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## **REPORT OF THE TOWN BELT MANAGEMENT PLAN HEARINGS SUBCOMMITTEE**

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### **1. Purpose of report**

This report provides recommendations on the Wellington Town Belt management Plan for the next 15 years and the drafting instructions for the Wellington Town Belt Bill from the Town Belt Management Plan Hearings Subcommittee (the Subcommittee) meetings of 17, 23 April, 8, 9 and 30 May 2013.

### **2. Executive summary**

On the 26 September 2012 the Council approved public consultation on the draft Wellington Town Belt Management Plan and the drafting instructions for a proposed Town Belt bill. The Council also established the Town Belt Management Plan Hearings Subcommittee (the Subcommittee) to accept and hear submissions on the review and recommend changes to policy to the Strategy and Policy Committee.

Public consultation took place between 16 October and 10 December 2012 with 259 written submissions received. 62 submitters also made oral submissions to the Subcommittee on 18, 20 and 22 February 2013.

There was general support for the overall direction of the management plan and the major initiatives and policy direction. Major concerns expressed included future development and commercial activities on Town Belt, loss of Town Belt land and protection of the Town Belt under the proposed legislative changes.

A number of additions and amendments were suggested to provide additional clarity and direction to the management plan and drafting instructions.

The Subcommittee met on 17 April, 23 April, 8 May, and 9 May and reviewed submissions, agreed on major issues raised and recommended changes to the Wellington Town Belt Management Plan and drafting instructions. The amended plan and drafting instructions were presented to a further and final meeting of the Subcommittee on 30 May 2013.

The Subcommittee is now reporting back to Strategy and Policy Committee (SPC) for approval the final Wellington Town Belt Management Plan and drafting instructions for a proposed Wellington Town Belt Bill, as approved unanimously by the Subcommittee.

Throughout our deliberations, the Subcommittee always kept in mind the original intent of the establishing of the Town Belt in 1841; the 1873 Deed; our responsibilities as Trustees of the Wellington Town Belt, to protect, enhance and manage the Wellington Town Belt on behalf of the citizens of Wellington and future generations; decisions already made by Council regarding the principles, and the current recreation use of the Town Belt.

The Subcommittee carefully considered advice from officers, legal advice, written and oral submissions from the public before discussing and reaching its own decisions and recommendations to Council.

This rationale and advice formed the basis of all our decisions.

### **3. Recommendations**

The Town Belt Management Plan Hearings Subcommittee recommends that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Approve the final Wellington Town Belt Management Plan (Appendix 1) and drafting instructions (Appendix 2) having given full consideration to submissions received*
3. *Recommend to Council that:*
  - (a) *Council approve the final Wellington Town Belt Management Plan (Appendix 1) as the management plan for the Wellington Town Belt under section 41 of the Reserves Act 1977.*
  - (b) *Council approve the final drafting instructions for the Wellington Town Belt Bill (Appendix 2).*
  - (c) *Council resolve to prepare a local bill in accordance with the final drafting instructions to be known as the Wellington Town Belt Bill.*
  - (d) *Council instruct officers to prepare a draft of the Wellington Town Belt Bill for approval by Council prior to public consultation.*
4. *Agree to delegate to the Chief Executive and the Environment Portfolio Leader the authority to make any changes to the Wellington Town Belt Management Plan and drafting instructions required as a result of decisions of Strategy and Policy Committee, as well as minor editorial amendments, prior to the presentation to the Council.*

### **4. Background**

In early 2010, a high level analysis of the legislative and policy framework for the Wellington Town Belt took place. This work resulted in a three stage project:

Stage 1: Development of guiding principles (completed) and approved by Council in December 2011.

Stage 2: Review of the Wellington Town Belt Management Plan and Town Belt Reinstatement Policy

Stage 3: Legislative change through a local Parliamentary bill

**Stage one – guiding principles:** Consultation on the draft principles took place in mid 2011 with a final set of principles adopted by the Council on 16 December 2011. The Council also agreed to a review of the Town Belt Management Plan and Town Belt Reinstatement Policy.

**Stage two - The Wellington Town Belt Management Plan 1995 and Town Belt Reinstatement Policy 1998 Review Process:** The review was completed in August 2012 with the preparation of the Draft Wellington Town Belt Management Plan (draft plan) to replace both documents.

**Stage three: Legislative changes:** Preparation of drafting instructions which outline why the legislative changes are needed and what they will achieve. These will form the basis for a local Wellington Town Belt Bill to rationalise, clarify and consolidate Town Belt governance under the Town Belt Deed.

The Council approved consultation on the draft plan and drafting instructions on 26<sup>th</sup> September 2012. It also approved the establishment of the **Town Belt Management Plan Hearings Subcommittee (TBMPHS)** with the following Terms of Reference:

*The Subcommittee shall have responsibility and authority to:*

*Accept and hear submissions on the review of the proposed Town Belt Legislative and Policy Framework Review – Draft Management Plan and Drafting Instructions for Proposed Town Belt Bill and make recommendations for changes to the Policy to the Strategy and Policy Committee.*

#### **4.1 Public consultation**

Further consultation took place between 16 October and 10 December 2012. This included

- Media releases and advertising in our Wellington Page
- Council website plus Facebook page
- On-site notices at major Town Belt entrances
- Direct distribution to key stakeholders and previous submitters. This included all of the clubs with leases on Town Belt, community groups working on Town Belt, 158 individuals and organisations who submitted on the guiding principles, all schools in Wellington.
- Three public meetings in the CBD (in conjunction with Friends of the Town Belt), Northland, and Newtown.
- Posters at libraries, community centres

## 4.2 Deliberations of the Town Belt Management Plan Hearings Subcommittee

259 written submissions were received and are available on request. 62 of these submitters also made oral submissions to the Subcommittee between 18 and 22 February 2013. Following the oral submissions, officers completed an analysis of all submissions and identified the main issues (and proposed plan changes) that the Subcommittee would need to consider for incorporation into the final documents. These were considered and agreed to at the meeting of the Subcommittee on the 17 April 2013.

Officers and Subcommittee members then completed an analysis of all submissions including a response to each issue and whether the proposed change was accepted. These responses can be seen in the draft management plan (appendix 1). Officers incorporated these changes into the draft Wellington Town Belt Management Plan and drafting instructions. These amended documents were presented to the Subcommittee on 30 May 2013. The Subcommittee accepted these changes subject to further amendments made at the meeting.

## 5. Discussion

The Subcommittee in considering the submissions on the Wellington Town Belt Management Plan and final drafting instructions identified some key issues in contention within the submissions that should be incorporated to strengthen the protection, enhancement and management of the Wellington Town Belt. Its changes on the key (not all) issues identified are below:

### 5.1 Wellington Town Belt Management Plan

<b>Key issues raised in submissions</b>	<b>Subcommittee decision</b>
<b>Vision:</b> A lack of long term vision and/or strategic direction in the plan.	That the words be added:  <i>“The Wellington Town Belt is a unique and historic horseshoe of open space around the inner city that brings nature into the city and provides current and future residents and visitors with a place to visit, recreate and enjoy”</i>  <i>The subcommittee agreed to a 200 year vision in the ecology section</i>
The plan lacks a summary of Town Belt values.	<i>That an addition to Chapter 1 (section 1.2), which identifies the values of the Town Belt and its role in the city</i>
<b>Guiding Principles:</b> Several proposed changes to the guiding principles	<i>That Principle 5 be changed to:  Healthy ecosystems supporting indigenous</i>

	<p><i>biodiversity are once again flourishing on parts of the Town Belt.</i></p> <p>This was changed as a result of deliberations with a group of submitters on the Ecology section who recommended changing the focus from biodiversity to healthy ecosystems</p> <p>That the explanatory wording accompanying Principle 6 “<i>The Town Belt is for all to enjoy</i>” be changed to</p> <p><i>This concerns equity of access and use of the Town Belt. The Council believes that the Town Belt should be available for all Wellingtonians to enjoy.–The Council is committed to ensuring that the Town Belt will continue to be improved with more access and improved accessibly features where it is reasonably practicable to do so.</i></p> <p>This reflects accessibility issues in addition to the overall concept of access for all.</p>
<p><b>Acquisition under the public Works Act:</b> That the Council should be able to enter into voluntary acquisition under the public Works Act</p>	<p>Add the following to policy 2.6.3</p> <p><i>That there be no voluntary agreement with the Crown over land taken compulsorily under the Public Works Act as that would be contrary to Council’s trustee obligation.</i></p> <p>This is also reflected in the drafting instructions for the bill.</p>
<p><b>Commercial activity:</b> Growing pressure from commercial interests to utilise the Town Belt. This can prevent public access and no-one should be making money from this public recreation ground. Some examples include elite sport, pay to play competitions or coaching schools, TAB facilities and pokie machines, sub-leasing club rooms to café operators. There are alternative locations for these activities in the city.</p>	<p>That the following be added to <b>Chapter 6 – Recreation:</b></p> <p><i>Any approval to carry out commercial activity on Town Belt will only be permitted to the extent that:</i></p> <p><i>the activity is necessary to enable the public to obtain the benefit and enjoyment of the Town Belt or for the convenience of people using the Town Belt</i></p> <p><i>the commercial activity complements and is ancillary to a group’s primary community or recreational activity, and any excess funds generated by the group are in the first instance applied to any maintenance obligations the group has</i></p>

	<p><i>under the lease and then to the group's community or recreational activity</i></p> <p><i>commercial activity does not require a new permanent building or structure</i></p> <p>In addition the addition of "gaming machines" to the list of prohibited activities in 9.6.8.</p>
<p><b>Development:</b> Many submitters supported a limit on further development of the Town Belt for formal sport and recreation facilities (ie sports fields and buildings). Some believe there should be no further development and any surplus buildings should be removed <b>while</b> some sporting groups said the limits were unfair and did not allow for future growth of sports or the development of world class facilities close to central Wellington.</p> <p>A number of submitters want all proposals for new facilities on Town Belt to be publically notified.</p>	<p><i>That the plan needs to better explain how the extent of each sport and recreation park affects where development can occur.</i></p> <p><i>That a process diagram be added to the plan outlining the steps in the process.</i></p> <p>That the assessment of alternative locations be moved to first bullet point in Policy 6.6.3. to emphasise its importance</p> <p>Note: The ability to demolish buildings on the Town Belt has already been added to the drafting instructions as has the concept of hubs to lessen the built impact.</p>
<b>Clifton Terrace:</b>	High priority for return to Town Belt.
<b>Polhill Gully land additions.</b> Additional Council reserve land should be added to and managed as Town Belt	Agreed to add Polhill Gully reserve land to be managed as Town Belt to protect its open space values
<b>Te Aro School land.</b> Return land to Town Belt	Agreed to protect its open space values and as high priority for return to Town Belt
<b>Raroa Reserve land</b> addition.	Agreed to be managed as Town Belt
<b>Boyd Wilson Strip.</b> Retain as Town Belt	Agreed to retain as Town Belt
<b>World Heritage protection.</b> A number of submissions want the Town Belt to be recognised internationally. Council should seek World Heritage Status for the Town Belt.	Agreed not to pursue World Heritage status but will look at registration as an historic place under the Historic Places Trust
<b>Encroachments:</b> Residents who are using the Carmichael	Agreed no change to overall policies on encroachments. However changes to the

Reservoir access road (off Owen St) are concerned about policy 8.7.6 and the current way the encroachment is being managed ie no new access permitted to new property owners or tenants. They are opposed to the phasing out of access permits and want to be allowed to continue use.	wording in the plan to outline that the residents can apply for an encroachment licence under policies 9.6.8.
<b>Environmental education:</b> Some submitters, involved with community gardens want environmental education to be allowed on Town Belt.  Others are opposed to formal education courses being run on Town Belt (contrary to Town Belt Deed)	<i>Agreed that environmental education activity can occur when it supports the primary role and purpose to Town Belt and fits within the definition of recreation in the management plan.</i>  <i>Add in the following rule: Formal education programmes leading to qualifications are prohibited.</i>
<b>Mt Victoria:</b> Several submissions around the future use, management and vegetation management of the Mt Victoria sector	That a policy is added to 8.9.3 to develop a master-plan for Mt Victoria/Matairangi
<b>Hataitai Park</b> Some submitters felt the policies were not strong enough around protecting the Town Belt from the loss of Town Belt for roading and the possibility of an alternative access of Alexandra Road	That there be an addition to Policy 8.8.4.1. Alexandra Road will not be used as alternative vehicular access (except for utility vehicles) to/from Hataitai Park.

## 5.2 Drafting Instructions

<b>Key issues raised in submissions</b>	<b>Subcommittee decision</b>
<b>Definition of public recreation (in the drafting instructions):</b> Many submitters had concerns that any interpretation (rather than a definition) of “public recreation ground” would give too many powers to officers to make decisions that are contrary to the Deed. Officers were instructed to seek legal advice to develop some definitions of recreation and recreation ground that could be incorporated into the drafting instructions.	That Recreation Ground (but not Recreation) be defined as follows:  <i><b>Recreation ground</b> means an area provided for recreation and sporting activities and the enjoyment of the public, and for the protection of the natural environment, with an emphasis on outdoor activities (both active and passive).</i>

<p><b>Lease conditions (in the drafting instructions and Management Plan):</b> There were concerns about the current area leased to community groups and the proposed maximum area in the Drafting Instructions.</p> <p>There was also concern at the maximum length of leases – maximum 33 years. Very few groups should be granted this because in many cases this enables an exclusive use of an area preventing public access.</p>	<p><i>That the maximum area of Town Belt to be leased will be no more than 8 hectares</i></p> <p><i>That the maximum lease term will be 10+ 10 years. Lessees can apply for a new lease.</i></p>
<p><b>Removal of Reserves Act:</b> Submitters were concerned about the removal of the Reserves Act 1977 from the governance of the Town Belt. The Reserves Act provides additional protection e.g. an appeal process to the Minister about decisions made by the Trustees/Council. There is a lot of case law for the Reserves Act.</p>	<p>The Wellington Town Belt Bill would remove the Town Belt from governance under the Reserves Act 1977, in order to clarify the governance and management of the Wellington Town Belt.</p>
<p><b>The Deed should prevail:</b> Several submitters raised concerns that the Bill will prevail when there is inconsistency with the 1873 Deed. This is a major change from the current situation.</p>	<p>Change to section 11 of the drafting instructions.</p> <p><i>The Bill will be a code for how the Legal Town Belt is governed. Following the Bill's enactment, the legal status of the Legal Town Belt will be sourced primarily from the Bill, rather than the underlying 1873 deed.</i></p> <p>It will bring up to date and clarify the governance and management of the Wellington Town Belt and ensure its protection, and enhancement for current and future generations to enjoy.</p>
<p><b>The local bill will provide “relatively flexible powers:</b> Many submitters had concerns that this approach will give too many powers to officers to make major decisions.</p>	<p>changes to section 3.4 of the drafting instructions:</p> <p>That the words “relatively flexible “powers be deleted so that this section would read:</p>



	<p><i>Provide Council with powers to manage the Legal Town Belt, provided that it does so in a way that is consistent with -the purpose of the 1873 deed, the management plan in force at the time, and the principles in paragraph 14 below</i></p>
<p><b>Can Council (as Trustees) enter voluntary negotiations about the loss of Town Belt land under the Public Works Act?:</b> NZTA recommended the drafting instructions be amended to note that Council could consider entering negotiations for the Crown to take Town Belt land for a public work under section 17 of the Public Works Act eg Ruahine Street widening. This would essentially enable the Council to negotiate under the voluntary provisions of the PWA rather than default to compulsory acquisition. <sup>1</sup></p>	<p>The following be added to the drafting instructions</p> <p><i>Agreed that there will be no voluntary agreement with NZTA over land as that would be contrary to our Trustee obligation.</i></p>

## 6. Drafting of the Wellington Town Belt bill

The drafting instructions will form the basis for a Wellington Town Belt Bill. This will be a local bill<sup>2</sup> that will be introduced into Parliament by Wellington Central MP Grant Robertson. The Bill will need to proceed through the usual process for a Parliamentary bill, which normally includes consideration by a select committee.

Following approval by Council the next stages will be.

- A draft Bill will be prepared and approved by the Council for consultation
- Consultation on the draft bill
- The Council approves the final version of the Bill and seeks to have it enacted.

The final timeframes for the bill will be developed in conjunction with Parliamentary Counsel Office who will manage the process after the first draft of the bill has been prepared by the Council.

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<sup>1</sup> The current legal advice to the Council is that, acting as trustee, it is unlikely to be able to agree to Town Belt land being acquired by the Crown under section 17 (voluntary provisions) of the Public Works Act 1981."

<sup>2</sup> Local bills are promoted by local authorities and confined to a particular area.

## **7. Conclusion**

The draft Wellington Town Belt Management Plan 2012 was produced following a review of the 1995 Management Plan and 1998 Reinstatement Policy. The final plan will provide strategic direction for the Town Belt for the next ten years.

The drafting instructions are the first stage in the preparation of a Town Belt bill to strengthen the protection of and modernise the governance arrangements for the Town Belt under the Town Belt Deed.

Public consultation has resulted in recommended changes to these documents and a final plan and drafting instructions have been approved unanimously by the Subcommittee which now recommends these be approved by Strategy and Policy Committee.

Significant and important changes have been made as a result of the constructive and extensive public consultation, officer and legal advice and careful subcommittee deliberation and decision.

Councillor Helene Ritchie  
Chair Town Belt Management Plan Hearings Subcommittee