

Tabled Information - Reference 010/13PT(f)

Oral submission by Action for Environment on the Town Belt legislative and policy review 22 February 2013

As the draft Plan acknowledges (*Citizen* action p. 226), Action for Environment has been a defender of the integrity of Town Belt for over forty years. During that time we have often advocated the legal return to Town Belt status of former Town Belt land taken by the Crown. We are greatly concerned, however, to find what we hoped would be a simple bill to do this has morphed into something entirely different and we wonder just what sort of Town Belt the land will coming back to

If legislation follows the drafting instructions, as they are currently written, it would make the most radical changes to the governance and status of the Town Belt since it was gifted to the people of Wellington. It is akin to attempting to change a will 139 years after it has been executed.

The legislation's drafting instructions give lip service to the 1873 Town Belt Deed but seek to downgrade it. If legislation follows these instructions it would:

- Prevail over the Deed (in the event if inconsistencies with it)
- Abolish restrictions on the council pursuant to the Deed.
- Provide the council with "flexible powers" on the Town Belt. Under the proposed legislation the council will have the right to construct or authorise the construction of buildings that the council "considers desirable." The council will be able to authorise "for profit/commercial use". It will be able to restrict public access, not just for safety, but for 'temporary activities'.
- Allow the council to include "any other land" in the Town Belt that it "considers ought to be legal Town Belt..." The Town Belt is not just any reserve but has historic and heritage values from its reservation by the founders of Wellington. The 1839 instructions and the first map of the Town of Wellington showing the Town Belt are part of the founding documents of New Zealand as a nation. Adding land not historically part of the Town Belt would, in our view, diminish its historic integrity
- The legislation will interpret the Deed's *public recreation ground* "as applying to circumstances as they arise". The words "will not be frozen so that they mean whatever they did when first used in 1873."
- It will remove the Town Belt from being subject to the Reserves Act 1977. (Another layer of protection for the Town Belt is to go, further concentrating power over the Town Belt with the council. This would in our opinion also limit citizens' right to appeal to the Minister of Conservation if the council did something untoward on the Town Belt)

The Wellington City Council holds the Town Belt in trust for the citizens of Wellington and "their successors". The council has never had beneficial ownership of the land. This protects the Town Belt from alienation and encroachment not only by private parties but also by the council. As the 1873 Deed states: "*without any power of the said trustees to (alienate or dispose of the same)*". The drafting instructions however will downgrade the Deed and allow the council to effectively take beneficial ownership of the land resulting in the loss of the

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commons. We also note with concern that the council also intends to change the District Plan with regard to the Town Belt

Why is the council doing all this? We have been unable to get a satisfactory answer to this question. These changes would give council officials a great deal of "flexible powers" over Town Belt land. Many Wellingtonians have seen how the council has used such powers over land it does have beneficial ownership of on Wellington's waterfront. Decades of battle to retain public ownership and open space there is still ongoing. There shouldn't be similar situation with regard to the Town Belt.

A for E's unsuccessful appeals to the Environment and High Courts against the extension of the Badminton Hall have shown the council already has considerable discretion over the Town Belt. Why does it want more powers? It needs to be born in mind that the impending reform of local government could mean such powers being taken over by some sort of "super city" council. A body which is likely be more remote and even less responsive to citizens' concerns.

Our Parliamentary advice is that a local bill cannot be controversial. A bill based on these instructions without a substantial rewrite would be controversial.

Regarding *The draft Wellington Town Belt Management Plan*, the existing WTBM has rightly been commended as an outstanding document. A credit to those responsible for it Among whom I think only Councillor Foster remains. The Plan only needed updating not a total rewrite. In our opinion, the draft Plan offers less protection of the Town Belt's finite open space than does the existing plan

The existing Plan stresses that the emphasis is on outdoor informal recreation in the Town Belt. This reflects what is actually happening on the ground. The council's 2009 resident's survey of usage of the Town Belt herewith shows the preference for such recreation is overwhelming. This should be referred to and taken notice of in the Plan.

Open space is the Town Belt's defining feature. It is its *raison d'etre*, the reason for its reservation by Wellington's founders. It is going to be even more important and valued by the residents of an increasingly densely-built city. The proceedings of the 2011 Town Belt Workshops of community and TB user groups (also herewith) shows that there was most support for "no new buildings or built development on the Town Belt with the land to be retained in green open space". Action for Environment submits that the following objective from the existing plan (which reflects what the majority of Wellingtonians want for the Town Belt) should be included in the new plan:

"To ensure that there will be no additional land area is developed for organised recreation facilities (formal recreation) in the Town Belt". We further submit that recreation policies in the draft plan should be consistent with this objective.

Time does not permit me to comment on the details of the draft Plan. We have done this in our written submission which we urge councillors to read.

With regard to leases, we understand that the Wellington Rugby Union have advised they wish to show leases as an asset on their balance sheet and that this will mean a lease can be secured to its bank, . What would happen if the WRU ends up like the Otago Rugby Union becomes insolvent? Will some foreign bank be able to take over the lease of the Town Belt? What steps have councillors, taken, to protect the Town Belt from such a situation?. The danger of making leases assets means lease terms should be reduced not increased.

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In conclusion, Wellington's Town Belt, together with the harbour defines our city's character. As a backdrop to the capital it is of national importance. As an historic example of the green belt concept in 19th century town planning it has international significance. With great foresight the founders of Wellington set it aside the land for public enjoyment and "to preserve the beautiful appearance of the future city". A third of it has been lost but the remainder has existed across three centuries. We urge councillors to take the 'long view' on the Town Belt. To adopt the founders' vision and foresight on its protection for future generations and not put it at risk by compromising its status for bureaucratic expediency nor by allowing its finite open space to be nibbled away by inappropriate demands for its use.

Thank you

ACTION FOR ENVIRONMENT INC

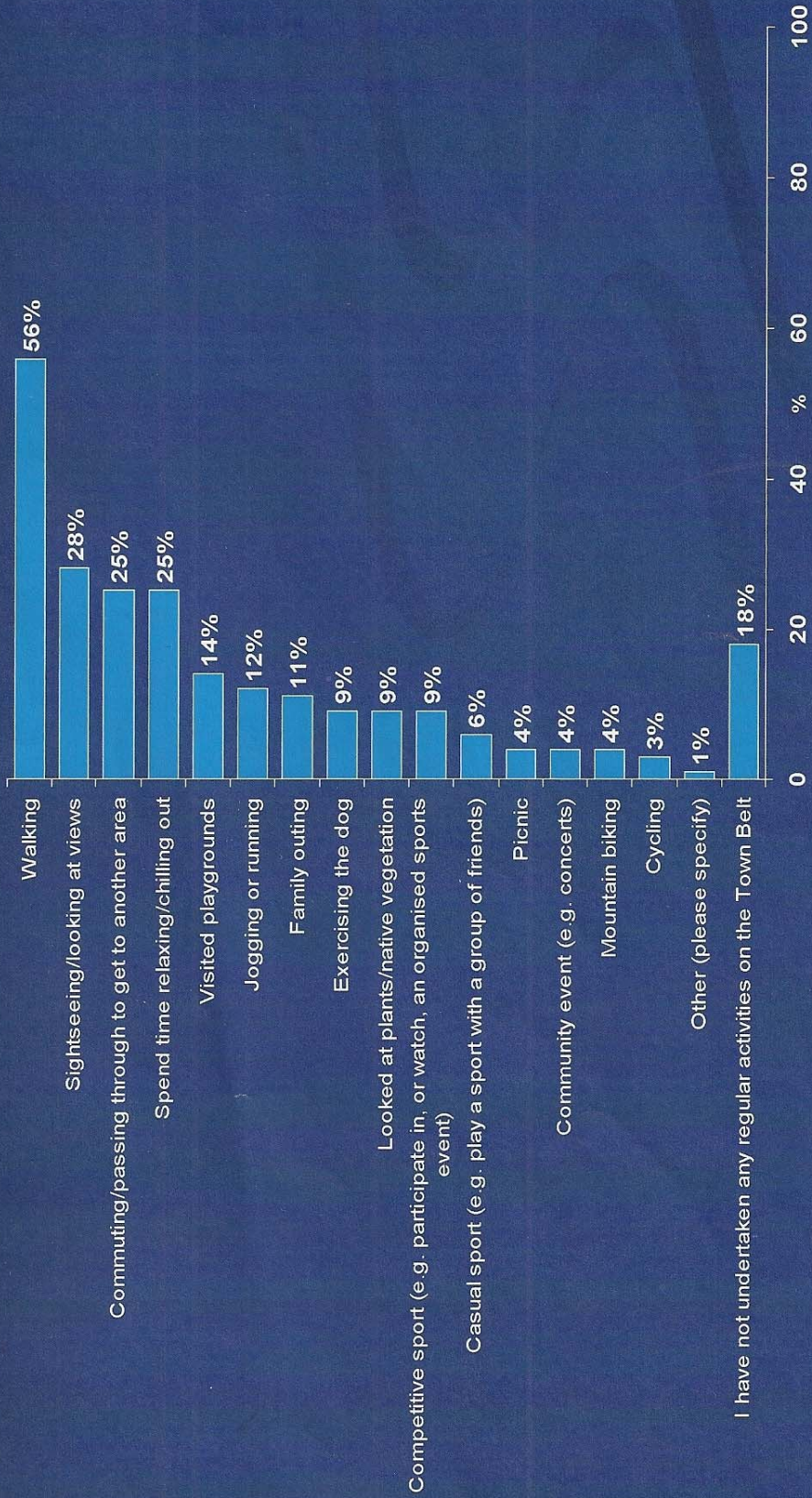
David Lee
Chairman



Recreation activities

- Regularly undertaken → walking then sightseeing, relaxing, commuting

Q9. Activities undertaken regularly (prompted)

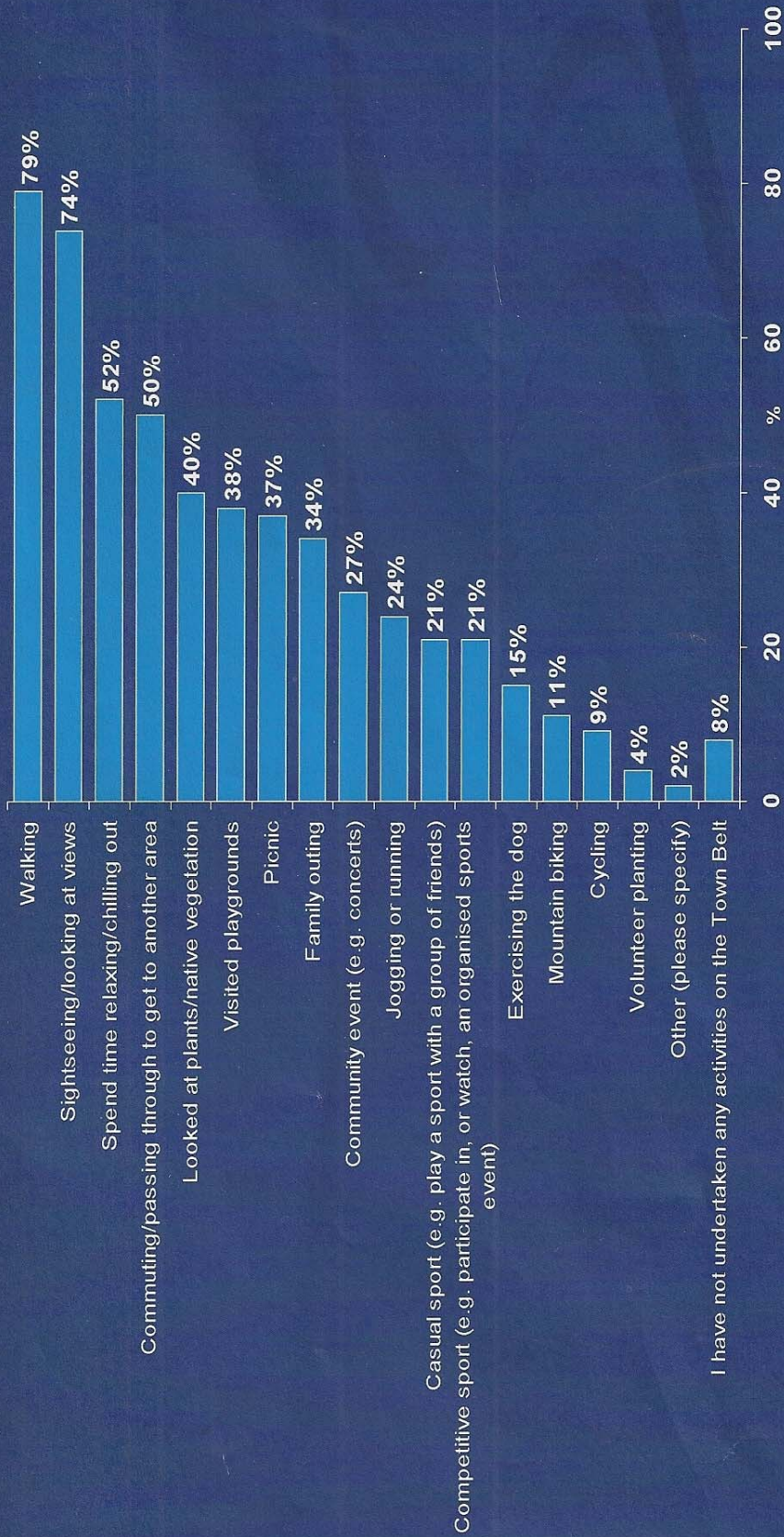




Recreation activities

- Ever undertaken → walking, sightseeing then relaxing, commuting

Q8. Activities ever undertaken on Town Belt (prompted)





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Wellington City Council hosted workshops on Town Belt

Town Belt proceedings

April 20, 2011

Agreement	Theme	Comments	Summary
Most agreement 	Town belt development	<ul style="list-style-type: none"> ▪ Prime value to be open space – no new buildings – recycle/reuse/re-evaluate what is already there. ▪ Retain as public open space, no new buildings [with existing uses where appropriate accepted] ▪ No new buildings on the Town Belt ▪ No more formal buildings or sports facilities to be built on the Town Belt. ▪ No more 'development', no commercialisation. ▪ NO infrastructure or private development. ▪ No selling/leasing etc, no buildings. ▪ The Town Belt is not Council owned land. It is land belonging to all Wellingtonians and visitors. It is not a facility for the council to build on. ▪ Respect concept of guardianship for all and future generations i.e., protect, enhance, restore. No further encroachment. ▪ Town Belt is critically important – it must not be further minimised, but optionally it could be extended. ▪ Town Belt land cannot be used for 'community infrastructure'. 	No new buildings or built development on the Town Belt with the land to be retained as green open space
		<ul style="list-style-type: none"> ▪ No new buildings or expansion of existing buildings on/in town Belt. 	
Least agreement			

Agreement	Theme	Comments	Summary
Most agreement 	Open green space	<ul style="list-style-type: none"> ▪ Open, green, free to all. No more formal areas/building. Visual beauty. ▪ Town Belt is a green area – valued for its plants, wildlife, native plants, and visual beauty and should be protected. No new buildings. ▪ Retaining as green open public space ▪ Maintain openness and accessible to all for outdoor activities especially free ranging. ▪ Excluding all forms of commercialisation. ▪ Non-commercial not-for-profit activities only. 	Maintain green space as a priority Access to the public to the entire Town Belt
		<ul style="list-style-type: none"> ▪ Adaption to change while maintaining open space ▪ Town Belt is special and valued as a green space and should be preserved as such primarily. ▪ Ensure Town Belt land is not privatised. 	
Least agreement			