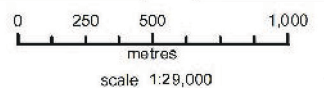


Land Included in the Draft Wellington Town Belt Bill



Other data has been compiled from a variety of sources and its accuracy may vary, but is generally +/- 1m.



19 May 2014

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To Whom It May Concern:

Submission on the Draft Wellington Town Belt Bill

Please find attached the New Zealand Transport Agency's submission on the Draft Wellington Town Belt Bill.

If you have any questions regarding our submission, please contact Stewart McKenzie, Project Manager, on (04) 910 9978 or stewart.mckenzie@nzta.govt.nz.

Yours Sincerely,

A handwritten signature in blue ink that reads 'Rod James'.

Rod James

State Highway Manager - Central Region

Submission on Draft Town Belt Bill

1 Introduction

- 1.1 The NZ Transport Agency (**Transport Agency**) generally supports the Draft Wellington Town Belt Bill (**Draft Bill**) which has been released for consultation. However, the Transport Agency also has comments on, and suggests amendments to, the Draft Bill, as set out in this submission.
- 1.2 The Transport Agency is submitting on the Draft Bill because it will impact upon the Agency's ability to implement projects which are part of the Wellington Northern Corridor Roads of National Significance. In particular, the Draft Bill contains provisions which will hinder the Crown's acquisition of land necessary for the Transport Agency's Mt Victoria Tunnel Duplication Project, which includes upgrades to Ruahine Street. This Project is supported by the Wellington City Council (**Council**), but the Draft Bill provisions regarding land acquisition are inconsistent with that support.
- 1.3 The Transport Agency **does** wish to make an oral submission to the Environment Committee on Tuesday 27 May 2014. Please contact Stewart McKenzie on (04) 910 9978 or stewart.mckenzie@nzta.govt.nz to arrange a submission time.

2 Summary of submission

- 2.1 The Transport Agency generally supports the Draft Bill and the Council's intention to clarify the legal arrangements for the Town Belt by way of legislation. The 1873 Town Belt Deed is now over 140 years old, and its terms are sometimes unclear. The relationship between the Town Belt Deed and legislation such as the Wellington City Reserves Act 1871, and Reserves Act 1977 can also cause confusion.
- 2.2 The Transport Agency supports the Draft Bill provisions which will allow the Mt Victoria Tunnel Duplication Project to be efficiently implemented, in a manner which benefits both Wellington State highway users and Town Belt users. However, the Transport Agency is concerned that the Draft Bill provisions regarding land acquisition will hinder Project implementation, for no benefit.
- 2.3 The Transport Agency supports the following aspects of the Draft Bill as they provide certainty with respect to the governance and management arrangements for the Town Belt:
- a The general direction and purpose;
 - b The statutory principles in clause 10 of the Draft Bill;
 - c Removing the Town Belt from the provisions of the Reserves Act 1977;
 - d The powers in respect of the Town Belt such as leasing, rights of way and easements;
 - e The ability to add land to the Town Belt; and
 - f Management of the Town Belt including the provision for a management plan.
- 2.4 However, the Transport Agency suggests amendments relating to the following issues:

- a The ability to remove land from the Town Belt – the Transport Agency supports the recognition in clause 14 that the Town Belt is subject to the Public Works Act 1981 (**PWA**). However, the Transport Agency opposes clause 14(4) which would prevent the Council agreeing to any land being removed under the PWA. Clause 14(4) would:
 - i Operate to increase the costs and delay associated with acquisition, even though the remainder of clause 14 anticipates land acquisition occurring;
 - ii Restrict the Council's ability to negotiate offset or compensation packages benefitting the community (and the Town Belt); and
 - iii Add unnecessary uncertainty, and local/central Government conflict, to proposed Crown infrastructure projects.
- b Land included as Town Belt – it is not clear whether the Draft Bill provisions will apply to the Canal Reserve Land. This land is shown in Figure 1 of the consultation document, and is listed in Schedule 2 to the Draft Bill. However, while the key to Figure 1 suggests that some of the provisions of the Draft Bill do not apply to the Canal Reserve Land, this is not apparent from the Draft Bill provisions themselves. The Transport Agency seeks clarity that the Canal Reserve Land is to be removed from the Town Belt; and
- c Land included as Town Belt – the Draft Bill does not remove two parcels of Hataitai Sector Town Belt land from the Town Belt. The Transport Agency seeks that the following land be included in Schedule 3 to the Draft Bill (and accordingly not form part of the Town Belt):
 - i Pohutukawa strip next to Ruahine Street (contained in CT 48B/341); and
 - ii Ruahine Street (area marked green on DP 81724, being part of the land in CT 48B/341).

- 2.5 The Transport Agency neither supports nor opposes the Draft Bill provisions which relate to:
- a The Chest Hospital and Wellington Zoo; and
 - b Rationalisation of specified land parcels.

3 Background

The NZ Transport Agency

- 3.1 The Transport Agency is a Crown entity and its functions include:
- a Contributing to an effective, efficient, and safe land transport system in the public interest; and
 - b Managing the State highway system in accordance with the Land Transport Management Act 2003 and the Government Roadway Powers Act 1989.¹
- 3.2 The Transport Agency's statutory objective is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest.²

¹ Section 95(1) of the Land Transport Management Act 2003.

² Section 94 of the Land Transport Management Act 2003.

- 3.3 When undertaking its functions, the Transport Agency must, among other things:
- a Exhibit a sense of social and environmental responsibility;
 - b Use its revenue in a manner that seeks value for money; and
 - c Ensure that its revenue and expenditure are accounted for in a transparent manner.³

Role of State highway 1 in Wellington City

- 3.4 The Town Belt is adjacent to the section of State highway 1 (**SH1**) that runs along Paterson Street, Mt Victoria Tunnel, Taurima Street, Ruahine Street, and Wellington Road.
- 3.5 SH1 plays an important role within the Wellington City roading hierarchy.
- 3.6 SH1 is the main connecting artery throughout Wellington, from the northern suburbs such as Tawa (and beyond) to the eastern suburbs such as Kilbirnie, and the nationally and regionally significant Wellington International Airport.
- 3.7 SH1 provides important connections for the central city, and resilience for the city roading network by concentrating traffic and relieving pressure from local roads.
- 3.8 In the location of the Town Belt, SH1 provides access to significant formal recreation areas such as the Wellington Badminton Association hall, the Wellington velodrome, softball diamond, netball courts, the Wellington Marist St Patricks rugby clubrooms, as well as general access to the wider Town Belt for informal recreation.

Wellington Regional Land Transport Strategy 2010-40

- 3.9 As noted above, the Town Belt is adjacent to the section of SH1 that runs along Paterson Street, Mt Victoria Tunnel, Taurima Street, Ruahine Street, and Wellington Road. This part of SH1 forms part of the 'Wellington Northern Corridor', which has been identified as one of the Roads of National Significance (**RoNS**) in the Government Policy Statement on Land Transport Funding (**GPS**).
- 3.10 Implementation of the Wellington RoNS is identified as a key action in the Wellington Regional Land Transport Strategy 2010-40 (**RLTS**).⁴ Section 8.7 of the RLTS provides that, to implement the RLTS, Corridor Plans must be prepared and reviewed to identify the needs and proposed actions specific to each Corridor.⁵

Ngauranga to Wellington Airport Corridor Plan 2008

- 3.11 The Ngauranga to Wellington Airport Corridor Plan 2008 (**N2WACP**) was prepared pursuant to the RLTS. The N2WACP identifies measures that should be completed over the 10 years after adoption, as well as longer term measures that should be developed and programmed to be implemented as conditions and funding allows.⁶ The N2WACP identifies that:

³ Section 96 of the Land Transport Management Act 2003.

⁴ Page 32 and 36.

⁵ Page 39.

⁶ Page 1.

- a Within 10 years of the Plan being adopted, scheme assessments for the duplication of Mt Victoria Tunnel and the widening of Wellington Road and Ruahine Street are to be implemented;⁷ and
 - b Duplication of Mt Victoria Tunnel and widening of Ruahine Street and Wellington Road is to be implemented in the 10 years beyond that.⁸
- 3.12 The Mt Victoria Tunnel Duplication Project (**Project**) was identified in the context of immediate priorities for the Corridor, including protecting the strategic road network to ensure the ability to provide for future development of a high quality 'predictable' vehicle 'ring route' for inter-regional accessibility, economic linkages, time critical travel and to support the public transport network.
- 3.13 On 29 April 2011, the Council reconfirmed its support for the implementation of the multi modal package contained in the N2WACP.⁹

Mt Victoria Tunnel Duplication Project

- 3.14 The Project includes a second Mt Victoria Tunnel and the widening of Ruahine Street and Wellington Road, and will make the State highway easier and safer for motorists, public transport users, pedestrians, cyclists and other transport users.
- 3.15 On 7 October 2011¹⁰ the Council confirmed its support for key aspects of the Project, namely:
- a Support of the proposed alignment of the duplicate tunnel to the north of the existing Mt Victoria Tunnel;
 - b Provision of high quality walking and cycling facilities in the new tunnel;
 - c Four laning Ruahine Street and Wellington Road;
 - d Widening Ruahine Street into the Town Belt as opposed to the residential area to the east;
 - e Improving access to Hataitai Park and the Town Belt;
 - f Safety improvements at the intersection of Wellington Road and Ruahine Street; and
 - g A shared pedestrian and cycle path running parallel to Ruahine Street and Wellington Road.
- 3.16 Notwithstanding the above support for the Project, the Transport Agency acknowledges that the Council submission does not provide approval for use or occupation of the Town Belt for the Project, although it does signal an intent to work with the Transport Agency to avoid, remedy and mitigate effects on the Town Belt.¹¹ It also indicates a desire to enter into discussions about the nature and level of compensation for the loss of Town Belt land.¹²
- 3.17 The Wellington City District Plan contains minor road widening designations along Wellington Road and on Town Belt land adjacent to Ruahine Street. However, the Project cannot be

⁷ Page 7 and 11.

⁸ Page 8 and 12.

⁹ Letter from the Mayor to Transport Agency CEO Geoff Dangerfield

¹⁰ WCC submission – proposed improvements to the inner-city transport network

¹¹ Para 9.3

¹² Para 9.4

carried out within these existing designation footprints. Designations and resource consents will be sought for the Project once design and assessment are completed (expected later this year).

- 3.18 The Project will require Town Belt land to be used for the following purposes:
 - a Road widening along Ruahine Street (i.e. earthworks, retaining structures, carriageway, landscaping works);
 - b The Eastern Portal of the new tunnel; and
 - c Reconfiguration of the intersection of Ruahine Street and Goa Street and the access to Hataitai Park.
- 3.19 The Council's position is that the option of widening Ruahine Street to the west (requiring the compulsory acquisition of Town Belt land) is preferable to widening into the residential area to the east.¹³
- 3.20 Another key consideration for the Council will be the Regional Transport Committee's recent decision on the Public Transport Spine Study, and the selection of Bus Rapid Transit (BRT) as the preferred public transport option. As the Council is aware there may be a need for further widening into the Town Belt to accommodate dedicated bus lanes. Further investigations are currently being undertaken to determine the configuration of BRT through the Project area.
- 3.21 The effects of the Project on the Town Belt will be assessed prior to seeking designations and resource consents. Some of these effects will not be able to be avoided. The Transport Agency is committed to working with the Council to remedy and mitigate the unavoidable effects of the Project on the Town Belt. The Transport Agency is concerned that the Draft Bill will constrain options to remedy and mitigate effects, and thereby prevent the Transport Agency and Council from achieving the best solution for both organisations.

4 Provisions supported by the Transport Agency

Draft Bill direction and purpose

- 4.1 The Transport Agency supports the general direction and purpose of the Draft Bill. The Transport Agency agrees that the current legislative and management framework for management of the Town Belt is complicated and uncertain. The Draft Bill will consolidate the existing framework and bring it into line with modern language and structure.

The statutory principles in clause 10 of the Draft Bill

- 4.2 The Transport Agency supports the principles set out in clause 10 of the Draft Bill. This clear statement as to *why* the Town Belt is protected will provide direction to its management.
- 4.3 These principles will also allow the Transport Agency's assessment of Project effects to focus on the most relevant effects. The principles will assist with the design of Project mitigation and any offsetting which may be proposed.
- 4.4 The Transport Agency does not oppose clause 10(1)(a) because it considers that the protection of the Town Belt for future generations is consistent with acquisition of individual

¹³ Town Belt Management Plan, August 2013, page 163.

Town Belt land parcels (or parts of them) for particular infrastructural purposes. Further, clause 10(2) clarifies that no individual principle is more important than any other.

Removing the Town Belt from the provisions of the Reserves Act 1977

- 4.5 The Transport Agency agrees with removal of the Town Belt from the provisions of the Reserves Act 1977. The Reserves Act requires the categorisation of reserve land, and imposes restrictions on its use. These are unnecessary, given the specific restrictions which already apply to the Town Belt (and are continued by the Draft Bill).

The powers in respect of the Town Belt such as leasing, rights of way and easements

- 4.6 The Transport Agency supports clauses 18, 19 and 21 of the Draft Bill.
- 4.7 The Transport Agency may need to temporarily use Town Belt land during construction of the Project (for example, for the storage of materials or plant). The Bill would allow the Council to grant the Transport Agency leases and licences to allow for this.
- 4.8 Once construction is complete, the Transport Agency may require rights of way or easements to secure access to Project infrastructure for operational and maintenance reasons. As noted in section 5 below, this is consistent with section 4 of the Wellington City Reserves Act 1871.

The ability to add land to the Town Belt

- 4.9 The Transport Agency supports clause 12 of the Draft Bill, which allows land to be added to the Town Belt.
- 4.10 The Transport Agency may be in a position to offer land to be added to the Town Belt as a method of remedying or mitigating the effects of the Project on the Town Belt. Clause 12 will facilitate this process.

Management of the Town Belt including the provision for a management plan

- 4.11 The Transport Agency agrees that the detailed objectives and policies for management of the Town Belt should be included a management plan, rather than the Draft Bill. Management plans are flexible and responsive frameworks, which allow for regular community input and adaptation to changing circumstances.

5 Provisions sought to be amended

Clause 14(4) and land acquired under the PWA

- 5.1 The Transport Agency supports the recognition in clause 14(1) that the Town Belt is subject to the PWA.
- 5.2 This recognition is consistent with the original purpose of the Town Belt. For example, the Wellington City Reserves Act 1871 envisaged that parts of the Town Belt may be required for public works and utilities, including roading. Section 4 of that Act provides (emphasis added):

Superintendent to convey to Board

The Superintendent of the said Province of Wellington shall convey the whole of the land comprised in Schedule 1 hereunto annexed to the Mayor Councillors and

Burgesses for the time being of the City of Wellington to hold the same to the said Mayor Councillors and Burgesses and their successors upon such trusts and for such purposes of public utility to the City of Wellington and its inhabitants as shall in and by the deed or deeds of conveyance thereof be expressed and declared

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.**

5.3 However, the Transport Agency opposes clause 14(4) for the following reasons:

- a It is uncertain. It is not clear whether the clause would require the Council to object to the compulsory acquisition of Town Belt (with that objection being heard by the Environment Court), or prevent negotiated settlements of any such objection;
- b It is internally inconsistent. Clause 14(1) recognises that the Town Belt is subject to the PWA and clause 14(3) recognises (in the context of the PWA) that land may cease to be held by WCC, but clause 14(4) prevents Council from consenting or agreeing to that happening. Council is directed in clause 14(3)(b) to 'seek' compensation, which implies some active engagement with the Transport Agency, but that would seem to be precluded by the prohibition in clause 14(4) on Council supporting or consenting to any acquisition;
- c It obliges the Council to delay public infrastructure projects which it nonetheless supports;
- d It obliges the Council to incur costs in opposing infrastructure projects which it nonetheless supports, and also to cause the Crown to incur added costs;
- e The costs and delay incurred would serve no purpose. Clause 14(1) accepts that the Town Belt is subject to the PWA, so there is nothing to be gained by requiring the Crown to pursue acquisition in the courts;
- f It may constrain the Council's ability to provide a clear message of support for the Project during the consenting phase;
- g It would prevent the Council and Transport Agency negotiating a mitigation and remedy package for the Project's effects. Instead, Council would be forced to object to any acquisition, even if Council may in fact support the acquisition in all other respects, which would result in unnecessary conflict between central and local Government. The ultimate decision as to acquisition and compensation would lie with the Environment Court and Land Valuation Tribunal. These decision-making bodies are themselves constrained by legislation as to the solutions they can impose. The result would therefore be a loss of control and certainty for both parties, which is undesirable; and
- h The Council's inability to consent or agree to land acquisition would add to the uncertainty associated with the Project. This is despite the Council's support for the Project and acceptance that the option of widening Ruahine Street to the west (requiring the compulsory acquisition of Town Belt land) is preferable to widening into the

residential area to the east.¹⁴ The added uncertainty would arise because the land acquisition process is typically commenced *after* designations and resource consents are confirmed. If land acquisition is unsuccessful, this is likely to mean the Project must be redesigned and new resource management approvals obtained (or alterations to existing approvals).

- 5.4 Recent case-law¹⁵ has suggested that the status of land under separate legislation is a relevant factor to whether the compulsory acquisition of that land is fair, sound and reasonably necessary in terms of section 24 of the PWA. It would be preferable if a new clause 14(5) was added (or the existing clause 14(1) amended), to provide that 'Nothing in this Act prevents the compulsory acquisition of any part of the Wellington Town Belt'. Clause 14(1) does not extend this far and this confirmation would reduce potential uncertainty.

Canal Reserve land

- 5.5 It is not clear whether the Draft Bill provisions will apply to the Canal Reserve Land. This land is shown in Figure 1 of the consultation document, and is listed in Schedule 2 to the Draft Bill. However, while the key to Figure 1 suggests that some of the provisions of the Draft Bill do not apply to the Canal Reserve Land, this is not apparent from the Draft Bill provisions themselves.
- 5.6 The 1873 Trust Deed originally included the Town Belt, and the Basin and Canal Reserves. The Basin Reserve is now held under a separate Trust Deed (the 1884 Trust Deed) but the Canal Reserve remains part of the Town Belt. The Canal Reserve has evolved considerably since its creation, so that today it contains a series of landscaped traffic islands and sections of road reserve. It has none of the special characteristics of the Town Belt, and it is nonsensical to manage it in accordance with the principles in clause 10 of the Draft Bill.
- 5.7 The Transport Agency suggests that the inclusion of the Canal Reserve in the Town Belt is now an historical anomaly, and that the land should be formally excluded from the Town Belt, by removing it from Schedule 2 to the Draft Bill and listing it in Schedule 3 instead. Alternatively, the Draft Bill should specifically allow for existing and future roading and infrastructure requirements, but exclusion would be preferable to provide certainty.

Ruahine Street land

- 5.8 Table 8 of the Town Belt Management Plan¹⁶ notes that the following two parcels of Hataitai Sector Town Belt have never been removed from the Town Belt and declared legal road:
- a Pohutukawa strip next to Ruahine Street (contained in CT 48B/341); and
 - b Ruahine Street (area marked green on DP 81724, being part of the land in CT 48B/341).
- 5.9 The inclusion of these two parcels in the Town Belt is anomalous. In particular, Ruahine Street has existed in its current alignment for many years, and was declared State highway in 1997. Therefore, the Transport Agency has the power to control, maintain and upgrade Ruahine Street as State highway, regardless of the ownership of the underlying land¹⁷. These land parcels are not currently used as public recreation ground, and their current and likely

¹⁴ Town Belt Management Plan, August 2013, page 163.

¹⁵ *Grace v Minister for Land Information* [2014] NZEnvC 82.

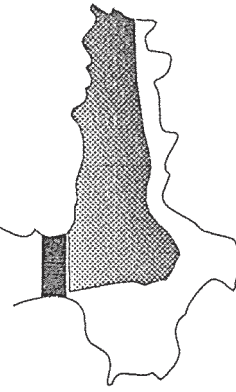
¹⁶ Adopted August 2013.

¹⁷ Section 61(1) of the Government Roading Powers Act 1989 and section 5 (definition of 'State Highway') of the Land Transport Management Act 2003.

future uses are inconsistent with the principles set out in clause 10 of the Draft Bill. They should be removed from the Town Belt in the same way as land occupied by Liardet Street is proposed to be removed (see Figure 5 of the Consultation Document).

- 5.10 The Transport Agency submits that the Draft Bill should exclude these two parcels from the Town Belt by removing them from Schedule 2 to the Draft Bill and listing them in Schedule 3 instead.

MIRAMAR
PROGRESSIVE



MAUPUIA
ASSOCIATION

19 May 2014

Submission on the Draft Wellington Town Belt Bill

We would like to acknowledge the work done on this Bill on behalf of the community of Wellington and applaud Council where common sense has prevailed.

We would also like to express our concern on it as it affects the general population of Wellington City.

First and foremost, we note that the Bill refers to citizens. We assume this is a generic reference as some of the population of the city are neither 'citizens' or 'residents' in the generally accepted definitions of Immigration NZ.

We also note that that Bill refers back to 1973 when Wellington truly was a village – its population in 1876 (Stats NZ) was a mere 7,460 and the 'green belt' did in reality circle the 'city'. It is now 2014 – the city boasts a population of 200,100 (Stats NZ 2013) and well outreaches the original green confines, a fact not envisaged by the founding fathers.

There is a general trend to build upwards as the land availability shrinks. The importance of the community spaces (in keeping with the valued four well-beings of Local Government – cultural, economic, environmental, social) cannot be ignored. With the economic pressure in ensuring there is value in the land some of the clubs have traditionally sited on Town Belt land, notably Athletics, Badminton, Bowling Clubs, Golf, Harriers, Hockey, Mountain Bike riding, Netball, Rugby and Tennis. Minor sports / recreational activities, including walking, are also in the mix.

By initiating a 10 plus 10 rental on these properties the promoters of this Bill will ensure that such activities are eventually curtailed, the properties removed/demolished and the land use reverted back to open space. The token 8 hectares offered for a built environment is minimal. The Tenths Trust/Port Nicholson Settlement Trust Board are at least entitled to ten per cent of the land in Wellington, the general population is only entitled to 1/65th and even that is not on a firm basis. The document does not appear to state what land is currently leased (excluding Government Buildings which is assumed to be exempt from lease, the Chest Hospital site, the Zoo) to sport codes etc. for a comparison to be made between what is current and what is proposed.

The founding fathers did not foresee that their insistence ' that the land should not be built upon' would be penalising future generations.

As the population becomes more evidently 65 years plus in number (estimated to be ¼ of the total by around 2040) those walking the tracks will be fewer in number while those seeking more sedentary pursuits will increase. It is already difficult for those with young children to negotiate push chairs on dirt tracks. The same applies to the older generation.

We would like to see a fairness in the system. The city pays for the upkeep of the Town Belt either directly via rates or through the leases that the Council would, if the Bill goes through, see an end to. It is our view that the existing facilities should be retained and kept viable subject to its confirmed uses as community facilities.

We would like to make an oral presentation, preferably on Wednesday 28 May.

Yours sincerely



Robin Boldarin
Chair

Ph: (04) 388 2647

16 May 2014

Draft Wellington Town Belt Bill
by e-mail: townbelt@wcc.govt.nz

From: Undersigned residents of Coromandel St and surrounding areas

Contact person: Chris Gray, thegrays@orcon.net.nz, 021 253 7223

This submission refers to the proposed Local Wellington Town Belt Bill which in turn will affect the Council's Town Belt Management Plan adopted in June 2013 that amongst other things seeks to address the long term historic access to the Town Belt which is of concern to those living in Coromandel Street and the surrounding area.

This Submission is about this one issue, the submitters supporting this may also have made a separate submission on the draft bill.

We are not convinced that the current Bill acknowledges previous discussions and conclusions between the residents of Coromandel St area and council representatives in previous years. This should be particularly considered in the interest of the hundreds of residents in and near Coromandel, Paeroa and Colville Streets who's parking options will be severely impacted unless the current council-managed access system is extended.

We are also concerned that section 24 (2) of the proposed Town Belt bill does not allow for future negotiations and flexibility, which has been a cornerstone feature of the management plan development over the last 20 years of formal plans, and the restrictions placed on the council whilst well intended may not serve the future citizens of Wellington effectively.

24 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 by the Council adopting a new management plan under section 20.

(2) As soon as practicable after the commencement of this Act, the Council may, without complying with section 20(6), make changes to the Wellington Town Belt Management Plan (June 2013) that are consequential on the commencement of this Act.

The adopted 2013 Town Belt Management Plan section after over 20 years of review and consultation gives guidance to and enables the councillor's to manage historic access when other solutions to the access issues have not been addressed.

9.6.8.9 If the encroachment is associated with private vehicle or private pedestrian access and immediate removal is complicated by long-term historic use, then a longer term removal agreement such as a fixed-term licence may be negotiated. This will allow agreement of reasonable terms while also ensuring that the access encroachment is

removed as per policy 9.6.8.1, 9.6.8.2 and 9.6.8.3. The maximum period of time for this type of agreement will be until there is a change of ownership or occupation in the property associated with the encroachment. The Council may limit access to manage the removal process by, for example, installing gates, specifying access hours and days, limiting numbers of people and/or vehicles.

We have concern that the following sections appear to be in conflict and many terms are not defined. It would be helpful to clarify the definition of Public and Private purpose and what can be considered as a lease, license, easement, right of way or encroachment.

The Draft Bill states

18 Leasing and licensing

(1) The Council may grant a lease or licence over any part of the Wellington Town Belt to any person.

This appears consistent with the intent of the current section 9.6.8.9, but section 19 seems to be in conflict

19 Easements and rights of way

(1) The Council may grant easements and rights of way over the Wellington Town Belt for any *public* purpose

We are not clear how or if the rights of the residents of the Coromandel St area regarding historic access will change as a result of this proposed Bill or whether existing arrangements are covered:

23 Existing rights not affected

(1) This Act does not affect any of the following in existence at the commencement of this Act:

(a) any registered interest in the Wellington Town Belt; 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 lease or licence existing when this Act comes into force.

(2) Any public utility on the Wellington Town Belt that is owned by the Council at the commencement of this Act –

(a) is lawful; and

(b) may be the subject of an easement in favour of any party entitled to use the utility, and the Council is empowered to register the easement against the computer register for the relevant part of the Wellington Town Belt.

For Weld Street, Brooklyn Road and Nairn Street it is clear that the option of transferring land out of town belt will resolve the historic access issues associated with these streets, it is not clear for

Coromandel Street and we wonder whether or why a similar option provided to these three streets could be considered.

We request that Councillors consider and respond to the following questions:

1. Can you confirm if our rights for historic access as granted by section 9.6.8.9 of the Town Management Plan will be upheld by the proposed Bill?
2. Can you confirm if you have considered and acknowledged the issues raised in our previous submissions regarding historic access?
3. Can you confirm what the access road that leads up to the Carmichael Reservoir status actually is? Is it an encroachment or an easement or something else? As far as we are aware this has not been conclusively clarified and we also wonder whether council has researched whether this road is actually the continuation of the originally intended Coromandel Street which was merely broken by the steep section that now has the paved zig zag?

In conclusion, we note that the proposed Bill as drafted does not appear to acknowledge or solve the issues facing residents in and around Coromandel Street, which include:

- Restricted physical access to over fifteen households some that were built up to 110 years ago on sections that were drawn up in 1841 without the benefit of a topographical map, and other houses that council approved long after this which have always fully utilised the road.
- The issues that restricted access places on mobility challenged residents or guests in both a temporary or permanent basis
- The inadequate car parking in Coromandel, Colville and Paeroa streets that will be made worse if parking around Carmichael Reservoir is halted and even worse if parking is removed on Constable Street and through continued council approved intensification along this key traffic spine.
- The Kaitiaki shown by residents to make this area safe, remove graffiti, rubbish and to keep the tracks clear.
- The need for Council, Capacity or other approved entity continuing to have to maintain road access to the Carmichael Reservoir
- The support provided from the wider community, particularly through the Newtown Residents association submissions on the town belt management plan, including the benefit of having more local residents around making it safer for town belt users.

We have attached our last submission into the 2013 Town Belt Management plan as a reference.

The residents on the next page have contributed to and support this submission

This submission is supported by the following residents

Vanessa & Marcus Simons	1 Colville St
David and Adrienne Hermans	114 Coromandel Street
Johnny Nawaz	122a Coromandel Street
Katherine Wong	123 Coromandel Street
Dean & Munjoo Maharaj	123a Coromandel Street
Anne Scott + Roger Howard	134A Coromandel Street
Sally Krogh	135 Coromandel Street
Joy Telford	138 Coromandel Street
Chris & Steph Gray	139 Coromandel Street
Annette and Ben Gittos	139A Coromandel Street
Fraser Fraser Cuff	143 Delhi Crescent
Rae McNair	143 Delhi Crescent
Damian Mclaughlin	141 Coromandel Street
Dave Henderson	142 Coromandel Street
Glen-Marie Burns	142 Coromandel Street
Marion and Quentin Abraham	144 Coromandel Street
Chris & Debra Polaschek	145 Coromandel Street
James Harris	147 Coromandel Street
Giselle Bahr	147 Coromandel Street
Sophie Williams	148 Coromandel Street
Harry Livesey	148 Coromandel Street
Gordon Clarke	149 Coromandel Street
Wendy Kale	149 Coromandel Street
Wendy Kale - Work	149 Coromandel Street
Jude Ball & Nick Treadgold and Rita	148 Coromandel Street
Jenny Hodgen	152A Coromandel Street
Fiona McKenzie	152 Coromandel Street
Tania McKenzie	152 Coromandel Street
Dionne Needham	152 Coromandel Street
Mike Smith and Nicola Beale	4 Paeroa Street
Wayne & Liz Eichler	5 Colville St
Hamish Handley & Hariata Hema	7 Colville St
John Hoggard & Susanne Sturzenhofecker	8 Paeroa Street
Heather and Greg Nicholls	93 Coromandel Street
Jill Ford	96 Coromandel Street
Liz Dennett	Apt 12 /111 Coromandel Street
Reece van der Velden	Apt 3/111 Coromandel Street
Frances Hopkins	Apt 4-5, 109 Coromandel Street

10 December 2012

(Sent via e-mail)

Parks and Gardens
Wellington City Council
PO Box 2199
WELLINGTON 6140

Town Belt Management Plan Submission
Coromandel Street / Carmichael Reservoir / Colville Street Town Belt
Access Encroachments

This submission specifically refers to proposals to change Wellington City Council policies on encroachments on the Town Belt, especially with respect to the proposals that refer to the Carmichael reservoir and nearby areas. The Draft Plan will have significant direct effects on over 20 households, and indirectly affect many more.

This submission includes a brief history of private access to the Carmichael reservoir, corrects some information in the Draft Plan, summarises the concerns of affected households, and puts forward suggested solutions. We also recommend some specific changes to the text of the Draft Plan.

We would like to supplement this written submission with a presentation in person to the Council.

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Abbie Rowe	143 Coromandel Street
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Sophie Williams	148 Coromandel Street
Harry Livesey	148 Coromandel Street
Gordon Clarke	149 Coromandel Street
Wendy Kale	149 Coromandel Street
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Our Community View

The Draft Town Belt Management Plan would substantially change current Wellington City Council policy on private access to the Carmichael Reservoir along “Carmichael Rd”. The following information outlines the view of residents from southern Coromandel Street on the Council’s proposal to potentially restrict residents’ access to the reservoir service road for parking and access purposes. 20 properties are directly affected, and many more are affected by the flow-on effects on parking and congestion.

The community of residents offer to work with Council to find a solution that improves the Town Belt and allows controlled vehicle access to continue. There are many valid reasons for vehicular access to continue, including:

- The historic and continued use of the road
- No alienation of the public from use or enjoyment of that land
- No erected structures or harm caused to the town belt
- Parking congestion in southern Coromandel Street
- Intensification of housing in Coromandel Street
- Reasonable access to properties that pay council rates
- Safety
- Maintenance of the area by residents
- The outcome of previous reviews
- Solutions provided to residents in similar situations.

We believe that the continued access does not amount to an unreasonable intrusion of enjoyment of users of this section of the Town Belt and therefore we cannot find a compelling reason for this access to be removed, other than the council’s own parks and recreation policy perspective on this matter.

Further, we have serious concerns about the process and the quality of information given to the public and council. This submission attempts to clarify:

- That the Carmichael Rd **is not the encroachment referred to in the Draft Plan**
- That Carmichael Rd is at least sixty years older than stated in the Draft Plan
- That **the existing arrangement already solves the issues raised** in the Draft Plan
- **The existing arrangements are different from what it stated in the Draft Plan**, and in any case are the result of an incomplete process that we understand was never formally presented to or considered by the Council.

Potential solutions?

The undersigned residents of Coromandel and Lawrence St highly value living next to the Town Belt and support the Council's intentions to improve the quality of the Town Belt. We suggest that formalising the status of the Carmichael Rd could result in better maintenance of this corner of the Town Belt for the use and enjoyment of all city residents.

Several other options are also put forward for Council consideration, including:

- Completing the paper roads of Coromandel St and Lawrence St
- Upgrading Carmichael Rd to Legal Road
- Using the new provisions in the Town Belt Bill to enable land swaps between the Council's road reserves and the Town Belt.

Background: Current proposals

The most relevant sections of the Draft Plan are:

8.7.6 Encroachments

A vehicle track, which provides access to the water reservoir off Owen Street, is also used by local residents for drive-on access to several nearby private properties. As the Southern Walkway passes along part of the length of this track, vehicle traffic is not only inappropriate but presents a potential safety hazard. This track also attracts rubbish dumping because it is secluded and accessible by car. A gate has been installed at Owen Street with private vehicle use being phased out over time. No new access is being permitted.

9.6.9 Encroachments.

[...]

There are 206 known encroachments on the Town Belt covering 2.5626ha as of June 2012.

These are broken down as follows:

- 77 gardens/lawns and or plantings
- 13 partial house encroachments
- 8 pedestrian access-ways
- 69 structures such as clotheslines, garden sheds, compost bins and so on
- 35 vehicle accesses from parking places through to larger access routes, such as Carmichael Reservoir.

Many aspects of these two sections are incorrect:

Carmichael Road access

Page 5

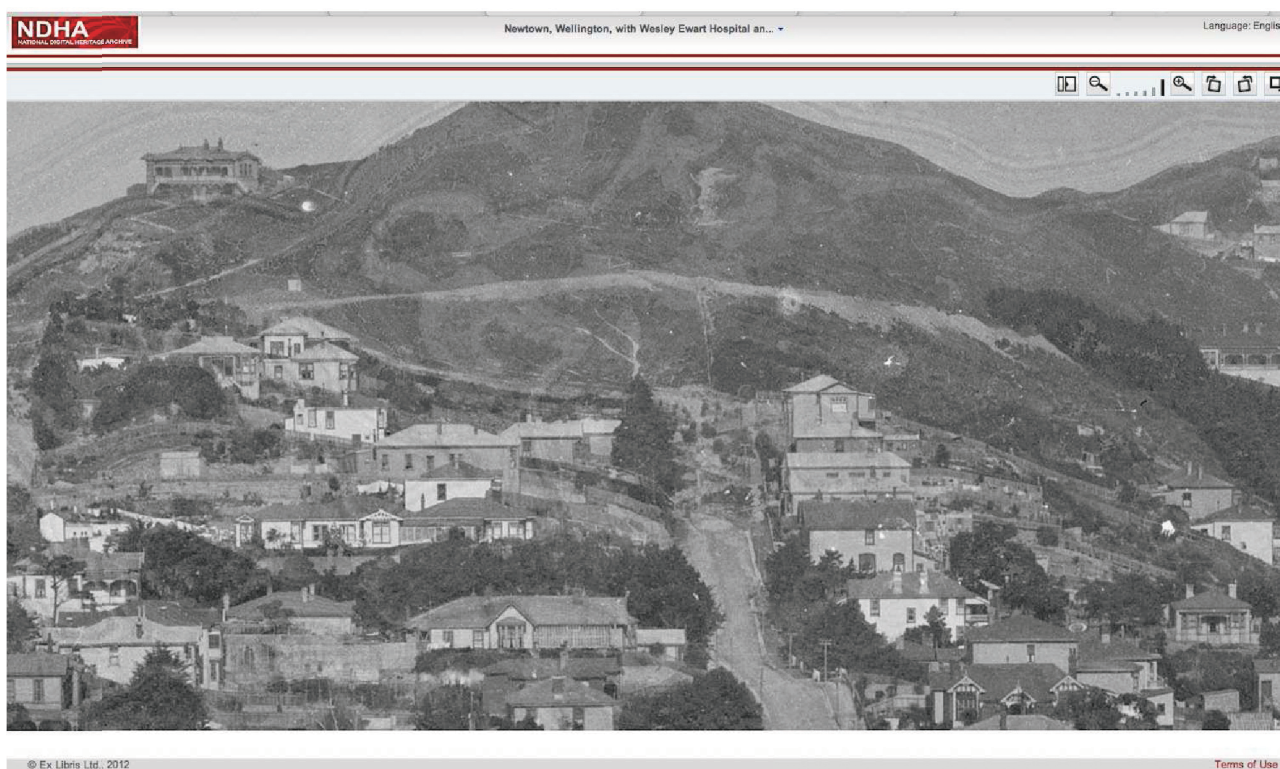
- The ‘track’ is a road used by heavy vehicles needed to maintain the Carmichael Reservoir.
- The access route to the Carmichael Reservoir is not included in the 2.5626ha of encroachments.
- The Southern Walkway does not pass along part of this road; it crosses it at one point; this change was implemented following consultation with residents in 2010.
- The gate which was installed in 2010 restricts access to Council-approved vehicles; this has successfully solved earlier issues of safety and rubbish dumping.
- While no new access is being permitted, this is a policy developed by council officers, that we understand has never been considered or endorsed by Council.

Council officers have also provided us with additional information. At public consultations on the Draft Plan, Council Officers stated that the vehicle track is in fact access for utilities, i.e. the Carmichael Reservoir, and **is not included in the list of encroachments** listed in the Draft Plan. Council Officers have since provided us with a copy of the aerial photos used to identify and measure the area of encroachments. (see Attachment 1). The Council’s photos clearly show that only two areas of land beside and beyond the water tank are considered to be ‘encroachment’. Also, the Southern Walkway does not pass along part of the length of this track: it crosses the road at one point near the intersection of two paper roads: Coromandel St and Lawrence St.

Background: History of Carmichael Rd, Coromandel St, and Lawrence St

The following photo from the National Digital Historical Archive is dated 1909. It looks south along Coromandel St towards the hilltop that is now Truby King Reserve.

Carmichael Rd is the white line running across the centre of the hill, starting at 149 Coromandel St on the left. Clearly, Carmichael Rd predates many of the houses at the top of Coromandel and Lawrence St. This is in contrast to statements made by council officers at public meetings and in correspondence, that the road was constructed in 1959 or in the 1960s.



The current situation is shown in the following 2 images from Google Maps and Google Earth. The first shows how about 14 properties on Coromandel St and 6 properties on Lawrence St do not have proper road access, instead connecting to the undeveloped Coromandel St and Lawrence St road reserves.

