

Tabled Information - Reference 170/13P(c)

Oral submission to the Strategy and Policy Committee on the drafting instructions for the Wellington Town Belt Bill 20 June 2013 by Action for Environment Inc

On behalf of Action for Environment I just want to begin by commending all those involved in the enormous task of producing the new Wellington Town Belt Management Plan (time does not permit to comment on the plan itself). I would also like to congratulate Cr Helene Ritchie and members of her Town Belt sub-committee for their hard work (which no doubt included a few debates!) in getting the Town Belt documentation to this stage. We especially commend members of the sub-committee for the improvements they have made to drafting instructions originally released

Having said this we still have concerns about some of these instructions.

Legal status

Paragraph 12.1 *Council holds the legal Town Belt as trustee*". There is a serious omission in this statement. There is no mention of the co-trustees of the Town Belt: the citizens of Wellington. It would seem that legislation drafted under these instructions, as they are currently written, the citizens of Wellington would no longer be trustees of the Town Belt. If this is correct then present and future Wellingtonians are going to be robbed of their natural inheritance. We strongly oppose this.

We applaud the inclusion of the excellent definition of recreation ground in paragraph 13.

With regard to paragraph 14, *"The Bill will be a code for how the Legal Town Belt is governed.... the legal status of the Legal Town Belt will be sourced primarily from the Bill rather than the underlying 1873 Deed"*. This seems to us to be a weaselly-worded way of saying the same as deleted clause 12, that the Bill will prevail over the Deed. The 1873 Town Belt Deed gifted the Town Belt to the people of Wellington City. Downgrading its legal status is in our view akin to attempting to change a will 140 years after it has been executed. The proposed bill should supplement the Deed not downgrade it.

We are very concerned that under paragraph 15 the Town Belt would not be subject to The Reserves Act 1977. Another level of the Town Belt's protection is to be removed. It is frankly ludicrous that the very first area of land to be reserved in New Zealand is not going to be covered by the Reserves Act. Why is the council attempting to do this? We have failed to get an answer to this question. We can only presume it is being done to give more power to council officers over the Town Belt and we question the wisdom of this.

There also seems to be some contradiction between the instructions and the proposed Wellington Town Belt Management Plan which still refers to the Reserves Act and seeks "guidance" from it (p.194), illustrating the problem of trying to remove the Reserves Act from the Town Belt.

Principles

We very much commend the inclusion of paragraph 16.3 that the principles are to be based on: *"The concept of the Original Town Belt including the instructions from the New Zealand Company John Ward to William Mein-Smith (the company Surveyor-general) which included the intention that land be 'public property on condition that no buildings be ever erected upon it' "*. However this is undermined by paragraph 18.1

Council's powers

Paragraph 18.1 states that the Council it will be able to undertake work within the Town Belt **"it considers desirable"** including "the construction of buildings"! This would appear to be a *carte blanche* for the council to put more buildings on the Town Belt. It also conflicts with Town Belt's District Plan C zoning, the fundamental objective of which is to protect its open space. As the instructions go on to say in paragraph 21, the council (like anyone else) can apply for a publicly notified consent to construct a building in the Town Belt and that should be sufficient. The council does not have beneficial ownership of Town Belt land and shouldn't have an automatic statutory right to construct buildings on it.

Leasing and Licensing

Clause 20 refers to the principles in "paragraph 14" this should read paragraph 16.

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22.2 "Council may authorise the lessee or licensee to restrict access to facilities and/or charge admission for membership". What is meant by facility? The vagueness of this term could mean the public's access to parts of the Town Belt is unnecessarily restricted. The Reserves Act says it better, (which is another argument for its retention!) Regarding leased Town Belt land, the 1908 Town Belt Reserves Act (which the Reserves Act 1977 incorporates) states "The public shall have access to all parts of such land other than buildings or land actually laid out as playing ground..."

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