decision-making and input.

**Divestment Governance and Implementation Reference Group**

A joint political reference group is being established to consider issues and solutions relating to divestment of assets including how service and non-service assets are categorised, and service property optimisation. This was triggered by concerns raised by local board chairs about the transfer of council assets between the categories of service and non-service.

The political reference group will consider current issues and provide direction on solutions. It will be using case studies to look at how the processes around divestment work well and where they need to be clarified or improved. The following areas are outside the scope of the reference group:

- The direction and priorities for Panuku’s Transform and Unlock programmes
- Changes to the asset targets set in the Long-term Plan 2018-28 (noting that these divestment targets are tracking downwards in the LTP)
- The staff structure and internal governance for the Auckland Council organisation and its council-controlled organisations.

**Response to Devonport-Takapuna Local Board Chairperson’s report 17 April 2018**

The Devonport-Takapuna Local Board Chairperson’s report 17 April 2018 raised issues with the current allocation of decision-making and how it has been applied in the local context.

The table below summarises how the analysis in this report relates to those points raised by the Devonport-Takapuna Chairperson’s report.

<table>
<thead>
<tr>
<th>Issues raised in Devonport-Takapuna Local Board Chairperson’s report 17 April 2018</th>
<th>Analysis against the allocation of decision-making</th>
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<tbody>
<tr>
<td>The LGA 2002 was amended in 2014 to clarify the allocation of decision-making and to allow for disputes over the allocation of decisions.</td>
<td>The 2014 amendment of the LGA 2002 introduced subpart 1A in Part 4. Subpart 1A includes provisions relating to the allocation of decision-making between the Governing Body and local boards of a unitary authority, and a process for resolving disputes about that allocation of decision-making. However, Subpart 1A of the LGA does not apply to Auckland Council (see section 48A of the LGA). The provisions relating to the decision-making responsibilities of the Governing Body and local boards of Auckland Council and the allocation of decisions (sections 14-17), including provision for a dispute resolution process (section 97), are set out</td>
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<td>Attachment B</td>
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<thead>
<tr>
<th>Decision-making for the Takapuna Centre Plan should be the responsibility of the local board, not the Governing Body. As should any amendments to it.</th>
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<tbody>
<tr>
<td>Devonport-Takapuna Local Board</td>
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<tr>
<td>11 December 2018</td>
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<td>in the Local Government (Auckland Council) Act 2009. These provisions have not changed since they were introduced in 2010.</td>
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</table>

<table>
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<th>Decision-making for the Takapuna development should sit with the local board because:</th>
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<td>• The impact of the Takapuna development will not extend beyond the local board area</td>
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<td>• The Takapuna development is not of regional significance and therefore does not need a regionally consistent or coordinated approach taken</td>
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</tbody>
</table>

| Growth is a regional issue that requires a regional response. The Governing Body has been allocated the decision-making responsibility of planning for growth areas because this requires a coordinated approach across the region for the provision of new services and infrastructure (for example essential services, transport, parks, community facilities). |

<table>
<thead>
<tr>
<th>These services and infrastructure will often span across or service multiple local boards. For example business hubs providing jobs and capacity for housing.</th>
</tr>
</thead>
<tbody>
<tr>
<td>This rationale has informed the development and adoption of the allocation of decision-making. Once the allocation of decision-making is adopted allocated responsibilities are not reviewed or amended for individual decisions.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Takapuna has been identified in the Auckland Plan as a development area. Development areas provide for a comprehensive approach to servicing expected growth across the existing urban area. The Takapuna development is part of the regional long-term strategy to accommodate growth.</th>
</tr>
</thead>
<tbody>
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<td>The allocation of decision-making states that the Governing Body has decision-making for improvements to the street environment and town centres that are prioritised for growth as set out in the in Auckland Plan. Given the impact of these decisions on the local area and local community, a high degree of input is</td>
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| Decision making for the public realm aspects of the Takapuna development project should be made by the local board. |
required from the relevant communities and local board.

While the Governing Body makes decisions that set the direction for improvements to town centres, the local board remains responsible for decisions about specific projects (within the parameters set by the Governing Body).

Where a new public realm asset which will subsequently be governed by the local board is being created through a Panuku-led Transform or Unlock project, the local board will have decision-making responsibility for approving the concept and final design. Determining the look and feel of the local place is an important role of local boards.
Commissioner’s Minority Opinion

Mike Cohen Devonport-Takapuna Board Member

To The Devonport-Takapuna Local Board on Item 14

Meeting 11th December 2018

Devonport Domain-Proposal to Amend Reserve Management Plan

I voted against the narrow interpreted Recommendation of my fellow Commissioners from the Hearing that considered the Council Officers input and the submissions made relating to an Amendment to The Devonport Domain Reserve Management Plan.

Once it was identified that for the last 25 years there was a disconnect between the Devonport Domain Management Plan and the liquor licensing that the clubs on the 2 sports fields operated under there were two options:

1. Stick to the strict interpretation of the Devonport Domain Management Plan until a comprehensive new Management Plan which would take 3 years to address the issues was put in place but in the meantime this would leave the sports clubs in a financial vulnerable position, or

2. Make amendments that were sufficiently minimal that a “reasonable Devonport person” would not consider constituted a comprehensive review of the Devonport Domain Management Plan.

It is commendable that the Devonport-Takapuna Local Board and Auckland Council Staff strived to find a stop gap approach until a new Management Plan is approved.

Recommendation

Therefore I recommend a fairer and more just change would be that within a year:

On Devonport Domain

- North Shore Cricket Club has the possibility of up to 8 Special Licences
- Devonport Bowling Club has the possibility of up to 4 Special Licences
(however given the bowling club no longer exists the impact on the Devonport Domain is in fact a possible 8 Special Licenses)

On Vauxhall Reserve
- North Shore Rugby Football Club has the possibility of up to 8 Special Licences
- The Masonic Cricket Club has the possibility of up to 4 Special Licences (Given they made no submission to vary it from the original 4)

Devonport Domain Made Up of Two Sports Fields
It is important to clarify that Devonport Domain is made up of two sports fields Devonport Domain and Vauxhall Reserve being separated by what appears to be a road but is in fact part of the total Reserve. On each or abutting sports field are two clubs. In the case of the Devonport Domain the Devonport Bowling Club has subsequently gone out of existence and any new use is not likely until a totally New Management Plan Process has evolved.

If we look at Devonport Domain as two separate sports fields with two clubs on each then the Recommendation by my fellow Commissioners of the possibility of six Special Licences to each club equates up to 12 Special Licences on each sports field.

Hearing of Submissions on Auckland Council’s proposal to Amend the Reserve Management Plan for Devonport Domain...30th October 2018

I draw your attention to Clause 8 on page 9 of that Agenda

“The options for the hearing panel to consider are:
- proceed with the amendment of the RMP as publically notified for four special licences, by inserting a new clause in the Devonport Domain Reserve Management Plan;
- decline the proposed amendment of four special licences and notify a new proposal for an increased number of special licence opportunities each year

The advice in bullet point two is against the requirements of Clause 5 of the Reserves Act 1977 namely:
“(5) Before preparing a management plan for any 1 or more reserves under its control, the administering body shall –
   a) give public notice of its intention to do so; and
   b) in that notice, invite persons and organisations interested to send to the administering body at its office written suggestions on the proposed plan within a time specified in the notice; and
   c) in preparing that management plan, give full consideration to any such comments received.

Therefore, as Commissioners we are required to give full consideration to every submission after which therefore by presumption this could lead to a change in the initial proposal. It is impossible to give full consideration if it is impossible to change the initial proposal.

I have been criticised by my fellow Commissioners that I created the straight jacket by moving the staff recommendations in May 2018 to notify an Amendment to the Reserve Management Plan for Devonport Domain. I was relying on Clause 5 of the Reserves Act 1977 that we are required as Commissioners to fully consider submissions that were received. Which meant a suggestion that a reasonable person would find acceptable could well mean a change to the original draft proposal. Not as advised in bullet point 2.

If I had proposed a change in May 2018 I could be accused that I had a pre-determined position. I wanted it to be notified so that the public could give us a clear message as to what if any reasonable changes to the Management Plan should be made as a stop gap until a new Management Plan replaces the current one.

I took full opportunity within the bounds that I was allowed by the Chair to ask searching questions both of Auckland Council staff and the submitters. The additional information especially supplementary provided me with a clearer picture when considering all the information.

The current Management Plan does not treat each club equally in regards to the hours of liquor Licensing. Therefore the need for special licenses will vary between the clubs. As it is the two largest clubs North Shore Cricket and North Shore Rugby Football Club are the ones significantly disadvantaged without a fair amendment to the Management Plan.
I draw attention under Item 14 page 29 of the DTLB Agenda Pooling Licences “Licences should be allocated to each club rather than the Domain (meaning Devonport Domain and Vauxhall collectively together) for the following reasons:

a. The risk with treating the reserve as a whole is that some of the clubs are a distance apart and would have very different affected neighbours. Neighbours to the west of the rugby club might only be concerned with the number of functions held by rugby, and not be concerned by cricket

b. This was the basis of public consultation, to do otherwise would require further public consultation is required. The proposal consulted on was 4 special events, so if 8 were granted to rugby, a neighbour might be justified in complaining that they had no objection to 4, but would have lodged an objection if an intention to grant 8 had been notified. The higher the number increases from what was consulted on, the higher the risk of a successful challenge if someone objects to the decision. (The Chair read this out at the Public Hearing deliberation)”

c. (not relevant to my position)

I am not suggesting that we should treat Devonport Domain as one as referred to above, but we split it into the two distinct sports fields known as Vauxhall Reserve (where the rugby club is located) and the Devonport Domain (where the North Shore Cricket Club is located)

In the case of Vauxhall Reserve both clubs (rugby and the Masonic Cricket) are quite physically close together affecting the same neighbours. If both clubs used maximum in both situations it would still be only 12 Special Licences in total.

In the case of the Devonport Domain now that the bowling club no longer exists and if the North Shore Cricket was given 8 it would still be less than if both had been operative at 6 each, namely 12.

**Certain Facts should be highlighted:**

1. The Devonport Community could never be accused of being apathetic when they have the opportunity to express themselves eg
   - The battle over the Masonic Tavern Development
   - Issues surrounding Allen Hill Reserve and Ngataringa
   - The battle over the installation of new Lights on Vauxhall Reserve
2. The current Hearing resulted in no submissions against or recommending caution or reservations relating to Special Licenses.

3. Further the only submission from the neighbourhood with no connections to the sports clubs recommended that we increase the opportunity for Special Licences as what was proposed was too few.

4. Council staff confirmed that they were not aware of any complaints relating to noise etc relating to events covered by Liquor Licensing during the period (8 years) that Auckland Council has existed.

5. The significant fundraisers occur during the day in the lunch period generally on a Friday

**Other Factors**

Further the Devonport Flagstaff in its 18th May 2018 edition had an article on the Licensing which over and above the statutory publications gave further amplification of the situation and the opportunity to make submissions.

I think we can assume that locals know the locations of the sports clubs on the 2 Sports Fields

I think we can safely assume that locals can calculate that the initial proposal of 4 per club equates to 8 on each sports field

Given the significant membership of particular the North Shore Rugby Football Club and the North Shore Cricket Club locals would know that these clubs would request more opportunity to obtain Special Liquor Licences

Therefore there would of been no surprise in a higher number of Special Licences being considered, therefore if someone had of had reservations about any variation they would of put in a submission noting their concerns

Immediate and longer history has clearly shown that if the Devonport Community and its neighbourhoods perceive that there is an issue firstly and secondly that there always could be a chance of a variation to what is being proposed coming out of a submission process they will respond forcefully and
would of ensured that they were part of the initial submission process expressing their concerns.

Therefore any advice we have been given as to where the borders might be in triggering the need to re-notify ignores any past history and the dynamics relating to the Devonport Community and specifically the neighbourhoods where the Devonport Domain is situated.

The likelihood of Challenge to a Short Term Decision

Given there have been no complaints from neighbours in the last 8 years, it is difficult to comprehend why someone would spend tens of thousands of dollars fighting a short term stop gap when they know that there ought to be new Management Plan within 3 years, which could well result in the removal of any mention of hours of liquor licensing.

Mike Cohen QSM JP
Proposal to notify and amend the Reserve Management Plan for Devonport Domain

File No.: CP2018/06937

Te take mō te pūrongo / Purpose of the report
1. To seek approval to notify the intention and to amend the wording of the Reserve Management Plan for Devonport Domain. This is to provide the clubs on the domain with a limited number of opportunities to apply for special liquor licences to supply and sell liquor outside the hours permitted in the management plan.

Whakarāpopototanga matua / Executive summary
2. The North Shore Rugby Football Club Incorporated has a ground lease for clubrooms on Devonport Domain.
3. The club has requested an extension to the liquor licensing hours for their club licence to provide additional services to members.
4. The Devonport Domain Reserve Management Plan approved in 1993 restricts liquor sale hours for clubs located on the domain. The domain is a classified recreation reserve for open space and active recreation under the Reserves Act 1977.
5. Options for the clubs to be able to have a licence for the sale and consumption of liquor outside the hours prescribed by the reserve management plan have been explored with the council’s legal team. Their recommendation is to insert a clause into the management plan for the domain to allow this.
6. This proposal would then allow all clubs located on the domain to have the opportunity to apply for up to four special liquor licences each year for fundraising and other special events where alcohol is supplied in addition to the current licenced hours.
7. Public notification is required pursuant to the provisions of the Reserves Act 1977.
8. This report seeks approval to proceed with public notification of the proposal and amendment of the Devonport Domain Reserve Management Plan subject to conditions.

Ngā tūtohunga / Recommendation/s
That the Devonport-Takapuna Local Board:

a) approves public notification of the proposal to amend the Devonport Domain Reserve Management Plan

b) approves the amendment of the Devonport Domain Reserve Management Plan (subject to there being no objections or submissions), by inserting the following clause into the Devonport Domain Reserve Management Plan:

i. at council’s sole discretion the clubs may apply for up to four special licences for the sale and consumption of liquor each year outside the hours described
in the Reserve Management Plan.

c) note that should there be objections or submissions to this proposal that the requests be heard, that a hearing panel be established consisting of the Chair, Deputy Chair and one other member of the Devonport - Takapuna Local Board and reported to the local board for a decision if required

d) note that the issuing of any special licences must comply with the terms and conditions of the Sale and Supply of Alcohol Act 2012.

Horopaki / Context
9. North Shore Rugby Football Club Incorporated clubrooms are on land described as Part Allotment 39, Section 2 Parish of Takapuna which is part of the Devonport Domain. The domain is held by the Crown through the Department of Conservation as a classified recreation reserve subject to the Reserves Act 1977, and vested in the council, in trust for recreation purposes.

10. The Devonport Domain Reserve Management Plan approved in 1993 restricts liquor licensing hours for clubs occupying the Domain. Currently the reserve management plan and club’s liquor licence mirror each other and restrict hours for the sale and supply of liquor to the following hours:

<table>
<thead>
<tr>
<th>Period</th>
<th>Hours</th>
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</thead>
<tbody>
<tr>
<td>1 February -31 October:</td>
<td>Monday – Friday 7pm-10pm</td>
</tr>
<tr>
<td></td>
<td>Saturday and Public Holidays 3pm-10pm</td>
</tr>
<tr>
<td>1 November -31 January:</td>
<td>Tuesday- Friday 7pm-10pm</td>
</tr>
</tbody>
</table>

11. The Club has requested permission for a limited number of events each year that occur outside the hours allowed by the management plan. The club is seeking to do this to provide additional service to members, mainly to hold fundraising events that support the development of its facilities and activities. In particular, the club is hoping to have a large fundraiser on Friday 8 June 2018 from 12pm to 7pm (the Seagulls Luncheon).

Tātaritanga me ngā tohutohu / Analysis and advice
12. In 2015, changes to the processing of liquor licensing applications, require applicants to request the consent of landowners, to make an application. In this case the council is the landowner. The club can apply for special licences for events but only within the hours noted above and expressed in the reserve management plan. When assessing applications for approval, events must also be ancillary to the recreational function of the domain. Clause 1.10.3 of the lease provides that in giving consent, the council may impose such conditions as it may in its discretion think fit. The lease does not describe the hours of liquor sales, so direction is provided by the reserve management plan.

13. Policies 5.9.1 and 5.9.2 in the domain management plan considered at the time of preparation of the management plan that liquor licensing hours for the clubs were appropriate with no need to extend them. The management plan is now 25 years old and the club has expanded its recreational offer to members, including Sunday games. The club believes the existing hours limit activities that support the growth and development of the club and don’t accommodate changing community need. Licensing and Regulatory Compliance – north west area has confirmed there have been no issues with the club breaching their trading hours.
14. Auckland Council’s legal team advised on short and long-term options to review the licenced hours. In the short term, the advice has been to insert a clause into the reserve management plan to say, “at council’s sole discretion the clubs may have a limited number of special licenses for the sale and consumption of liquor each year outside the hours described in the Reserve Management Plan”. This will allow all the clubs located at the domain to have a limited number of special licences each year (e.g. up to four events per year for each club) that could cover fundraising and other special purpose events.

15. Public notification is a requirement so that the public can consider the proposed change to the management plan. Long term, a complete review of the Reserve Management Plan is required to review practical issues and modernise the plan to accommodate changing community needs.

16. With the proposed change to the management plan it will allow all clubs on the Devonport Domain to apply for special licences if they choose.

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

17. This matter was workshop with the local board on 3 April 2018. The board is supportive of notifying the intention to grant a limited number of special licences to all clubs at Devonport Domain through an amendment of the reserve management plan.

Tauākī whakaaweawe Māori / Māori impact statement

18. Auckland Council is committed to meeting its responsibilities under Te Tiriti o Waitangi and its broader legal obligations to Māori. The council recognises these responsibilities are distinct from the Crown’s Treaty obligations and fall within a local government Tamaki Makaurau context. These commitments are articulated in the council’s key strategic planning documents the Auckland Plan, the 2015-2025 Long-term Plan, the Unitary Plan and local board plans.

Ngā ritenga ā-pūtea / Financial implications

19. The costs to the board for the whi consultation and public notification are met by the community facilities department.

Ngā raru tūpono / Risks

20. Members and club officials have been advised that any objections might impact on the timing of the future special club events given extremely tight timeframes. Proposed changes are subject to a formal process, so it cannot be guaranteed that this will be completed in time for a special licence for the proposed June 2018 event of the North Shore Rugby Club.

21. If any submissions identify specific areas of concerns relating to the issue of special licences the board may wish to consider imposing conditions to require the clubs to provide, for example security or noise monitoring.

22. Council is required by the Sale and Supply of Liquor Act 2012 to be a responsible landlord. The issuing of any special concessions is contingent on meeting the requirements of this Act.

23. The proposal may set a precedent for other clubs who hold liquor licences and result in an influx of requests to local boards to amend reserve management plans ahead of the work being done by Auckland Council’s Service Strategy and Integration Unit reviewing these plans. This could impact on the delivery of other work and require reprioritisation.
24. Long term it is important to fully understand how reserve management plans should address liquor licensing associated with community lessees so the implications of changing the reserve management plan are fully understood.

**Ngā koringa ā-muri / Next steps**

25. If the board decides to approve the public notification of this proposal, a public notice would be placed in the North Shore Times and on the council’s website for public feedback.

**Ngā tāpirihanga / Attachments**

There are no attachments for this report.

**Ngā kaihaina / Signatories**

<table>
<thead>
<tr>
<th>Authors</th>
<th>Ron Johnson - Lease Advisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisers</td>
<td>Rod Sheridan - General Manager Community Facilities</td>
</tr>
<tr>
<td></td>
<td>Eric Perry - Relationship Manager</td>
</tr>
</tbody>
</table>

13 **Proposal to notify and amend the Reserve Management Plan for Devonport Domain**

Wendy Zapart, Community Lease Advisor and Karen Walby, Community Lease Advisor were in attendance to address the board in support of this item.

Resolution number DT/2018/68

MOVED by Member M Cohen, seconded by Member M Sheehy:

That the Devonport-Takapuna Local Board:

a) approves public notification of the proposal to amend the Devonport Domain Reserve Management Plan

b) approves the amendment of the Devonport Domain Reserve Management Plan (subject to there being no objections or submissions), by inserting the following clause into the Devonport Domain Reserve Management Plan:

i. at council’s sole discretion the clubs may apply for up to four special licenses for the sale and consumption of liquor each year outside the hours described in the Reserve Management Plan.

c) appoints a hearing panel consisting of Chairperson G Wood, Member J O’Connor and Member M Cohen to consider any objections or submissions to the proposal.

d) notes that the issuing of any special licenses must comply with the terms and conditions of the Sale and Supply of Alcohol Act 2012 and must be referred to the Devonport-Takapuna Local Board for formal approval.

CARRIED

**Secretarial Note:** Member J McKenzie declared an interest in item 13, Proposal to notify and amend the Reserve Management Plan for Devonport D
Notes taken at the Hearing on the proposed amendment to the Devonport Domain Reserve Management Plan.

Devonport –Takapuna Local Board Chamber, Takapuna Service Centre, 1-7 The Strand Takapuna, Tuesday 30 October 2018 at 2.00pm.

Chairperson George Wood introduced the item which opened with an overview by council staff. Senior Legal, Licensing and leasing council staff were in attendance. Two submitters gave presentations with time for questions from local board panel members.

<table>
<thead>
<tr>
<th>Presenter</th>
<th>Comments</th>
<th>Item tabled</th>
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</thead>
<tbody>
<tr>
<td>North Shore Cricket Club Incorporated</td>
<td>Support proposal – 4 special licence opportunities too few. Club has long history at the Domain. The annual luncheon raises $30k which is a significant amount towards operating costs. Event is booked in summer 2019 with an international speaker confirmed. Need this to happen as a critical matter. Reluctant to put fees up and risk excluding people from playing. Seek the ability to apply for a larger number. Eight might cover the events. Ask if the board can consider approving four specials but open it up again for a further process? Auckland Cricket Association requires the club to be available for the season at different times, and on a regular basis.</td>
<td>Yes - statement provided with details of summer fundraiser</td>
</tr>
<tr>
<td>North Shore Rugby Club Incorporated</td>
<td>Support proposal – but 4 special licence opportunities too few. Social events are an important part of fundraising for the club. For example, parents like to socialise at a children’s event. 100% self-funding club. Keen for daytime activities/events to happen. Requests the council to look at the allocation of licences that reflect the different sizes of clubs and extent of activities. Requests a minimum of 10 for rugby. Clubroom roof needs replacing at a cost of &gt;$100k. Fundraisers provide a significant contribution towards costs. Remainder comes from other appeals.</td>
<td>No</td>
</tr>
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For completeness the main points of the seven written submissions are as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Submission synopsis</th>
<th>Supports change</th>
<th>Would support more special licence opportunities</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Shore Rugby Club – Chairman submission</td>
<td>Support proposal – 4 special licence opportunities too few. Social events are an important part of fundraising for the club</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>North Shore Rugby Club – Club Captain submission</td>
<td>Support proposal – 4 special licence opportunities too few. Eight might cover the events.</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>J Pettifer</td>
<td>Rugby Club committee member. Should have the ability to pool the 16 proposed specials. Have been granted special licences outside the scope of the management plan in the past</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>D Hale</td>
<td>Rugby Club Patron. Clubs should have the ability to pool the 16 proposed specials.</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>B Westgate</td>
<td>Rugby Club Junior Chairman. Four special licences per annum too few would like to see eight</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>North Shore Cricket Club – Club Manager</td>
<td>No evidence that 4 special licences are appropriate – should be 10. Use for fundraising</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>J Wyatt and C Edmeades</td>
<td>Would support more than four special licences – makes good use of a valuable community asset.</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Chairperson Wood thanked submitters for their presentations and time at the meeting.

Meeting closed 4.00pm
Notes for deliberations on the proposal to amend the Devonport Domain Reserve Management Plan

**Background**
- **North Shore Rugby Club** applied for a special liquor licence for a fundraiser event which was discovered to be outside the hours set out for it in the 1993 Reserve Management Plan (RMP) for Devonport Domain.
- The club was unable to gain approval because of this conflict.
- **Council staff considered options for the club** to have a special licence for the sale and consumption of liquor outside the RMP hours.
- In May 2018, a proposal to amend the plan was publicly notified.
  - a clause can be inserted into the RMP to allow all clubs on the domain to apply for a limited number of special liquor licences (four each) each year.
  - These could be applied for in connection to fundraising and other special events where alcohol is supplied in addition to the current licensed hours in the club licence.

Seven submissions were received. Shared view that all supported the clubs being able to apply for special licences but 4 was not enough to meet a modern clubs needs and sought a higher number.

The Hearing Panel’s role is to make a recommendation to the full board who make the decision.

There were a number of matters raised by those who made written submissions and in presentations at the public hearing on Tuesday 30 October. These are arranged into themes for discussion.

**Statutory Context**
- **The Reserves Act 1977** is the empowering legislation for the management of Devonport Domain with its underlying ownership and status giving the Council the powers of landowner and administering body of the reserve.
- The 1993 Reserve Management Plan for Devonport Domain is very old but still operative.
- Council does not have to review plans unless there has been significant change but the RA does direct the council to review them.
- While it has not been as regular as the act requires, the local board are keen to further investigate the omnibus RMP as it will address many of the issues raised at the hearing but there are still discussions to be had about how this will be funded.
- **Not intended to be a permanent solution**, but an interim step as the RMP may be reviewed as part of the 2019/2020 local board work programme and RMP review covering land under the LGA and RA. So potentially a Local parks management plan could be operative in 2021.

**Amending the lease**
- Not possible to just amend the lease documents as they would still need to comply with the terms mentioned in the RMP.
- The lease permits particular uses, i.e. for clubrooms and ancillary activities. Landowner approval is required for events where liquor will be supplied.
• Whilst they fulfil a community function, clubrooms are not community centres or hubs or else leases would be issued under a different section of the RA (local purpose - community buildings).
• The RMP for the domain is unusual (i.e. prescriptive) but given that liquor is mentioned it must be assumed that the matter was of importance to the community when the RMP was prepared and cannot assume that this is no longer the case.

**Previous request for special licences**
• Historic data shows most club requests can be covered by up to 6 specials per club per annum.
• There is no evidence to support an increase in number up to 10 specials.

**Licence allocation**
• Legal advice that the licences should be allocated to each club rather than the Domain asset.
• Also, we can increase this to six special licences per annum per club without the need for further public notification (and this is still in the realm of not being a comprehensive change to the plan). These would be non-transferable specials per club per year.
• The aggregation of the total (16) to one or more clubs was not supported by legal – as it does not treat the clubs on the domain equally.
• The number be it four or six is a temporary arrangement until the management plan is comprehensively reviewed.
• The special licences are for activities that are ancillary to the main activity of the clubs (i.e. sport).
• There is an element of risk associated if issues start arising in relation to special events. A club's suitability may be questioned if there is any misconduct happening while operating under a special licence.
• Purpose of the Sale and Supply of Alcohol Act 2012 is to have effective systems of control over the sale, supply and consumption of alcohol with the aim of minimising alcohol-related harm.

**Pooling licences**
• The risk with treating the reserve as a whole is that some of the clubs are some distance apart, and would have very different affected neighbours. For example: Cricket and Rugby clubrooms. Neighbours to the west of the rugby club might only be concerned with the number of functions held by rugby, and not be concerned by cricket. Functions.
• The proposal consulted on was 4 special events, so if 8 were granted to rugby, a neighbour might be justified in complaining that they had no objection to 4, but would have lodged an objection if an intention to grant 8 had been notified. The higher the number increases from what was consulted on, the higher the risk of a successful challenge if someone objects to the decision.
• The question that cannot be answered is whether submissions would have been any different if we'd notified an intention to grant up to 8 special licences for each club. The response may have been the same or may have been very different, impossible to know.
Council Plans

- Devonport Domain is classified under the Reserves Act 1977 as a recreation reserve for open space and active recreation.
- The Auckland Unitary Plan has zoned it for this purpose. Objectives for this zone encourage indoor and outdoor sport and active recreation; seek to avoid significant adverse effects on nearby residents; and provide for activities accessory to this.
From: Jan O'Connor (Devonport - Takapuna Local Board)
Sent: Tuesday, 11 December 2018 1:15 PM
To: George Wood (Devonport - Takapuna Local Board); Grant Gillon (Devonport - Takapuna Local Board); Michael Sheehy (Devonport - Takapuna Local Board); Jennifer McKenzie (Devonport - Takapuna Local Board); Mike Cohen (Devonport - Takapuna Local Board)
Subject: Marilyn's Report

These are photos of the disgraceful pedestrian access leading from the Terminus for the North Shore buses at the end of Mayoral Drive opposite AUT & the Auckland Art Gallery.

In the beginning of September I sent these photos to AT asking for a footpath for bus commuters to walk on after alighting. It is a 3rd World entrance to our CBD & Art Gallery.

I do not accept the answer given to my complaint as it gives no solutions for proceeding to cross Wellesley St over to Lorne St.

I would like your support to my proposed motion.

THAT AT urgently investigate a new footpath & pedestrian crossing at the North Shore Bus Terminus on the southern end of Mayoral Drive so that bus commuters can safely proceed to the main entrance of the Auckland Art Gallery

Jan
Attachment A

Item 17
Report Name: Board member report – Chairman George Wood

Report Period: From 21/Nov/2018 – To 10/Dec/2018

Lake Pupuke water levels:
The water levels of Lake Pupuke have remained very high right into Summer. Despite checking with experts no credible explanation has been forthcoming as to why the high levels of the lake are continuing. We have now reached a time where some further work is needed.

Motion:
That further work be done to find an explanation as to why the water levels of Lake Pupuke are continuing to remain very high and indicate options for controlling the lake levels.

Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>George Wood: chair Devonport-Takapuna Local Board</th>
</tr>
</thead>
</table>
Local Board Feedback on Publicly Notified Application: Devonport-Takapuna Local Board

<table>
<thead>
<tr>
<th>Date</th>
<th>27 November 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attention</td>
<td>Jason Drury – North West Resource Consenting, Resource Consents Paulette Kenihan – Senior Hearings Advisor, Democracy Services</td>
</tr>
<tr>
<td>Form to be sent to</td>
<td>Jason Drury – North West Resource Consenting, Resource Consents</td>
</tr>
<tr>
<td>Application reference</td>
<td>LUC60313256</td>
</tr>
<tr>
<td>Location</td>
<td>110 Kitchener Road and 1A Pierce Road, Milford</td>
</tr>
<tr>
<td>Applicant</td>
<td>R &amp; S Francis Limited</td>
</tr>
</tbody>
</table>

**Brief summary of the proposal**
Consent is sought to build a 6 storey apartment building with a commercial unit at ground floor and semi basement car parking. The proposal is a Restricted Discretionary activity.

**Local Board feedback**
1. The local board note that the proposed development aligns with two key strategic documents and their associated outcomes, which include:
   - The Devonport-Takapuna Local Board Plan: Outcome five – Our area has a thriving local economy and vibrant, unique town centres; and
   - The Milford Centre Plan: Outcome two: Kitchener Road as a pedestrian friendly main street.
2. While the local board support the main aspects of the proposal, it has concerns with the development which has also been raised by areas of the local community. This is detailed in the feedback below:
   - **Construction grounds for submission based on reports**
     The local board strongly recommend that piling works not exceed a noise level of 77 dB LA (e.g. when measured and/or assessed as 1m from the façade). The time limits should be restricted and not Sundays and the decibel limit seems to high. The proposed noise limits seem to allow construction after 10pm and this should not be allowed (p.95 Hearings Agenda).
   - **Erosion and Sediment Control**

1
The local board consider that The Erosion and Sediment Control Management Plan (ESCP) should be strict taking into account stormwater runs off to the Milford Beach area. Past projects have not coped well with the violent summer storms we seem to be getting. The estimated earthworks volume involved is 1357m³ over an area 1043m² and this is considered to be a restricted discretionary activity. This means a lot of truck movements.

- **Traffic Management Plan**
  The traffic management plan needs to account for the disabled vans and kindergarten traffic. The submitted traffic management plan appears to be 10 years old. The construction is right on the corner of busy arterial and minimising impact on traffic needs to be considered.

- **Other matters**
  The local board has significant concern with the numerous non-complying issues that also include non-permeable, landscape coverage. In particular, the local board object to the following for 1A Pierce Road:
  - Building height being 16-19m - permitted 11m which is not what was envisioned for a residential area when the UP was approved.
  - Height in relation to boundary exceeded on all elevations
  - Infringement to yard in front
  - Max impervious exceeded by almost 36.1%
  - Building coverage is 92.7% - permitted 45%
  - Landscaped area which is used to soften and create amenity is 5.3% - supposed to be at least 35% of site.
  - Front fence is 2.22 m instead of 1.2m impacting on amenity and creating a gated community type building

The local board also is concerned with the:
  - height of the 110 Kitchener Road building is 4m over height (20m instead of 16m);
  - proposed exit point for the underground carpark. The local board suggest the exit point should be on Pierce Road, not Kitchener Road; and
  - impact of shadowing on neighbouring properties.

- **Summary**
  Overall the scale and bulk caused by a non-complying proposal goes against the careful planning and consultation carried out with the Unitary Plan. It will create a precedent in residential areas which will change the character of the neighbourhood in the long-term.

**Outcome sought by local board**
To ensure the development adheres to all provisions of the Unitary Plan and the necessary steps are undertaken to minimise impacts on the community, neighbours and commuters.

**Attendance at hearing**
The Devonport-Takapuna Local Board seeks an opportunity to speak to this feedback at any
hearing on this matter.

Authorisation
This feedback has been approved by:
- Michael Sheehy – Devonport-Takapuna Local Board Planning lead
- Jan O’Connor - Devonport-Takapuna Local Board Planning lead
- Grant Gillon – Deputy Chair, Devonport-Takapuna Local Board
- George Wood – Chair, Devonport-Takapuna Local Board

[Insert name of local board member]
Email:
Date:
HEARING SCHEDULE

The general order of proceedings at the hearing are:

- Introduce hearing, overview of process, points of clarification etc:
- Present their case and answer any questions from the panel:
- Present their case and answer any questions from the panel:
- Answer any questions from the panel and comment on evidence presented at hearing:
- Respond to what submitters and council officers said at hearing or provided in writing:
- Outline timelines for close of hearing and the decision:

Please note that this hearing is being audio recorded

In the matter of the Resource Management Act 1991, a Resource Consent application by R & S Francis Limited to build a six storey apartment complex with one commercial unit at 110 Kitchener Road and 1a Pierce Road, Milford on Wednesday 5 and Thursday 6 December 2018 at 9.30am being held in the Council Chambers, Level 3, Takapuna Service Centre, 1 The Strand, Takapuna, Auckland

HEARING PANEL:
Philip Brown (Chairperson)
Greg Hill
Julie Bevan

FOR COUNCIL:
Nick McCool, Team Leader
Jason Drury, Planner
Sayad Omar, Traffic Engineer
Bernard Liew, Development Engineer ON CALL
John Stenberg, Urban Designer
Andrew Gordon, Noise Consultant
Paulette Kenihan, Senior Hearings Advisor

SCHEDULED BREAKS:
Morning Tea: 11am
Lunch: 1pm
Afternoon Tea: 3pm

DAY ONE
FOR APPLICANT: 5hrs
R & S Francis Limited represented by:
Jeremy Brabant, Legal Counsel
Philippa Riddell, Planning
Daniel Bulog, Architecture
Ian Munro, Urban Design
Peter Runcie, Acoustic
Rodney Francis, Client Representative
Harry Ormiston, Traffic Engineering
Jack Turner, Civil Engineering
## DAY TWO

### 9.30am – 11am

**LOCAL BOARD:** Devonport -Takapuna represented by Grant Gillon, Deputy Chair; 10mins

**SUBMITTERS IN ATTENDANCE:**

<table>
<thead>
<tr>
<th>Time to Speak</th>
<th>Page No.</th>
<th>Name(s) and Address</th>
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</thead>
<tbody>
<tr>
<td>Tabled evidence</td>
<td>169</td>
<td>James Klein 26 Saltburn Road Milford</td>
</tr>
<tr>
<td>15mins</td>
<td>307</td>
<td>LC Johnson &amp; RM Skeates represented by Craig Shatford 1/3 Pierce Rd Milford</td>
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<tr>
<td>5mins</td>
<td>205</td>
<td>B Batty 15B Craig Road Milford</td>
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<tr>
<td>20mins</td>
<td>248</td>
<td>D Dunsford (Milford Resident's Association Inc) P O Box 31-067</td>
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<tr>
<td>10mins</td>
<td>240</td>
<td>Peter C Carter (Milford Village Forum) 21a Omana Road Milford</td>
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<tr>
<td>10mins</td>
<td>222</td>
<td>Travis Bailey 1/10 Pierce Rd Milford</td>
</tr>
<tr>
<td>10mins</td>
<td>256</td>
<td>Bryce Henderson 9 Pierce Road Milford</td>
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<tr>
<td></td>
<td>265</td>
<td>Melissa Henderson 9 Pierce Road Milford</td>
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### 11.30am – ONWARDS

**45mins**

<table>
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<tr>
<td>Travis Bailey, Bryce Henderson and others represented by; Joao Machado, Planner Jason Evans, Urban Designer</td>
</tr>
</tbody>
</table>

### COUNCIL COMMENTS

### APPLICANT’S RIGHT OF REPLY