ORDINARY MEETING

OF

CITY STRATEGY COMMITTEE

SEPARATELY ENCLOSED ATTACHMENTS

Time: 9.30am

Date: Thursday, 22 February 2018

Venue: Committee Room 1

Ground Floor, Council Offices

101 Wakefield Street

Wellington

Business	Page No.	

3. Operational

3.1 Oral Hearings for Zipline Proposal Southern Landfill

1	Schedule of Submitters	3
2	Oral Submissions Document	5
3	Late Submission	17

Schedule of Submitters: Zipline Proposal Southern Landfill

Time	Submitter	Submission Number
11.00am	Chris Horne	16
11.05am	Pam Olver	12
11.10am	WREDA tabled document to be read by Cr Gilberd	4
11.15am	Craig Starnes	Late submitter



25 January 2018

Brett Smith Property Advisor Wellington City Council PO Box 2199

Email: brett.smith@wcc.govt.nz

Submission on New Lease and Licence at the Southern Landfill

Introduction

The Wellington Regional Economic Development Agency (WREDA) supports economic performance throughout the region to enhance prosperity and liveability. We market Wellington as a destination for visitors, migrants and investors; help businesses grow and innovate; advocate for Wellington's economy; attract and promote major events and run civic venues.

As the agency responsible for promoting and developing Wellington as a visitor destination, WREDA believes it is important to make its views known in relation to proposed Council activity that could influence its operations, as well as Wellington's tourism development and marketing in the future.

Our Submission

The zipline proposal will show off Wellington's urban/rural fringe and feature scenic views not currently enjoyed by visitors. A zipline would give active visitors a new and different option to enjoy the city. WREDA also believes the conservation and regeneration projects proposed by the operation would enhance the area, the visitor experience and the visitors' perspective of our city.

The applicants have consulted extensively with WREDA's management and destination experts during their project development. The zipline proposal offers a new and exciting activity for locals and visitors alike. The business case is well researched and widely consulted. WREDA believes the operation could attract visitors from several sectors including Business Events, Education and Leisure.

WREDA supports the granting of a new occupancy agreement for a commercial zipline operation located at the Southern Landfill, Owhiro Bay.

Page 5

Level 28, Plimmer Towers, Gilmer Terrace, PO Box 10 017, Wellington 6011, New Zealand

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WellingtonNZ.com



Thank you for considering our submission. We do not wish to be heard in support of our submission but if being heard would be helpful or you require any further information please do contact me.

Yours sincerely,

David Perks GM Destination Marketing, Venues & Project Development WREDA

Page 6

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SUBMISSION

12

Pamela Olver and Chris Horrocks

The submitter requests to have the submission heard by way of an oral submission at the council meeting on 22 February 2018

PROPOSED NEW LEASE AND LICENCE AT THE SOUTHERN LANDFILL - COMMERCIAL ZIPLINE OPERATION

We <u>oppose</u> the lease agreement for the proposed activity for the following reasons:

1. Access via Hawkins Hill Road

The operation of the proposed activity is entirely dependent on the use of Hawkins Hill Road, a council owned private ROW. The council and the councillors are well aware of the unacceptable state of the road and have been on public record admitting to this.

The proposal to grant this lease should not be considered until a road Management Plan is agreed to and in operation. The Council's failure to establish a plan for this road¹ whilst permitting development has resulted in conflict with residents and an increasingly unsafe multi user access way. Council should not permit any activity that increases the traffic on this road unless it is prepared to upgrade it.

Hawkins Hill Rd is a private Right of way (ROW). The council must ensure that unauthorised access by public vehicles consequent to any commercial lease is able to be restricted and controlled. The gate must be re-commissioned at the turbine car park to control unauthorised public vehicle access if the council is to consider leasing this land for a commercial activity.

The council has stated its opposition to occasional mountain bike shuttling yet it seems to be quite happy to consider allowing a commercial shuttle service to operate all day, every day.

'Outer Green Belt Management Plan 2004, Section 7 - Carey's Gully:

5, 7.2,2 Access

- ...but there is as yet no clear policy about the status of the road as a key recreation access route. The status of various right-of-way agreements for private users is unclear and needs to be resolved,
- ...the need for a clear plan for the management of this road.
- ... To clarify all existing access rights to the Hawkins Hill Road, establish a clear
 policy on the provision of private access and to ensure current vehicle use is
 consistent with public use of the road.

The use of the road in the manner proposed is not compliant with the district plan (see below 17.3.2.8)

Submission.zipline.Olver/Horrocks.020218

Page 17

2. Noise and siting of proposed zipline

NOTE: The council should ensure that it has the correct maps available as the maps presented with WZA's proposal failed to indicate the proximity (200m) of the nearby dwellings to the activity.

Rural noise tolerance limits are notably lower than those in the city.

There has been no consideration by the council or the applicants of the possible noise nuisance that would be generated by the proposed activity (traffic, mechanical, participant, spectator). As we are the existing permitted activity (noise recipient), the onus is not on us to mitigate noise effects of a new activity.

Noise management is a requirement under the RMA (see below). It would be foolish to ignore the need for thorough assessment. There are multiple ziplines in NZ and around the world that have failed to comply with noise policies to their detriment. The most effective noise buffer is distance, yet this activity has been located as close as is possible to the 3 nearest residences. The reasons given by the applicants that other sites were not suitable apply equally to their current proposed site. The applicants have stated that they cannot control the noise generated by their activity. This is in breach of RMA:

'Under s31, territorial authorities have the primary responsibility for managing the effects of land uses and noise (including the mitigation of noise.). Territorial Authorities also have a responsibility under the RMA to achieve integrated management of the effects of the use, development, or protection of land use associated with natural and physical resources. This includes effects on amenity values that may be affected by noise.'

'Section 16 of the RMA requires all noise generators to adopt the best practicable option to avoid the emission of unreasonable noise. This is additional to the duty to comply with the permitted noise levels included in a district plan.'

'For new noise generating activities, control can be achieved by incorporating appropriate buffer distances. New noise generating activities need to consider the distance to the nearest neighbours, traffic routes and other relevant factors when determining the layout, design and operation of their activities.'

http://www.qualityplanning.org.nz/index.php/planning-tools/air/noise-management-in-mixed-use-urban-environments

Does not fit with objectives the OGBMP 2004 generally, and specifically to this areaA zipline is an inappropriate use/activity for this land as part of the Outer Green Belt.

[ref: 3.4.2 Access issues and opportunities: eco tourism

4.2.2.1 Council relationship with adjoining landowners: conflicted as a result of council 'dragging the chain' and failing to communicate in a timely and respectful manner

4.5.2.1 Appropriate forms of recreation (a), (f): a zipline is not an activity based on quiet enjoyment of the area and the OGBMP states that the Outer Green Belt will not be used as a place for locating those activities which, because of their effects, are unable to be accommodated elsewhere

5.7.2.2 Access - as above]

There is no provision in council policy for commercial activity in this sector (other than that specifically defined in appendix M of the district Plan). Any use not provided for by council policy cannot be allowed as adjacent landowners would need to have been informed of such plans at the time their properties were purchased.

This proposal intrudes on the buffer zone that is specifically mentioned as a mechanism for protection of adjacent properties from adverse effects of activities on this land.

Page 18

12

Item 3.1 Attachment 2

The council already views the zipline proposal as an opportunity to promote enjoyment of open spaces and ecotourism (email from Joel De Boer). Bias in favour of the activity by the council is already evident. A zipline in this location is NOT an ecotourism activity.

Ecotourism is: "Responsible travel to natural areas that conserves the environment and improves the well-being of local people." (TIES, 1990) Principles of **Ecotourism**: **Ecotourism** is about uniting conservation, communities, and sustainable travel. Ecotourism Definition | The International Ecotourism Society.

A zipline is nothing more than an amusement park ride. Just because it is in a Green Space and the applicants plan to do a bit of pest control, plant a few trees and have participants pay a 'conservation levy', doesn't make it eco-tourism. It is called 'greenwashing' its proposal. [GreenWash is advertising, PR or spin that presents a government, company or its products as more environmentally friendly than is true].

What we have here is an attempt to create the illusion of being an ecotourism activity in order to curry favour with council and try to fit its OGBMP. The primary intention is for an adventure tourism business, not a conservation activity. It is not the ecological or conservation aspects of the area that will be promoted and attracting tourists - it is the the thrill of the zipline adventure that will be the attraction. Wellington already has has Zealandia on the boundary of this proposed adventure activity and it completely fulfills any tourist need for ecotourism and conservation activities in this area.

An ecotourism activity should fulfil the accepted definition of ecotourism. If an activity has a negative impact on surrounding neighbours it is then in conflict with the aims of eco tourism and thus the activity cannot be called an ecotourism activity. There is absolutely no benefit on the surrounding neighbours or community from this activity. The council's admitted desire to have this activity does not give it preferential consideration outside its OGBMP.

The council has a responsibility to the existing neighbours first and foremost.

4. Protection of rural amenity of adjacent rural properties

There has been negligible consideration and no assessment of the impact of the lease agreement or the proposed activity on the existing rightful land users/ residents who live within 200m of the proposed activity (as required in rule 17.3.2.).

The council should disregard the appendix presented with WZA's proposal to show stakeholder engagement. It is incomplete, inaccurate and grossly misrepresents key stakeholder views. It grossly overstates support and is misleading.

The residents have made a significant investment in a quiet rural lifestyle provided for and protected by the district plan. Resource consents for residents in the rural areas are complex and applications undergo rigorous and often overzealous scrutiny to insure adherence to the council rules in order that the rural amenity is preserved.

Its (the District Plan) intention is to provide for sustainable rural living while enhancing and protecting rural character and amenity. (1.0; pg2; Rural design guide)

Due diligence at the time of property purchase did not show any plans or intentions for any use of this land for any purpose other than as already described and permitted in the district plan and the OGBMP. Existing rural residents have the right to expect that the council protects their rural amenity as a priority decision when evaluating any new activities especially where they are non complying activities that have the potential to have a substantial negative impact (ie more than minor) on nearby rural residences.

Open Space B Rules, as they currently stand, complement the OGBMP so that the outer green belt spaces and rural areas continue to enhance and complement each other. Where Open space B and OGBMP interpretation is exercised within the discretionary powers of the authority (WCC) the decisions must be in keeping with the rural design intent and principles, particularly when there are existing rural dwellings that have the potential to be adversely affected by such discretionary decisions.

Page 19

12

Conflict of interest

There is an obvious COI in this process. The councillors must make certain that the process is fair and does not favour the applicant because the council wants the activity to be established.

The council owns the land, makes the rules and then is also the authority that will make the decision about whether this application should be approved. The council also stands to gain financially (both directly and indirectly) from a commercial lease agreement that is a non complying activity, and so utmost rigour needs to be applied to ensure that the consent process is transparent, compliant and unbiased. The applicants refuse to disclose the fees that users will be charged. The council has not disclosed its financial and other benefits from this commercial arrangement. There is no provision in the current district plan for commercial arrangements to be established in Open Space B apart from appendix M Ch 24 which is very specific in its conditions. The OGBMP makes no special provision for this arrangement in section 7 - Carey's Gully.

The council must be certain that it does not misuse or abuse its authority during this process and must remain impartial as the assessment and approval process is worked through. The council however has already expressed its desire to have the zipline and is already showing its bias in favour of the applicant before due process has taken place. Decisions and rulings must comply with current plans and policies. The rules and policies must be applied equally to all applicants and cannot be waived or altered dependent on who the applicant is. Decisions cannot be made on the basis of any anticipatory changes to council plans and policies.

I am aware that compliance with Open Space B rules in the district plan is dealt with by way of Resource and building Consent Processes. The non compliance with the district plan is significant, cannot be ignored and needs to be considered at this stage of the application so that the applicant is fully aware of what would be required from them to reach possible compliance.

The proposed activity is a Non Complying activity for Open Space B zoning

The agreement for a lease for the proposed activity is not consistent with the objectives, intentions and rules of the current district plan Chapters 16 and 17

Any activity in Open Space B must be consistent with the rules and intentions of the district plan at the time the application is assessed.

16.3 Open Space B

8(Natural environment)

Open Space B land is valued for its natural character and informal open spaces. It involves areas that are used for types of recreation that, in the broadest sense, do not involve buildings or structures. The intention is to keep such areas in an unbuilt or natural state. This type of open space encompasses both formal and informal open space elements. It includes walkways, scenic areas and open grassed areas where buildings are inappropriate. Its characteristics are minimal structures, largely undeveloped areas and open expanses of land. Most Open Space B areas are vegetated and often have ecological values or may buffer Conservation Sites.

Also

Council has an important role in administering open space on behalf of the public. People go to open spaces to escape the urban setting or their normal surroundings. The environmental qualities of open space such as openness, sunlight and tranquillity all contribute to its character and success. These should be

Page 20

Item 3.1 Attachment 2

as equitably and as easily enjoyable by older people and all others with mobility restrictions as by the rest of the public.

Questions needing clear and unambiguous answers by council:

- → How does the council define 'in it broadest sense' in the context of the intention of the plan to not involve buildings or structures given that a platform is neither necessary, desirable or accessible for the public of Wellington to enjoy this area?
- → How does the council define and assess the size of structures ie what dimensions /size would be the maximum acceptable in council policy so as to constitute a 'minimal structure'?

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

17.3.2.1 [Whether the structure is designed and located so as to be visually unobtrusive.] PC33

The information provided by the applicant shows photographs and plans indicative of the size of the proposed structures. There are 8 of them. At some locations the take off and landing platforms are very close to each other effectively enlarging the building platform. These platforms each have a footprint of 20-40m2. And the area surrounding these platforms will require wider excavation still. The proposed height is at least 4m. There are also the ziplines themselves which are elevated above the natural canopy with 8 lines up to over 500m in length. Each line has 3 cables. These are large not minimal structures. (a gate would be a minimal structure).

The assessment of visual impact has not taken into account any effects on the closest adjacent neighbours. The assessment presented by WZA says this explicitly and also minimises effects based on assumptions that have not been tested or verified. The applicants have made no effort to show or assess the effects of their proposed activity on adjacent rural properties. (Landscape architect report)

17.3.2.2 [The extent that buildings and structures within identified ridgelines and hilltops are sited and designed in ways that avoid visually obtrusive development by:

- ensuring visual continuity is achieved on the upper slopes up to the apex of the ridgeline or hilltop
- ensuring that the visibility of buildings, structures and earthworks is mitigated by appropriate siting and design, and planting and/or screening when viewed from district wide, community wide and neighbouring land.
- minimising skyline effects by ensuring that buildings and structures will be seen against a landform backdrop when viewed from district wide, community wide and neighbouring land] PC33

There has been no assessment of effects on neighbouring rural residential properties. The assessments presented by the applicants have briefly glossed over and speculated on potential effects but these have not been validated appropriately and lack appropriate detail. The document that was presented to the council by the applicant representing "stakeholder engagement" should be disregarded. It is incomplete, grossly inaccurate and attributes support and opinions where this was not expressly sought or given and excludes key stakeholders.

17.3.2.3 Whether the structure is needed for the public enjoyment of the site's recreational potential

The public has no need for these structures to enjoy the the site's recreational potential of a green, open and tranquil space. The access is restricted to those who can pay to participate. The applicants have stated their target

Page 21

market is visitors to the city. They will not disclose the cost of the activity to participants. The proposed activity is not intended to enhance the recreational potential of the area for Wellington residents and ratepayers.

17.3.2.4 Whether the site's open space character is maintained.

The number and size of the structures disrupts the open space character. The structures and associated ziplines lines are not minimal in either dimension nor number.

17.3.2.5 Any relevant provisions of:

Item 3.1 Attachment 2

- · Reserves Act 1977 and any amendments to that Act
- · Queen Elizabeth II National Trust Act 1977 and any amendments to that Act
- any management plan prepared for the site e.g. Belmont Regional Park Management Plan and the Wellington Town Belt Management Plan
- the Town Belt Deed 1873.

The land under consideration has no provision in the district plan or in the OGBMP or in the draft Open Space Access plan 2016 to allow for use outside of the Rules for Open Space B (other than as specifically described in appendix M chpt 24). Any special provisions would need to have been available to residents at the time of purchase of their properties.

7.3.2.6 Whether established public access or the possibility of such access is maintained.

The areas to be used for the proposed activity will have restricted public access.

17.3.2.7 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.

17.3.2.8 The extent to which any adverse effects of any new accessway or carparking, or change in use of any existing accessway or carparking, can be avoided, remedied or mitigated.

The access to the activity is via Hawkins Hill Rd. It is a private ROW. This activity is a change in use of the ROW to benefit a new commercial arrangement between the council and a private business requiring a specific lease agreement in order for the activity to be established. The council is promoting increased public use of this roadway without any plans and policies in place for repairs and maintenance required in order for the road to be safe for all users

The council has failed to observe its own plans (dated 2004) where it was specifically identified that a plan for Hawkins Hill Rd was required - the council has dragged the chain (in a councillor's own words) and there is now an exponentially growing issue that needs urgent and prioritised council attention. The conflict with residents as discussed on national television news recently is a direct consequence of the Council's failure to manage the road in a timely manner.

Until this issue is satisfactorily addressed and resolved, the council has no mandate to facilitate a commercial lease agreement with a private business where the operation of the business is dependent on the use of the road and at a significantly higher rate of use than the current residential use and where there is financial benefit for the council but no commitment to addressing the issue of the road and its ongoing maintenance.

Page 22

Item 3.1 Attachment 2

The council must fulfil its obligation to ROW holders to establish a clear repair and management plan for Hawkins Hill Rd. The council has permitted increased use of the land by permitting subdivision and building in line with the district plan and so the council must insure it has a plan in place to insure access to these properties is maintained at an acceptable level for everyday driving by ordinary vehicles.

The residents are contributing significant urban rates payments ie <u>no</u> rural rebate. They do not get any regular council household services that all other ratepayers get (road maintenance, safe sidewalks, curbside refuse collection, street lights, water, sewerage).

Ref above : Outer Green Belt Management Plan 2004, Section 7 - Carey's Gully:

[17.3.2.9 Where a structure or building is located within a Hazard (Fault Line) Area, the degree to which measures have been adopted to mitigate the potential adverse effects from a fault rupture hazard event.] PC22

In general, structures on Open Space B or Open Space C are viewed unfavourably unless there is a need for public facilities that cannot reasonably be satisfied by using other land. Council will pay particular attention to this point in decisions on the use of Inner Town Belt land. Any new building works will also be governed by the provisions of any relevant management plans (for example the Wellington Town Belt Management Plan).

The proposed activity will not be open to the public for free recreational use (undisclosed and likely substantial fee). The public has no need for such an activity for the enjoyment of this open space. The activity does not meet the accessibility requirements for Open space B public land. The draft Open Space access Plan 2016 notes 'opportunities for free, accessible recreational activity for a broad section of the community'. WCC is the custodian of Open Space B for the benefit of all Wellingtonians not for its own benefit or for the benefit of a commercial operator where access is limited by fees that are expected to be out of the range of the average ratepayer.

Reference documents

- District Plan
- The Draft Open Space Access plan 2016
 - has no plans or policies permitting the activity being proposed. It speaks of 'opportunities for free accessible recreational activity for a broad section of the community'.
 - There is no provision for commercial partnerships and user pays restricted recreational activities
- The Outer Green belt management plan and the plan for Te Kopahou
 - o remain under review.
 - Anticipatory changes in these plans cannot be used in evaluating this application unless there is a council policy in place that provides specifically for this.
 - There is no provision in the current district plan or Outer Green Belt Management Plan for the council to approve commercial partnerships in Open space B areas of Carey's Gully.
- "Our Natural Capital" Wellington's biodiversity strategy and action plan.
 - Te Kopahou is not mentioned.
- Appendix M, Ch 24: Designation 61 ('Refuse disposal and Associated works') covers the entire site.
 However, the actual area of filling for this designation may only occur in the area defined under Appendix M, chapter 24. A landfill operation is not a permitted activity under Open Space B rules other than as specifically defined in Appendix M.
 - There is no special rule or designation permitting any other commercial activity in this Open Space B area.

SUMMARY

Any lease consent (if granted) must be conditional on

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Page 23

- 1. An Operational Road management plan for Hawkins Hill being passed by council
- 2. The applicant meeting the assessment criteria as laid out in the the council's district plan and must be conditional that it complies with all relevant council policies and the RMA. Any mitigation and management plans required by the applicants to assure compliance with the criteria and policies should be reviewed by the nearest affected neighbours and agreed that the effects on them will be less than minor.
- Appropriate plans for monitoring AND managing conditions imposed on the applicant at no cost to residents and enforceable in a timely manner.
- 4. If it is to be considered as an ecotourism activity a significant portion of the activity fee must go directly to conservation and must be disclosed publicly and accounted for before any RC is granted and must be a condition for continued operation.
- Any educational component (which must be a condition of the consent if it is eco tourism) must be delivered by suitably qualified and educated staff and objectively assessed as being of sufficient standard for an ecotourism activity.
- 6. Any Resource Consent for a zipline activity must be notified and open for submissions.
- A limitation on future expansion of this and any other commercial activities of a similar nature in this area must be a condition of any resource consent.

John Christopher Horne

16

2 February 2018

Brett Smith Property Advisor Wellington City Council PO Box 2199 WELLINGTON 6140

Dear Mr Smith

SUBMISSION: Proposed new lease and licence at the Southern Landfill

Thank you for the opportunity to present this submission. I wish to speak in support of this submission before the relevant committee of Wellington City Council.

Opposition

I oppose the proposal in its entirety.

Reasons for my opposition

I oppose the proposal because:

- It would increase vehicular traffic on the narrow Hawkins Hill Road up to the wind turbine, a route popular with walkers and runners, who would thus be put at increased risk;
- It would increase unauthorised use of Hawkins Hill Road beyond the turbine car park. This road is popular with walkers and runners, is narrow, with short sight-lines, therefore use by unauthorised vehicles would be hazardous to walkers and runners;
- The proposed zip line and its supporting structures would be a blot on the landscape and skyline, as enjoyed by visitors to the wind turbine, and as enjoyed by people living beyond the site;
- Erection of the support structures would involve clearance of indigenous plant species in the upper part of Carey Gully, vegetation I have tramped through in preparation for a field trip by Wellington Botanical Society, and during the field trip.
- 5. Granting the lease would encourage the use of motor vehicles and the burning of finite fossil fuels, thus increasing the city's emissions of greenhouse gases, and exacerbating the effects of climate change.

Decision I would like Wellington City Council to make

I recommend that Wellington City Council decline the proposal in its entirety.

Yours sincerely, Chris Horne

Page 34

Late Submission

From: Craig Starnes

Sent: Thursday, 1 February 2018 2:37 p.m.

To: Joel De Boer

Cc: Dave Preece

Subject: Submission on new lease and new licence proposal - supported

by Brooklyn Trail Builders

Hi Joel

Hopefully you remember us at Brooklyn Trail Builders (BTB) from several previous submissions?

To recap, BTB has a long standing relationship with the land over which the occupancy agreement for a commercial zip line is proposed. BTB comes under the umbrella of WMTBC which holds an MOU over the green spaces from Aro St to the south coast. BTB has built tracks in the immediate area and maintains a trapping network to control pests.

BTB actively supports the zip line operation. Why? The experience (and success) of Polhill is a prime example of what happens when people are able to access space that wasn't previously open for general widespread access (BTB built the network of tracks in Polhill and further south that has resulted in an extraordinary involvement of people with nature that wasn't previously possible). The game changer was getting people into an area.

The zip line will assist in getting more people into an area that currently only has Barking Emu (a BTB initiated track) in it. Both BTB and WCC are keen to get people into green spaces and the zip line will assist. This is complimentary with the OGBMP and BTB will be making further submissions with respect to the pending master plan for this area. Enabling public access is key to the success of the master plan and the zip line will assist in this. The land is currently of very poor quality so any conservation activity will be an improvement over the current.

To provide a measure of independence, I'd suggest that a per head fee is charged to the zip line clients that is paid to WMTBC to ensure the money is spent on conservation efforts and/or supporting enjoyment of the green spaces in that area.

We are keen to understand how the commercial operation will impact on users of BE (points 1A, 1B, 2A and 4B) so would welcome a chat about this but expect its easily resolvable. Note that the zip line operators were generous in giving us a heads up about their plans many months ago but some details had not been sorted.

We are aware that local residents are against the proposal due to the ongoing maintenance issues that they have with Hawkins Hill road. It's unfortunate that the zip line operation is being used as leverage for the road maintenance debacle. They are separate issues and should be dealt with accordingly (its acknowledged that the

CITY STRATEGY COMMITTEE 22 FEBRUARY 2018

stopper for this commercial operation).

Absolutely Positively **Wellington** City Council Me Heke Ki Pōneke

operation will result in more traffic (marginal increase?) but this should not be a show

I'd be happy to talk to the councillors in support of this occupation agreement.

Cheers Craig

PS keen to catch up with Bec to progress the master plan.....