

Road Encroachment and Sale Policy submission form

MISSION
NUMBER

65

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post - Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr Mrs Miss Dr (circle which applies)

First name/last name* **DOUG BUCHANAN**

Street address* **66 Orangi Kaipapa Road, Northland
WELLINGTON**

Phone/mobile **0274922592**

Email **dougbuchananproperty.co.nz**

* Mandatory fields

I am making a submission

As an individual On behalf of an organisation Name of organisation

I would like to make an oral submission to the City Councillors Yes No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Objectives			<input checked="" type="checkbox"/>		
Policy principles			<input checked="" type="checkbox"/>		
Criteria for evaluating road encroachment proposals				<input checked="" type="checkbox"/>	
Consultation with affected parties		<input checked="" type="checkbox"/>			

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

More road stopping and sale of land (often cliff faces) that will never be used. A road should be offered for sale at fair valuation. Council often value it too hard for neighbouring owners to buy land that otherwise is left in poor condition and infested with noxious weeds.

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Flat rate		<input checked="" type="checkbox"/>			
Differentiated fees				<input checked="" type="checkbox"/>	
Individual valuations				<input checked="" type="checkbox"/>	

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support	Support	Neutral	Oppose	Strongly oppose
				<input checked="" type="checkbox"/>

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support	Support	Neutral	Oppose	Strongly oppose
	<input checked="" type="checkbox"/>			

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
All changes from 1 July 2011			<input checked="" type="checkbox"/>		
Changes introduced as new licences are issued			<input checked="" type="checkbox"/>		

Q7: Do you have any other concerns or views about how fees are set?

Council needs to be aware that people who have gardens encroaching are often doing the City a favour in that they effectively look after the land for the Council, Council land often has noxious weeds (ie. gorse + blackberry) on it, it needs to be mown and sprayed (and seldom is!!). Council should not hit property owners too hard as they improve the standard of roadsides and minimize costs to the ratepayer in the instances outlined above. Council struggle to keep lookouts and reverse mowing and should welcome maintenance via encroachment from rate payers.

Second fold here

FreePost Authority Number 2199



Road Encroachment and Sale Policy (COP001)
 Wellington City Council
 PO Box 2199
 Wellington 6011

**SUBMISSION
NUMBER**

135

From: Con Flinkenberg 29a Grass Street Oriental Bay Wellington, 6011	To: Wellington City Council Attention: Bryan Smith
Fax Number: (04) 978-1285	Fax Number: (04) 801-3124
No. of Pages (incl this sheet): 3	

SUBJECT: Road Encroachment Review

I enclose a submission form for the Road Encroachment Review. Please note that I also wish to make an oral submission to Councillors.

Will you please acknowledge receipt of this Fax to me at cflinkenberg@solgm.org.nz.

Thank You

Road Encroachment and Sale Policy submission form

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post - Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name*

CON FLINKENBERG

Street address*

29a GRASS ST
 ORIENTAL BAY

Phone/mobile

(04)

978-1281 (W)

Email

flinkenberg@gmail.com

*Mandatory fields

I am making a submission

As an individual

On behalf of an organisation

Name of organisation

I would like to make an oral submission to the City Councillors

Yes

No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Objectives			<input checked="" type="checkbox"/>		
Policy principles			<input checked="" type="checkbox"/>		
Criteria for evaluating road encroachment proposals			<input checked="" type="checkbox"/>		
Consultation with affected parties			<input checked="" type="checkbox"/>		

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

YES. IT IS BASED ON THE FALSE ASSUMPTION THAT ALL ROAD RESERVES ARE THE SAME AND DOES NOT PROVIDE FOR INDIVIDUAL CIRCUMSTANCES.

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Flat rate		✓			
Differentiated fees					✓
Individual valuations	✓				

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support	Support	Neutral	Oppose	✓ Strongly oppose
------------------	---------	---------	--------	-------------------

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support	Support	Neutral	✓ Oppose	Strongly oppose
------------------	---------	---------	----------	-----------------

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
All changes from 1 July 2011					✓
Changes introduced as new licences are issued	✓				

Q7: Do you have any other concerns or views about how fees are set?

Second fold here

FreePost Authority Number 2199

Absolutely
POSITIVELY
ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL **Wellington**



Road Encroachment and Sale Policy (COP001)
Wellington City Council
PO Box 2199
Wellington 6011

Sharon Bennett

SUBMISSION
NUMBER

14

From: Bryan Smith
Sent: Thursday, 8 July 2010 4:47 p.m.
To: Sharon Bennett
Subject: FW: Submission attached
Attachments: Encroachment_Consultation_Submission_Form.doc

From: Derek Bullen [mailto:derek.bullen@xtra.co.nz]
Sent: Thursday, 8 July 2010 10:53 a.m.
To: Bryan Smith
Subject: Submission attached

Information from ESET NOD32 Antivirus, version of virus signature database 5260
(20100707)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Consultation Submission Form Template

This is the standard template form to be used in a formal consultation process. Please use the text below and add the specific details required in red.

Section One – details for the submission form

Publication and Design will format the below details and include in your consultation document.

Proposed Changes to the Road Encroachment and Sale Policy

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- By making a submission on this form or in writing and send it to us by
 - Post – Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax 8013124
- By making a submission online at www.wellington.govt.nz
- By sending an email to: encroachment.review@wcc.govt.nz¹

Please contact the Wellington City Council on 499 4444 for more information.

Enter your name and contact details

/Mrs / Ms /Miss / Dr (circle which applies)

First name/Last name* Derek Bullen

Street Address* Museum Apartments 517/257 Wakefield Street, Te Aro, Wellington

Phone /Mobile (04) 802 5292 or 027 4761 567

Email derek.bullen@xtra.co.nz

* Mandatory fields

I am making a submission

As an individual

On behalf on an organisation Name of organisation

I would like to make an oral submission to the City Councillors() If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

¹ KS can set up a designated email address for your project and direct it to your email account

Consultation Submission Form Template

Section Two – Questions

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
Objectives		√			
Policy Principles		√			
Criteria for evaluating road encroachment proposals		√			
Consultation with affected parties		√			

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

The concerns are primarily with the setting of rental rates and the bases for the determination of the rates.

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (Council's preferred option); or (3) individual valuation of each encroachment licence. What are your views on these options?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
Flat rate	√				
Differentiated fees	?				
Individual valuations	?				

While there is some sympathy with either a differentiated fee and/or individual valuations rate, it is not possible to support either of these options without knowing the bases for such rate setting. There appears to be a simplistic approach to the differentiated fee and WCC appears to have rejected the Individual valuations. The concerns/issues are elaborated on below. Without further debate and consultation and a satisfactory outcome the existing flat rate is the preferred option.

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square meters of public land free of charge. What are your views on this proposal?

Strongly support	Support	Neutral	Oppose	Strongly oppose
√				

Consultation Submission Form Template

Q5: The Council proposes that the value of new airspace leases (for example for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease. What are your views on this proposal?

Strongly support	Support	Neutral	Oppose	Strongly oppose
			√	

While the Body Corporate supports this proposal in principle the concern is how this value may be determined over which there may be little or no consultation or avenue available for appeal should this be necessary. Presumably a Present Day Value will be calculated but on what basis? What will be the cost of the annual lease (how this is to be calculated is another question), over how many years (what will be the life of the lease/building -100years?), what rate of return will be expected? Depending on what figures are used the answer could lie anywhere between \$1,000 and \$100,000. The proposal is therefore opposed at this point in time.

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force. What are your views on these options?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
All changes from 1 July 2011			√		
Changes introduced as new licences are issued			√		

Is the Body Corporate correct in thinking that the existing flat fee will (at the same level subject to cpi changes) remain as is until there is a change of ownership only if changes are introduced as new licences are issued?

Q7: Do you have any other concerns or views about how fees are set? YES

There are a number of issues regarding the setting of fees that do not appear to have been considered fully or if they have are not referred to in the consultation documents.

The following issues need to be resolved prior to an adoption of the proposed policy and subject to further consultation and independent appeal if found to be necessary:

- 1 It is not considered to be appropriate to have the approach to fee setting debated as part of the annual plan process. The issues are too big to be part of a process where this matter will be swamped by a myriad of items that make up an Annual Plan. Furthermore it is not acceptable for the Annual Plan process to concern itself with just the 'Approach' to fee setting and not to the actual fees as proposed in the consultation documents.
- 2 The Museum Apartments has 14 balconies and with 16 enclosed spaces attached to and included within the living areas that are the subject of encroachment licences. The individual value of these footprints to individual properties will vary widely dependent on the floor level and whether it is part

Consultation Submission Form Template

of the living area. How will this differential be taken into account? It is noted that the estimated rental for Te Aro is based on free standing property and not apartment buildings.

- 3 How are the values to be discounted? Surely there has to be a difference in the discounted value between a car parking area in the residential areas used for 12 hours or so 24/7 and that of a balcony used for possibly no more than 40 hours a year.
- 4 It is assumed that a further discount will apply for the public good provided by the improved architectural appearance and streetscape provided by balconies and enclosed structures within the air space.
- 5 It can also be argued that a further discount should apply given that there is a quantifiable value and alternative use (road widening for pedestrian, traffic, cyclist, and parking for example) that can be established by the roading authority for road reserve at road level and/or bridges. What possible use could the roading authority have for the façade of an apartment building above say veranda level that has any other than architectural and streetscape value?
- 6 If WCC is looking to keep the administration of 'encroachments' simple the above arguments tend toward perhaps keeping the present flat rate system. Individual independent valuations are an alternative, but any such valuations must be carried out with the cost resting with WCC. It is not the present licence holders who are seeking a change in the policy. 5
- 7 In conclusion it appears to be the case that the implications of any of the fee approaches have not been thought through in sufficient detail to justify a decision being made on the basis of this consultation exercise. A further consultation exercise should be undertaken independently from the Annual Plan when more work has been carried out on the implications of a preferred fee approach that is seen to be just and fair by the licences and not perhaps seen as a further source of income for the Council. 5

SUBMISSION
NUMBER

70

Sharon Bennett

From: Bryan Smith
Sent: Friday, 9 July 2010 12:38 p.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: btharri@clear.net.nz [mailto:btharri@clear.net.nz]
Sent: Wednesday, 30 June 2010 5:15 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Bernie
Last Name: Harris
Street Address: 84 Mills Road
Suburb: Brooklyn
City: Wellington
Phone: 389 6637
Email: btharri@clear.net.nz

Would like to make an oral submission: Yes

I am making this submission: as an individual

Views on objectives: 1

Views on policy principles: 3

Views on criteria: 3

Views on consultation with affected parties: 5

Have concerns or views about the policy: Yes

Concerns or views: I hold an Encroachment Licence for garages in Ingestre St., Mornington. It was

of

initially obtained during the 1950s to ease the traffic flows along Mills Road when it was proposed to introduce buses returning to Brooklyn along the same route they came. Previously the buses returned via Mornington Road and Mckinlay Crescent.

When the trams were replaced in Brooklyn Road with trolley buses in the 60s, they continued up Washington Avenue, along Mills Road, the Ridgeway to Farnham Street and returned along the same route. This route was extended when Kingston was developed in the 70s.

The increase in vehicular traffic in the new millenium has not been facilitated at all due to the constraints of the old width of the roads in Brooklyn, Mornington, Vogeltown or Owhiro Bay.

Sadly, changes to the Encroachment policies over the last 20 years have not acknowledged the realities of these older suburbs in Wellington.

To use some of the expressions in the existing policy which may be meaningful to the legal profession, fails to appreciate the historical background to many encroachment licences in these areas.

I would therefore hope to expand on these during my oral submission, particularly where ownership of roads, and roading expressions e.g. road reserve require clarification. I am particularly concerned that land acquired under the Public Works Act may have some legislative conditions that have not been queried previously.

Poor policy analysis has been my experience since the Encroachment Licence was introduced in the early 70s

Flat rate: 1

Differentiated fees: 1

Individual valuations: 1

Views on first 50sqm: 1

Views on airspace leases: 1

Come into force as new licences are issued: 5

Have other concerns or views about how fees are set: Yes

Other concerns or views: As fees apply to the circumstances applying when the licence was obtained, as long as the licence fee is paid on time, they should remain unchanged throughout the period of the licence unless there is significant change in the location of that licence. Licence holders must be involved before any changes occur that could affect them financially.

Fees should only change due to default or transfer to a new licence holder after suitable negotiation.

The use of coercive power for Encroachment Licences is completely inappropriate.

SUBMISSION
NUMBER

134

Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL

Wellington

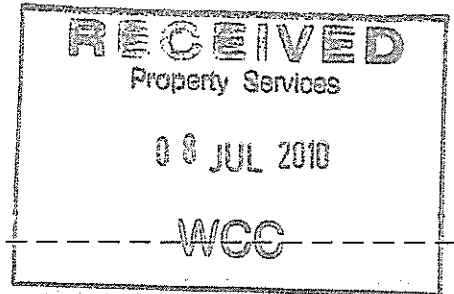
Road Encroachment and Sale Policy submission form

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post - Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.



First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name* DAVID UNDERWOOD

Street address* 14 RIMU RD
MELBURN

Phone/mobile 4728060 OFFICE

Email davidunderwood@clear.co.nz

* Mandatory fields

I am making a submission

As an individual

On behalf of an organisation

Name of organisation

I would like to make an oral submission to the City Councillors

Yes

No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Objectives				<input checked="" type="checkbox"/>	
Policy principles				<input checked="" type="checkbox"/>	
Criteria for evaluating road encroachment proposals				<input checked="" type="checkbox"/>	
Consultation with affected parties		<input checked="" type="checkbox"/>			

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

SEE ATTACHED NOTES

1131

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Flat rate	<input checked="" type="checkbox"/>				
Differentiated fees				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Individual valuations					<input checked="" type="checkbox"/>

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support	Support	<input checked="" type="checkbox"/> Neutral	Oppose	Strongly oppose
------------------	---------	---	--------	-----------------

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support	Support	<input checked="" type="checkbox"/> Neutral	Oppose	Strongly oppose
------------------	---------	---	--------	-----------------

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
All changes from 1 July 2011			<input checked="" type="checkbox"/>		
Changes introduced as new licences are issued		<input checked="" type="checkbox"/>			

Q7: Do you have any other concerns or views about how fees are set?

SEE ATTACHED NOTES.

Second fold here

FreePost Authority Number 2199



Road Encroachment and Sale Policy (COP001)
 Wellington City Council
 PO Box 2199
 Wellington 6011

7 July 2010

Wellington City Council
Road Encroachment and Sale Policy
Wellington City Council
PO Box 2199
Wellington 6140

Dear Review Committee

Attached is my response to your recently circulated survey. I have dealt with the questions and refer to these notes.

My understanding is that is a revenue raising exercise being carried out on behalf of the City Council. It will involve a lot more work for Council staff together with increased overhead costs so I am not sure that there will be any real long term benefits for the city in terms of the charges to be made. You need to also consider the disadvantages.

PART TWO

The nature of the encroachment

You mention that where the encroachments do not restrict public access then no fees are paid. I do not think that is correct as for instance where there are steep banks with no access the occupier still pays.

Possible approaches to setting rates

You need to keep in mind that the Council is having land looked after at no cost to the Council.

Charges for different suburbs

You note that the value of the encroachment land will be incorporated into the price vendors receive for their properties. I think it is wrong for you to generalise as an asset such as a garage on Council land has no real value. I bought one and confirm that that is the case.

Differential fee structure

A differential fee structure would be costly to calculate fairly as an appropriate charge will differ in the same suburb depending on the actual land involved ie a grass verge compared to a steep bank. The same rate applied in the same suburb could be very unfair and be too high or too low.

Differentiated fee structure

You need to keep in mind that a lot of Council land is looked after by suburban residents at no cost to the Council.

The pragmatic approach suggested using established market rental rates for the suburb with a set discount factor. This would be quite wrong as it does refer to the need to allow for topography and the actual use being made of the land.

At the bottom of that page of your notes in note two it states that all these factors significantly reduce the value of road reserve land. These are totally ignored when the Council is setting a value for sale purposes.

Individual valuation

I note this suggests a return of six percent on what could be a wrongly assessed value. why not use three percent or ten percent as six percent is quite arbitrary and would be set on an incorrectly assessed base.

PART THREE

Policy principles to take note of

If you are too stringent with your requirements then Wellington will continue to finish up with a row of garages on street frontages like boatsheds at the beach. It is possible to do better than this overall and to obtain a better appearance if you really try and are accommodating to residents' requirements. You need to take into account that road reserves can contribute positively to the overall look and feel of Wellington.

A main aim is to make an economic return from the asset where appropriate. Who is to determine the value, it can be an expensive and disputed process. my recommendation is to sell wherever possible and to invest the proceeds in civic amenities.

5.3

You should encourage residents to maintain and beautify unformed road areas in their streets. You will not do this by charging them more for Council land that is being used. You need to be sure of the aim and what would actually happen. The outcome could well be more complaints to councillors about lack of attention to Council land as that is likely to happen. Parks and Reserves do assist but residents do a lot in return and at no cost to the city.

Annex 2

Your final paragraph states "the valuation of the land will be assessed on the basis that the additional land will add value to the proponent's existing title. This valuation will take into consideration variations in the final survey area, any market movement in land value since the date of the initial valuation and any further conditions imposed by the Council." My experience shows that such objectives are simply not true. In my case I had an independent valuation where the valuer came to his conclusion on the basis of proven land values from sales in the area. The Council value was about double this amount and was based on land values for a development project. I was told it could cost \$10,000 in fees and take two years for the process to be completed with the possibility that the final answer would be no to any sale.

I appreciate that the timeline has since been improved but a major overhaul to the selling process is required if residents are to be interested in buying road reserves.

What you are proposing will be complex and expensive to implement and my recommendation is that your objective should be to keep the system simple.

I speak from experience as I maintain some adjoining road reserve at no cost to the Council and have been frustrated in an attempt to make a purchase.

I wish to be heard at the Council hearing.

Yours faithfully

A handwritten signature in black ink, appearing to read "David Underwood". The signature is written in a cursive style with a large initial 'D' and a long, sweeping tail.

David Underwood

**SUBMISSION
NUMBER****109****Sharon Bennett**

From: Bryan Smith
Sent: Wednesday, 7 July 2010 1:21 p.m.
To: Sharon Bennett
Cc: Raewyn Picken
Subject: FW: submission attached
Attachments: encroachmentsubmission.doc

Raewyn

this submitter raises a specific issue (not policy related) at the end. Grateful if someone in your team could deal with this one.

cheers

B

From: Jenny Lewis [mailto:jennylewis@paradise.net.nz]
Sent: Wednesday, 7 July 2010 12:34 p.m.
To: Bryan Smith
Subject: submission attached

7/07/2010

Name and contact details

Ms Jennifer Lewis
70 Cecil Road
Wadestown
Wellington 6012

Phone (04) 4729228

email: jennylewis@paradise.net.nz

I am making a submission as an individual. I would like to make an oral submission to the City Councillors.

Road Encroachment and Sale Policy Submission

My concerns and views about the draft Road Encroachment and Sale Policy are outlined below.

Road Encroachment Licences for garages and carpads

When I applied for a Road Encroachment Licence to build my garage on Road Reserve in the late 1980s I understood that I was providing a public good by ensuring that my car was parked off the road. I had also thought that it was continuing council policy to encourage off-street parking by requiring property owners to apply for a Road Encroachment Licence when subdividing property.

Under this draft policy I now feel penalised for building my garage as my neighbours park for free on the road. I live in a narrow street with many bends, like many other Wellington streets. Over time this street has become more and more congested, not only are there more cars there are often trailers, some quite large, parked in the road impeding traffic flow. Not only is this a hazard for motorists it is also a danger to cyclists.

I would encourage the council to look at the whole effect of car parking, not focus solely on encroachment policies. People who park on the street are using a public good for a private gain and should pay a fee for this. I would like to see the area where Residents Parking Permits are issued increased to include not just the inner city suburbs but to areas immediately surrounding the inner suburbs such as Wadestown and Wilton. This would increase revenue for the council and at the same time reduce some of the congestion as some people may decide to use their garage, which is currently used for storage, for housing their car. Increasing the fees for Residents Parking Permits is another option that council could pursue.

Since Road Encroachment Licences for garages provide a public good regardless of land value I strongly support a flat rate fee. Any major changes to the fee structure should be introduced when new licences are issued.

I support the new section on 'consultation with affected parties' outlining the Council's expectations that property owners proposing Road Encroachments will consult with nearby property owners.

Town Belt encroachments.

Over time some of these encroachments appear to have morphed into a 'customary title' situation. The Town Belt is a marvellous asset and an excellent public good. The Council should ensure that there is no more encroachment creep and where possible restore any 'illegal' encroachments to the Town Belt when a property is sold. Also I would like to see the Council negotiate with property owners for public access to the town belt, see Appendix

I welcome the opportunity to express my views.

Yours faithfully

Jennifer Lewis

Appendix

Case study of a local encroachment

I am particularly interested in a short track on Tinkori Hill close to where I live which is now classified as no longer required. The reason is not that it is no longer required by walkers but that it exits on to a shared driveway which appears to have the status of a right-of-way.

The track runs from the low point of the Tinakori Ridgeline Walkway to an exit beside 173 Cecil Road. Its importance to walkers, like myself, are

- it is the lowest point on the ridgeline and very close to the point where the East -West connector meets the Ridgeline Walkway
- there is a logical route using the Mairangi bus service via the long flight of concrete steps from the bottom of Edgeware Road to Cecil Road. The top of the steps are close to the Cecil Road track entrance
- it provides easy access to Tinakori Hill for many households on the western side of the hill
- there is no alternative access between Weld St and the end of Cecil Road on the northwest side of the hill compared to three access points in close proximity further south (Monmouth Way, Huntingdon St, Glamorgan St)
- it provides easy access between Tinakori Hill and the eastern end of Otari-Wilton Bush off Churchill Drive
- it has historical significance as the old Maori track from Pipitea Park to Makara beach passed very close to it.

The track exits on to a shared driveway but households on that driveway have encroached on to the Town Belt. Would it be possible to negotiate with the owners so that they can use a small part of the Town Belt in exchange for public access up the driveway?

Road Encroachment and Sale Policy submission form

**SUBMISSION
 NUMBER**

60

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post - Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name*

BRETT MCKAY

Street address*

380 TINAKORI ROAD THORNDON

Phone/mobile

9720280

Email

brett.mckay@paradise.net.nz

* Mandatory fields

I am making a submission

As an individual

On behalf of an organisation

Name of organisation

I would like to make an oral submission to the City Councillors

Yes

No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Objectives		<input checked="" type="checkbox"/>			
Policy principles		<input checked="" type="checkbox"/>			
Criteria for evaluating road encroachment proposals			<input checked="" type="checkbox"/>		
Consultation with affected parties		<input checked="" type="checkbox"/>			

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

SEE ATTACHED SUBMISSION ATTACHED

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

Flat rate

Differentiated fees

Individual valuations

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support Support Neutral Oppose Strongly oppose

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support Support Neutral Oppose Strongly oppose

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

All changes from 1 July 2011

Changes introduced as new licences are issued

Q7: Do you have any other concerns or views about how fees are set?

SEE ATTACHED SUBMISSION ATTACHED

Second fold here

FreePost Authority Number 2199



Road Encroachment and Sale Policy (COP001)
Wellington City Council
PO Box 2199
Wellington 6011

SUBMISSION ON PROPOSED CHANGES TO THE ROAD ENCROACHMENT POLICY

D B MCKAY: 27 JUNE 2010

Introduction

My interest in the Consultation Document is as a residential encroachment holder. I lease an area of 15m² off Patanga Crescent in Thorndon which contains a car deck.

My comments are therefore made primarily with regard to road encroachments for residential parking.

The consultation document and the associated Draft Policy dated May 2010 signals a revival of the market led approach that was introduced in 1998 and subsequently abandoned. A major issue at this time was the attempt to relate fees to land values rather than a set fee based on encroachment area.

After some two years of assessment, consultation and review the market based fee approach was quietly dropped and an annual flat rate fee was reintroduced.

There had been clear opposition to the adoption of market led fees and I think a tacit acknowledgement by the Council of the complexities of applying such an approach and the high implementation costs.

In my submission in 1998 I raised three questions on the issue of fees which I think are still highly relevant.

1. What is the real value of unused road reserve land?
2. What is the actual monetary benefit to the private property owner? and
3. Do the advantages of a market based approach really outweigh the disadvantages?

I also commented at the time that we needed to understand the geography of road encroachments to better inform the debate.

None of these questions appear to have been fully or clearly addressed either then or now. In the latest review document there is no reference to any analysis justifying the preferred differential fee approach other than the newly framed policy principles that the Council will seek to make an economic return from the road asset and that the vast majority of encroachment holders should pay more.

To my mind an overriding matter in considering the question of fees, particularly for residential parking (which make by far the largest number of encroachments) is that residential owners do not seek them necessarily to make a financial gain. The need for encroachments has arisen from land development decisions made years ago that did not predict the rise in motor vehicle ownership or use and it is fortuitous that the formation of roads within the surveyed corridors now provides the opportunity for the provision some off-road parking. In more recent decades the Council has actively

pursued a policy objective of encouraging the provision of off-street parking through planning regulations and through the granting of road encroachments. It is a clear public objective to facilitate the ongoing growth and development of the city by ensuring that roads remain uncongested and are safe. This active encouragement by the Council over a long period of time, for sound public policy reasons, in my view outweighs the implicit assumption in the latest review document that private owners make a financial "killing" from holding an encroachment licence and benefits should be returned to the city.

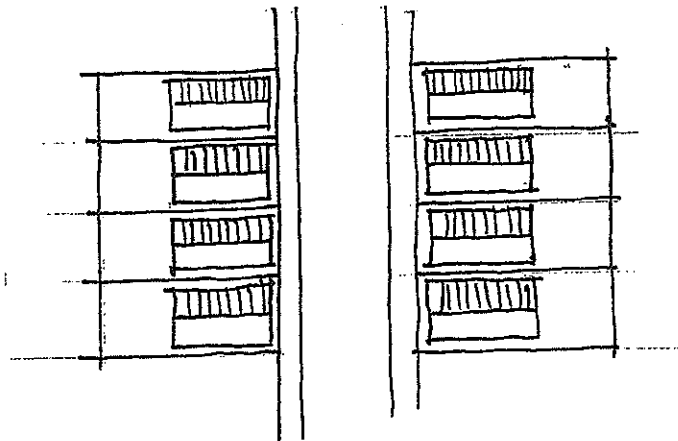
I believe that there is also an implicit assumption in the document that there is a significant inequity between the returns made by those in the so-called wealthy suburbs and those in suburbs where the land values are lower.

In my view such assumptions need to be questioned. As noted the analysis supporting the preferred changes is thin and completely ignores the geography of road encroachments. When the geography of encroachments is considered and the pattern of encroachments is related to a map of land values on a city-wide scale some interesting conclusions can be drawn.

Background to the geography of encroachments

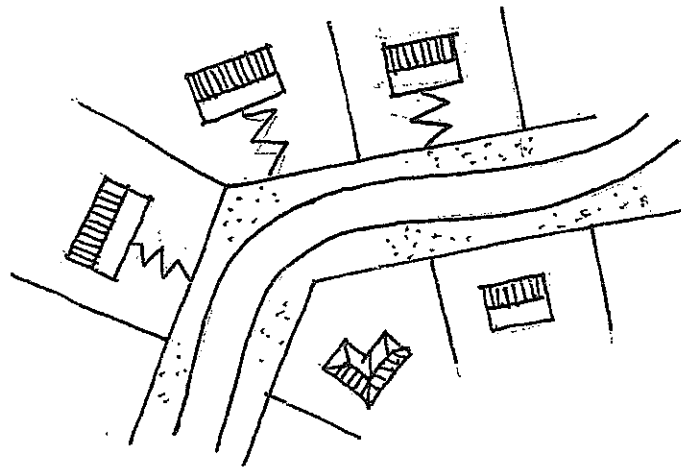
Before commenting on matters relating directly to the review it is useful to say a few words about the historical settlement and planning of the city which has a bearing on the encroachment issue.

First, the existing high value suburbs which generally surround the central area developed from the 1840's and was more intensively settled. Most houses have narrow front and side yards which has prevented adaptations for the motor age. The design of roads was characterised by full sealing of the road reserve without berms. This has provided fewer opportunities for road encroachments.

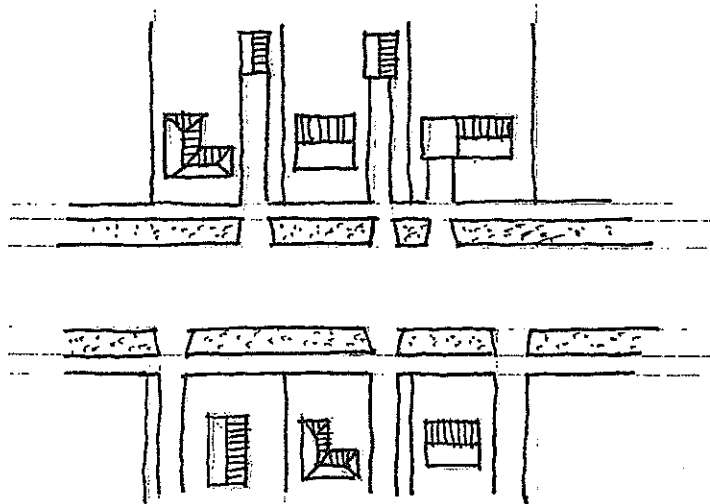


Secondly, with the advent of trams and the expansion of the city into the more hilly middle suburbs, subdivisions were developed with predominantly pedestrian access. Car ownership was not common. The design of roads followed the contour of the hills and the narrower carriageways within the road reserve provided undeveloped residual

space often over cliff or banks. This residual land has subsequently become available for road encroachments.



Thirdly, in the post WWII era with increasing car ownership and the introduction of town planning requirements new subdivisions were developed particularly in the northern suburbs with full drive-on capability. Roads were engineered to meet design standards with grass berm which left little land with the potential for encroachments.



Comment on the proposed differential fee policy and the implementation approach based on suburbs with similar land values

With the background in mind I have taken a map of the road encroachments in the city and compared this with a map of land values (see maps attached as Appendix 1 and Appendix 2). Some interesting patterns are revealed.

The vast majority of encroachments are found in the middle suburbs where land values are in what could be defined as the middle range.

In the high value suburbs around the central area (and Seatoun which has been specifically mentioned in the review document) the number of encroachments are very low.

In the lower valued suburbs generally north of the Ngauranga Gorge the numbers of encroachments are also very low.

What then are the implications of this for the proposed review? I would say the following:

- Any argument that a flat rate approach creates significant inequalities must be questioned. There are relatively few encroachments in both the high and low value suburbs and I would say so low in the so-called wealthy areas to make little difference to the financial returns that the Council might have been persuaded to think are on offer. The nature of the settlement pattern in these areas is also such that there is unlikely to be any significant growth of encroachments over time.
- Similarly, in the lower value areas from Johnsonville and Tawa the low level of encroachments would question the need to make changes to address the perceived inequalities of the current system.
- The suggestion that the acknowledged complexities of introducing a differentiated fee policy would be addressed by a pragmatic approach of grouping suburbs with similar land values must also be questioned. The vast majority of encroachments are located in what I have called the middle suburbs where land values are generally in the middle range. Grouping these suburbs would in effect be creating a new standardised approach based on land value rather than encroachment area. Given the acknowledged complexities of introducing a market based system it would have to be asked if a change is really worth the effort.
- It can be seen that in the middle suburbs there are pockets of higher value land but any attempt to redefine existing suburban boundaries to facilitate the administration of the encroachment policy would be fraught. This would simply add to the complexities of establishing a new system.
- It should also be noted that the existing suburban boundaries are a somewhat arbitrary creation and generally there is no strong correlation with land values. The diversity of land values within existing suburbs hints that any calculation for encroachment purposes will simply generate new inequalities.

The conclusion that I draw from the above is that there would be real difficulties in establishing an acceptable fee structure based on land values. The problems were not resolved in the 1990's and there is nothing in the current document to provide a clear picture of how the system would work in practice.

In my view there needs to be considerable additional work to better inform the public on this matter with particular regard to the geography of road encroachments and the relationship to land values.

The discount factor

The preferred differential fee approach acknowledges that to set rental rates for road encroachments, the Council would need first to agree a discount factor because road reserve land is not as valuable as average land.

I am not an economist so I don't want to delve too deeply into this area but I am aware that there are many variables that could impact on setting a discount rate.

I have already mentioned Council policies that actively encourage the use of road reserve land.

In addition there are locational and topographical factors and the amenity benefits of residents maintaining public land.

Other factors may be specific to particular encroachments such as parking encroachments on decks which provide parking facilities for private owners but still enable public access underneath.

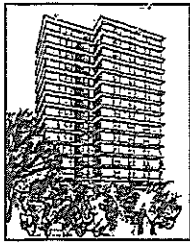
In my own case and that of my neighbours at 378 and 382 Tinakori Road encroachment parking was actually required by the Council.

When the properties were being restored in 1986 the developer at the time was advised by the City Planner that too much of the site was proposed to be covered in asphalt to provide access to new on site parking spaces. Provision of parking met one Council requirement but in this case conflicted with another which required the allocation of at least 20 percent of the site area as usable open space. The conflict between the objectives of the various rules was resolved by the granting of encroachments on very steep unused road reserve land for the construction of parking decks.

What this signals to me that a set discount factor is unlikely to be responsive to the varied factors that encroachment holders would regard as fair and reasonable and there is nothing in the review document that provides any clue as to how it might be calculated. Given that the discount factor would be an important component of setting the encroachment fee it is believed unacceptable for this matter to be dealt with so cursorily in the review document.

Conclusion

It appears as though the 2010 review of the Road Encroachment Policy which promotes a market approach to the assessment of fees is a re-run of the review of the 1990's. In this regard it is most disappointing that the current review takes no account of the previous experience. It is acknowledged that a market approach generates administrative complexities and the focus of this brief submission indicates that the complexities might be deeper than anticipated. Unless the benefits of a market approach can be clearly demonstrated it would seem sensible to retain the present system. Fee calculations based on the area of encroachments at least provides a certain means of measurement that can't be disputed and is an approach that is more readily understood and accepted by encroachment holders.



Herbert Gardens Limited
186 The Terrace
Wellington

SUBMISSION
NUMBER

88

RECEIVED
Property Services

06 JUL 2010

WCC

2 July 2010

The Encroachment Review
Wellington City Council
P O Box 2199
Wellington 6140

Road Encroachment and Sale Policy – Submission

Herbert Gardens Limited (here in after referred to as “the Company”) opposes proposed changes to the Wellington City Council Road Encroachment and Sale Policy and wishes to make an oral submission in support.

1. Background

Herbert Gardens is a company-share apartment complex situated at 186 The Terrace. Built in 1964-65, the building is widely recognised as one of the first modern apartment complexes to be constructed in Wellington. There are 54 apartments as well as a flat for the live-in custodian. As a company-share apartment building it is operated by a board of directors established under the Companies Act 1993.

Given its central location and the relatively large size of the individual apartments, Herbert Gardens has a stable population and residents tend to live here long-term. One of the original residents continues to live here and many have been resident for more than 20 years. As there are just four apartments on each floor and given the significant restrictions on renting them, residents tend to know their neighbours and take an interest in their wellbeing resulting in a community-spirit that many modern unit title complexes lack.

Many years ago in either the late 1960s or early 1970s, the Wellington City Council exercised its powers under the Public Works Act and acquired a strip of land at the front of the Herbert Gardens property for the future road widening of The Terrace. According to long-time residents of the building, the then sloping land was unsealed and grassed. Subsequently, in order to improve parking for the apartment complex, the Company gained an encroachment licence for the land. A retaining wall was built and the area was sealed. There are now nine car-parks on the land—two of which exit directly onto The Terrace—and seven others which are accessed through the drive into the upper car parking area. The annual licence fee for the encroachment is paid by the Company which is the licensee. The Company in turn divides the amount by nine and passes it on to the nine residents who have rights to the car parks in question granted from the Company.

Secretary: Roger A Phillips
P.O. Box 25-476, Panama Street, Wellington, 6146, New Zealand
Telephone: (04) 499-7914, Facsimile: (04) 499-7917
Email: aliosys@xtra.co.nz

The improvements undertaken to the encroachment—the retaining wall, maintenance of the sealing and the planter boxes—are maintained by the Company and/or residents without any support from the Council. The only work undertaken by the Council on the land in recent years was after council-employed contractors damaged a water pipe to the property which caused subsidence in the upper-car park sealing.

2. Consultation

The first issue of concern for Herbert Gardens Ltd is the manner in which the Council has consulted with encroachment holders regarding its proposed changes to the policy. The proposal was first brought to the attention of the Board by a director who saw a reference to the proposed policy in a council advertorial in *The Dominion Post*. Another resident saw a copy of the proposed policy change document in the Wellington City Libraries and brought it to the attention of the Board.

Almost two weeks into the consultation period, the Company received a flyer from the Council that provides a basic summary of the proposed changes. The Company does not consider this to be adequate notification or a full explanation of the ramifications of the Council's proposals. It seems quite clear from the emphasis in the main discussion document that the Council considers it is gaining a poor rate of return on land being used for encroachments and it seems equally clear that many, if not most, licence holders will face higher fees in the future. There is no indication in the flyer that this might happen and the Company suspects many encroachment holders may consider the proposals to be merely mechanical changes.

The Company was also surprised that a few days before the proposed changes were released for consultation it received a letter the Council dated 31 May 2010 advising of the annual Consumer Price Index increase in the fee from \$11.25 per sq m to \$11.48 per sq m. Given that the Council decided more than a year ago to review its encroachment policy it seems surprising that in a gesture of good faith, this letter did not make any reference to the proposed discussion document and include a copy of the consultation document.

The Company therefore contends that the Council's consultation process is flawed. As the Court of Appeal said of consultation in a landmark case in 1993: "*Implicit in the concept is a requirement that the party consulted will be (or will be made) adequately informed so as to be able to make intelligent and useful responses.*"¹ The Company questions how encroachment holders can be expected to be "*adequately informed*" without being given detailed notification of the proposed change(s). Given that the Council has only set aside one month for the consultation period, the Company suspects many encroachment holders will be unaware of the full ramification of the proposed changes until a letter arrives in their mailbox in a year's time informing them of a proposed increase in the fee under a policy which has already been agreed to.

¹ Wellington International Airport Limited and others v Air New Zealand [1993] 1 NZLR 671, at p. 675.

3. Lack of detail

The second major area of concern for the Company is the lack of detail in the discussion document. First, the document outlines in great detail the perceived inequities of the current system and the various costs and benefits of it and the two proposed systems. The document does not outline how the current flat-fee system was arrived at and how long it has been in place. Nor does the document outline what prompted councillors to review the current system or whether it had received any calls from the public to do so. Furthermore, there is no indication of how much additional revenue the change in policy is expected to generate.

Secondly, the Company is concerned at the lack of detail in the document regarding the proposed impact on individual encroachment holders. The document notes that the Council proposes to use a "discount factor" in calculating the rental fees to be paid in future under the proposed options. The document recognises that using market rentals for calculating rentals is unfair in that road reserve, as encumbered land that is subject to many restrictions, simply does not have the value of freehold land.

However, there is no indication in the document as how much the Council proposes to discount the market rate. Therefore, the Company can only be guided by Table 1 in the document. Assuming the building is in the area described as "Wellington Central" (this is an assumption as there are no maps of the areas concerned); it indicates an increase of 670%. Other areas (e.g., Oriental Bay) may face increases of more than 1500%. While the document rightly states that these figures are not a proxy for the value of road reserve, in the absence of any other information, the Company can only assume that it will be facing a significantly increased fee.

Herbert Gardens Ltd contends that the Council should, as a responsible public and statutory authority, specifically outline the discount factor to be applied and the rate to be applied in individual areas as a part of the consultation process. This would allow individual encroachment holders to clearly understand the impact on them and therefore allow them to engage meaningfully with the Council in the consultation process. The current two-step consultation process the Council is undertaking—change the system first, then decide on the values, discount factor and fees to be charged later—will only create unnecessary public dissension when encroachment holders are informed of the new proposed fees to be applied as a part 2011-12 Annual Plan consultation process.

4. Other issues

Herbert Gardens Ltd is also concerned that it will be unfairly treated by the use of land value to provide a basis for the rental fee should the Council decide to use individual valuations. Most of the value to the land in question has been added by the Company since the land was licenced back from the Council. The Company built a retaining wall and created nine car parks for residents whose cars would otherwise be parked on the street, further congesting Wellington's narrow roads. It continues to maintain the land and through the planter boxes maintained by residents, beautify the street. While there is clearly significant private benefit to the residents who park their cars on the encroachment, the Company contends that it has also provided significant

Secretary: Roger A Phillips
P.O. Box 25-476, Panama Street, Wellington, 6146, New Zealand
Telephone: (04) 499-7914, Facsimile: (04) 499-7917
Email: aliosys@xtra.co.nz

public benefits to the community by putting to good use land that would otherwise lay idle. The broad brush approach of the discussion document fails to recognise the differences between individual encroachment holders.

The Company also questions how the Council might apply a staggered implementation to a company-share apartment building. As Herbert Gardens Ltd, rather than individual residents, holds the encroachment licence, it is unlikely there will ever be a change in the encroachment licence parties to prompt a change in the fee.

The Company is also concerned that the discussion document is written on the assumption that all encroachments have been created from existing road reserve or park reserve. There is no recognition of cases such as that of Herbert Gardens where the land was acquired by the Council under the Public Works Act for road widening that it has, as yet, yet to undertake.

The Company is also concerned that the consultation and the flyer refer to the fee being \$11.25 per sq m when the Council must have known for at least a couple of months that it was to increase to \$11.48 per sq m. The discussion document therefore underestimates the fee being paid by encroachment holders.

5. Conclusion

Herbert Gardens Ltd contends that the discussion document on the proposed changes to the encroachment policy and the consultation process is inherently flawed. At the very least, the Company requests that the Council extend the deadline and notify each encroachment holder of the detailed proposals by sending a copy of the full discussion document. This would directly invite all encroachment holders the opportunity to consider the proposals and to make a submission. The Company contends that failure to do so will result in many encroachment holders not being aware of the change until they are notified of the proposed increased fee with the 2011-12 Annual Plan process. This will inevitably come as a surprise to those affected who will no doubt publicly express their anger at what they see as inadequate consultation. If the Council applies the "how would this look like on the front page?" test, it will see the wisdom of the extending the deadline by a month and sending a copy of the detailed proposals to individual encroachment holders.

However, the Company believes that for a fully engaged consultation process were to occur, the Council should have chosen to consult on its preferred option and directly outlined how it would impact on individual encroachment holders. With the two-stage consultation process the Council has embarked upon, individual encroachment holders who chose to make a submission are in effect "shadow boxing." How exactly can individual encroachment holders "*make intelligent and useful responses*" (to quote the Court of Appeal) when they do not know how the proposal will directly impact upon them? It seems clear that for many licence holders there will be an increase in the fee, but it is totally unclear how much that will be. The Council should have the courage to "nail its colours to the mast" and specifically state what the charge will be in individual areas. It should also state how much additional revenue will be generated by its proposals so that a meaningful consultation process can occur.

Secretary: Roger A Phillips
P.O. Box 25-476, Panama Street, Wellington, 6146, New Zealand
Telephone: (04) 499-7914, Facsimile: (04) 499-7917
Email: aliosys@xtra.co.nz

Herbert Gardens Ltd looks forward to being heard in support of its submission.



Garry Wilson
Chairman
Herbert Gardens Ltd



Roger Phillips
Secretary
Herbert Gardens Ltd

Secretary: Roger A Phillips
P.O. Box 25-476, Panama Street, Wellington, 6146, New Zealand
Telephone: (04) 499-7914, Facsimile: (04) 499-7917
Email: aliosys@xtra.co.nz

Road Encroachment and Sale Policy submission FORM

NUMBER

146

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post - Freepost 200, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name: Grant Stevens

Street address: 8 Plymouth St
Karori 6012

Phone/mobile: 021 276 9334

Email: grant.stevens@offx.com

*Mandatory fields

I am making a submission:

As an individual On behalf of an organisation Name of organisation:

I would like to make an oral submission to the City Councillors Yes No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

(1) Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

Objectives

Policy principles

Criteria for evaluating road encroachment proposals

Consultation with affected parties

(2) Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

We feel that draft changes are not sufficient - any e/ment licence should only be granted if neighbours given written consent (when e/ment in front of neighbours property). WCC should not have ultimate discretion in making this decision.

SUBMISSION
NUMBER

147

Sharon Bennett

From: Bryan Smith
Sent: Friday, 9 July 2010 10:06 a.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: gail@irwin.net.nz [mailto:gail@irwin.net.nz]
Sent: Thursday, 8 July 2010 12:33 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Gail
Last Name: Irwin
Street Address: 90 Kelburn Parade
Suburb: Kelburn
City: Wellington
Phone: 04 9738049
Email: gail@irwin.net.nz

Would like to make an oral submission: Yes

I am making this submission: as an individual

Views on objectives: 2

Views on policy principles: 3

Views on criteria: 1

Views on consultation with affected parties: 5

Have concerns or views about the policy: Yes

Concerns or views: The objectives ought to address the issue as to whom the "overall net benefit"

will accrue and ought to mention the potential disadvantages to others & how these will be considered & rectified.

The current requirement re liability insurance for balconies is inadequate in its quantum & is an absolute rebuttal for any concept that the right to overhanging balconies can be sold. Council would lose any ability to ensure that the public are at least protected via such liability insurance.

Furthermore currently Council do have the ability to require maintenance of such balconies & that would be likely to be lost or become ineffective.

There is at least one house in Kelburn (by Hadfield Terrace) where the house occupies essentially its entire section and the outside patio is on an encroachment to which access is excluded for the public. (Its driveway is on another encroachment.) It is unfair that such owners can derive so much benefit from an encroachment yet not pay at all.

A proposed encroachment should NEVER be allowed to interfere with another with a property owner's right of access to any road across the frontage between the road and their private property.

I have a serious problem with an adjacent encroachment (84 Kelburn Parade) that was not built where it is shown on Council plans & instead its "dug out" portion mostly overlaps my land at 88 Kelburn Parade rather than their own at 84KP as on the plans. They were permitted by Council to build a WOODEN retaining wall (which has deteriorated) across my land and a CONCRETE retaining wall across their own. Council say that the owners of 84 Kelburn Pde are responsible to maintain the retaining wall but have done NOTHING to ensure this happens despite my repeated requests over many years. Meanwhile the retaining wall continues to degrade & the land (at the moment merely from a Council strip but later it will be from my property) has begun to slip. Council should never have permitted such behaviour in the first place & once they have, they have an absolute responsibility to the adjacent landowner to rectify matters. Council has put my land at serious risk of erosion through no fault of mine.

Flat rate: 4

Differentiated fees: 1

Individual valuations: 1

Views on first 50sqm: 5

Views on airspace leases: 1

Come into force from 1 July 2011: 2

Come into force as new licences are issued: 5

Have other concerns or views about how fees are set: Yes

Other concerns or views: I believe that historical (ie really old) encroachments ought to be treated with somewhat more consideration for the "owners". I have a small subterranean encroachment in a garage that is below the minimum size but I have to pay the minimum fee. As it is subterranean it would cost me vast amounts of money to rectify the encroachment but its existance was quite unnecessary when the garages were first built - yet somehow Council let the garages be built slightly overlapping the road reserve. The concept of paying this minimum fee based on land value for an area well in excess of that actually involved is abhorrent and unfair.

I disagree with the idea that high land value should incur higher costs for a similar reason. Many of the very old encroachments were unnecessary and arise because of historical laissez faire attitudes of Council yet these are in the areas now deemed to be of high land value. Current owners cannot necessarily afford to rectify what would have cost nothing to fix when the structure was originally built yet would be forced to pay very high annual charges. (A simple solution in my case might be for Council to sell me the two small strips of land involved but I am probably too old now to be able to afford to purchase those either.) There is an assumption behind this proposal that because people live in a high land value area they can afford ever rising high costs whereas for many the reality is that they are already struggling four times a year to pay their rates which are already high because of the perceived value of their land.

However there may be an arguable case the all FUTURE encroachments could be considered with payment on land-value basis as it is factor which can be properly considered BEFORE an encroachment is created rather than apply it to those already entrapped. On the other hand, it might also be considered that it is in precisely such areas that the value of public benefit in removing cars from the road is much higher whilst in areas of low land value there is probably little need to encourage off road parking.

SUBMISSION
NUMBER

163

Sharon Bennett

From: Bryan Smith
Sent: Friday, 9 July 2010 1:14 p.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: carolyn@ojocreative.com [mailto:carolyn@ojocreative.com]
Sent: Thursday, 8 July 2010 4:42 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Carolyn
Last Name: Small
Street Address: 83 Rakau Road
Suburb: Hataitai
City: Wellington
Phone: 04 3862257
Email: carolyn@ojocreative.com

I would like to make an oral submission: Yes

I am making this submission: as an individual

Views on objectives: 1

Views on policy principles: 1

Views on criteria: 1

Views on consultation with affected parties: 3

Have concerns or views about the policy: Yes

Concerns or views: When we bought our property we knew the costs including the road

encroachment and our disposable income i.e. what we can afford. Continual tweaking of this policy can affect our ability to maintain our freehold title.

Shouldn't any policy that can potentially harm your ability to maintain a freehold title be controlled at a National level and be consistent at a National level.

Flat rate: 5

Differentiated fees: 1

Individual valuations: 1

Views on first 50sqm: 1

Views on airspace leases: 1

Come into force from 1 July 2011: 1

Come into force as new licences are issued: 1

Have other concerns or views about how fees are set: Yes

Other concerns or views: The new policies for calculating these fees seem quite unfair. The current fee structure seems much more fair.

SUBMISSION
NUMBER

142

Sharon Bennett

From: Bryan Smith
Sent: Thursday, 8 July 2010 4:49 p.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: janswanwick@hotmail.com [mailto:janswanwick@hotmail.com]
Sent: Thursday, 8 July 2010 11:06 a.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Janice
Last Name: Swanwick (Atkinson)
Street Address: 8 Laura Ave
Suburb: Brooklyn
City: Wellington
Phone: 3856339 / 0276123438
Email: janswanwick@hotmail.com

Would like to make an oral submission: Yes

I am making this submission: as an individual

Views on objectives: 4

Views on policy principles: 2

Views on criteria: 1

Views on consultation with affected parties: 5

Have concerns or views about the policy: Yes

Concerns or views: I agree the council needs a consistent policy on encroachments, and a fair

541

return (at a sum fair to property owner as well as council).

However, the policy ignores a vital principle – fairness for property owners. When Wellington suburbs were subdivided many property owners received at no extra cost or inconvenience access straight onto their property from the footpath/road. Others were held hostage by the council, in that often significant chunks of council-owned land between their property and the road provide their only access. Perhaps landowners whose properties directly adjoin the road/footpath should be charged a fee for that amenity.

The new policy needs to be far more equitable, and not charge for paths or steps (with safety features) across council land when they are the only means of access.

I agree that structures such as car decks, garages and sheds on encroachment land should generate a return to the council as they benefit the property owner. I note though that the encroachment fee for our double garage is approximately a third of the sum we pay in rates for our house. Yet the garage is considerably more than one third smaller than the house (and doesn't have a sewerage connection). I suggest the size for a car deck/garage encroachment be calculated as a proportion of the total size of the buildings on the ratepayers' property.

I agree the use of encroachments should not prevent the public accessing parks and reserves, walkways or roads. However, where the encroachment leads only to private property structures such as retaining walls to make the approach safe, fences or hedges to prevent users falling off paths and handrails for support should not attract fees. And council fences for safety along the edge of public footpaths should be disregarded.

Licence holders should also get some reward for keeping their encroachments tidy, and in particular for amenity plantings. We have planted the council land our path crosses in a range of native species, thus increasing the biodiversity of our area and making it more attractive to neighbours and passersby as well as ourselves.

I support consultation with neighbours about the effect on their amenities – views, sun and light, wind tunnel, removal of vegetation, and general enjoyment of their properties. The council need to take account of future neighbours eg, when a property owner buys an adjoining property, applies for an encroachment and does not object on behalf of her or himself.

Flat rate: 5

Differentiated fees: 4

Individual valuations: 2

Views on first 50sqm: 1

Views on airspace leases: 4

Come into force as new licences are issued: 5

Have other concerns or views about how fees are set: Yes

Other concerns or views: As above



Road Encroachment and Sale Policy submission form

**SUBMISSION
 NUMBER**

56

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post – Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name*

Bernard O'SHAUGHNESSY

Street address*

APT 239 | 320 Mansfield St Newtown

Phone/mobile

021.1888-289

Email

Bernardboss@yahoo.co.uk

* Mandatory fields

I am making a submission

As an individual



On behalf of an organisation

Name of organisation

HART

I would like to make an oral submission to the City Councillors



No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Objectives		<input checked="" type="checkbox"/>			
Policy principles		<input checked="" type="checkbox"/>			
Criteria for evaluating road encroachment proposals				<input checked="" type="checkbox"/>	
Consultation with affected parties		<input checked="" type="checkbox"/>			

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

YES.

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Flat rate					✓
Differentiated fees				✓	
Individual valuations		✓			

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
		✓			

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
					✓

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
All changes from 1 July 2011		✓			
Changes introduced as new licences are issued		✓			

Q7: Do you have any other concerns or views about how fees are set?

YES - ALL ENCROACHMENTS IN CBD AREA BE INCREASED IN COSTS BY 1000% - AND BE SUBJECT TO ANNUAL RENEWAL.

Second fold here

FreePost Authority Number 2199



Road Encroachment and Sale Policy (COP001)
 Wellington City Council
 PO Box 2199
 Wellington 6011

SUBMISSION
NUMBER

143

Sharon Bennett

From: Bryan Smith
Sent: Friday, 9 July 2010 10:15 a.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: jkholland@hotmail.com [mailto:jkholland@hotmail.com]
Sent: Thursday, 8 July 2010 1:29 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Jason
Last Name: Holland
Street Address: 148 Campbell St
Suburb: Karori
City: Wellington
Phone: 04 439 7696
Email: jkholland@hotmail.com

would like to make an oral submission: Yes

I am making this submission: on behalf of an organisation

Organisation Name: The Holland Family

Views on objectives: 1

Views on policy principles: 1

Views on criteria: 1

Views on consultation with affected parties: 3

Have concerns or views about the policy: Yes

241

Concerns or views: I'll firstly introduce my family. Me and my wife Nadia and our two little girls (Isla, 4 and Chelsea, 2) moved from Christchurch to Wellington in January 2009 when I got a job in central government as a policy analyst. We bought our house in August 2009. At the same time, we applied for and were granted an encroachment licence for an area of 45 square metres. This rolled over the same licence granted to the previous owner about 7 years ago. The licence allows for fencing and planting but not for structures (at least in the current sense of the word 'structure', given the proposed new definition). It does not require us to pay an annual charge. It basically allows us to continue having a small strip of grass, row of plants, and a fence.

The main benefit in having the licence is that it allows us to keep the existing fence in place, which in turn keeps the kids off the road. The area it encloses, when added to our land, also lets us kick a ball around for a couple of months in summer which the girls enjoy.

The proposed policy change will make us pay an annual charge for this privilege, in the order of several hundred dollars a year. That will make us forfeit the licence. To keep the kids safe I will need to build a new fence a couple of metres closer to the house. We simply don't have a lot of spare time and money to do that sort of thing, it is annoying, and frankly we don't see how the public or the council will benefit as a result of the policy change making us do this.

I'll provide more information on our specific circumstances, ie photos of the land etc, to accompany my oral submission.

I've also read the draft policy, and consider that:

(1) this proposed change doesn't match with the quite reasonable objective "to provide a framework for consistent decision-making". For example, you can ensure private use of an encroached area by dense plantings. However it appears that it is only privatisation by hedge/fence that is singled out for charging (by virtue of the new definition of 'structure'). The current approach is more consistent as it treats dense plantings/hedges/fences in the same way - appropriate given they achieve basically the same thing (except our kids would escape onto the road through a hedge/dense planting, so we need a fence). It also avoids debate about contentious terms, for example about what is a 'hedge' versus what is a 'dense planting'.

(2) this change has changed a relatively simple, transparent policy into a complicated and uncertain policy. For example, when looking at the fee waivers, is it legitimate for us to have a fee exemption to allow retention of a fence for 'public safety' purposes - ie, to keep the kids off the road? What if we sell our house to someone who doesn't have little kids - would they have to pay just because they don't have kids?

(3) When we were in the process of buying our property, my main concern was in relation to annual charges on the encroachment licence - upon enquiry with council officers, we were reassured that we did not face ongoing charges. The proposed change has the consequence of making this encroachment a future liability for us whenever we look to sell - unless we firstly forfeit it, of course.

(4) the third policy principle states that "higher rental charges" should accrue "especially those that exclude public use". We note again the inconsistency described above as to ways of exclusion. We also ask - what public use, other than perhaps the illegal dumping of rubbish, does the council expect on a parcel of land less than 50 square metres? I can assure you our neighbours who are identical to us except their road reserve is grassed rather than fenced off (they don't have little kids so this is ok for them), do not have families picnicking on this area of land simply because it is owned by the council.

Flat rate: 1

Differentiated fees: 1

Individual valuations: 1

Views on first 50sqm: 1

Views on airspace leases: 3

Come into force from 1 July 2011: 1

Come into force as new licences are issued: 1

Have other concerns or views about how fees are set: Yes

Other concerns or views: I've explained why we don't like the proposed policy. On a more positive note, we actually think the current approach of no annual fees for fenced/hedged encroachments with no structures of less than 50 square metres is good, because:

(1) it is relatively clear, easy to understand, and consistent (when compared to what is now proposed)

(2) it reflects that such small encroachments provide only marginal private benefit anyway (given their small size, lack of ability to put real structures on the land, and the lack of certainty about tenure resulting from the conditions associated with the licence)

(3) there are no 'losers' from this arrangement, because there is no legitimate public use for such land - in fact, these small parcels are really a liability for the council rather than an asset.

An alternative suggestion which may or may not be of interest to the council - why not pursue with central government a change to the cumbersome process around road-stopping to make it easier for councils to stop and sell legal road land to adjacent landowners, where that land has no foreseeable public use. This government is clearly interested in removing red-tape so the time would seem right to raise this?

Road Encroachment and Sale Policy submission form

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post – Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

SUBMISSION NUMBER	5
------------------------------	---

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name* **Paul Franken**

Street address* **1/83 Monorgan Rd
Strathmore Park Wellington 6022**

Phone/mobile **04 976 8338**

Email **paulfranken@paradise.net.nz**

* Mandatory fields

I am making a submission **but have been asked to keep the**

As an individual On behalf of an organisation Name of organisation **Strathmore Park Progressive + Beautifying assn informed**

I would like to make an oral submission to the City Councillors Yes No
 If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Objectives		✓			
Policy principles		✓ some		✓ some	
Criteria for evaluating road encroachment proposals		✓		✓ some	
Consultation with affected parties		✓			

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

The arbitrary nature

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

Flat rate

Differentiated fees

Individual valuations

but an acknowledgement of contributing value by the encroacher

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support Support Neutral Oppose Strongly oppose

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support Support Neutral Oppose Strongly oppose

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

All changes from 1 July 2011

Changes introduced as new licences are issued

Q7: Do you have any other concerns or views about how fees are set?

Yes, if there is an acknowledgement of contributing value by the encroacher I can see the rationale + fairness behind the scheme

The present 50 square metre rule could address this.

See my attached comments

Second fold here

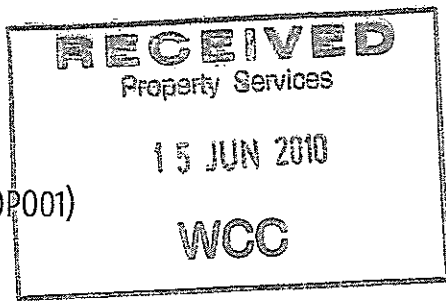
FreePost Authority Number 2199

Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL

Wellington



Road Encroachment and Sale Policy (COP001)
Wellington City Council
PO Box 2199
Wellington 6011

Paul J Franken_____

1/83 Monorgan Rd
Strathmore Park
WELLINGTON.
NEW ZEALAND

Telephone 04 976 8338
paulfranken@paradise..net.nz

12 June 2010

Additional matters to my submission on the berm-sides being looked after by caring ratepayers presently.

The policy principles (4) in the background reading on the consolidated bylaw 2008 part 5 with a statement on economic return from this asset where appropriate.

My main thrust in my submission concern the commensurate liabilities the council should not reverse on the individual ratepayer.

I have a small flat on a cross leased section.

Monorgan Road passes this section and the roadside (reserve) is a steep bank covered with pohutukawa trees.

A previous owner built a fence (in line with neighbouring properties) in order to contain some of the increased traffic noise, dog-fouling by leashed and unleashed dogs as well as bottles and cans thrown from passing cars which could otherwise hit and damage my flat.

I maintain a path, used by posties and circular distributors. I keep this in repair and metalled at my cost without any assistance of the other cross lease holders as part of community service.

I even keep the grassed area outside the fence clipped although the dog excrement I kneel in while keeping the area clipped is a constant reminder of me cleaning up your property. (As you as the WCC claim ownership). I have never complained about my gutters being continually filled by 'your' pohutukawa leaves.

While I can see it as a reasonable duty to keep this roadside area tidy, I would consider it an insult added to the burden caused by the food-wrappers and general rubbish blown and deposited into my area if I were to have to register my 'encroachment' as well as having to pay for the privilege of maintaining it

Yours Sincerely



Paul Franken

SUBMISSION
NUMBER



Road Encroachment and Sale Policy submission form

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post – Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr Mrs Miss Dr (circle which applies)

First name/last name*

CLARE OWEN

Street address*

174 MELBOURNE ROAD.
WELLINGTON 6023

Phone/mobile

04 3836572

Email

iforowen@xtra.co.nz

* Mandatory fields

I am making a submission

As an individual

On behalf of an organisation

Name of organisation

I would like to make an oral submission to the City Councillors

Yes

No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Objectives		<input checked="" type="checkbox"/>			
Policy principles		<input checked="" type="checkbox"/>			
Criteria for evaluating road encroachment proposals			<input checked="" type="checkbox"/>		
Consultation with affected parties	<input checked="" type="checkbox"/>				

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

Decisions are not consistent. When a householder attempts to improve public safety by providing off street parking that does not compromise the primary use of legal road they are penalised in the form of an annual rental fee.

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Flat rate			<input checked="" type="checkbox"/>		
Differentiated fees				<input checked="" type="checkbox"/>	
Individual valuations		<input checked="" type="checkbox"/>			

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support	Support	Neutral	<input checked="" type="checkbox"/> Oppose	Strongly oppose

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support	Support	<input checked="" type="checkbox"/> Neutral	Oppose	Strongly oppose

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
All changes from 1 July 2011			<input checked="" type="checkbox"/>		
Changes introduced as new licences are issued					

Q7: Do you have any other concerns or views about how fees are set?

Second fold here

FreePost Authority Number 2199



Road Encroachment and Sale Policy (COP001)
 Wellington City Council
 PO Box 2199
 Wellington 6011

SUBMISSION
NUMBER

130

Sharon Bennett

From: Bryan Smith
Sent: Thursday, 8 July 2010 9:28 a.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: jim.shaw@axenic.co.nz [mailto:jim.shaw@axenic.co.nz]
Sent: Wednesday, 7 July 2010 11:30 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Jim
Last Name: Shaw
Street Address: 5 Morton St
Suburb: Berhampore
City: Wellington
Phone: +64 21 689998
Email: jim.shaw@axenic.co.nz

Would like to make an oral submission: Yes

I am making this submission: as an individual

Views on objectives: 4

Views on policy principles: 4

Views on criteria: 4

Views on consultation with affected parties: 4

Have concerns or views about the policy: No

Flat rate: 3



Differentiated fees: 4

Individual valuations: 2

Views on first 50sqm: 4

Views on airspace leases: 4

Come into force as new licences are issued: 5

Have other concerns or views about how fees are set: Yes

Other concerns or views: I think that making the fee changes as new licences are issued would allow the changes to be more easily accommodated by residents on low and fixed incomes.

It may be worth considering market rents for encroachments against the improved value of properties rather than land values as that may better reflect the value of an encroachment to a owner. This would mean that the owner of a \$500,000 home in Ngaio would pay the same for a 50 sq metre encroachment as the owner of a \$500,000 house in Tawa with the same size encroachment.

If encroachment rentals are to be increased based on a perceived market value, consideration should be given to changing licence conditions to provide a longer notice period for revocation. A one year period seems more reasonable and should not affect the ability of the council to regain control if needed for public use. Revocation on change of owner or at shorter notice on breach of conditions would still apply.

I believe that property sale prices are largely independent of small encroachment areas of land unless the land includes buildings such as a garage. In that case the added value is more likely to be from the structure built by the owner than from the land and that the value for calculating a fair 'market' rental may be difficult to ascertain.

I note that the council has recognised at least some of the advantages from maintenance of public land by encroachment licencees.

SUBMISSION
NUMBER

168

Sharon Bennett

From: Bryan Smith
Sent: Friday, 9 July 2010 1:40 p.m.
To: Sharon Bennett
Subject: FW: Tawa Community Board submission on Encroachment Policy change

Attachments: R-10361232-20100708_Report_Appendix_Draft_Encroachment_Policy_Submission.DRF

From: Lauren Kemple
Sent: Friday, 9 July 2010 9:54 a.m.
To: Bryan Smith
Subject: Tawa Community Board submission on Encroachment Policy change



R-10361232-20100
708_Report_App...

Good morning Bryan,

Please find attached the Tawa Community Board's submission which was approved at the Board's meeting last night.

Board member, Dennis Sharman, would like to make an oral submission on behalf of the Board. He would prefer an afternoon slot.

Kind regards

Lauren

Lauren Kemple
Deputy Electoral Officer /
Community Board Coordinator

Wellington City Council | 101 Wakefield Street | PO Box 2199 | Wellington | New Zealand
☎ DDI: 04 803-8684 | ✉ Email: lauren.kemple@wcc.govt.nz | 📠 Fax: 04 801 3020

The information contained in this email is privileged and confidential and intended for the addressee only. If you are not the intended recipient, you are asked to respect that confidentiality and not disclose, copy or make use of its contents. If received in error you are asked to destroy this email and contact the sender immediately. Your assistance is appreciated.

Submission to the Wellington City Council on the Proposed changes to the Road Encroachment and Sale Policy

Introduction

1 The Wellington City Council (WCC) has agreed to consult the public on a number of proposed changes to the road encroachment and sale policy.

2 Part one summarizes the proposed changes.

3 Part two discusses possible changes to fees and Part 3 is the draft of the new policy for road encroachment and sale. It addresses the objectives and principles and criteria for deciding whether to approve an encroachment and the terms and conditions and in what circumstances would a fee be payable.

4 The Tawa Community Board (TCB) will be commenting on all three parts of the policy.

5 At the TCB meeting on the 10 June 2010 the TCB delegated responsibility to Dennis Sharman to draft the submission on the proposed changes to the Encroachment Policy, for the Board's approval at its 8 July 2010 meeting.

6 After discussions with the WCC officers, it was agreed that the officers would send a letter to all of the potentially affected parties in Tawa. There were approximately 50 properties that would be affected by the policy change.

7 In the letter, the residents were given Dennis Sharman as the contact should they wish to discuss the proposed changes or have any input into the TCB's submission.

8 One resident contacted Dennis Sharman and rescheduled a time for Dennis Sharman to contact them. Unfortunately we have not been able to re-contact this resident. This submission is from the TCB without input from the potentially affected parties in Tawa.

9 Dennis Sharman would like to thank the officers for their help and support in sending out the information to the Tawa residents.

Part One

10 The TCB believes that it is important for the Road Encroachment and Sale Policy to be amended where it would make the policy clearer and allow better alignment with other Council policies.

11 TCB supports the changes that include the new section on "consultation with effected parties"

12 TCB supports the amendment to the section dealing with encroachment into the town belt.

13 The TCB considered the three approaches for the setting of the annual fees and we have the following comments to make.

- 14 • If the status quo is maintained then the rental rate is arbitrary and this leads to poor return on the public assets in higher value areas. TCB does not support this option.
- 15 • A differentiated fees structure is supported by the TCB. Using a differentiated fees structure more fairly reflects the variation across the region.
- 16 • Individual valuation is not supported by the TCB and this approach would place a significant overhead by imposing individual land valuations.

17 The TCB is concerned that when Councillors proposed the differentiated fees structure that they decided not to determine a preferred approach to the new level of fees that would apply in any given suburb. The TCB felt that by splitting the process into the two parts it will make it more difficult for residents to assess the impact on them with the proposed policy change. Residents could be supporting the policy change without knowing the impact of the changes on them.

18 Residents may choose to disagree with the change in policy because they are worried about the potential financial impact. If the policy change and the financial impact were being proposed at the same time then it would be easier for residents to support or not support the policy change.

19 The TCB supports the proposed changes to hedges and structures for the purpose of determining fees.

20 TCB supports the new airspace leases and also the proposal to charge a one-off, up-front rental to cover the lifetime of the lease.

21 The TCB does not have a preferred opinion on the timing of the changes. If there is significant rates revenue from the change then there could be an argument for all changes to be implemented for the 1st July 2011 and this would be more consistent and equitable for all properties owners across the region.

Part Two

22 The TCB agrees that current rate for residential encroachments are generally low compared to market rental rate for land.

23 TCB agrees with the three factors that will be considered when the fees for a particular encroachment will be determined.

24 TCB believes that Table 1 could misinform the residents about the actual impact of the proposed changes.

25 TCB agrees that there are financial implications beyond the annual rental fee and a number of other issues that need to be considered. And that there will be additional value of the encroached land will be incorporated into expensive suburbs and that there will be little or no value added in some other suburbs like Tawa.

Status Quo

26 If the status quo is maintained then the rental rate is arbitrary and this leads to poor return on the public assets in higher value areas. TCB does not support this option.

Differentiated fee structure

27 A differentiated fees structure is supported by the TCB. Using a differentiated fees structure more fairly reflects the variation across the region.

28 While there will be significant work initially to get the discounted factors agreed and the number of grouping of suburbs and the graduation of fees confirmed, once this process is complete then the on-going administrative cost would be minimized.

29 This approach would remove the large inequities inherent in the status quo and the TCB would support this.

Individual Valuations.

- 30 Individual valuation is not supported by the TCB as this approach would place a significant overhead by imposing individual land valuations.

Preferred Approach.

- 31 The TCB supports the preferred approach proposed by the policy change.

- 32 The TCB however, would have liked to have seen the actual rental rates and discount factors included in policy documents so that actual impact of the policy changes would be understood by the residents.

Fees Payable

- 33 The TCB agrees in the current policy - that fees charge depending on the nature of an encroachment.

Fences and Hedges

- 34 The TCB agrees that there should be changes to the policy because the public is excluded by the fences and hedges and it does create a high degree of exclusive private use.

Airspace Leases

- 35 While the airspace lease issue is probably not relevant to Tawa the TCB agrees that there could be issues with new buyers of properties and that the problem should be addressed by developing a one of charge to cover the life time of the lease. This would reduce the on-going management of the airspace leases.

Timing of Change

- 36 The TCB does not have a position on the timing of the changes. If there is significant rates revenue from the change then there could be an argument for all changes to be implemented for the 1st July 2011 and this would be more consistent and equitable for all properties owners across the region.

37 If all the changes were implemented on the 1st July 2011 this would increase the initial management of the leases but it would reduce the on-going management.

38 If the policy change is introduced gradually then in initial impact would be minor but there would be an on-going introduction overhead and it would take a number of years for the pricing structure to apply consistently across the region.

Part 3

- 1 Introduction TCB agrees
- 2 Objectives TCB agrees
- 3 Definitions TCB agrees
- 4 Policy Principles TCB agrees
- 5 Key aspects of the policy
 - 5.1 TCB agrees
 - 5.2 TCB agrees
 - 5.3 TCB agrees
 - 5.4 TCB agrees
 - 5.5 TCB agrees
 - 5.6 TCB agrees
 - 5.7 TCB agrees
 - 5.8 TCB agrees
 - 5.9 TCB agrees
 - 5.9.1 Table 1 TCB agrees
 - 5.9.2 TCB agrees
 - 5.9.3 TCB agrees
- 6 Compliance and monitoring TCB agrees
- 7 Sale of Legal Road TCB agrees
- 8 Not applicable

SUBMISSION
NUMBER

175

Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL

Wellington

Road Encroachment and Sale Policy submission form

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post – Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name* BERNHARD PIETER LOKUM

Street address* 96 TIBER STR ISLAND BAY

Phone/mobile 934 8245

Email

* Mandatory fields

I am making a submission

As an individual On behalf of an organisation Name of organisation

I would like to make an oral submission to the City Councillors Yes No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

Objectives

Policy principles

Criteria for evaluating road encroachment proposals

Consultation with affected parties

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

251

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

Flat rate

Differentiated fees

Individual valuations

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support Support Neutral Oppose Strongly oppose

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support Support Neutral Oppose Strongly oppose

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

All changes from 1 July 2011

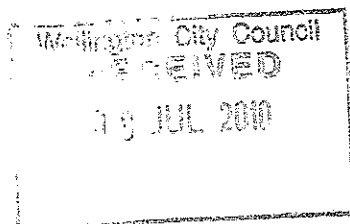
Changes introduced as new licences are issued

Q7: Do you have any other concerns or views about how fees are set?

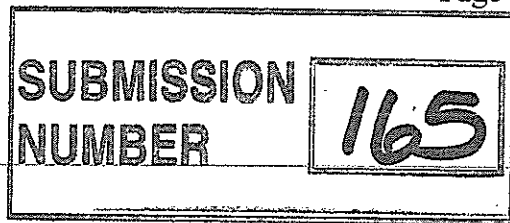
I DO HAVE CONCERNS THE WAY YOU SET FEES THE HOUSING MARKET IS DOWN VALUES ARE DOWN. YET 2009 - 2010 FEES ARE UP AGAIN WHY?? YOUR HIGHER FEES YEAR AFTER YEAR ARE DEVALUING OUR HOUSE BADLY, FOR RESALE VALUE

Second fold here

FreePost Authority Number 2199



Road Encroachment and Sale Policy (COP001)
Wellington City Council
PO Box 2199
Wellington 6011



Sharon Bennett

From: Bryan Smith
Sent: Friday, 9 July 2010 1:27 p.m.
To: Sharon Bennett
Subject: FW: Submission
Attachments: WCC Encroachment document.doc

From: Stephen Underwood [mailto:stephen@renouf.co.nz]
Sent: Thursday, 8 July 2010 4:48 p.m.
To: Bryan Smith
Cc: 'Stephen Underwood'
Subject: Submission

Dear Sirs

Please find attached our submission concerning the review of Road Reserve Encroachment Policy. Original is in the mail tonight.

Regards

Stephen and Frances Underwood

Stephen & Frances Underwood
2 Central Terrace
Kelburn
WELLINGTON 6012
underwood@paradise.net.nz

8 July 2010

Road Encroachment and Sale Policy
Wellington City Council
P O Box 2199
WELLINGTON

Dear Sirs

We wish to make a submission concerning the above policy and we wish to make an oral submission at any hearing by the Council concerning this policy.

We wish to make the following points concerning the policy.

General Comment

The Council must always keep in mind that very few, if any, landowners with an encroachment had any involvement in either the creation of the encroachment or the manner in which they gain access to their properties. For most of us we had to accept what was in place at the time we purchased our properties. Therefore the current owners should not be cast in the role of villains who have somehow managed to gain some sort of advantage over the balance of unsuspecting citizens of Wellington. We should not be seen as a group that should be punished or subject to price gouging or monopolistic pricing to extract as much money as possible from us because the Council has the upper hand with the power to cancel our encroachments with a one month notice period.

Market Value

The policy document states that the current encroachment of \$11.25 per square meter is "low compared to what would be a market rental rate for land."

There is an inherent assumption in this statement that all land is equal. However that is clearly not the case as many of the road reserve encroachments are banks or very narrow strips of land that have little, if any, use to the property owner.

An area of flat lawn clearly has a greater value to the property owner than a strip of land less than a meter wide that runs along a boundary. It could also be argued that any piece of land that is on a slope above 15 degrees is of little or no value. In fact it is often a liability that must be maintained or, as is often the case,

left in a semi natural state with very occasional trimming. This is usually done by the adjoining landowner at no cost to the Council.

Therefore as a matter of principle it is not appropriate to apply a market valuation to all land encroachments without consideration of the nature and use of the land.

The Council's preferred differentiated fee structure is a very blunt instrument to address this issue and does not take account of a number of factors affecting individual properties.

Fences and hedges and the 50 square meter free policy

The proposed change to the current policy of 50 square meters free if there is a hedge or fence. No definition of a hedge is provided. Is it of a certain height or thickness? Does a line of individual shrubs that do not touch constitute a hedge? What is the situation if a tree blocks all access to the encroachment area? Clearly not all hedges are equal.

The policy does not appear to take account of fences erected to protect a person from falling down a bank. In the last two years there has been one death in Kelburn where a young man fell to his death from a Council path because inadequate fencing was provided by the Council. The Council has had to build a fence at its cost to protect members of the public using that path.

In our case much of the road reserve encroachment running along our property is at least three meters and as much as five meters above the road. It is fenced to ensure that nobody is unsafe walking on the property. We replaced the fence twenty one years ago at our own cost and continue to maintain the fence.

It is submitted that many property owners with road reserve encroachments provide protection for the public when visiting their properties or exercising their right to use public land. The cost of providing and maintaining protective fencing, and possibly hedges, by private owners represents a considerable financial saving for the Council and has a very low Council administrative requirement. This saving should be taken into account when assessing any encroachment fees.

It is submitted that where a fence or hedge provides a safety barrier that it should not be regarded as a structure. It is also possible that a portion of a fence may be providing safety and the balance can be deemed to be excluding the public and therefore creating a private benefit.

Access to Properties

The typography of Wellington is such that many properties have access by way of paths or steps. Where there are paths they usually include a few steps and the paths may zigzag from the road to the dwelling or other building.

The slope of the land often requires that a path is cut into the land and that retaining walls are required to hold up the land. These retaining walls are often on road reserve encroachment and are necessary not only to provide clear access but also to support Council land. Some of these retaining walls or steps may require a fence for safety reasons.

It seems patently unfair to determine that just because the nature of the land is such that it requires a safety fence within the road reserve area, rather than on the boundary of a property, that the said fence should be deemed to be a structure and therefore the 50 square meter free policy should not apply.

We submit that the existence of paths and walls on road reserve encroachment should not be considered to be structures and that the 50 square meter free policy should remain for all properties.

Market Values

We accept that where there is a building such as a garage, dwelling or similar then there is a case for a market rental to be paid. However it is our submission that a market rental should only apply where there is a building and it should not apply for land that is in garden or pathway.

We also believe that many property owners will face significant increase in their encroachment fees as a result of the proposed changes. We are aware of one neighbour who will face an increase of 380%, which is a significant increase.

We therefore submit that the Council should introduce any market rates on a progressive basis. There is precedent for such action in the movement of the percentage of rates paid by commercial to residential ratepayers. This transition has been occurring over many years to rebalance the percentage of rents paid by commercial and residential ratepayers. We suggest a five year phase in of any market rate.

Unintended Consequences

We also note that the law of unintended consequences may manifest itself if any cost imposed on a landowner by the proposed changes is unreasonable. This may occur in the case of car pads, which must represent a significant percentage of structures on road reserves.

It may be cheaper for a property owner to remove a car pad and apply for a resident parking permit and park a vehicle, or vehicles, on the road rather than on the car pad. This is likely to add to the already dire parking situation in many inner city areas. In this case the Council will receive less revenue and be contributing to the parking congestion.

Is there really public exclusion?

We note also that many car pads and garages have been built over land that is otherwise unusable. It is often steep and unkempt and has no practical value. Certainly no member of the public would ever use such land. While the construction of a car pad or garage creates a private benefit it is not at the expense of public access.

As noted above it is unreasonable to determine that such land has the same value as a flat piece of land on an adjoining or nearby property. Therefore a differential fee should recognise the absence of any loss to the public.

Reduced Street Appeal

We also note that generally the Council does little if anything to maintain areas of road reserve and leaves it to the adjoining property owner to maintain the road reserve. Some do and some do not. We believe that this policy of benign neglect is a major factor in the untidy and uneven nature of many streets in Wellington. While some may argue that this natural state contributes to the 'charm' of Wellington it definitely detracts from the street appeal of many properties.

A Kelburn example is a comparison between Central Terrace and the streets in The Glen. In one (The Glen) the property boundaries are well maintained and orderly. In the other (Central Terrace) they are not and general street appeal of the properties is diminished and reflects poorly on the city.

Property Owner Protection

We also believe that once market rentals are introduced that there must be protection for the adjoining property owner from aggressive pricing by way of rental increases by the Council.

We submit that the Council cannot be permitted to increase any license fees by more than the rate of inflation. This will prevent a future Council engaging in revenue raising from ratepayers who have minimal rights to represent themselves without fear of having their licence revoked with notice of one month.

Subsoil Encroachments

We consider that subsoil encroachments should be treated differently from surface encroachments. While the subsoil encroachment gives a private benefit, usually in the form of a garage, it does not usually affect the right of the public to use the surface area.

It is not plausible to argue that the public suffers any loss if a subsoil encroachment occurs as the public would not be able to use the subsoil if the encroachment was not present. Similarly the existence of the subsoil encroachment provides off street parking which is a benefit to all residents and the public.

While recognising the private value of subsoil encroachments we submit that any charge should be discounted heavily, say 75%, from any charge for a surface encroachment.

Balconies

While we do not have a balcony we are of the view that care must be taken to ensure that affected property owners are not exploited by the Council. Balconies can be difficult to remove, especially in modern apartment buildings, and therefore the owner is left with only one option – to pay whatever the Council charges.

At some time in the past the Council gave the original owner of the property the right to erect the balcony and it is unreasonable for the Council to then turn into an aggressive revenue raiser when the property owner does not have any choice without spending a significant and probably impractical sum to remove the offending balcony.

Purchase of Road Reserve

The process and cost required for a property owner to purchase a road reserve can only be described as a triumph of process over outcome.

It is unwieldy, time-consuming and expensive. In the vast majority of cases there is only one buyer and that is the adjoining property owner. To require that party to incur the cost and time to effect a straightforward transaction is a travesty.

Change of Policy Process

We consider that the council has failed in its duty to advise affected property owners of the ramifications of the proposed change in policy. The licence agreements for most properties, and any search of the public records on the Wellington City Council website record only the size of any encroachment

In our case we are advised in our Deed of License that our encroachment is 20.8 m². However this applied only to the area of the road reserve occupied by a portion of our garage. On the basis of the proposed annual rental of \$5.09 per m² our annual fee will increase to \$1,145.87 from the current fee of \$208, an increase of 451%. If areas of road reserve currently not charged then the potential increased cost to us will be many times greater.

If the council had been more transparent with affected property owners and advised them of the likely impact in terms of annual cost then we believe that greater interest would have been shown in this proposed change by all 5,800 encroachment licensees.

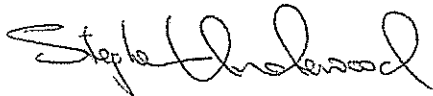
Summary

In summary we believe that the council has adopted a very crude proposal to address the issue of private benefit of public land and that the circumstances of each property need to be investigated before any determination is made.

We also believe that there is a risk that many encroachment licence holders are not aware of the potentially significant additional cost they will face due to the less than frank and full disclosure by the Council on the potential impact of the proposed change on each property owner.

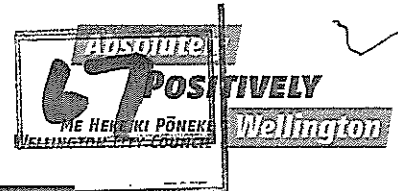
We confirm that we wish to present an oral submission to any hearing on this matter.

Yours faithfully

A handwritten signature in black ink that reads "Stephen Underwood". The signature is written in a cursive style with a large initial 'S'.

Stephen Underwood

SUBMISSION NUMBER



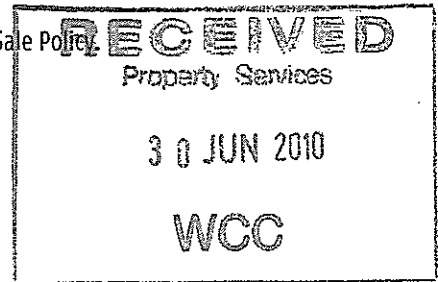
Road Encroachment and Sale Policy submission form

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
- Post - Freepost 2199, Road Encroachment Review, Wellington City Council 6140
- Fax (04) 801 3124
• by making a submission online at www.Wellington.govt.nz
• by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.



First fold here

Your name and contact details

Mr Mrs Ms Miss Dr (circle which applies)

First name/last name* DEREK SPENCER

Street address* 6 THE CRESCENT ROSENEATH WELINGTON 6011

Phone/mobile 355 1400 Email derek.spencer@ihog.wcc.nz

* Mandatory fields

I am making a submission

As an individual On behalf of an organisation Name of organisation

I would like to make an oral submission to the City Councillors Yes No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

Table with 5 columns: Objectives, Policy principles, Criteria for evaluating road encroachment proposals, Consultation with affected parties, and response options (STRONGLY SUPPORT, SUPPORT, NEUTRAL, OPPOSE, STRONGLY OPPOSE).

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

Handwritten response: Policy does not address "grand father rights" established due to passage of time. Policy does not recognise Council's obligations to provide safe parking facilities, or to recognise benefits to Council by Property owner providing such facilities (PLEASE SEE ATTACHED 2 PAGE COMMENTS)

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Flat rate		X			
Differentiated fees					X
Individual valuations				X	

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal? Strongly support Support Neutral Oppose X Strongly oppose

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal? Strongly support X Support Neutral Oppose Strongly oppose

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
All changes from 1 July 2011			X		
Changes introduced as new licences are issued			X		

Q7: Do you have any other concerns or views about how fees are set?

No principle stated on recovery of fees in total?
 to cover costs? to provide a rate of return?
 to set off any surplus against rates payable by affected owners?
 The use of a residential land rate as the basis of calculation fees is illogical and disadvantages owners in areas with difficult topography. A load is a load not a residential area.

Second fold here

FreePost Authority Number 2199

Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
 WELLINGTON CITY COUNCIL

Wellington



Road Encroachment and Sale Policy (COP001)
 Wellington City Council
 PO Box 2199
 Wellington 6011

To: Wellington Strategy and Policy Committee

My comments on Road Encroachment and Sale Policy

25th June 2010

Road Encroachment and Sale Policy

I have read the proposed Policy changes May 2010 and wish to record my concerns.

1. The policy fails to recognise the Council's own duties to provide safe, secure pathways and parking facilities to ratepayers and to recognise the benefits provided by individual licensees in providing safe, secure and lit access to their property and by providing off- road parking facilities.
2. The Policy does not record the historic basis for selecting an 'across the board' rental rate and explain the reasons why this basis should not continue. It is insufficient to state 'in many cases the public is getting an extremely low rate of return' without putting forward the details of the returns generated. Further to suggest that the market rate for residential land should form the basis for a rental fee is totally unfair and unsustainable. Regardless of the locality of the residence, the land is Road reserve not Residential land and in my opinion rental fees for use of Road reserve should be consistence throughout the road network
3. The Policy document provides details in Table 1 of the land market values in each suburb but fails to provide any information in respect of existing Road Encroachments by suburb. Plainly the distribution of existing encroachments will demonstrate the requirements and illustrate the differing topography. This information will provide a basis for assessing the total estimated revenues and enable a comparison with existing returns.
4. In regard to any proposal to adopt rate differentials by suburb I maintain that the topography of the suburb, the existing state, condition and width of the roads in that suburb and the essential needs of the resident (and the neighbours) should be taken into full consideration in assessing the level of 'discount' applicable the rental fee for that suburb.
5. Table1 provides estimated land values by multiplying capital values by 6%.No support for 6% is given-why not 2%.Why indicate these values unless they are to form the basis of charging? On the basis of 6% my rental will increase by over 550%. A totally punitive result.
6. Fences and Hedges. I don't understand the 50 square metre rules. It is not explained in the document, nor is the distribution -suburb by suburb- of the 650 encroachments currently receiving this easement provided. To argue that fences and hedges are structures for the purpose of setting fees is illogical. Fences and hedges generally record boundaries. For example boundaries between neighbours. They are there also to provide safety and security. I put it to the Council that in the absence of the Council providing such fences and hedges it is a right for the residential owner to provide such fence or hedge in a position that provides safety and security for the public and for the resident.

The Council cannot abdicate their obligations to provide safe and secure walkways, fencing and identification of boundaries and then seek to charge residents who provide same themselves. If fences are structures what are handrails classified as? They do the same job-protecting the public from falling.

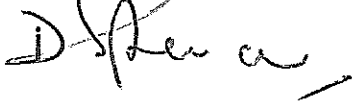
The Policy fails to address those situations where 'encroachments' occurred before the adoption of roads road reserves as they are today. 'Grandfather Rights' as I would describe them-rights established due to passage of time. I would welcome advice on how this principle may be addressed

I also request that the Policy drafters give consideration to a proposal for the Council to take over the encroachment- for example a car deck- for use by the public and therefore not exclusive to the licensee in the event that the fees become unaffordable to the licensee,

This scenario would save the licensee the cost of dismantling the deck and save the Council the cost of providing alternative parking facilities.

I await a response with interest

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Spencer', with a horizontal line extending to the right.

Derek Spencer

6 The Crescent Roseneath

Tel:3851400

SUBMISSION
NUMBER

140

Sharon Bennett

From: Bryan Smith
Sent: Thursday, 8 July 2010 4:36 p.m.
To: Sharon Bennett
Subject: FW: Roeneath Residents Association Submission

Attachments: ROSENEATH RESIDENTS 100707.pdf; ROSENEATH RESIDENTS 100707.doc



ROSENEATH
SIDENTS 100707.pdf



ROSENEATH
SIDENTS 100707.doc

-----Original Message-----

From: John Woodbridge [mailto:sales@woodbridge.co.nz]
Sent: Thursday, 8 July 2010 9:10 a.m.
To: Bryan Smith
Subject: Roeneath Residents Association Submission

Dear Sir / Madam,

Please find attached the Roeneath Residents Association Submission on the Review of the Road Encroachment and Sale Policy. I have attached the identical submission in both PDF (for printing off) and Word form. Thanks for the opportunity to submit our views on this very important matter.

Regards,

Caryl Woodbridge
Secretary
Roeneath Residents Association
C/o
155 Grafton Rd
Roseneath
Wellington
New Zealand
Ph. 64 4 3862 593
woodbridge@xtra.co.nz

ROSENEATH RESIDENTS ASSOCIATION
C/O
155 Grafton Rd.,
Roseneath,
Wellington.
7.7.2010

WELLINGTON CITY COUNCIL REVIEW OF THE ROAD ENCROACHMENT
AND SALE POLICY

GARAGE, CAR DECKS AND PARKING ENCROACHMENTS ON ROAD RESERVE

- 1 When parking, car deck or garage encroachments are applied for, the value of the land, both the encroached land and the adjacent private property, will normally have a much lesser value at time of application than after construction.
- 2 When the encroachment is at the end of a driveway that has also been constructed on road reserve, then the increase in the property value can be very significant.
- 3 In the case of those who have constructed a very expensive road on road reserve, a garage partly on road reserve, and a parking area. The total value of this work can be a number of times greater than the value of the land to which it is associated.
- 4 The enormous investment in road reserve improvement and infrastructure can of course increased the value of the land enormously as would be expected. (But usually less than the cost of the improvements)
- 5 If the council is now to consider renting or selling the reserve land in this case, then the value would need to be that value without the infrastructure improvements, which they never paid for, nor maintain.
- 6 The council also receives higher rates from the improved value of the property associated with these improvements.
- 7 If the council is to alter the charges it levies, or to offer the land for sale, then the values of the encroachments will be considerably less for new applications, before improvements, than for existing arrangements.
- 8 This would be inequitable and unfair to those who have already invested heavily.
- 9 Further more, some consideration should also be shown to those with these encroachments, in many cases they have relieved the streets of parking congestion, or at least helped improve this problem. This assistance in helping overcome this matter should be credited to them by way of cost benefit adjustment.
- 10 The council must also recognise that the encroachments have benefits for the city, and these benefits are being paid for by the property owners, for the benefit of all road users.
- 11 Add to this the increased rateable value that the council already receives, and it could well be that the council is already receiving too much income from the present arrangement.
- 12 In short, the discussion paper has omitted to recognise much of the extra income it already receives from this group of ratepayers.
- 13 Parking on the road requires that the roads be built wide enough for parking, at considerable cost, yet the parking spaces are made available to residents in our area free.

- 14 Where there is "Residents Parking" in the city, the residents pay an annual fee, but do not pay the capital cost of the parking space as driveway and encroachment holders have.
- 15 Nor "Residents Parking" residents or any others parking on the road, are responsible for maintenance of their parking facility.
- 16 Adding further insult, "Residents Parking Permits" are far less expensive than encroachment licences per vehicle.
- 17 Not only free, but the road is built to the extra width at everyone's expense, including those with encroachments.

In conclusion, the Council is getting well compensated for the huge investment made by those with a driveway, parking pad and garage by way of a very substantial increase in the value of their properties, and therefore a substantial increase in rates. Not only that, but they do not own nor control this investment in the driveway, parking pad or garage, but are responsible for all maintenance. Further, every one can use the driveways, and have no control over the use but are responsible for all maintenance.

FENCES

The issue of fenced land on road reserve being charged for would create a very substantial safety issue in our area. And if hedges are to be put in the same category, the removal of these hedges will be even more detrimental. If many of those who have fenced off road reserve or have hedges, were now to be charged a rental fee for that land, they will pull down the fences, pull up the hedges and in many cases leave steep and dangerous areas close to council paths. The council will either be left with an enormous cost of reinstating fences, or will need an army of people to determine which properties can keep what they have without charge and those that will be charged or must remove such fences or hedges. Worse still, these inspections and negotiations will need to be kept up on an ongoing basis. All fairness in charges will evaporate and constant arguments will be the continuing norm. In all cases I am aware of in our area where the road reserve has been fenced off, the ongoing attention to keeping that area beautified, tidy, well trimmed and safe is on going by the adjacent land owner and at no expense to the council. A change in this policy will show no cost benefit to the council, worse still, it likely to cost more than the status quo.

Regards,

Caryl Woodbridge
Secretary
Roseneath Residents Association
woodbridge@xtra.co.nz

Sharon Bennett

From: Bryan Smith
Sent: Monday, 21 June 2010 9:36 a.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

Follow Up Flag: Follow up
Flag Status: Red

-----Original Message-----

From: webcentre@wcc.govt.nz [mailto:webcentre@wcc.govt.nz]
Sent: Sunday, 20 June 2010 3:16 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: jayne
Last Name: cooper-woodhouse
Street Address: 28 sefton st
Suburb: wadestown
City: Wellington

I would like to make an oral submission: No

I am making this submission: as an individual

Views on objectives: 3

Views on policy principles: 3

Views on criteria: 1

Have concerns or views about the policy: Yes

Concerns or views: My concerns are to the arbitrary way that WCC planners go about making decisions for encroachments and developments - that they choose not to follow the District Plan. That this arbitrary process therefore is not a fair and honest system. That the plans submitted, to WCC, BY developers are misleading and the WCC does not adequately look into the 'details'

25

Flat rate: 3



Sharon Bennett

From: Bryan Smith
Sent: Wednesday, 7 July 2010 8:54 a.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: dennis.hunt@beca.com [mailto:dennis.hunt@beca.com]
Sent: Tuesday, 6 July 2010 5:34 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Dennis
Last Name: Hunt
Street Address: 5 Wesley Road
Suburb: Kelburn
City: Wellington
Phone: 021 898 496
Email: dennis.hunt@beca.com

Would like to make an oral submission: Yes

I am making this submission: as an individual

Views on objectives: 4

Views on policy principles: 4

Views on criteria: 4

Views on consultation with affected parties: 4

Have concerns or views about the policy: No

Flat rate: 4



Differentiated fees: 3

Individual valuations: 1

Views on first 50sqm: 4

Views on airspace leases: 4

Come into force from 1 July 2011: 5

Have other concerns or views about how fees are set: Yes

Other concerns or views: 1. Do all properties who occupy encroachment land currently pay fees and if not why not?

2. Does a person who pays an encroachment fee for an existing garage structure have exclusive right to the use of the roof of that structure? I believe the policy should exclude others using the roof or airspace above it.

3. I am concerned that if a person has approval to construct a garage on encroachment land that the licence can be revoked by the Council at a later date. I don't believe this should be included in the policy except if the person is using the land inappropriately (eg leaving it derelict).



Sharon Bennett

From: Bryan Smith
Sent: Wednesday, 7 July 2010 4:46 p.m.
To: Sharon Bennett
Subject: FW: Road Encroachment and Sale Policy Changes

-----Original Message-----

From: gd.me.grigg@xtra.co.nz [mailto:gd.me.grigg@xtra.co.nz]
Sent: Wednesday, 7 July 2010 4:35 p.m.
To: Bryan Smith
Subject: Road Encroachment and Sale Policy Changes

The following details have been submitted from the Road Encroachment and Sale Policy Changes form on the www.Wellington.govt.nz website:

First Name: Maria
Last Name: Grigg
Street Address: 12 Homebush Road
Suburb: Khandallah
City: Wellington
Email: gd.me.grigg@xtra.co.nz

I would like to make an oral submission: No

I am making this submission: as an individual

Views on objectives: 2

Views on policy principles: 2

Views on criteria: 4

Views on consultation with affected parties: 5

Have concerns or views about the policy: Yes

Flat rate: 5

Differentiated fees: 1



Individual valuations: 1

Views on first 50sqm: 2

Views on airspace leases: 2

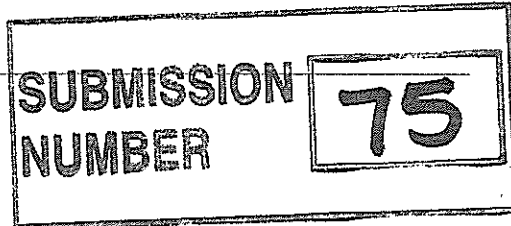
Come into force from 1 July 2011: 1

Come into force as new licences are issued: 5

Have other concerns or views about how fees are set: Yes

Other concerns or views: Flat rate is a consistent and fair way of charging. Land values within each suburb can vary greatly. Council must remember that encroachments improve public safety by providing off street parking, in narrow streets. In our suburb, for example, the buses often have difficulty manoeuvring around parked cars. For this reason, encroachments should be considered a Council service and not as a return on assets, which would otherwise not be generating any income.

Sharon Bennett



From: Bryan Smith
Sent: Friday, 2 July 2010 12:04 p.m.
To: Sharon Bennett
Subject: FW: Road Encroachment etc Submission
Attachments: Road Encroachment and Sale Policy Submission.doc

From: Belinda Ricketts [mailto:bricketts@paradise.net.nz]
Sent: Thursday, 1 July 2010 11:12 p.m.
To: Bryan Smith
Subject: Road Encroachment etc Submission

Dear Sir/Madam
I enclose a copy of our submission
Harry and Belinda Ricketts

Submission to Road Encroachment and Sale Policy Submission

We wish to make a submission to the above policy.

Name and contact details:

Harry and Belinda Ricketts

59 Central Terrace

Kelburn

WELLINGTON 6012

Telephone : wk, cellphone : 027 497 8887, home 04-475 3997

Email address: harry.ricketts@vuw.ac.nz and bricketts@paradise.net.nz

We are making this submission as individuals.

We should like to make an oral submission to the City Councillors – **yes – 29 July (after 2pm)**

Q1. Have your say:

Some parts of the Road Encroachment and Sale Policy have been changed. What are your on the following parts of the draft policy?

Objectives: (hard to find the actual objectives – material only covers overview).

Objectives –

strongly oppose

Policy principles –

strongly oppose

Criteria for evaluating road encroachment proposals-

strongly oppose

Consultation with affected parties –

strongly support

(if this means the council should consult with affected parties, preferably individually).

Q2. Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

- Poor consultation process and lack of relevant information. A flyer outlining a few items and not disclosing the full impact of the proposals is simply not good enough. The Council should have clearly spelt out what the differentiation table really means: for instance, Kelburn would now pay at this new rate, Island Bay at this new rate etc. The council should have elaborated and said what it meant, ie added more information or referred us to the table 1 in Part Two of the consultation documentation. We are confident that most households seeing the flyer will have simply discarded it not realising its importance and significance. Contacted with several neighbours in our street (Central Terrace) shows this to have been the case.
- The Council make it too hard and have unreasonable expectations for homeowners to consider purchasing the land in question.
- The new proposed fee structure is extortionate and unrealistic – it is patently a money-spinner, designed to generate extra revenue with a minimum of effort on the Council's part.
- The current fee structure seems fair and equitable and should be continued. The proposed rates are simply outrageous for what the landowners usually use it for (in our case a carport). Our new, just increased current Kelburn rate is \$11.48 plus GST per square metre for 17.1 square metres. This amounts to \$196.31 pa plus GST. The Council's proposal to increase this fivefold and charge @ \$55.08 per square would increase our own levy to \$941.87 pa plus GST – an increase of well over \$740 pa plus GST.
- The Council indicates that it wishes to enter into an agreement/lease/licence. Yet a few years ago we did have a 10-year contract with the Council which was broken. The fees have already gone up around 150% over the last few years. To be given now a one-month's notice and opportunity to respond to yet another and enormous increase is demonstrably unreasonable and merely a token consultation process – a Clayton's Consultation Process.. The Council has moved from good tenure certainty to none!
- To repeat: on 31 May we received notification that the flat fee rate was once more to be increased from \$11.25 to \$11.48. This now seemingly annual incremental rise is invidious

enough without this huge increase. A fair lease/licence agreement should be entered into for at least a period of 5 years.

Q3 – three options

Flat rate – **strongly support**
Differentiated fees – **strongly oppose**
Individual valuations – **strongly oppose**

Q4 – 1st 50m2 of public land free of charge

View on this proposal - **strongly oppose**

Q5 – airspace leases

View on this proposal - **strongly oppose**

Q6 – when the proposals come into force

All changes from 1 July 2011 **strongly oppose**
Changes introduced as new licences issued **strongly support**

We gather that this means when a new landlord or landowner sells the existing property.

Q7: do you have any other concerns or views about fees are set?

We are concerned that this kind of issue seems to occur every 5 years or so. We are concerned that the Council seems to have a virtually automatic right to revoke existing arrangements and contracts at will. Should licenses be put in place (as they are not at present), then, like any lease or contract, consideration by the licensor needs to be given and time allotted to consider each individual lease/contract.

Garages here are currently being run down because Council has removed all certainty as to tenure. The current wording of the draft policy will certainly worsen this situation. How will the Council deal, say, with the revoking of a licence with only one-month's notice? ie what would it propose to do with a deck/carport erected 40 years ago and now partially owned by the landowner, and partially encroaching on Council land? The whole idea of encouraging decks in the 1960s was surely to relieve the existing parking problems on the streets, so it is hardly in the Council's interest to create a situation in which property owners will want to dismantle their deck/carport. After all, residential parking fees are currently around \$100/pa. Council is exercising its absolute market power simply to extort maximum rents.

If the Council does not include in its Policy a reasonable expectation of continuance, encroachments will soon become a Council liability rather an asset to the Council. As it the policy currently reads, any new purchaser will have to allow for the cost of removing any structure as there is no mention of an expectation of continuance – in fact, it reads as if they will *have* to remove it! If the structure has to be removed, the Council will then have to erect retaining walls and fence at their own expense if that part of the removed structure is on Council land.

The Council currently gets all its gardening done for free by owners. The Council merely arranges for its own employees to cut away anything that overlaps the footpath, with little or no regard given to existing plants and shrubs. These plants are usually purchased by the owner so why not simply ask them to cut back overgrowth if required?

Our main objections are: insufficient public notification of changes – a *Dominion Post* article with a table of proposed differentiation fees and explanation of the consequence of the proposed changes would help; insufficient consultation time and opportunity (three-minute oral submissions set for only 20 days after written submissions are due). It is hard to escape the conclusion that the proposed changes are designed to slip through without anyone noticing or having time to remonstrate.

SUBMISSION
NUMBER

106

Sharon Bennett

From: Bryan Smith
Sent: Wednesday, 7 July 2010 12:50 p.m.
To: Sharon Bennett
Subject: FW: Encroachment Review

Attachments: Public hearings on 29 July.doc; ATT00001.txt



Public hearings on ATT00001.txt (66
29 July.doc... B)

-----Original Message-----

From: paul hellendoorn [mailto:jphellendoorn@xtra.co.nz]
Sent: Wednesday, 7 July 2010 7:33 a.m.
To: Bryan Smith
Subject: Encroachment Review

Please find attached my submission for the above review. Please advise what time the hearing will be on 29 July as I wish to present an oral submission.

Regards
Jane Hellendoorn
7 Central Terrace
Kelburn

Submission to Road Encroachment and Sale Policy Submission form

I wish to make a submission to the above policy.

Name and contact details:

Mrs Janemarie Hellendoorn

7 Central Terrace

Kelburn

WELLINGTON

Telephone : wk 04-498 2328, cellphone : 021 0447469, home 4759-948

Email address: jane.hellendoorn@electionsnz.govt.nz

I am making a submission as an individual.

I would like to make an oral submission to the City Councillors – yes – 2 August pref.

Q1. Have your say:

Some parts of the Road Encroachment and Sale Policy have been changed. What are your on the following parts of the draft policy?

Objectives: (hard to find the actual objectives – material only covers overview).

Objectives –

strongly oppose

Policy principles –

strongly oppose

Criteria for evaluating road encroachment proposals-

strongly oppose

Consultation with affected parties –

strongly support

(if this means the council should consult with affected parties, preferably individually).

Q2. Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

- Poor consultation process and lack of relevant information. A flyer outlining a few items and not disclosing the full impact of the proposals is simply not good enough. Had the council not only quoted what the current status quo is (and omit saying that from 1 July 2010 it would be increased to \$11.45) is not fair. The council should have elaborated and said what it meant, ie add more information or refer to the table 1 in Part Two of the consultation documentation. I am confident that most households may have seen the flyer and just discarded it not realising the impact. Having contacted several neighbours in my street, this has proven to be the case.
- The Council make it too hard and have unreasonable expectations for homeowners to consider purchasing the land in question.
- New proposed fee structure unfair and unrealistic and getting out of hand.
- The current fee structure of status quo is fair and should be continued. The rates proposed are simply outrageous for what the landowners usually use it for. In our case the current fee of \$11.48/m² for 22m² \$ 252.56 pa (new rate)
Council now wish to charge @ \$55.08/m² \$1,211.76 pa (Kelburn)
There is no actual mention of how many m² that our land has without looking up plans etc.
- The council indicate they wish to enter into an agreement/lease/licence – a few years ago we had a 10 year contract with the council and they broke it. Having a one month's notice in place is unreasonable should the differentiation fee go into place. The fees have already gone up 150% over the last few years. I have no faith at all in Council processes. The Council have gone from good tenure certainty to none!
- We have just received notification that the flat fee is to increase from \$11.25 to \$11.45 – should an agreement be in place, what is to stop the council from upping the fee two years down the track? A fair lease/licence should be entered into for at least a period of 5 years.

Q3 – three options

Flat rate – **strongly support**
Differentiated fees – **strongly oppose**
Individual valuations – **strongly oppose**

Q4 – 1st 50m2 of public land free of charge

View on this proposal - **strongly oppose**

Q5 – airspace leases

View on this proposal - **strongly oppose**

Q6 – when the proposals come into force

All changes from 1 July 2011 **strongly oppose**
Changes introduced as new licences issued **strongly support**

I gather this means when a new landlord or landowner sells the existing property.

Q7: do you have any other concerns or views about fees are set?

I have a concern that this issue seems to come up every 5 years or so, the Council have the power to revoke an existing contract in the process. Should licenses be put in place (which they are not at present), then like any lease or contract, consideration by the licensor needs to be given and time given to consider each individual lease/contract.

Garages are being run down because Council has removed all certainty around tenure. The current wording of the draft policy will make this worse as it reads as if Council wants to get rid of encroachments.

How will the council deal with the revoking of a licence with one month's notice? ie what would they propose to do with a deck that has been erected 40 years ago and is partially owned by the landowner, and partially encroaches on the council land? The council insists that the landowner has to pay all the costs relating to the structure – but if the council wishes to revoke the contract what grounds are to be given for which the contract is to be cancelled? There is no mention in the documentation provided as to the causes for revoking the contract.

The encroachments become a liability instead of an asset if the Council does not include in its Policy a reasonable expectation of continuance if the encroachment is maintained to an adequate standard. As it reads, any new purchaser will have to allow for the cost of removing any structure as there is no mention of an expectation of continuance in face, it reads as if they will **have** to remove it! If the structure has to be removed, the Council will then have to erect retaining walls and fence at their own expense if that part of the removed structure is on Council land.

Council has ensured it has all the rights and owners have all the responsibilities.

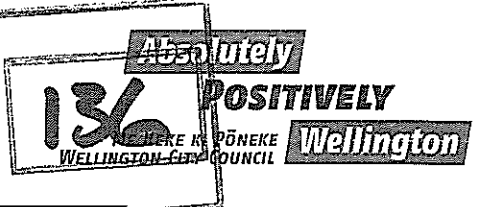
Insufficient consultation time, oral submissions are 20 days after the written submissions are due – insufficient advertising to public given, an article in the Dominion Post with table of proposed differentiation fees should be advertised to give public a more realistic view of what the Council is actually proposing. While there might not be an outcry before 8 July, should the 'preferred option' slip through because of lack of opposition, then the outcry will certainly come if they receive an increase in fee on 1 July 2010 from \$11.25 to \$11.45, and then after that they'll be paying over \$1000 on top of the existing fee (and in some areas double that), just to park a car? Residential parking fees are currently \$100/pa so why would we wish to continue paying for parking fees on our own property for market rates? Residential parking fees are a flat rate so encroachment fees should be the same. Council is unilaterally exercising its absolute market power and positioning itself to extract maximum rents.

The whole idea of encouraging decks in the 1960's and I'm sure this continues, is to relieve the existing parking problems on the streets. In our case, the car deck was built years before we purchased the property – no mention when we purchased the property was made to encroachment fees. The invoice just appeared a few years later.

The Council needs to get its act together – sort the encroachment fees once and for all – it went through an extensive consultation phase a few years ago and I get the impression they are trying to slip through again. And then in five years, do it again? The Council currently get all their gardening done for free in the process. All the Council does is arrange for someone to come along the footpath and literally slice anything that overlaps the footpath, and no regard is made to killing plants and shrubs in the process. Plants are purchased by the owner so why not simply ask them to cut back overgrowth if it is required?

I also strongly disagree that balconies over a footpath are on airspace encroachment for the entire building, it all encroaches over the same piece of footpath and the council should never allow buildings to receive their building consent if they do – this should be part of the normal approval part, not approve a building structure and then ask for encroachment fees from every apartment/flat within the building over the same piece of land.

SUBMISSION
NUMBER



Road Encroachment and Sale Policy submission form

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- by making a submission on this form or in writing and send it to us by:
 - Post – Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax (04) 801 3124
- by making a submission online at www.Wellington.govt.nz
- by sending an email to: encroachment.review@wcc.govt.nz

Please contact Wellington City Council on 499 4444 for more information.

First fold here

Your name and contact details

Mr / Mrs / Ms / Miss / Dr (circle which applies)

First name/last name*

PAUL WILSON

Street address*

120 GLENMORE STREET
NORTHLAND 6012

Phone/mobile

4759400

Email

* Mandatory fields

I am making a submission

As an individual

On behalf of an organisation

Name of organisation

I would like to make an oral submission to the City Councillors

Yes

No

If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

STRONGLY SUPPORT SUPPORT NEUTRAL OPPOSE STRONGLY OPPOSE

Objectives

Policy principles

Criteria for evaluating road encroachment proposals

Consultation with affected parties

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

TAKES NO ACCOUNT OF COUPON PARKING ZONES
OPERATING IN THE STREET/ROAD THE ENCROACHMENT
PERTAINS TO.

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (the Council's preferred option); or (3) individual valuation of each encroachment licence.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
Flat rate					<input checked="" type="checkbox"/>
Differentiated fees		<input checked="" type="checkbox"/>			
Individual valuations					<input checked="" type="checkbox"/>

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square metres of public land free of charge.

What are your views on this proposal?

Strongly support	Support	Neutral	<input checked="" type="checkbox"/> Oppose	Strongly oppose
------------------	---------	---------	--	-----------------

Q5: The Council proposes that the value of new airspace leases (eg for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease.

What are your views on this proposal?

Strongly support	<input checked="" type="checkbox"/> Support	Neutral	Oppose	Strongly oppose
------------------	---	---------	--------	-----------------

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force.

What are your views on these options?

	STRONGLY SUPPORT	SUPPORT	NEUTRAL	OPPOSE	STRONGLY OPPOSE
All changes from 1 July 2011		<input checked="" type="checkbox"/>			
Changes introduced as new licences are issued					

Q7: Do you have any other concerns or views about how fees are set?

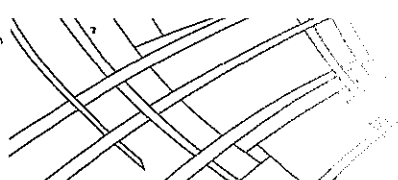
NEITHER THE "FLAT RATE" OR THE "DIFFERENTIATED FEE" OPTIONS CAN TAKE INTO ACCOUNT THE USE THE ENCROACHMENT IS PUT TO, WHICH SHOULD BE CONSIDERED WHEN SETTING RENTAL RATES, FAIRLY.

Second fold here

FreePost Authority Number 2199



Road Encroachment and Sale Policy (COP001)
 Wellington City Council
 PO Box 2199
 Wellington 6011



**SUBMISSION
NUMBER**

182
ME HEK KAI
WELLINGTON CITY COUNCIL

Absolutely

POSITIVELY

Wellington

Consultation Submission Form Template

This is the standard template form to be used in a formal consultation process. Please use the text below and add the specific details required in red.

Section One – details for the submission form

Publication and Design will format the below details and include in your consultation document.

Proposed Changes to the Road Encroachment and Sale Policy

We are keen to get your thoughts on proposed changes to the Road Encroachment and Sale Policy.

You can have your say:

- By making a submission on this form or in writing and send it to us by
 - Post – Freepost 2199, Road Encroachment Review, Wellington City Council 6140
 - Fax 8013124
- By making a submission online at www.wellington.govt.nz
- By sending an email to: encroachment.review@wcc.govt.nz¹

Please contact the Wellington City Council on 499 4444 for more information.

Enter your name and contact details

Mr

First name/Last name: Torsten Baker

Street Address: 81 Austin Street, Mt Victoria, Wellington

Phone /Mobile 971 3062 AH or 027 460 8056

Email: domus@windowslive.com

* Mandatory fields

I am making a submission

As an individual

On behalf on an organisation Name of organisation Domus Limited

I would like to make an oral submission to the City Councillors YES/No If yes, provide a phone number above so that a submission time can be arranged.

Submissions close 5pm Thursday 8 July 2010

Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by the Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

¹ KS can set up a designated email address for your project and direct it to your email account

Consultation Submission Form Template

Section Two – Questions

Have your say

Q1: Some parts of the Road Encroachment and Sale Policy have been changed. What are your views on the following parts of the draft policy?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
Objectives					X
Policy Principles					X
Criteria for evaluating road encroachment proposals					X
Consultation with affected parties	X				

Q2: Do you have any concerns or views about the draft Road Encroachment and Sale Policy?

I have major concerns about the consultation process and the draft policy. These are outlined below. The key points are:

- The consultation process is inadequate as required information is not disclosed. The Council proposes inadequate consultation on future fee changes which should be direct with licence holders, not buried in the annual plan process.
- By splitting the policy and fee change processes the Council is making it harder for the public to have a meaningful input by not providing appropriate information at the appropriate time.
- The policy is inadequate and incomplete. It does not deal with public-good discounting or other encroachments such as utilities. While purporting to address all encroachments, no mention is made of utilities' use of the road reserve. We are not provided with information about the financial contribution.
- The Council has a strong vested interest in passing these policy changes and making later fee adjustments through a potential increase of fees of over \$11 million. The proposals seem to have an underlying purpose of maximising revenue to the Council while giving nothing in return.
- The Council has exercised its monopoly power to strip licence holders of any certainty of tenure.
- The current proposal reads as if the intention is to remove encroachments in the future. This wipes any value that may have been associated with licences and now makes them a liability.
- Lack of certainty about tenure means Council policies are directly responsible for running down encroachment structures (why spend thousands on maintenance when you can be told to remove it next month?) This is leading to 'uglification' of our city because of a short-sighted, power-centric, money-hungry policy.
- No recognition has been made of the fact that this asset has not cost Council anything, and that licence holders assist Council to avoid substantial costs through their care and maintenance of encroached land.

Consultation Submission Form Template

The consultation is invalid as the draft policy is unsupported by fact, transparency or logic

The consultation does not meet minimum expectations for good practice in consultation. For example this should include:

Information sharing - Sufficient information will be provided so participants can engage in a meaningful way and are able to make informed and useful responses.

Respect - Successful consultation is based on respect for all participants in the process.

Opportunity - Sufficient opportunity will be given for participants to express their views, and there should be some flexibility in how this opportunity is provided.

Openness - All participants in the process should demonstrate an open mind and a willingness to listen.”

Source (accessed 2 July 2010) <http://www.justice.govt.nz/policy-and-consultation/electoral/electoral-finance-reform/electoral-finance-reform-archive-1/principles-of-consultation>

Also see <http://www.qualityplanning.org.nz/consents/consultation-resource-consents/index.php> for the Environment Court’s synthesis of principles of consultation.

An overarching concern with the draft policy is the complete absence of facts supporting the proposals, absence of disclosure of relevant information, and paucity of logical reasoning.

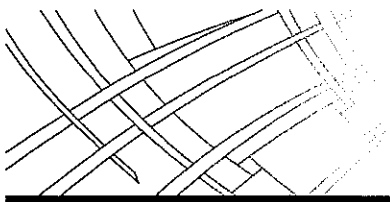
The documents are full of hypothetical postulations to support the proposed policy. This is not good enough.

Full disclosure of the research, analysis and data used in the policy development is needed. Council also needs to be more transparent, for example it should set out in full:

1. the costs of administering the licences
2. its spend specifically in relation to reserve land occupied by licences
3. its current revenue from encroachment licences
4. its expected revenue under each of the options being proposed
5. a full cost benefit analysis for each option being proposed
6. how many encroachments and their square meterage in each of the suburbs included in table 1 in part 2 of the draft policy (one suspects that there are far more encroachments in the high value areas, potentially providing a large boost to the Council coffers, yet this information is withheld from the debate)
7. its policy for assessing public and private benefits. This was discussed with officers when I rang up to enquire about the five-fold potential fee increase for our encroachment under the proposed valuation method, but I am unable to find any mention of this policy, process or the criteria to be applied.

Failure by Council to provide adequate information and to disclose its potential revenue interests from the various options reduce debate to matters of opinion. This process therefore does not meet the requirements of sound consultation.

Council should make full disclosure, including all of the matters above and any other information sought by submissioners, and then consult again.



Consultation Submission Form Template

Council is abusing its absolute power to force changes on licence holders

Once more the Council appears to be using its absolute monopoly power to strip encroachment holders of their remaining rights and maximise rents.

Council has already moved to unilaterally force a change of encroachment licences, removing any certainty or expectation of ongoing tenure, and giving Council the right to terminate with one month notice without the need to provide a reason.

This draft policy reads as if the Council wants to go even further and has an underlying aim of removing encroachments and making licence holders pay for it to happen. Council appears to be taking the attitude that encroachment licence holders are captive and it can therefore dictate any terms it likes for licences.

When we bought a property with an encroachment there was, at the time, a reasonable expectation of the licence being long-term and in fact this was included in the agreement. This was stripped away some years later when Council offered a 'take it or leave it' replacement licence giving itself the right to terminate with one month notice.

Since this time I have noticed a significant deterioration in the condition of garages and structures on council encroachments. This is no surprise. Why spend hundreds or thousands of dollars on maintenance and repairs if you could be told to remove the whole structure in a months time? Council is therefore directly responsible for making our city look more run down and derelict.

To add insult to injury, Council can terminate the licence if it doesn't like the condition of your structure! I was recently forced to spend over a thousand dollars on maintenance and removing graffiti. The letter from Council demanding the work be done made it clear that the licence could be terminated if I didn't. When I sought some assurance of tenure in the medium term, Council officers were unable to provide this. They could only advise that they knew of no plans for the site. So Council were offering a choice, spend the money with no certainty of tenure, or remove the structure entirely at my own expense and surrender the licence. Some choice!

The policy needs to guarantee a reasonable expectation of long-term tenure unless there is a compelling public benefit demonstrated to justify termination of the lease. This would demonstrate Council being willing to be a fair landlord, and would provide the certainty needed for licence holders to maintain structures on road encroachments.

Thousands of dollars being wiped off the value of properties with encroachments

I strongly disagree with the unsupported claim on page 3 of Part 2 of the draft policy that the value of the encroachment land is incorporated in to the price owners receive for their properties. At the time we bought our property the encroachment value may have been factored on as there was a clear expectation of ongoing tenure.

However, given the Council's current approach to tenure, no such claim can be made as licences provide for one months notice. Without security of tenure no value can be claimed for the encroachment land.

There may still be some utility value of the structures, while tenure continues. However these are not Council assets and Council should ensure that its rentals are not based on the value of the structures. Indeed, the rentals potentially struck under the proposed valuation method is only fractionally lower than a market rent for a garage in our area, which seems to imply that Council! consider the structures of little or no value.

The draft policy includes provisions removing any expectation of new owners being able to take over a licence. This has the effect of turning what was once considered an asset into a liability. Any prospective purchaser of a property is liable, under this draft policy, to be forced to remove the structure before they can sell the property. A prudent purchaser will factor this cost into any offer they make. So instead of

Consultation Submission Form Template

having a garage or car pad adding value to a property, if this policy goes through, it will remove thousands of dollars of value from the price we originally paid when there was some certainty of tenure.

Council officers have told me that there is public benefit in getting cars off the road and into garages or onto car decks. This draft policy does not recognise this benefit, nor does it explain that this benefit is expected to result in 50-60% 'discounting' of the 'market rent' that is proposed. If council officers provide this advice when I ring up, why does the policy not also acknowledge the public-good.

The policy should clearly state Council's view on the public and private benefits of encroachment licences. It should set out the process and criteria for assessing public and private benefits and include an appeal process.

The policy should provide long-term certainty, including an expectation of transfer on sale. Only then could Council validly claim that encroachments add value to a property and expect to extract 'market' rents.

Council freeloading on licence holders' goodwill

Council historically allowed property owners some benefit of the use of adjoining road reserve in return for those owners maintaining it. This has been a fair trade. However now Council seems determined to excessively crank rents and still expect licence holders to maintain the road reserve. Indeed, Council expects property owners to maintain its road frontages even if they get no benefit from it. How is this fair?

The policy should acknowledge the contribution licence holders make to keeping its costs down, and keeping the city tidy, instead of treating them like cash cows and free labourers.

The Council is trying to maximise rents for an asset that has cost it nothing

On the face of the data provided by Council, our annual encroachment licence fee would increase by over \$2,000 under the valuation method. (No discount factor can be calculated as the Council has not provided information on this process.) If this were an average impact, Council would stand to make at least \$11.9 million windfall gain from this policy change. This could be even more if there are more licences in the higher valued inner city suburbs. This potential financial incentive on the Council is not disclosed in the draft policy.

The Council seems determined to maximise rents from licence holders. No increase in service, or improvement in the excessively short notice period is offered in return. Its all take and no give.

This move seems to be based on the principle of extracting the most from those with no power to avoid or mitigate the cost – we are captive payers, and the cost of the alternative (exiting the licence) is so high as to be an unrealistic option.

It's not as if the Council has to pay for its asset most of the roading land was gifted to it many years ago! It is also not as if Council has high outgoings, as noted above, licence holders do most of the looking after the land involved!

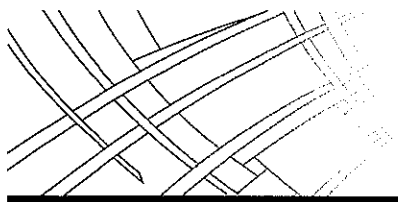
The policy should recognise that encroachments provide public benefits, that the land asset came at zero cost and that maximising rents is not appropriate in these circumstances.

The draft policy is silent on charges to other users of road reserve

The policy makes no mention of charges to utility providers using the ground underneath and airspace above road reserve.

Is this because they are covered by a different policy? If so this should be transparently stated in the draft policy, the charges to these other users should be revealed and the basis for charging should be set out. As these are encroachments, I don't see why they are not covered in the policy.

Or are these other users getting a free ride?



Consultation Submission Form Template

Q3: The Council is consulting on three options for how to set rental rates: (1) a flat rate per square metre (existing policy); (2) differentiated fees where the rate per square metre is in proportion to land values in the area (Council's preferred option); or (3) individual valuation of each encroachment licence. What are your views on these options?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
Flat rate		X			
Differentiated fees					X
Individual valuations					X

Rationale

The current system is administratively simple and keeps costs down. Differentiated fees or individual valuations would increase complexity and cost, individual valuations excessively so. These costs will no doubt be borne by licence holders and would mean even more extreme fee increases.

There is no clear rationale for differentiated fees or individual valuations that can be derived from the draft policy except to generate increased revenue for Council.

A flat fee is rational if public good is considered, given that the major public good is to get cars off the road – as I was advised by a Council officer. Congestion is greatest closer to the city, therefore the public good in getting cars off the road will also be greatest in these areas. This logic supports the existing flat fee approach and avoids the need for complicated and expensive administrative and appeal processes.

Q4: The Council proposes changing the existing policy so that where an encroached area is fenced or hedged, property owners no longer have use of the first 50 square meters of public land free of charge. What are your views on this proposal?

Strongly support	Support	Neutral	Oppose	Strongly oppose
		X		

Rationale

Council has not made a case for this change.

Some private benefit may be obtained from these cases, but as noted above, the Council is also saved significant maintenance costs.

I am sure in most cases there is little diminution in public use. These situations usually arise where there is road reserve adjoining a property that would otherwise be 'waste space'.

If people 'gave up' these areas, which is likely to occur if policy is changed without a strong case and high fees are imposed, what would be the cost to Council to maintain them?

I suggest that like most road reserve Council would not maintain them so either residents would be forced to continue to maintain the land or they would revert to weeds.

Some recognition must also be given to compliance costs. It therefore does make sense to set a threshold before a licence is documented or charge is made.

Consultation Submission Form Template

Council should be transparent about the cost of administering the road encroachments and base the threshold on this information along with a recognition of the cost savings and public benefits as discussed above.

Without Council disclosing this information, the draft policy looks like another case of Council simply seeking to extract maximum rents.

Q5: The Council proposes that the value of new airspace leases (for example for private balconies above legal roads) be determined up front and a single fee be made that covers the life of the lease. What are your views on this proposal?

Strongly support	Support	Neutral	Oppose	Strongly oppose
				X

Rationale

This sounds like Council wants its cake and to eat it too with the proposed up-front fee. Once Council has spent all the initial fee, will they change the policy and seek annual fees again?

The argument that purchasers are unaware of the annual fee and dispute them is spurious. Purchasers would not expect to get far with any such dispute. Can Council please provide details of the number of such disputes, how far each dispute has progressed through the legal system and how much Council has had to spend on legal representation for such cases in the last 10 years?

The policy should make it clear that any such upfront charging would come with a guarantee that the Council will not double dip!

Q6: The Council is consulting on two options for when any changes to the Road Encroachment and Sale Policy, including any changes to fees, might come into force. What are your views on these options?

	Strongly support	Support	Neutral	Oppose	Strongly oppose
All changes from 1 July 2011					X
Changes introduced as new licences are issued	X				

Rationale

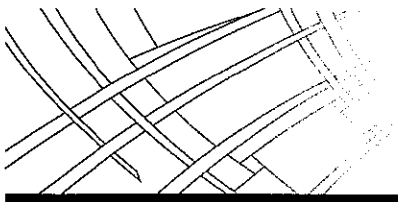
While the first option may appeal to the Council as it is administratively simple, the second option is fairer to existing leaseholders. As discussed above, captive audiences should not be exploited.

Q7: Do you have any other concerns or views about how fees are set?

Fee increases opposed due to lack of evidence to support them

I strongly oppose any increase in fees.

As discussed above, Council is not being transparent about its costs. It has made no case for the five-fold increase in licence fees that are indicated by the policy.



Consultation Submission Form Template

Instead Council should provide certainty of long term tenure for licence holders and hold down the fees as much as possible to encourage licence holders to maintain their garages and car-pads to a good and safe standard. The same goes for where residents are maintaining road reserve that would otherwise become wasteland.

Inadequate information about valuation option

Council has not provided clear information about the basis of valuation it would use, the process to be followed with valuations and rental assessments, any process to determine discount for public good or other reasons (such as maintaining Council reserve on its behalf at no cost to Council).

Splitting policy and fee decisions hides the true impact and makes consultation meaningless

Council is not being up-front about its intentions if it changes the fees policy. If Council wishes to generate more revenue through licence policy changes followed by fee changes, it should be open and transparent about it. Changing the policy then increasing fees later makes meaningful overall consultation impossible. The fee change proposal and undoubted increase in fees is simply milking a captive audience for as much revenue as possible. There is no relation between the costs to Council of the encroachments and the fees currently being charged, let alone a five fold increase. No sustainable business case could be made for the change and fee increases. Is this why Council has failed to prepare, or provide one to support its proposals?

Extracting maximum rents from a free asset dressed up in business speak

The road reserves are no an asset for which Council must achieve a return on investment. They have cost Council no capital. Monopolistic revenue maximising behaviour is being dressed up in a veneer of business speak. Yet there is no business case. If Council want to sound like a business, let us see its business justification for its policy.

Direct consultation required with affected parties

I request that Council set itself a requirement to consult each licence holder directly for any future change in fees, and not to slip them through hidden deep in the detail of an annual plan consultation.

Just as Council expects owners to consult affected parties directly for any consent process, Council should be obligated to consult its licensees directly on matters that have a direct impact on them such as fee increases.

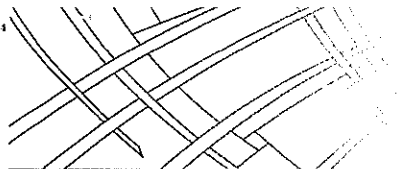
Addressing fee increases in annual plan proposals is far from direct and is unlikely to come to the attention of most licence holders until it is too late no matter how well publicised the planning process is.

The proposal to use the annual plan process when Council easily has the means to consult with those directly affected smacks of a clear attempt to avoid meaningful consultation.

In conclusion

Council needs to make full disclosure of its analysis and facts supporting its proposals. If the draft policy contains the facts that the Council has then it is a woefully inadequate analysis.

Council need to make sure the draft policy is complete and unambiguous. For example, advice from officers indicates a discounting policy which is not mentioned or covered.



Consultation Submission Form Template

Council should consult on all aspects of its proposed changes at once: policy and fees.

Stakeholders can get a clear view of what is intended only when the proposal is complete, supported by appropriate evidence, and unambiguous about Council's future intentions.

All the indications are that Council is simply exerting its monopoly to extract maximum rent for an asset that is, for all intents and purposes, free to it.

Council needs to address these issues before meaningful consultation can be completed.