

Wellington Town Belt Bill

Local Bill

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Preamble

(1) Whakatauki:

"Tumutumu parea, rākau parea, whānui te ara ki a Tāne"

"Ward off post and weapon, so that the expansive path of mankind is opened up"

This was uttered by Te Wharepouri Te Kakapi-o-te-Rangi during the arrival of the colonial ships within the Wellington harbour, and upon the Petone foreshore during the 1830s. Te Wharepouri saw the benefits of building positive relationships with the colonial settlers and working together towards common goals and initiatives. Hence, the focus of this proverb is about the journey of life, overcoming obstacles and issues, and focusing on the main tasks at hand.

- (2) The New Zealand Company was a private land settlement company formed in London in May 1839, which planned to establish a settlement at Wellington harbour. The Company's representatives arrived at Wellington harbour in September 1839.
- (3) At the time of the New Zealand Company's arrival, the iwi groups with *take raupatu* over all of the lands within the Wellington harbour and its environs were Te Ātiawa, Ngāti Ruanui, Taranaki, Ngāti Tama (together, Taranaki Whānui ki Te Upoko o Te Ika) and Ngāti Toa Rangatira. These iwi each had their own *ahi kā* over particular areas as follows:
 - (a) Te Ātiawa at Te Whanganui ā Tara and parts of the south-west coast;
 - (b) Taranaki and Ngāti Ruanui at Te Aro;
 - (c) Ngāti Tama at Kaiwharawhara and environs, and parts of the south-west coast; and
 - (d) Ngāti Toa Rangatira at parts of the south-west coast.
- (4) The New Zealand Company's initial settlement plan provided for the original Town Belt, being public reserves of 1,562 acres (approximately 632 hectares) around the proposed town of Port Nicholson (now Wellington City), that would separate it from the Company's rural district. These reserves included the land that is now the Wellington Botanic Garden. The instructions from the Company's secretary, John Ward, to its surveyor, William Mein Smith, included that this land be "public property on condition that no buildings be ever erected upon it".
- (5) On 16 October 1841, the Governor of New Zealand notified that the reserves provided for in the Company's plans were "reserved by the Crown for Public Purposes". This was done without consulting or, at that time, compensating the relevant iwi groups.
- (6) On 3 June 1861, the Crown conveyed some of the original Town Belt to the Superintendent of the Province of Wellington "in trust for the purposes of Public Utility to the Town of Wellington and its inhabitants".
- (7) The Wellington City Reserves Act 1871 instructed the Superintendent to convey some of the original Town Belt to the Council's predecessor (being the Corporation of the City of Wellington, described as the "Mayor, Councillors and Citizens of the City of Wellington") upon trust for "purposes of public utility to the City of Wellington and its inhabitants". The Superintendent carried out this instruction in 1873 by executing the Town Belt Deed, which conveyed three parcels of land on trust to the Council's predecessor. The three parcels were the land known as the "Town Belt", "Canal Reserve" and "Basin Reserve".
- (8) The "Town Belt" parcel and the "Canal Reserve" parcel were conveyed to the Council's predecessor upon trust "to be for ever hereafter used and appropriated as a public Recreation ground for the inhabitants of the City of Wellington".
- (9) The "Basin Reserve" parcel was subsequently resettled on the Council's predecessor by deed dated 17 October 1884 as a separate trust, and the Town Belt Deed has no further application to it.
- (10) The report of the Waitangi Tribunal *Te Whanganui ā Tara me ōna Takiwā: Report on the Wellington District* (Wai 145, 2003) concluded that breaches of the Treaty of Waitangi by the Crown had occurred, including in relation to the Crown's acquisition of lands within the Wellington harbour and its environs. The historical claims of Taranaki Whānui ki Te Upoko o

Te Ika were settled on 19 August 2008 and the historical claims of Ngati Toa Rangatira were settled on 7 December 2012.

- (11) As well as the significance of some of the land to mana whenua, the concept of the original Town Belt and having open green space around the central city are important to the inhabitants of Wellington generally. Over time, many people and community groups have cared for the Wellington Town Belt and worked to recover parts of the original Town Belt not vested in the Council.
- (12) There is some uncertainty about the legal status of the Wellington Town Belt, the extent to which the Wellington Town Belt is protected for future generations, and the Council's powers to protect, manage and enhance the Wellington Town Belt. This Act will provide certainty by:
- (a) becoming the principal source of the Council's powers for protecting, managing and enhancing the Wellington Town Belt; and
 - (b) providing a transparent statutory basis for the Council's trusteeship and management of the Wellington Town Belt; and
 - (c) providing a mechanism for land to become part of the Wellington Town Belt.

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Wellington Town Belt Act **2014**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Purpose and principles

3 Purpose

The purpose of this Act is to—

- (a) provide a transparent statutory basis for the Council's trusteeship and management of the Wellington Town Belt on behalf of the inhabitants of the city of Wellington; and
- (b) impose on the Council responsibilities, and provide the Council with powers, to protect, manage and enhance the Wellington Town Belt; and
- (c) recognise the history of the original Town Belt and its significance to mana whenua and the inhabitants of Wellington.

4 Principles

- (1) In performing its role under this Act as trustee and manager of the Wellington Town Belt, the Council must—
- (a) recognise and provide for the protection and enhancement of the Wellington Town Belt for future generations; and
 - (b) have particular regard to the following principles:
 - (i) the Wellington Town Belt should be managed in partnership with mana whenua;
 - (ii) the landscape character of the Wellington Town Belt should be protected and enhanced, including by recognising that it was the New Zealand Company's intention that the original Town Belt not be built on:

- (iii) the Wellington Town Belt should support healthy indigenous ecosystems:
 - (iv) the Wellington Town Belt should be accessible and for all to enjoy:
 - (v) the Wellington Town Belt should be available for a wide range of recreational activities:
 - (vi) community participation in the management of the Wellington Town Belt should be encouraged and supported:
 - (vii) the historic and cultural heritage of the Wellington Town Belt should be recognised and protected.
- (2) The principles in paragraph (1)(b) must be considered together and the order in which the principles are set out is not to be taken as specifying any order of importance or priority.

Interpretation and application

5 Interpretation

In this Act, unless the context otherwise requires,—

business activity means an undertaking carried on for pecuniary gain or reward

Chest Hospital means the land described as the Chest Hospital in the management plan under section 11(3)

Council means the Wellington City Council

original Town Belt means the land provided for as a public reserve around the proposed town of Port Nicholson in the New Zealand Company's plan of 14 August 1840

public services means, irrespective of public or private ownership, network infrastructure that is, in the public interest, necessary for—

- (a) the distribution or transmission of energy (including an electrical installation or work as defined in section 2 of the Electricity Act 1992 and a distribution system as defined in section 2 of the Gas Act 1992); and
- (b) the provision of telecommunications services; and
- (c) the provision of water, wastewater and stormwater services

publicly available means, in relation to making a document or other information publicly available, taking reasonable steps to—

- (a) ensure that the document or other information or a copy of the document or other information is accessible free of charge to the general public; and
- (b) publicise both the fact that the document or other information is available and the manner in which copies of the document or other information may be obtained

Registrar-General means the Registrar-General of Land appointed under section 4 of the Land Transfer Act 1952

temporary, in relation to an activity, means an activity that—

- (a) is of a non-repetitive, transient nature; and
- (b) does not exceed four weeks' duration; and
- (c) does not involve the construction of permanent structures or facilities

Town Belt Deed means the deed reproduced in Schedule 1 that was entered into between the Superintendent of the Province of Wellington and the Corporation of the City of Wellington dated 20 March 1873

Wellington Botanic Garden means the land described in Schedule 6

Wellington Zoo means the land described as the Wellington Zoo in the management plan under section 11(3)

6 Meaning of Wellington Town Belt

In this Act, unless the context otherwise requires, **Wellington Town Belt**—

- (a) means—
 - (i) land included under section 21; and
 - (ii) land referred to in section 25(2); and
 - (iii) the land described in Schedule 2; but
- (b) does not include—
 - (i) land referred to in section 25(1); and
 - (ii) land referred to in section 27.

Status

7 Name

The land that comprises the Wellington Town Belt is to be called the "Wellington Town Belt".

8 Legal status

- (1) The Council holds the Wellington Town Belt on behalf of the inhabitants of the city of Wellington as trustee of the trust created by the Town Belt Deed.
- (2) The Town Belt Deed is to be read as if the only term of the trust is to forever hereafter use and appropriate the Wellington Town Belt as a public recreation ground for the inhabitants of the city of Wellington.
- (3) For the purposes of subsection (2), **public recreation ground** means an area provided for—
 - (a) recreation, sporting activities and the enjoyment of the public, with an emphasis on the retention of public access, open spaces and outdoor activities; and
 - (b) the protection of the natural environment and historic heritage.

9 Public access

- (1) Members of the public are entitled to freedom of entry and access to the Wellington Town Belt, subject to—
 - (a) subsections (2) to (4); and
 - (b) section 12(3); and
 - (c) any temporary conditions and restrictions that the Council considers necessary for the protection of the Wellington Town Belt or the safety of the public.
- (2) No business activity may be undertaken on the Wellington Town Belt (including under an easement, lease or licence) unless authorised under sections 18 to 20.
- (3) The Council may impose reasonable charges for the use of facilities on the Wellington Town Belt that are provided by the Council.
- (4) A lessee or licensee in respect of any facility, structure, site or place on the Wellington Town Belt may, to the extent provided by the relevant lease or licence, restrict access to it and impose a reasonable charge for its use.

Management plan

10 Management plan

- (1) The Council must adopt a management plan for the Wellington Town Belt.
- (2) In exercising its powers with respect to the Wellington Town Belt, the Council must comply with the management plan.
- (3) The Council must review the management plan at intervals of not more than 10 years and, as appropriate, replace or amend it by passing a resolution adopting the new or amended management plan as the operative management plan.
- (4) Any new or amended management plan must be prepared in draft, and the Council must—
 - (a) make the draft publicly available for inspection; and
 - (b) invite the public to make submissions on the draft; and
 - (c) give every submitter who asks to be heard a reasonable opportunity to appear in support of the submitter's submission; and
 - (d) take into account all submissions made on the draft.
- (5) The Council may, without complying with subsection (4), amend the management plan, if it passes a resolution that—
 - (a) the proposed amendments are minor or technical in nature; and
 - (b) compliance with subsection (4) is unnecessary.

11 Contents of management plan

- (1) The management plan must not contain anything inconsistent with this Act or the trust described in section 8.
- (2) The management plan may set conditions and rules to manage use of the Wellington Town Belt.
- (3) The management plan must—
 - (a) describe the land that comprises the Chest Hospital and Wellington Zoo; and
 - (b) clearly define the boundaries of the Chest Hospital and Wellington Zoo and ensure that they are easily identifiable in practice; and
 - (c) limit the size of the Chest Hospital to a continuous area not exceeding 0.8973 hectares; and
 - (d) limit the size of the Wellington Zoo to a continuous area not exceeding 10.8 hectares.

Powers

12 Powers of the Council

- (1) For the purposes of performing its role as trustee and manager of the Wellington Town Belt, the Council has—
 - (a) full capacity to carry on or undertake any activity, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (2) Subsection (1) applies except as provided in this Act or another Act or rule of law.
- (3) Without limiting subsection (1), the Council has the power to manage use of the Wellington Town Belt, including by setting conditions and rules in a management plan under section 10.

13 Restrictions on the Council's powers

- (1) Despite section 12, the Council has no power to—

- (a) sell, exchange, or use as security any part of the Wellington Town Belt; or
- (b) grant any easement, lease or licence in respect of the Wellington Town Belt other than in accordance with sections 16, 17, 19 or 20; or
- (c) authorise any business activity on the Wellington Town Belt other than in accordance with sections 18 to 20.

14 Delegation of the Council's powers

- (1) The Council must not delegate—
 - (a) the power to add land to the Wellington Town Belt under section 21; or
 - (b) the power to agree compensation under section 23; or
 - (c) the power to impose charges under section 9; or
 - (d) the power to adopt, replace or amend a management plan under section 10; or
 - (e) the power to grant leases under section 16.
- (2) Other than to a committee of the Council, the Council must not delegate—
 - (a) the power to grant licences under section 17; or
 - (b) the power to grant leases and licences under section 19; or
 - (c) the power to grant easements, leases and licences under section 20.

15 Consultation

- (1) Subsection (2) applies to the exercise of the Council's powers to—
 - (a) build or extend (or authorise the building or extension of) a structure or facility under sections 12 or 16 to 20, where the effect on the Wellington Town Belt of that structure, facility or extension will be more than minor; and
 - (b) impose charges under section 9; and
 - (c) grant leases or consent to the disposal of a lessee's interest under section 16; and
 - (d) grant leases under section 19; and
 - (e) add land to the Wellington Town Belt under section 21.
- (2) Before exercising a power in subsection (1), the Council must consider the views of the public and persons likely to be affected by, or to have an interest in, the proposed exercise of the power, including by—
 - (a) making information on the proposed exercise of the power publicly available and inviting submissions on it; and
 - (b) giving every submitter who asks to be heard a reasonable opportunity to appear in support of the submitter's submission; and
 - (c) taking into account all submissions made on the proposed exercise of the power.
- (3) Subsection (4) applies to the exercise of the Council's powers to—
 - (a) grant licences or consent to the disposal of a licensee's interest under section 17; and
 - (b) grant licences under section 19; and
 - (c) grant easements, leases and licences under section 20.
- (4) Before exercising a power in subsection (3), the Council must consider the views of the public and persons likely to be affected by, or to have an interest in, the proposed exercise of the power, including by—

- (a) making information on the proposed exercise of the power publicly available and inviting submissions on it; and
 - (b) taking into account all submissions made on the proposed exercise of the power.
- (5) At all times there must be an employee of the Council whose—
- (a) role includes acting as a liaison officer between the public and the Council with respect to the Wellington Town Belt; and
 - (b) role includes oversight of the management plan under section 10; and
 - (c) name and contact details are made publicly available.

Uses

16 Leases

- (1) The Council may, on any conditions that it considers appropriate, grant leases in respect of the Wellington Town Belt.
- (2) At any point in time, no more than eight hectares in total of the Wellington Town Belt may be leased, excluding any leases for public services, any leases in respect of the Chest Hospital and Wellington Zoo and the lease referred to in section 26(3).
- (3) A lease under this section must—
- (a) specify what activities are authorised by the lease; and
 - (b) not be granted for a term, including any renewals, exceeding 20 years; and
 - (c) not be granted for an activity that could reasonably be undertaken pursuant to a licence; and
 - (d) not allow a right to transfer, sublease, assign, or otherwise dispose of the lessee's interest without the Council's consent.

17 Licences

- (1) The Council may, on any conditions that it considers appropriate, grant licences in respect of the Wellington Town Belt.
- (2) A licence under this section must—
- (a) specify what activities are authorised by the licence; and
 - (b) not be granted for a term, including any renewals, exceeding 10 years; and
 - (c) not allow a right to transfer, sub-licence, assign, or otherwise dispose of the licensee's interest without the Council's consent.

18 Business activities

- (1) The Council must not authorise a business activity on the Wellington Town Belt unless—
- (a) the activity is temporary, and any effect of the activity on the Wellington Town Belt and the public will be no more than minor; or
 - (b) the activity is consistent with the use of the Wellington Town Belt as a public recreation ground (as defined in section 8) and the effect on the Wellington Town Belt of any structure or facility required to be built or extended for the activity will be no more than minor.
- (2) Subject to subsection (1), the Council may authorise business activities on the Wellington Town Belt on any conditions that it considers appropriate.

Special areas

19 Application to Chest Hospital and Wellington Zoo

- (1) The purpose of—
 - (a) the Chest Hospital is to allow for the use and conservation of the Chest Hospital buildings; and
 - (b) the Wellington Zoo is to allow for the operation of the Wellington Zoo.
- (2) Despite anything in this Act, for the purposes in subsection (1) the Council may, on any conditions that it considers appropriate, grant leases and licences and authorise business activities in respect of the Chest Hospital and Wellington Zoo and sections 16 to 18 will not apply.
- (3) A lease or licence under subsection (2) must not be granted for a term, including any renewals, exceeding 33 years.

Public services

20 Public services

- (1) Despite anything in this Act, the Council may, on any conditions that it considers appropriate, grant easements, leases and licences and authorise business activities in respect of the Wellington Town Belt for public services and sections 16 to 18 will not apply.
- (2) Before deciding whether to grant any right under subsection (1), the Council must consider—
 - (a) the effect on the Wellington Town Belt of the proposed activity; and
 - (b) alternative sites, routes or other methods for achieving the objectives of the proposed activity.
- (3) Any public service owned by the Council on the Wellington Town Belt at the commencement of this Act is lawful and may be the subject of an easement in favour of any party entitled to use the service.
- (4) The Council may grant a right under this section to itself.

Land

21 Adding land to the Wellington Town Belt

- (1) The Council may pass a resolution that any land vested in it for an estate in fee simple forms part of the Wellington Town Belt.
- (2) Upon any resolution being passed under subsection (1), the relevant land vests in the Council as Wellington Town Belt.
- (3) The Council may not pass a resolution under subsection (1) unless it has consulted the public about the proposal using the special consultative procedure under the Local Government Act 2002.
- (4) The Council must make publicly available and publish in the *Gazette* any resolution passed under subsection (1).

22 No removal of land from the Wellington Town Belt

Subject to sections 23 and 27, no land can be removed from the Wellington Town Belt.

23 Application of the Public Works Act 1981

- (1) Sections 17 to 21, 27 and 114 of the Public Works Act 1981 do not apply to the Wellington Town Belt.

- (2) Sections 40 to 42 of the Public Works Act 1981 do not apply to the addition of land to the Wellington Town Belt under section 21.
- (3) The Council and the inhabitants of Wellington each have standing to object under section 23(3) of the Public Works Act 1981 to the taking of any part of the Wellington Town Belt.
- (4) Whenever, following a notice of intention to take part of the Wellington Town Belt under section 23 of the Public Works Act 1981, steps may be taken under section 26 of that Act, the following provisions apply:
 - (a) the Council and the Minister must make all reasonable endeavours to agree the compensation that will be made to the Council before the Minister makes any recommendation to the Governor-General to issue a Proclamation taking the land:
 - (b) when agreeing any compensation under paragraph (a), the Minister's discretion is not limited by any amount of compensation assessable under the Public Works Act 1981:
 - (c) any compensation agreed under paragraph (a) may include a grant of land:
 - (d) where Wellington Town Belt is taken or acquired without compensation being agreed under paragraph (a), then compensation for the land that is taken or acquired must be assessed on the basis of the reasonable cost of equivalent reinstatement of land of similar or better value for use as part of a public recreation ground for the inhabitants of the city of Wellington than the land taken or acquired:
 - (e) paragraph (d) does not apply where only the subsoil of the relevant land is taken or acquired.

24 Wellington Town Belt not reserve or road

- (1) On and from the commencement of this Act, the Wellington Town Belt—
 - (a) is not reserve under the Reserves Act 1977; and
 - (b) any status the Wellington Town Belt had as reserve is revoked.
- (2) On and from the commencement of this Act, the Wellington Town Belt—
 - (a) is not road under the Local Government Act 1974 or the Public Works Act 1981; and
 - (b) any status the Wellington Town Belt had as road is stopped.

25 Application to the Wellington Botanic Garden

- (1) Any land that is subject to the Wellington Botanic Garden Vesting Act 1891 is to be treated as not being part of the Wellington Town Belt.
- (2) Any land that ceases to be subject to the Wellington Botanic Garden Vesting Act 1891 forms part of the Wellington Town Belt.

Miscellaneous provisions

26 Existing rights not affected

- (1) This Act does not affect any of the following in existence at the commencement of this Act:
 - (a) any estate or interest registered in the Wellington Town Belt under the Land Transfer Act 1952; or
 - (b) any interest in land which comprises part of the original Town Belt, but is not part of the Wellington Town Belt; or
 - (c) any easement, lease or licence in relation to the Wellington Town Belt; or

- (d) any business activity authorised under an easement, lease or licence in relation to the Wellington Town Belt; or
 - (e) any public service that is lawfully established on the Wellington Town Belt.
- (2) This Act does not affect the operation of any law that confers rights to access, operate, inspect, maintain, replace or upgrade public services.
 - (3) Despite section 31, the Council and any lessee of the lease granted under the Wellington City Exhibition Grounds Act 1959 have the same rights and obligations in all respects as if that Act had not been repealed.

27 Land not to be part of the Wellington Town Belt

- (1) On and from the commencement of this Act, the land described in Schedule 3—
 - (a) ceases (where relevant) to be subject to the Town Belt Deed and the Reserves Act 1977; and
 - (b) vests in the Council as road within the meaning of section 315 of the Local Government Act 1974.
- (2) On and from the commencement of this Act, the land described in Schedule 4—
 - (a) ceases (where relevant) to be subject to the Town Belt Deed; and
 - (b) vests in the Council as local purpose reserve under the Reserves Act 1977.
- (3) On and from the commencement of this Act, the land described in Schedule 5—
 - (a) ceases (where relevant) to be subject to the Town Belt Deed and the Reserves Act 1977; and
 - (b) vests in the Council for an estate in fee simple free of any encumbrance, interest or other right or obligation affecting the land existing immediately before the commencement of this Act.

28 Entry of the Wellington Town Belt in registers

- (1) The Registrar-General must, in accordance with a written application by the Council, do anything that is necessary to give effect to this Act, including, without limitation, subsections (2) to (5).
- (2) To the extent that part of the Wellington Town Belt is all of the land contained in a computer freehold register, the Registrar-General must, in accordance with a written application by the Council,—
 - (a) record against the computer freehold register a notification that the land is subject to this Act; and
 - (b) remove from the computer freehold register any notification that the land is subject to the Town Belt Deed or the Reserves Act 1977, or held for any purpose that is inconsistent with this Act.
- (3) To the extent that part of the Wellington Town Belt is not all of the land contained in a computer freehold register, or there is no computer freehold register for part of the Wellington Town Belt, the Registrar-General must, in accordance with a written application by the Council,—
 - (a) create a computer freehold register for the fee simple estate in the land in the name of the Council; and
 - (b) record on the computer freehold register any interests that are registered, notified, or notifiable and that are described in the application.

- (4) Subsection (3) is subject to the completion of any survey necessary to create a computer freehold register.
- (5) The Registrar-General must, in accordance with a written application by the Council—
- (a) register any instrument granting a right under section 20; and
 - (b) comply with subsections (2) and (3) in relation to any land that vests under section 21 in the Council as Wellington Town Belt; and
 - (c) do anything that is necessary to give effect to section 27, including to create computer freehold registers and record anything in, and remove anything from, the register.
- (6) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to any matter required for the purpose of, or incidental to, this section.

29 Transitional provisions

- (1) The Council's *Wellington Town Belt Management Plan (June 2013)* is to be treated as the management plan under this Act until it is replaced or amended under section 10(3).
- (2) After the commencement of this Act, the Council may, without complying with section 10(4), make changes to the *Wellington Town Belt Management Plan (June 2013)* that are consequential on the commencement of this Act.

30 Consequential amendments

The Acts specified in Schedule 7 are amended as set out in that schedule.

31 Repeals

The Acts specified in Schedule 8 are repealed.

Schedule 1

s 5

Town Belt Deed

Dated 20th March 1873

The Superintendent of the Province of Wellington

to

The Corporation of the City of Wellington

Town Belt and Basin Reserve Wellington

C of W No. 1

C O N V E Y A N C E

under the Wellington City Reserves Act

Corpn. Book Fol. 1

THIS DEED

made the twentieth day of March One thousand eight hundred and seventy three

BETWEEN

THE HONOURABLE WILLIAM FITZHERBERT

Superintendent of the Province of Wellington in the Colony of New Zealand

of the one part and

THE MAYOR COUNCILLORS and CITIZENS OF THE CITY OF WELLINGTON

(who with their Successors are hereinafter termed "the Corporation")

of the other part

WITNESSETH

that in pursuance and by virtue and in exercise and execution of the powers and authorities given to and vested in him the said William Fitzherbert as such Superintendent as aforesaid under and by virtue of "The Wellington City Reserves Act 1871" and of all other powers and authorities in anywise enabling him in that behalf HE THE SAID William Fitzherbert as such Superintendent as aforesaid DOTH hereby convey and assure unto the Corporation ALL AND SINGULAR the lands and hereditaments comprised and described in the first Schedule hereunder written and delineated upon the plan numbered 1 drawn upon these presents and therein colored red WITH all the rights and appurtenances to the same TO HOLD the same unto the Corporation UPON AND FOR the trusts and purposes and with under and subject to the powers provisoes conditions declarations and agreements hereinafter declared expressed and contained of and concerning the same (that is to say) UPON TRUST as to such parts of the said lands hereby conveyed or expressed and intended so to be as are comprised and colored purple in the second plan hereunto annexed AND as to such parts of the said lands as are comprised and colored Blue in the third plan hereunto annexed and known as the Canal Reserve (subject as to the lands comprised and colored purple in the said second plan to the power of leasing hereinafter contained) to be for ever hereafter used and appropriated as a public Recreation ground for the inhabitants of the City of Wellington in such manner as in and by rules and regulations to be from time to time made in that behalf

by the Corporation shall be prescribed and directed AND UPON TRUST as to such parts of the said lands as are comprised and colored green in the said third plan hereunto annexed and known as the Basin Reserve by any deed or deeds to convey the same to a body of not less than three Trustees to be from time to time appointed by the Corporation UPON SUCH TRUSTS and for such purposes of public utility to the City of Wellington and the inhabitants thereof as shall in and by such deed or deeds of conveyance be expressed and declared but without any power for the said trustees to alienate or dispose of the same AND so that no thoroughfare shall at any time be created across the said lands or any part thereof AND IT IS HEREBY DECLARED that it shall be lawful for the Corporation to demise or lease all or any part or parts of the lands hereby conveyed or intended so to be which are comprised and described in the second schedule hereunder written and delineated upon the plan numbered 2 drawn upon these presents and therein colored purple for any term or number of years absolute not exceeding Forty two years to take effect in possession and not in reversion or by way of future interest so that there be reserved in every such demise or lease the best and most improved rent to be payable during the continuance of the term thereby granted which may be reasonably had or gotten for the same without taking any fine premium foregift for the making thereof and so that there be contained in every such demise or lease a clause in the nature of a condition for re-entry or non-payment of the rent therein reserved for the space of twenty one days and so as the lessee or lessees do execute a counterpart thereof respectively and do covenant for the due payment of the rent thereby reserved and are not exempted from punishment for committing waste AND IT IS HEREBY ALSO DECLARED that the Corporation shall stand possessed of all the rents issues and profits arising or to arise from the lands comprised and described in the second Schedule to these presents UPON TRUST to apply or appropriate the same in manner described in and by "The Wellington City Reserves Act 1871" and "The Wellington City Reserves Act 1872" respectively IN WITNESS whereof the said William Fitzherbert as such superintendent as aforesaid hath hereunto subscribed his name and affixed his seal the day and year first above written.

SCHEDULE 1

FIRSTLY ALL THOSE several pieces or parcels of land adjoining the City of Wellington containing by admeasurement One thousand and sixty one acres one rood and two perches more or less and forming part and parcel of the lands commonly called or known by the name of the Town Belt described in the first part of the first schedule to "The Wellington City Reserves Act 1871" SECONDLY ALL THAT piece or parcel of land situate in the City of Wellington aforesaid and containing by admeasurement Nine acres and three roods more or less and commonly called or known by the name of the basin Reserve BOUNDED on all sides by Sussex Square and THIRDLY ALL THAT piece or parcel of land situated in the City of Wellington aforesaid and containing by admeasurement Five acres and one rood more or less and commonly called or known by the name of the Canal Reserve AS all and singular the said lands are delineated in the plan numbered 1 on this skin and thereon colored Red.

SCHEDULE 2

ALL THOSE several pieces or parcels of land situate in the city of Wellington containing by admeasurement One thousand and sixty one acres one rood and two perches more or less and forming part and parcel of the lands commonly called or known by the name of the Town Belt described in the first part of the first schedule to "The Wellington City Reserves Act 1871" AS the same pieces or parcels of land are severally delineated on the plan numbered 2 on this skin and thereon colored purple.

SCHEDULE 3

ALL THAT piece or parcel of land situated in the City of Wellington and containing by admeasurement Nine Acres and three Roods more or less and commonly called or known by the name of the Basin Reserve BOUNDED on all sides by Sussex Square AS the same is delineated on the Plan numbered 3 on this skin and thereon colored Green.

SIGNED SEALED AND DELIVERED

By the Honourable William Fitzherbert
Superintendent of the Province of Wellington

in the presence of us

(the words "and commonly called or known by the name of the basin reserve" between the sixth and seventh line of the first schedule having been previously interlined)

C.B. BORLASE

Provl. Solr.
Wellington
Wm. Jones
Clerk to Superintendent

William **SEAL** Fitzherbert

Schedule 2

s 6(a)(iii)

Land to be part of the Wellington Town Belt on this Act coming into force

Area	Description	Certificate of title
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Schedule 3

s 27(1)

Land not to be Wellington Town Belt on this Act coming into force – road

Area	Description	Certificate of title
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Schedule 4

s 27(2)

Land not to be Wellington Town Belt on this Act coming into force – local purpose reserve

Area	Description	Certificate of title
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Schedule 5

s 27(3)

Land not to be Wellington Town Belt on this Act coming into force – general

Area	Description	Certificate of title
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Schedule 6

s 5

Wellington Botanic Garden land

Area

Description

Certificate of title

Schedule 7

s 30

Consequential amendments

Health Sector Transfers (Wellington City Council) Order 2002 (SR 2002/393)

Revoke regulations 9, 10 and 11.

Reserves and other Lands Disposal Act 1938 (1938 No 19)

Repeal section 37.

Wellington City Reserves Act 1871 (1871 No 23)

Amend section 4 by omitting the words "Provided that one half of the moneys derived from such lands shall be devoted to the ornamentation and utilization of the lands referred to in the Schedules to this Act and no other purposes Provided also that the other half of such moneys shall be devoted to the construction and maintenance of roads upon the Town Belt described in Schedule 1 to this Act connecting the streets of the said city with the country roads and to no other purpose".

Schedule 8

s 31

Enactments repealed

Wellington City Exhibition Grounds Act 1959 (1959 No 8)

Wellington (City) Reserves Act 1908 (1908 No 45)

Wellington City Reserves Act 1872 (1872 No 13)