

Statement to the Council's Natural Environment Committee on the Draft Town Belt Bill
by Action for Environment Inc

Since our foundation over 40 years ago, Action for Environment has acted as a guardian of the Town Belt. We have long advocated the return of former Town Belt land to Town Belt status, so we support the Draft Bill's object in doing this. We can also appreciate the logic behind land rationalisation of areas of Town Belt taken out for roading etc under the Public Works Act. The bill however, as currently drafted, goes way beyond these objects. If passed into law it would radically change the status and protection of the Town Belt. Action for Environment therefore strongly opposes the Bill as it is currently drafted.

The Town Belt was gifted "in trust" to the citizens of Wellington "and their descendants" by the 1873 Town Belt Deed. The Deed, along with the Town Belt land are the natural inheritance of present and future Wellingtons. Overriding the Deed, the governing document of the Town Belt, which this draft bill seeks to do, would in our view be similar to attempting to change a will 141 years after it was executed.

Under the Deed the Wellington City Council manages the Town Belt on behalf of the trustees but it does not have beneficial ownership of the land. This is the Town Belt's best protection because it prevents the sort of 'in-house deals' being done by council officials on the waterfront, where the council does have beneficial ownership of the land. All this would change for the Town Belt if this bill becomes law: The Town Belt will become more like the waterfront where citizen's groups have had to battle for decades against council attempts for to privatise and build on its open space.

The council's public information brochure on the draft bill claims its aim is to "modernise" the government arrangements of the Town Belt (as if its present status were a dilapidated apartment building!) Imagine the rightful outrage if some official body tried to "modernise" the Treaty of Waitangi. Well the Town Belt Deed is the *taonga* of Wellingtonians.

The other stated aim of this bill is to "strengthen" the protection of the Town Belt (as if it wasn't already one of the best protected urban reserves in New Zealand!) This statement is a non sequitur as the bill aims to give what is described as "broad powers" over the Town Belt to council officials.

Legislation based on this bill would allow the council to carry on or undertake "any activity or business, do any act or enter into any transaction" on the Town Belt and for the purposes of the above would give the council "full rights, powers and privileges". (our underlining). It would give the council officials the power to undertake "any" work in the Town Belt "the council considers desirable" including the "construction of any building". Such powers would be contrary to the Town Belt's Open Space C zoning. They would not maintain and protect the finite open space of the Town Belt which is a fundamental objective of the District Plan

This bill if it became law would allow the council to restrict access to the Town Belt by the public of Wellington (the owners of the land) not just for safety but also to facilitate "temporary activities" (presumably including commercial ones). Talk about "broad" powers over the Town Belt, this Bill would give council officials total power!

In 2010 through to 2012 Action for Environment tried unsuccessfully to protect part of the Town Belt's open space by opposing the extension of the badminton hall into it. Like us, council officials initially strongly opposed consent for the proposal but later did a U-turn and supported it when the matter went to the Environment Court. We wanted to know why the council changed course on this matter. Failing to get a satisfactory answer, our LGOIM Act request came up with some clues. Thanks to the intervention of the Ombudsman's Office, we obtained a "legally privileged" report on the badminton hall case denied to us by the council. This report advised the council that it could not legally grant a lease for the badminton hall's extension under the then Town Belt Management Plan. Despite this advice, council officials supported the granting of a

resource consent and went on to spend, in our estimation at least \$60,000 of rate payers money, in opposing our appeals to the Environment and High Courts against it. And this is the same officialdom that the bill would give "broad" powers to over the Town Belt!

Action for Environment is very concerned that this draft bill seeks to remove the Town Belt from the Reserves Act 1977. The council claims the bill, if it is enacted, will "simplify" the Town Belt's management and make what is described as a "one-stop-shop" for it (one wonders what of the Town Belt will be on offer at this "shop"! Removal of the protection of the Reserves Act from the first land to be reserved in New Zealand for the sake of bureaucratic convenience, is quite frankly outrageous. We strongly oppose it.

We also oppose the removal of the Wellington Show grounds, Botanic Garden land, and Wellington Zoo land from the Town Belt Deed. It needs to be remembered that the original layout of Town Belt has an important heritage value that should be protected. The instructions for reservation of the Town Belt and the first plan of Wellington showing it are part of the foundation documents of New Zealand as a nation. These areas should therefore remain in the Town Belt and the administration of their special requirements can be adequately dealt with by management plans.

The principles should not be enacted but should remain just that: principles in the management plan. There was considerable opposition from submitters to joint management of the Town Belt with mana whenua which is contrary to the Town Belt Deed, under which only the council is entitled to manage the Town Belt. Despite many submissions requesting that the Deed be referred to in the principles and a promise by councillors to include it, the deed is not even mentioned.

It is very disturbing that all through the brochure and in the Bill itself there is reference to "the Council" being trustee of the Town Belt. There is no mention that the citizens of Wellington are also trustees. It needs to be pointed out that while the mayor and councillors are trustees (plural), under Deed, the council as an organisation is not a single trustee of the Town Belt. This needs to be spelt out in the bill

You councillors, as trustees of the Town Belt, have a duty to protect its status and open space and to pass it on to future generations as you received it: the citizens of Wellington being trustees and without the council having beneficial ownership of the land. That is the Town Belt's its best protection.

This bill in its current form seems to us to be an attempted legal theft of the commons. It should be sent back for substantial redrafting.

In conclusion, we have been told by Grant Robertson MP (whom the council hopes will sponsor the bill) that a local bill should not be controversial. Overriding the Deed, removing the protection of the Reserves Act from the Town Belt and changing its trustee status will be controversial!

Thank you

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