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**REPORT 1**  
*(1215/52/IM) (1215/53/IM)*

## **PROPOSED ROAD REALIGNMENT BY STOPPING AND LAND EXCHANGE AT SOUTH MAKARA ROAD**

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### **1. Purpose of Report**

The purpose of this report is to obtain the Committees approval to recommend to Council a road realignment at 563 South Makara Road pursuant to the Public Works Act 1981 by carrying out the following land exchange:

- 1) Stopping of the unformed part of South Makara Road and sale to the adjoining owner in exchange for;
- 2) The acquisition of privately owned land at 563 South Makara Road in order to legalise the existing vehicle access track as road and facilitate public pedestrian, cycle and horse access down the Karori Stream.

### **2. Recommendations**

Officers recommend that the Committees:

1. *Receive the information.*

*Officers recommend that the Regulatory Processes Committee recommend that Council:*

2. *Agree pursuant to Sections 116 and 117 of the Public Works Act 1981 to declare surplus and stop a section of unformed road adjoining 563 South Makara Road being approximately 3,570 square metres which is highlighted red on the Spencer Holmes plan numbered S07-0499-03 in Appendix One.*
3. *Agree to dispose of the area of stopped road in recommendation 2 to the adjoining owner and amalgamate the stopped road with the adjoining land to be held in Computer Freehold Register WN453963, yet to be created as part of an approved subdivision (in SR 188027).*
4. *Authorise the Chief Executive Officer to negotiate and complete all further terms of the road stopping and land exchange, including the disposal of the stopped road.*

*Officers recommend that the Strategy and Policy Committee recommend that Council:*

- 5. Agree to acquire approximately 4,777 square metres of land highlighted in blue on the Spencer Holmes plan numbered S07-0499-03 in Appendix One and vest it as road pursuant to section 114 of the Public Works Act 1981.*
- 6. Authorise the Chief Executive Officer to negotiate and complete all further terms of the land exchange acquisition and vesting of the new road.*

*Officers recommend that the Committees:*

- 7. Note that this will be a cost neutral land exchange for the sections of land described above.*
- 8. Note that the costs associated with carrying out the road stopping and land exchange will be met by Council as this agreement facilitates public access down the Karori Stream (a key initiative of the Open Space Access Plan, 2004). These include all survey, valuation and Council's legal costs for this application.*
- 9. Note that as part of the subdivision SR 188027 the Council has secured an easement through Kinnoull Station down the Karori Stream which follows the existing 4WD track and will open this access way to pedestrians, cyclists, and horse riders.*
- 10. Note that this report's recommendations were endorsed by the Ohariu/Makara Community Board at their meeting on 20 August 2009.*

### **3. Background**

#### **3.1 The Proposal**

New Zealand Forestry Group Limited (NZFGL) own rural land at 563 South Makara Road known as Kinnoull Station. NZFGL are in the process of subdividing Kinnoull Station into lifestyle blocks (SR 188027). Council officers have secured an easement granting right of access along the 4WD track that traverses the valley floor through Kinnoull Station as part of the subdivision. At the northernmost end this is temporary pending the current proposed road realignment (see Appendix Two). The easement allows for pedestrian, horse, and cycle access along the existing 4WD track. Karori Stream access is one of the top 10 initiatives of the Council's Open Space Access Plan (2004). Full access down the Karori Stream is dependent on securing access across a section of Terawhiti Station and Council officers will begin negotiations this year with the landowner.

In order to complete the public access through Kinnoull Station down the Karori Stream, Council is to acquire approximately 4,777 square metres of Kinnoull Station's land highlighted in blue on the attached aerial photograph (see

Appendix One) to vest as road. This area is currently used as road and contains a vehicle track. The acquisition of the land will legalise the current use of the track.

This will also require Council to stop one section of unformed legal road on South Makara Road which adjoins the property situated at 563 South Makara Road. The area comprises of 3,570m<sup>2</sup>, highlighted in red on the attached Spencer Holmes Plan SO7-0499-03 (see Appendix One). If the road is successfully stopped, the land will be amalgamated with the adjoining land at 563 South Makara Road to be held in Computer Freehold Register WN453963 to be used in conjunction with the existing land holding.

### **3.2 Site Description**

The road to be stopped is approximately 3,750 square metres situated entirely within the NZFGL property at 563 South Makara Road and is in the north western part of the property (see circled area in Appendix Two). This land is generally flat to undulating and is covered in pasture. There is also a wool store shed built on it, as part of the farm operations of Kinnoull Station.

The existing vehicle track is located on land just to the east of the unformed legal road and is of a similar contour. The land to be acquired for road around this track is approximately 4,777 square metres and will provide the minimum standard 20 metre legal road width and is also situated within the NZFGL property.

## **4. Discussion**

### **4.1 Statutory Criteria - Public Works Act 1981 Requirements**

The proposed road realignment, by stopping of the road and its exchange for any other land required for road is provided for under the provisions of Sections 114, 116 and 117(3)(a) of the PWA.

The disposal of stopped road, pursuant to Section 117 of the PWA, is exempt from Section 40 offer back requirements where it is required for exchange, as it is in this case. This is due to the continued public work requirement for road around the existing vehicle track instead of the unformed legal road.

Road Stopping is provided for under the provisions of Section 116(1) of the PWA and Section 114 of the PWA will be used to declare the acquired area of land to be vested in the Council as legal road.

### **4.2 Consultation**

Consultation with the relevant Council Business Units was sought as part of this application and unconditional consent was obtained from Parks and Gardens, Roading and Traffic and Development Planning and Compliance. Treaty Relations have received written support from Wellington Tenth Trust and Ngati Toa for the road realignment.

All the relevant Service Authorities have been consulted with and only Wellington Electricity Limited and Telecom have acknowledged services on this site, being overhead wires and require their standard conditions to be met.

Unconditional consent was obtained from the following Service Authorities:

- Telstra Clear (Telecommunication)
- Capacity on behalf of WCC Water Supply
- Council drains
- Powerco Limited (gas)
- Nova Gas Limited Pipelines

#### ***4.3 Adjoining Landowners Consultation/Public Notification***

A road stopping under Section 116 of the PWA requires compliance with the either of the following requirements:-

- Adequate road access to land adjoining the road is left or provided for; or
- The owners of the land adjoining the road or part of the road give their consent in writing.

The proposed stopping will not compromise the legal or physical access to any other landowner's property. It will actually legalise the current informal use of the existing vehicle track as road, which is on private land.

The written consent to the proposed stopping has been obtained from the only adjoining landowner, which is NZ Forestry Group Ltd and is the other party to the land exchange.

No public notification is required as this is a stopping and land exchange under the PWA and it demonstrates a public work requirement of road realignment. It is appropriate to use the PWA process rather than the Local Government Act 1974 (LGA) road stopping process in circumstances such as this where a realignment is required to ensure the practical formed access is legalised as road.

#### ***4.4 Completion of Stopped Road***

The land exchange and road stopping is formalised by a declaration by the Minister for Land Information which is published in the Gazette. A formal request will be made to the Minister to issue a declaration once the agreement is unconditional. Following the publication of the Gazette notice this part of South Makara Road will cease to be road and will be amalgamated into the adjoining landowner's title. The land required for road will transfer and vest in Council as legal road at the same time.

#### ***4.5 Valuation of land to be exchanged and agreement***

A current market valuation of the land to be stopped and exchanged will be carried out by an independent registered valuer. Officers and NZFGL have agreed in principle that this value will also be adopted for the land to be

acquired. This will make the exchange cost neutral and effectively a “land for land” exchange.

If approved by Council the Chief Executive Officer will finalise all negotiation details of the land exchange agreement.

## **5. Conclusion**

The proposed land exchange will be achieved by undertaking a road stopping of the unformed legal road currently used by the farm and acquisition of the land around the existing vehicle track to be vested as legal road.

This land exchange proposal is being processed in accordance with the requirements of the PWA as a road realignment. It is expected that land exchange will be cost neutral to the Council.

Contact Officers: *John Vriens, Property Advisor, Property Services*  
*Amber Bill, Manager Community Engagement & Reserves, Parks & Gardens*

## Supporting Information

### **1) Strategic Fit / Strategic Outcome**

*In line with the Council's financial principles, assets that are declared surplus to strategic or operational requirements are sold.*

*The sale of legal road, where surplus to strategic requirements, is mandated under the Council's 2004 Road Encroachment and Sale Policy.*

*The paper supports Council's strategic direction for Open Space Access and in accordance with the Open Space Access Plan (2004).*

### **2) LTCCP/Annual Plan reference and long term financial impact**

*Provision for undertaking this road realignment work is contained within the overall organisational budget.*

*This report is a step towards the possible sale and acquisition of the legal road, by exchange under the PWA. At this stage, the value has not been quantified as valuations are carried out at a later stage in the road stopping process. The exchange price will be cost neutral to the Council and the landowner as both sale and purchase price will be equal.*

*There are no adverse financial implications imposed on the Council arising from this road stopping and acquisition. Most of the costs associated with this proposal will be met by Council including all survey, administration and its own legal costs. This proposal will benefit Council in practical terms as it will acquire land required for road, by exchange.*

### **3) Treaty of Waitangi considerations**

*There are no Treaty of Waitangi implications.*

### **4) Decision-Making**

*This is not a significant decision. This report sets out the Council's options under the relevant legislation and under the Council's 2004 Road Encroachment and Sale Policy.*

### **5) Consultation**

*Consultation with the relevant Internal Business Units has been carried out as part of this application. Roading and Traffic, Parks and Gardens and Development Planning and Compliance support the proposed road stopping and acquisition to realign the road. The adjoining land owner consents to the exchange and will be a party to the agreement.*

*Service Authorities have been consulted and most have given unconditional consent, except Wellington Electricity Ltd and Telecom who require their standard conditions, due to their respective overhead wires being present.*

### **6) Legal Implications**

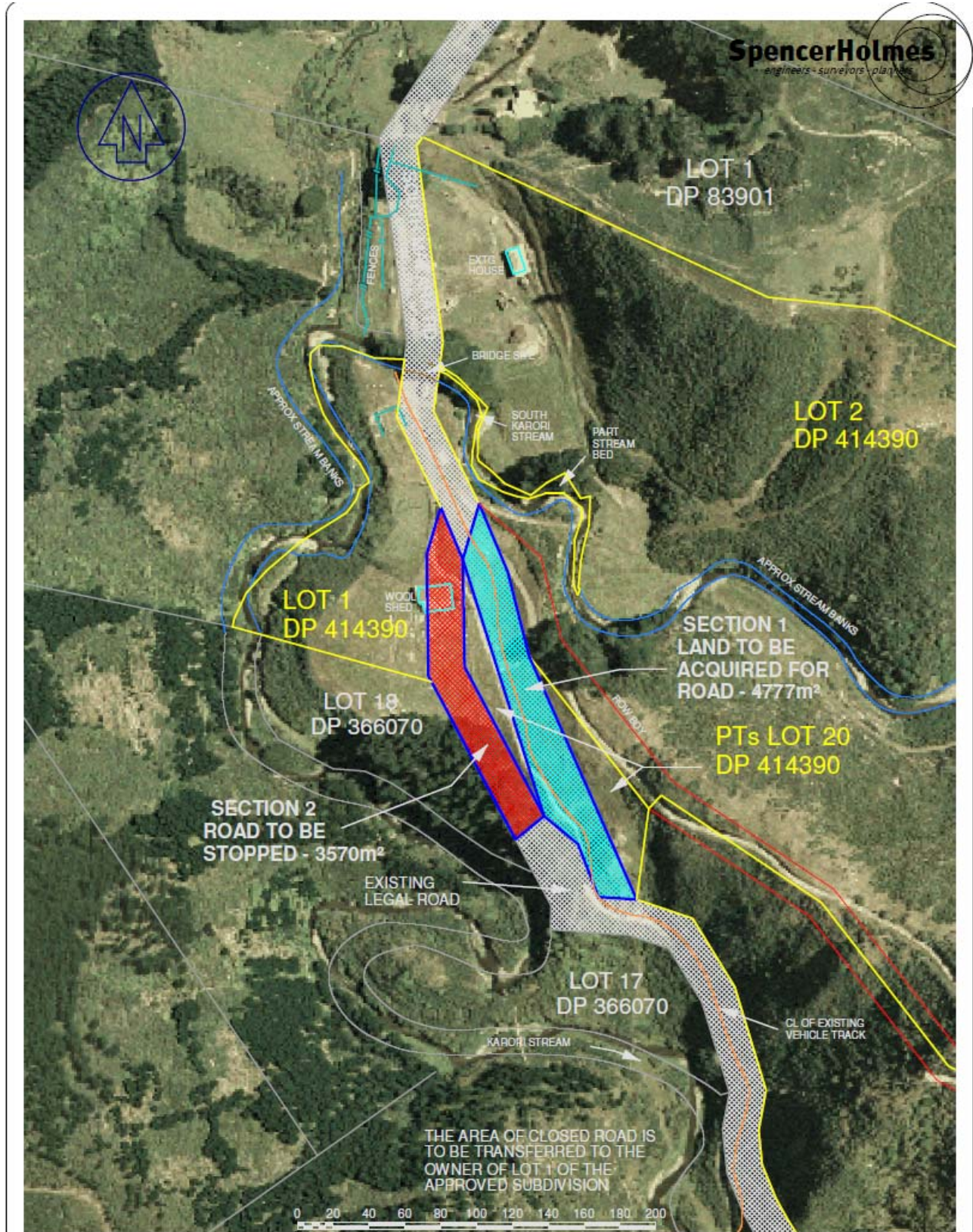
*The road stopping and acquisition proposal by exchange complies with the relevant Council policies and is being processed in accordance with Sections 114, 116 & 117 of the Public Works Act 1981, as a road realignment.*

*Council's legal advisers have reviewed this report and will prepare the PWA land exchange agreement. A solicitor certificate will be obtained prior to signing the agreement.*



# APPENDIX ONE

## ROAD REALIGNMENT PLAN

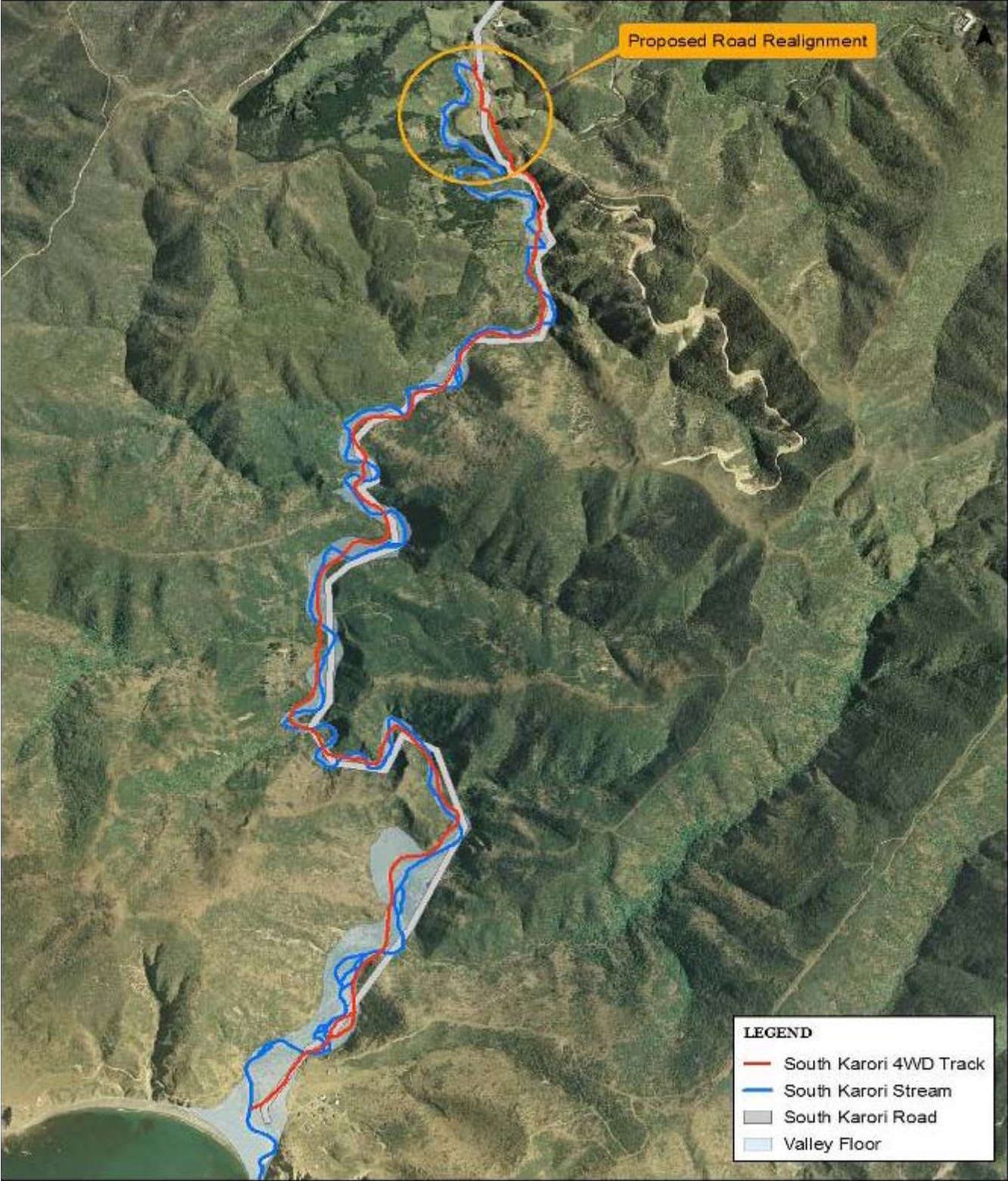


<p><b>Spencer Holmes Ltd</b>                  Level 6 - 8 Willis Street                  PO Box 588                  Wellington NZ                  Ph (04) 472 2261                  Fax (04) 471 2372                  survey@spencerholmes.co.nz</p> <p><small>CAUTION - The information shown on this plan has been prepared under specific instruction from the client and is intended solely for the clients use. The information is valid as at the date of survey. Spencer Holmes Ltd will accept no liability for any consequences arising out of the use of this plan, or the information thereon whether in hard copy or electronic format, by any other party for any purpose whatsoever.</small></p>	<p><b>KINNOULL - 563 SOUTH MAKARA ROAD</b>                  ROAD REALIGNMENT SHOWING ROAD TO BE STOPPED AND LAND TO BE ACQUIRED BY EXCHANGE UNDER PUBLIC WORKS ACT 1981                  PREPARED FOR WELLINGTON CITY COUNCIL</p>		<p>CAD FILE 090608 - S09-0608</p>
	<p>DATE 05 AUGUST 2009</p>		<p>SCALE 1:2000</p>
	<p>DRAWING NUMBER S09-0608-01</p>		<p>REV A</p>
	<p>THE AREA OF CLOSED ROAD IS TO BE TRANSFERRED TO THE OWNER OF LOT 1 OF THE APPROVED SUBDIVISION</p>		



# APPENDIX TWO

## LOCALITY MAP



### South Karori Easement Planning

Property boundaries, Land Information NZ, License W100035472. CROWN COPYRIGHT RESERVED. Accuracy in urban areas: +/- 3m. Accuracy in rural areas: +/- 25m. Topographic data: Wellington City Council WCC copyright reserved. Accuracy: +/- 20m. Any contours displayed are only approximate and must not be used for detailed engineering etc. Data: Ordnance Survey 1:600 Issue March 2005 of 4th 2005 owned by Wellington City Council. Other data has been compiled from a variety of sources and its accuracy may vary.

MAP PRODUCED BY:  
Parks and Gardens  
Wellington City Council  
101 Wakefield Street  
WELLINGTON, NZ

**Absolutely**  
**Positively**  
NEW STRAITS TO REMAIN  
WELLINGTON CITY COUNCIL Wellington