

Notice of Motion

Submitted on 18th of April 2019-For the next available business meeting of the Devonport Takapuna Local Board

MOVED by Deputy Chairperson G Gillon, seconded by Member M Cohen

That the Devonport Takapuna Local Board:

- a) request that Auckland Transport consider delegating the required responsibilities, duties, function, and powers to allow
 - i) landowner approval,
 - ii) prioritisation of proposed projects, and
 - iii) approval of related budgets.

to the respective local board, where they affect roads or assets in the local street network, noting that this is allowed for under section 45 “Delegations” of the Local Government (Auckland Council) Act 2009, in particular clauses (1) and (8).

- b) request that where any required responsibilities, duties, functions, or powers to give effect to resolution a) above are determined to be contrary to the Local Government (Auckland Council) Act 2009 or any other legislation, that an equivalent process is found (such as Auckland Transport formally adopting local board resolutions).
- c) note that local boards currently have the equivalent delegation as outlined in resolution a) above with regard to assets, projects and land administered by the Community Facilities department of Auckland Council, and this may be a suitable model for Auckland Transport to consider adopting.
- d) request that this Notice of Motion and subsequent resolutions are circulated to all local boards for their information and consideration

Background:

According to section 10 of the Local Government (Auckland Council) Act 2009, the purpose of local boards is to enable decision-making by an on behalf of local communities:

10 Local boards

A local board must be established for each local board area for the purposes of—

- (a) enabling democratic decision making by, and on behalf of, communities within the local board area; and
- (b) better enabling the purpose of local government to be given effect to within the local board area.

Section 10(b): replaced, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

However local boards are currently excluded from any decision-making related to Auckland’s roading network, public transport network, and road corridor infrastructure located within the respective local board area. Despite the large sums of public money being spent in this sector, local boards are often only asked for informal feedback on transport or roading proposal, which undermines the purpose of local boards, prevents local governance, disenfranchises the local community, and denies electoral accountability.

In the above recommended motion, we are proposing a way to redress the lack of democratic accountability and local governance through a mechanism that currently exists within legislation. In section 54 of the *Local Government (Auckland Council) Act 2009*

(reproduced in attachment B), Auckland Transport may delegate (within specified limits) “any of its responsibilities, duties, functions, and powers” to “1 or more local boards”.

We believe that as a publicly-owned and publicly-funded body that is part of a democratic city entity, that this is something that Auckland Transport is duty-bound to seriously consider and through this proposal, we are requesting it to do so.

A handwritten signature in blue ink, appearing to read 'Grant Gillon', written over a light blue horizontal line.

Grant Gillon
Deputy Chair of the Devonport-Takapuna Local Board

A handwritten signature in black ink, appearing to read 'Mike Cohen', written over a light blue horizontal line.

Mike Cohen
Devonport-Takapuna Local Board Member

Attachment A:

Local Government (Auckland Council) Act 2009 - section 54 (highlighting added)

Source: <http://www.legislation.govt.nz/act/public/2009/0032/80.0/DLM3338625.html>

54 Delegations

- (1) Auckland Transport may delegate to a committee or an employee of Auckland Transport, or to the Auckland Council, any of its responsibilities, duties, functions, and powers except—
 - (a) the power to approve or adopt any policy or programme that it is required to consult on using the special consultative procedure; and
 - (ab) the power to approve or adopt a regional land transport plan or a regional public transport plan under the Land Transport Management Act 2003; and
 - (b) the power to make a bylaw under any enactment referred to in section 46(1); and
 - (c) the power to borrow money or purchase or dispose of any assets of Auckland Transport; and
 - (d) any duty to appoint a chief executive officer.
- (2) This section applies subject to any provision to the contrary in this or any other enactment.
- (3) Nothing in this section restricts the power of Auckland Transport to delegate to a committee or an employee of Auckland Transport, or to the Auckland Council, the power to do anything precedent to the exercise or performance by Auckland Transport (after consultation with the committee, employee, or the Council) of any power or duty specified in subsection (1).
- (4) A committee or an employee of Auckland Transport, or the Auckland Council, may delegate any of its or his or her responsibilities, duties, functions, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by Auckland Transport when making the original delegation.
- (5) A committee, a subcommittee, or an employee of Auckland Transport or the Auckland Council to which or to whom any responsibilities, duties, functions, or powers are delegated may, without confirmation by Auckland Transport, the Council, or the committee or person that made the delegation, exercise or perform them in the same way and with the same effect as if Auckland Transport itself had exercised or performed those responsibilities, duties, functions, or powers.
- (6) Auckland Transport may delegate to the Auckland Council, or any other organisation or person, the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters for which it is responsible.
- (7) To avoid doubt, no delegation relieves Auckland Transport of the liability or legal responsibility to perform or to ensure the performance of any function or duty.
- (8) A delegation to the Auckland Council may be made generally or specifically to the governing body or 1 or more local boards.
- (9) The delegation powers in this clause are in addition to any power of delegation Auckland Transport has under any other enactment.

Section 54: added, on 1 November 2010, by section 31 of the Local Government (Auckland Council) Amendment Act 2010 (2010 No 36).

Section 54(1)(a): replaced, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 54(1)(ab): inserted, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).