
ORDINARY MEETING

OF

WELLINGTON CITY COUNCIL

LATE ITEM

Time: 5.30pm
Date: Wednesday, 19 August 2015
Venue: Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

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3. General Business

AMENDED SUBMISSION ON WELLINGTON TOWN BELT BILL

Purpose

1. To approve an amended submission to Select Committee (almost certainly the Local Government and Environment Select Committee) on the Wellington Town Belt Bill to resolve concerns raised by the Minister of Land Information Hon Louise Upston (the **Minister**) over the relationship between the Bill and the Public Works Act 1981 (**PWA**).

Summary

2. The Council announced its intention to promote the introduction of the Wellington Town Belt Bill (**The Bill**) to Parliament on 15 May 2015.
3. The Minister subsequently raised concerns over the way the Bill dealt with the application of the PWA and asked that the Council support changes to clauses 6 and 23 of the Bill through the Select Committee process.
4. Council officers and Crown officials have negotiated changes that would give the Crown more surety around the timeframe and risks associated with taking Wellington Town Belt land under the PWA, while allowing the Council the opportunity to pursue the best possible compensation — including land to add to the Wellington Town Belt.
5. It is proposed to change the Council's submission to the Select Committee to request the negotiated changes to clauses 6 and 23.

Recommendations

That the Council:

1. Receive the information.
2. Agree to request that the Select Committee recommend changes to clauses 6 and 23 of the Bill in Attachment 1 to address the concerns of the Minister of Land Information.
3. Adopt the amended submission in Attachment 2 as the Council's primary formal submission to the Select Committee.
4. Agree to delegate to the Chief Executive, the Mayor and Natural Environment Portfolio Leader the ability to make further technical submissions and/or provide additional information to the Select Committee provided that such further submissions or information are consistent with the Council's primary formal submission.

Background

6. The Wellington Town Belt Bill was approved by the Council on 30 September 2014 with minor changes on 25 February 2015.
7. The Council formally announced its intention to introduce the Bill on 15 May 2015. Copies of the Bill were available for public inspection between 15 May 2015 and 8 June

2015 (Attachment 3). The Council also formally notified government departments and agencies that could be affected by clauses in the Bill.

8. The Minister for Land Information Hon Louise Upston (The Minister) raised concerns about provisions in the Bill regarding application of the Public Works Act (PWA). In particular the Bill:
 - Does not recognise the PWA as enabling the Crown and local authorities to carry out works for public purposes.
 - May make parts of the compulsory acquisition process impracticable.
 - Extends legal standing to object to the taking of the land to all inhabitants of Wellington.
 - Seeks to amend the established compensation provisions of part 5 of the PWA by changing the timing, amount and assessment of compensation.
9. Council officers and legal counsel have been working with Land Information New Zealand (**LINZ**), Department of Internal Affairs (**DIA**) and New Zealand Transport Agency (**NZTA**) officials to reach an agreed position on a version of clauses 6 (b) and 23 that retains as much of the original intention of the Bill as possible, whilst addressing the Crown's concerns. An amended version has been drafted that will give the Crown more surety around the timeframe and risks associated with taking Wellington Town Belt land, while giving the Council the opportunity to pursue the best possible compensation — including land to add to the Wellington Town Belt (Attachment 1).
10. The Minister has advised that she will support the Bill's introduction provided that the Council requests that these amended clauses be recommended to the Select Committee. This will not require amending the version of the Bill to be introduced to Parliament, but does require a resolution of the Council to change the formal submission agreed by the Environment Committee on 23 April 2015.
11. The Wellington Town Belt Bill will be introduced into Parliament by Grant Robertson MP for Wellington Central. He has agreed to delay the introduction until the issues around clauses 6 (b) and 23 have been resolved.

Discussion

12. The proposed changes are outlined in Attachment 4 with an explanation of each change.
13. The changes will achieve the following;
 - Codify the existing legal position that the Council cannot agree to acquisition by agreement under section 17 of the PWA.
 - Reduce legal risk and the potential for delay by clarifying that the Council is not obliged — because it is the trustee of the Wellington Town Belt — to object to the taking of Wellington Town Belt land. The Council does however retain full rights to object under the PWA to any proposed compulsory acquisition of Wellington Town Belt if it wishes.
 - Given the Council's inability to agree to acquisition by agreement, to provide flexibility for compensation to be negotiated and agreed as part of the compulsory acquisition process. It also allows the issue of compensation to be resolved after the relevant land has been taken.
 - In the event that compensation cannot be agreed and the Council must make a claim for compensation under the PWA, to allow the Council to request that such compensation is assessed using the established methodology provided by section 65 of the PWA.

14. The material changes for the Council are as follows:
- Clause 23(3) no longer explicitly provides that members of the public will have standing to object. Currently, whether or not members of the public have standing to object to the Environment Court in their own right (as beneficiaries of the relevant land) is subject to some legal uncertainty.
 - Clause 23 (4) allow the compulsory acquisition to proceed without waiting for the issue of compensation to be resolved.
 - Clause 23(4)(d) performs an equivalent role to the original. The material difference is to moderate the methodology that will be used to assess compensation. The proposal is that the Council may request compensation to be assessed on the basis of "the reasonable cost of equivalent reinstatement in some other place" — which is an established method under section 65 of the PWA.
15. The Minister has indicated that the proposed changes are likely to be considered as part of the Select Committee process. The most appropriate way for the Council to express its support in the event that such changes are recommended is by way of its formal submission to the Select Committee. This requires the version approved by the Environment Committee on 23 April 2015 to be amended (Attachment 2 – changes in red).

Options

16. **Option 1:** Request Grant Robertson MP for Wellington Central to introduce the Bill on the next Members' day without any changes to the Bill or Council's submission. There is a significant risk that the government will not support the Bill being referred to Select Committee. In that case the Bill would most likely not proceed (i.e. it would be voted down at its first reading). There are many other aspects of the Bill and improvements to the governance framework for the Wellington Town Belt that will be lost if the Bill does not proceed. **Not recommended.**
17. **Option 2:** Council withdraws the Bill from the Parliamentary process at this stage and formally proposes changes to clauses 6(b) and 23 of the Bill before resubmitting it. This will require the Bill to go through the formal notification and advertising process again which will delay its introduction by at least two months. **Not recommended.**
18. **Option 3:** Council amends its submission to the Select Committee to request the proposed changes negotiated by officials. The Bill is introduced to Parliament with any amendments taking place at Select Committee. **Recommended.**

Next Actions

19. The Bill is introduced into Parliament by Grant Robertson MP for Wellington Central and referred to the Local Government and Environment Select Committee.
20. The Bill is referred back from Select Committee. The Council will consider the Select Committee's report and any recommended amendments to the Bill prior to its second reading. The Council can either approve the amendments or withdraw the Bill from Parliament at this stage if it disagrees with the amendments recommended by the Select Committee.

Attachments

Attachment 1.	Amended clauses 6 (b) and 23 of the Wellington Town Belt Bill	Page 8
Attachment 2.	Amended Submission to Select Committee	Page 9
Attachment 3.	Certified copy of Wellington Town Belt Bill	Page 19

Attachment 4. Explanation of proposed amendments

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Author	Michael Oates, Open Space and Recreation Planning Manager
Authoriser	Greg Orchard, Chief Operating Officer

SUPPORTING INFORMATION

Consultation and Engagement

Not applicable

Treaty of Waitangi considerations

Not applicable

Financial implications Not applicable

Policy and legislative implications Consistent with Council policy

Risks / legal

Legal advice has been taken

Climate Change impact and considerations

Not applicable

Communications Plan

Not applicable

Officers' & Officials' Agreed version

6 Meaning of Wellington Town Belt

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

- ... (b) does not include—
- (i) land referred to in section 25(1);
 - (ii) land referred to in section 27; and
 - (iii) land taken or declared to be road under the Public Works Act 1981.

23 Application of the Public Works Act 1981

- (1) The Council has no ability to agree under section 17 of the Public Works Act 1981 to the acquisition of any part of the Wellington Town Belt.
- (2) Sections 40 to 42 of the Public Works Act 1981 do not apply to the addition of land to the Wellington Town Belt under section 21.
- (3) Nothing in this Act or the Town Belt Deed obliges the Council to object under s 23(3) of the Public Works Act 1981 to the taking of any part of the Wellington Town Belt.
- (4) Whenever steps may be taken under section 26 of the Public Works Act 1981 following a notice of intention to take part of the Wellington Town Belt, the Council and the Minister or local authority (as the case may be) must make all reasonable endeavours to agree the compensation that will be made to the Council, which may include a grant of land.
- (5) If the compensation that will be made to the Council is not agreed within 6 months from any part of the Wellington Town Belt being taken under the Public Works Act 1981, the obligation under paragraph (4) expires and the following provisions apply:
 - (a) the Council may make a claim for compensation under the Public Works Act 1981;
 - (b) the Council may request that compensation for the land taken be assessed on the basis of the reasonable cost of equivalent reinstatement in some other place under section 65 of the Public Works Act 1981, in which case the Minister or local authority (as the case may be) shall assess compensation on that basis unless section 65 does not apply or the Minister or local authority considers that assessment on that basis would not constitute full compensation for the land taken;
 - (c) in all other respects the provisions of the Public Works Act 1981 will apply, including the ability to grant land as compensation.

WELLINGTON TOWN BELT BILL
SUBMISSION TO THE LOCAL GOVERNMENT AND ENVIRONMENT
SELECT COMMITTEE — [INSERT DATE]

EXECUTIVE SUMMARY

As trustee, the Council is the guardian of the Wellington Town Belt as well as its day-to-day custodian and manager. These important roles are made more difficult by a legislative status quo that is complex and sometimes contentious. Following extensive consultation and a prolonged public conversation, the Council wishes to honour its roles by promoting local legislation — the Wellington Town Belt Bill — that will more effectively protect the Town Belt and allow it to grow in the future should suitable land become available. The Bill will also make the basis upon which the Town Belt is governed and managed more transparent, thus enabling the public to hold the Council accountable.

This cannot be achieved without legislation. The Bill before the Local Government and Environment Select Committee has undergone years of careful development and negotiation with stakeholders. The public and important stakeholders have expressed support for it. The Council respectfully requests that the Committee recommend the Bill to Parliament for enactment.

BACKGROUND

What is the Wellington Town Belt?

The land known as the Wellington Town Belt is a significant area of open space that provides a scenic backdrop to the inner city and offers recreational opportunities to residents and visitors. Today it comprises nearly 400 hectares stretching in a horseshoe shape from Mt Victoria/Matairangi in the north — east, to Te Ahumairangi Hill (formerly Tinakori Hill) between Wadestown and Thorndon.

The Town Belt had its genesis in the 1839 instruction given by the Secretary of the New Zealand Company, John Ward, to set aside a belt of land "not to be built upon" around the then town of Wellington. Part of the New Zealand Company's intention was to provide green and open spaces to improve the health and wellbeing of citizens. After the New Zealand Company's land passed to the Crown, the Governor of New Zealand gazetted the belt of land as reserve in 1841. In 1865 the land was transferred from the Crown to the Superintendent of the Province of Wellington (known as the 'Crown Grant').

What is the current governance and management framework?

Wellington City Council became trustee of the Town Belt in 1873, when, acting pursuant to the Wellington City Reserves Act 1871, the Superintendent transferred a large portion of the Crown Grant upon trust to "The Mayor, Councillors and Citizens of Wellington". This transfer was effected by the Superintendent executing a deed, now known as the 'Town Belt Deed'. The Deed stated that the transferred land was:

... to be for ever hereafter used and appropriated as a public Recreation ground for the inhabitants of the City of Wellington in such manner as in

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and by rules and regulations to be from time to time made in that behalf by the [Council] shall be prescribed and directed ...

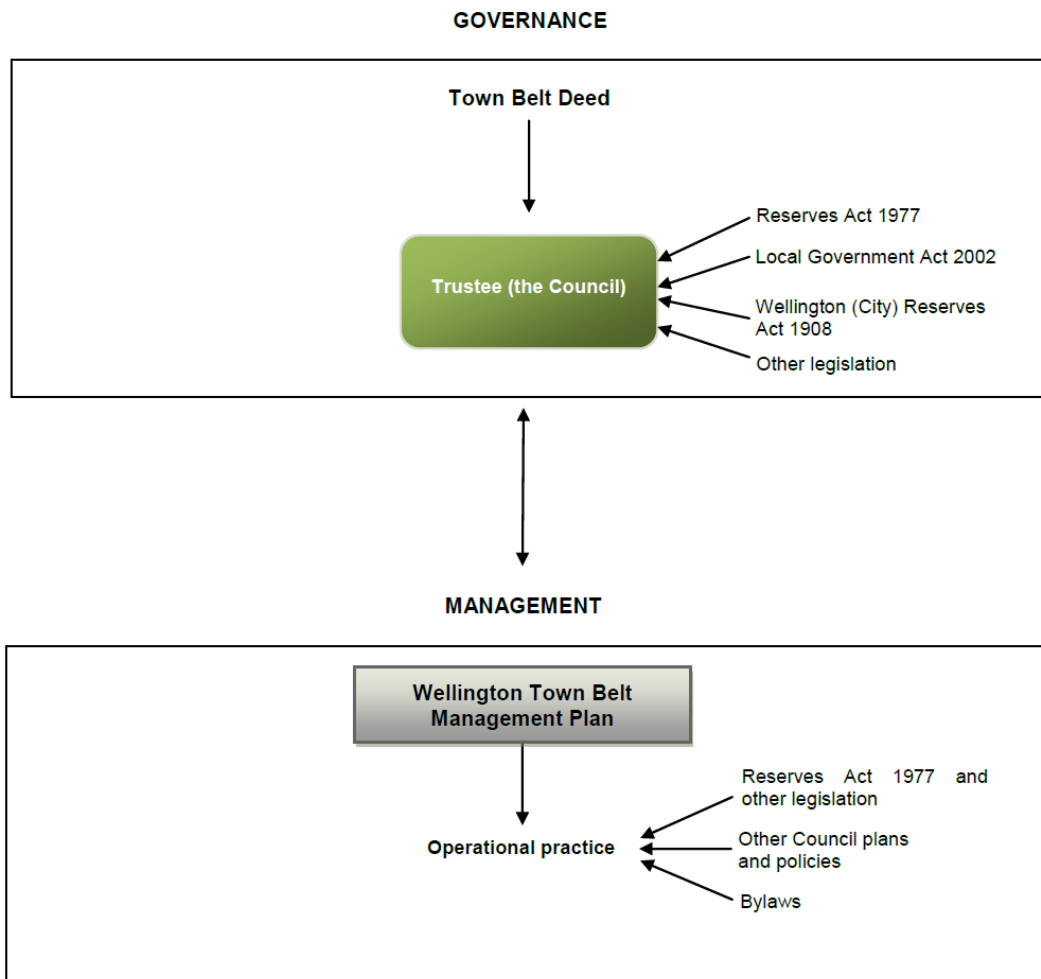
It is the land that the Council continues to hold on trust pursuant to the Deed that is regarded as 'Town Belt' in a formal legal sense.

The Deed also empowered the Council to lease parts of the Town Belt in order to raise revenue for the purposes set out in the Wellington City Reserves Act 1871 and the Wellington City Reserves Act 1872. These purposes were to fund the "ornamentation and utilisation of the Town Belt"; the Board of Governors of the Botanic Gardens; and the construction and maintenance of various roads. This power is now effectively historic as other methods of raising revenue are available and more appropriate.

As well as being held on trust by the Council, the Town Belt is also a recreation reserve under the Reserves Act 1977 (**RA**). While the Council's day-to-day powers are probably most commonly sourced from the RA, section 5(2) of that legislation provides that its application must be read subject to the Deed.

The Council's primary duty is to execute the trust created by the Deed in accordance with its terms and the general law. In other words, the Council's powers must be exercised in a manner that is consistent with the object of using the Town Belt as a public recreation ground for the inhabitants of Wellington.

The current governance and management framework can be represented diagrammatically as follows:



The Council's general management powers under this framework include:

- Under the Deed, the Council may manage the Town Belt "in such manner as in and by such rules and regulations to be from time to time made in that behalf by the [Council] shall be prescribed and directed".
- In practice however, the Council manages the Town Belt by exercising its powers as the administering body for the Town Belt as a recreation reserve under the RA:
 - Under section 41(11) of the RA, the Council must, in the exercise of its functions, comply with its current management plan (presently the Wellington Town Belt Management Plan 2013).
 - The Council may lease parts of the Town Belt in accordance with section 54 of the RA.
 - The Council may grant rights of way and other easements over the Town Belt in accordance with section 48 of the RA.
 - The Council may grant licences to use parts of the Town Belt pursuant to section 54 of the RA.

WHY IS THERE A NEED FOR LEGISLATIVE CHANGE?

The Council's obligations and powers as trustee of the Town Belt come from a range of sources, including the Deed, the RA and a number of older statutes. The relationship between these sources can be complex and hard to understand — in some cases leading to controversy and dispute. The Bill will simplify and make much more transparent the basis upon which the Council holds and manages the Town Belt.

The Bill will also enable land to be added to the Town Belt as well as implement a number of technical boundary adjustments so that the status of land within and adjacent to the Town Belt matches the facts on the ground. This adjustment is required because, in some places, existing formed roads and other infrastructure do not match the underlying surveyed boundaries.

In summary, the primary purposes of the Bill are to:

- Resolve the existing legal complexities;
- Improve and modernise the governance arrangements for the Town Belt;
- In conjunction with the Wellington Town Belt Management Plan, provide the public and the Council with a single and easily understood reference point for how the Town Belt will be protected and managed in the future; and
- Enable land to be added to the Town Belt.

Under the Bill, the trust created by the Deed will be preserved by legislation and the Council will continue to manage the Town Belt in accordance with a management plan that it adopts periodically following public consultation.

WHAT PROCESS HAS BEEN FOLLOWED?

In early 2010, a high level analysis of the legislative and policy framework for the Town Belt took place. This work resulted in a four stage project:

- *Stage one — guiding principles:* Public consultation on a set of proposed guiding principles took place in mid-2011, with a final set of principles being adopted by the Council on 16 December 2011. These principles reflect what the community values about the Town Belt.
- *Stage two — drafting instructions:* The Council accepted advice that there was a need for legislative change and on 27 June 2013 it adopted drafting instructions outlining why legislation was desirable and what it should seek to achieve. These instructions formed the basis for preparing a local bill to rationalise, clarify and consolidate the governance of the Town Belt.
- *Stage three — preparing a first draft of the Wellington Town Belt Bill:* A draft of the Bill was prepared by lawyers and, on 2 April 2014, was approved by the Council for consultation. Consultation took place between 8 April and 19 May 2014. This included:

- Media releases and advertising in print media via the Council's "Our Wellington" page in the *Dominion Post*.
 - Use of the Council's website and Facebook pages.
 - Direct distribution to key stakeholders. This included clubs with leased facilities on the Town Belt; community groups working on the Town Belt; iwi; and individuals and organisations who had submitted on either the guiding principles or the most recent management plan.
 - A joint public meeting was held on 6 May 2014 with the group called 'Friends of the Wellington Town Belt' at the St John's in the City conference centre.
 - Making information available at the Council's libraries and service centres.
- *Stage four — preparing a final draft of the Wellington Town Belt Bill:* Taking into account the submissions received (see below), Council officers and lawyers worked together with Councillors, certain stakeholders, the Parliamentary Counsel Office, Land Information New Zealand and the Office of the Clerk of the House of Representatives to prepare a final draft of the Bill. This was adopted by the Council on 30 September 2014. The Council approved minor amendments to the Bill on 25 February 2015 following a further review by the Office of the Clerk and Parliamentary Counsel Office.

OUTCOMES OF CONSULTATION ON THE DRAFT BILL

Fifty written submissions on the draft Bill were received. Twenty submitters also made oral submissions to the Council's Environment Committee on 27 May 2014.

The key issues raised by the submissions can be grouped into the following three main themes:

Application of the Public Works Act 1981: The Council's policy position reflected in the first draft of the Bill was that it accepted the Bill should not exclude the Public Works Act 1981 (**PWA**) entirely; but it did not want the Bill to enable the Council to "do deals" or be a willing party to the compulsory acquisition of Town Belt land (which is consistent with current practice on the basis that the Deed seemingly prevents the Council from agreeing to acquisition under section 17 of the PWA).

A wide range of views were expressed during consultation, including on one hand that the Town Belt should not be subject to the PWA; and on the other that the Council's policy position might disadvantage it and result in worse outcomes overall for the Town Belt when faced with the prospect of compulsory acquisition.

In the light of the submissions and advice received, the clause dealing with the PWA was amended so that it will not allow the Council to agree to acquisition under section 17 of the PWA, but it may enable the Council to achieve a better outcome when faced with an intention to compulsorily acquire Town Belt land. Clause 23 of the Bill endeavours to achieve this by providing that:

- The acquisition by agreement provisions of the PWA do not apply.
- The public may object to a proposed acquisition under the PWA in the normal way.

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- Where a proposed acquisition has reached the stage at which it can be completed by the issuance of a proclamation, the Minister and the Council must endeavour to agree compensation. If compensation cannot be agreed, it will be assessed "on the basis of the reasonable cost of equivalent reinstatement of land of similar or better value for use as part of a public recreation ground for the inhabitants of the city of Wellington than the land taken or acquired".
- Where only a strata title to the subsoil of the Town Belt is to be acquired (for example a tunnel), compensation will be assessed under the PWA in the normal way.

The Council notes that The Minister for Land Information Hon Louise Upston (the **Minister**) has raised concerns about the relationship between the Bill and the Public Works Act 1981 (**PWA**) — in particular with respect to clauses 6 and 23. In summary, the Minister's concerns are that, in her view, the Bill.

:

- Does not recognise the PWA as enabling the Crown and local authorities to carry out works for public purposes.
- May make parts of the compulsory acquisition process impracticable.
- Extends legal standing to object to the taking of the land to all inhabitants of Wellington.
- Seeks to amend the established compensation provisions of part 5 of the PWA by changing the timing, amount and assessment of compensation.

The Council requests that the Select Committee recommend changes to clauses 6 and 23, on the understanding that such changes would result in greater certainty around timing and less risk associated with the taking of Wellington Town Belt land, while giving the Council the opportunity to advocate for the best possible compensation — including land to add to the Wellington Town Belt. The amended versions of clauses 6 and 23 that the Council would support are as follows:

6 Meaning of Wellington Town Belt

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

...

(b) *does not include—*

- land referred to in section 25(1);*
- land referred to in section 27; and*
- land taken or declared to be road under the Public Works Act 1981*

23 Application of the Public Works Act 1981

- (1) *The Council has no ability to agree under section 17 of the Public Works Act 1981 to the acquisition of any part of the Wellington Town Belt.*
- (2) *Sections 40 to 42 of the Public Works Act 1981 do not apply to the addition of land to the Wellington Town Belt under section 21.*
- (3) *Nothing in this Act or the Town Belt Deed obliges the Council to object under s 23(3) of the Public Works Act 1981 to the taking of any part of the Wellington Town Belt.*
- (4) *Whenever steps may be taken under section 26 of the Public Works Act 1981 following a notice of intention to take part of the Wellington Town Belt, the Council and the Minister or local authority (as the case may be)*

- must make all reasonable endeavours to agree the compensation that will be made to the Council, which may include a grant of land.*
- (5) *If the compensation that will be made to the Council is not agreed within 6 months from any part of the Wellington Town Belt being taken under the Public Works Act 1981, the obligation under paragraph (4) expires and the following provisions apply:*
- (a) *the Council may make a claim for compensation under the Public Works Act 1981:*
 - (b) *the Council may request that compensation for the land taken be assessed on the basis of the reasonable cost of equivalent reinstatement in some other place under section 65 of the Public Works Act 1981, in which case the Minister or local authority (as the case may be) shall assess compensation on that basis unless section 65 does not apply or the Minister or local authority considers that assessment on that basis would not constitute full compensation for the land taken:*
 - (c) *in all other respects the provisions of the Public Works Act 1981 will apply, including the ability to grant land as compensation.*

Commercial activity: Several submitters expressed concern that the provisions in the draft Bill around 'for profit' activity were too open ended and might enable commercial activities and even forms of recreation that were contrary to open space values.

A number of changes were made in response to these submissions, including the addition of a new clause 18. All business activities will require authorisation, which the Council will only be able to give if:

- The activity is temporary and any effect on the Town Belt is no more than minor; or
- The activity is consistent with the use of the Town Belt as a public recreation ground and the effect on the Town Belt of any structure or facility required to be built or extended for the activity is no more than minor.

In effect, the Bill will allow the Council to authorise activities such as pro shops and professional coaching associated with recreational clubs; cafes within existing buildings; coffee carts; and guided tours. It will not allow activities and developments such as gondolas; golf driving ranges; and new buildings for cafes or shops.

Removing the Town Belt from the application of the RA: Several submitters expressed concern over the proposed removal of the Town Belt from the jurisdiction of the RA (i.e. ending the Town Belt's status as a recreation reserve). Their concerns were centred on a perception that the Bill might offer a reduced level of protection, as well as the (again, perceived) wider range of powers the Council would have if some powers were not retained by the Minister of Conservation.

The Council commissioned Paul Radich QC to review the implications of removing the Town Belt from the RA by way of the Bill. His conclusions were:

- The protections that are provided by the Bill for the Town Belt improve materially upon those that are available under the RA because they are more comprehensive and are focused directly upon protecting the features of the Town Belt.
- There is nothing, in terms of avenues for participating in or challenging management decisions by the Council about the Town Belt, in the RA that would

be lost through having the provisions of the Bill cover the use and management of the Town Belt. Each of the relevant avenues for participation or challenge in the RA is available in the Bill and the similar or equivalent avenues in the Bill are better designed and better suited for participation and challenge having regard to the particular features of the Town Belt to which they are directed.

- Furthermore, there is some uncertainty as to whether the RA applies to the Town Belt at all and as to whether the Deed provides an unrestricted power to lease Town Belt land. These uncertainties, however slight, have the potential to produce significant adverse consequences. They are removed through the provisions of the Bill.

The Council remains of the view that the continued application of the RA would simply create uncertainty and room for legal argument without materially adding to the protection of the Town Belt or the Council's ability to effectively manage the land. The longevity of the Bill would also be put at risk by any future reform of the RA.

EFFECT OF THE BILL

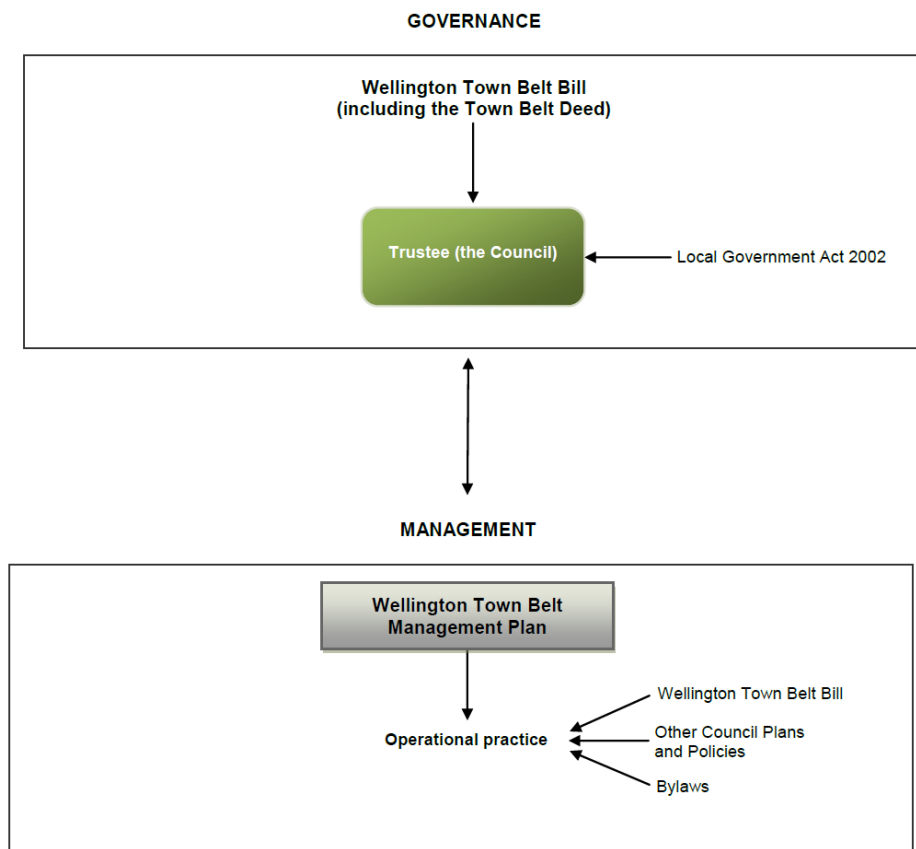
The Council prepared the Explanatory Note which explains the Bill and includes a clause-by-clause analysis. More detail in relation to some of the clauses is set out below:

- **Preamble:** This describes some of the history of the Town Belt. The Whakatauki was provided by Port Nicholson Block Settlement Trust (PNBST). The way in which this history is described has been carefully mediated by the Council as between different stakeholders such as PNBST and the Friends of the Wellington Town Belt.
- **Clause 4 — Principles:** These principles reflect the guiding principles adopted by the Council following public consultation as stage one of the overall process of reform.
- **Clause 6 — Meaning of the Wellington Town Belt:** Together with Schedule 2, this defines, by reference to specific parcels, the land that will be subject to the Bill as part of the "Wellington Town Belt". It also allows suitable land to be added in the future by resolution of the Council (clause 21). Schedule 2 was compiled with the assistance of a surveyor and has been certified on behalf of the Registrar-General of Land.
- **Clause 8 — Legal status:** Several stakeholders wanted the Deed to be preserved as the founding document for the Town Belt (rather than replacing it with a wholly statutory trust). Clause 8 achieves this, but also simplifies the legal position by eliminating the need for any reference to the historic document itself (although we note that the document is included in the Bill through Schedule 1).
- **Clause 9 — Public access:** This carries over an important element of the RA regime by guaranteeing public access. It also provides that business activities (as defined in clause 5) may not be undertaken on the Town Belt unless authorised pursuant to the Bill.
- **Clauses 10 and 11 — Management plan:** The Bill puts in place a management plan regime broadly equivalent to that required by the RA. In exercising its powers with respect to the Town Belt, the Council "must comply" with the management plan it has adopted following a process of public consultation. The management plan will also

define the boundaries of the Chest Hospital and Wellington Zoo so that they may, if appropriate, be reduced in size in the future.

- **Clauses 12 and 13 — Powers:** While the starting point is the modern approach of "full capacity", the Council's powers are limited by the principles in clause 4; the trust in clause 8; the requirement to comply with a management plan in clause 10; and the specific restrictions in clause 13. Importantly, the Council cannot sell the Town Belt or grant permanent rights over it except as provided for by the Bill itself. As discussed above, the Bill will also limit the Council's ability to permit commercial activities on the Town Belt. Aside from within the Wellington Zoo and Chest Hospital areas, the Bill would prohibit the Council from authorising business activity unless it was either (a) temporary and of minor impact; or (b) consistent with the use of the Town Belt as a public recreation ground and did not require any new structure of more than minor effect.
- **Clause 20 — Public services:** Clause 20 recognises that, as Wellington grows and changes, there are likely to be good reasons for using some Town Belt land for infrastructure such as reservoirs, pipes or cables. The Bill therefore empowers the Council to grant rights over the Town Belt for "public services" as defined in clause 5.

The end result of the Bill will be a refined and improved governance and management framework that can be represented diagrammatically as follows:



Item 3.3 Attachment 2

DRAFT FOR CONSULTATION

Wellington Town Belt Bill

Local Bill

Explanatory note

General policy statement

The Wellington City Council (**Council**) is proposing to change the legal framework for the Wellington Town Belt. The Council's aim is to strengthen the protection of, and modernise the governance arrangements for the Wellington Town Belt.

In 1839 the initial settlement plan for Port Nicholson (now Wellington City) included the Wellington Town Belt as "public property on condition that no buildings be ever erected upon it". The Council became the trustee of the Wellington Town Belt under a trust that was established by the Town Belt Deed, settled in 1873. This requires the land to be held upon trust "to be for ever hereafter used and appropriated as a public recreation ground for the inhabitants of the City of Wellington". The Town Belt Deed provides the Council with its authority to hold and manage the Wellington Town Belt, as well as providing the power to make rules and regulations that govern its use.

Parts of the Town Belt Deed are difficult to interpret. Moreover, there are a range of other statutes that apply to the Wellington Town Belt, some of which are very old. As a consequence of this, there is some uncertainty about the legal status of the Wellington Town Belt, the extent to which the Wellington Town Belt is protected for future generations, and the Council's powers to protect, manage and enhance the Wellington Town Belt.

This Bill is intended to provide certainty by:

- (a) becoming the principal source of the Council's powers for protecting, managing and enhancing the Wellington Town Belt; and
- (b) providing a transparent statutory basis for the Council's trusteeship and management of the Wellington Town Belt; and
- (c) providing a mechanism for land to become part of the Wellington Town Belt, including land that was lost from the Wellington Town Belt since 1840, but has subsequently been regained by the Council.

Consultation draft

Clause by clause analysis

The *Preamble* introduces the legislation and puts it in context. It summarises the history of the Original Town Belt from initial instructions for its formation in 1839 and inclusion on the 1840 Plan of Wellington as well as acknowledging its significance to mana whenua and other Wellingtonians.

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

Purpose and principles

Clause 3 states the purpose of the Bill.

Clause 4 provides the principles the Council must have regard to in performing its functions and exercising its powers.

Interpretation and application

Clause 5 defines certain terms used in the Bill.

Clause 6 sets out what land is and is not included in the Wellington Town Belt.

Part 2

Status and management of the Wellington Town Belt

Status

Clause 7 provides the name of the Wellington Town Belt.

Clause 8 provides that the Council holds the Wellington Town Belt as trustee of the trust created by the Town Belt Deed, and the terms of that trust.

Clause 9 provides that the public have freedom of entry and access to the Wellington Town Belt, except for limited circumstances as set out by the Bill.

Management Plan

Clause 10 provides that the Council must adopt a management plan for the Wellington Town Belt and that in performing its functions and exercising its powers with respect to the Wellington Town Belt, the Council must comply with the management plan.

Clause 11 sets out what the management plan must contain.

Powers

Clause 12 provides that for the purposes of performing its role as trustee and manager of the Wellington Town Belt, the Council has full capacity to carry on or undertake any activity, do any act, or enter into any transaction.

Clause 13 sets out restrictions on the Council's powers.

Clause 14 sets out when the Council can and cannot delegate its powers.

Clause 15 provides the consultation requirements in relation to the Wellington Town Belt.

Uses

Clause 16 provides the circumstances in which a lease may be granted in respect of the Wellington Town Belt.

Clause 17 provides the circumstances in which a licence may be granted in respect of the Wellington Town Belt.

Clause 18 sets out the circumstances in which the Council may authorise business activities on the Wellington Town Belt.

Special areas

Clause 19 relates to the application of the Bill to the Chest Hospital and Wellington Zoo.

Public services

Clause 20 provides the circumstances in which the Council may grant leases, licences and easements and authorise business activities for public services.

Part 3

Additions to, or removals of parts of, the Wellington Town Belt

Clause 21 sets out how land may be added to the Wellington Town Belt.

Clause 22 provides that no land be removed from the Wellington Town Belt.

Clause 23 explains the application of the Public Works Act 1981 to the Wellington Town Belt.

Clause 24 provides that the Wellington Town Belt is not reserve under the Reserves Act 1977 and is not road under the Local Government Act 1974 or the Public Works Act 1981.

Clause 25 concerns the application of the Bill to the Wellington Botanic Garden.

Part 4

Miscellaneous provisions

Clause 26 provides that existing rights at the commencement of the Bill will not be affected.

Clause 27 clarifies that the land in:

- (a) Schedule 3 is not part of the Wellington Town Belt and will be road within the meaning of section 315 of the Local Government Act 1974;
- (b) Schedule 4 is not part of the Wellington Town Belt and will be local purpose reserve under the Reserves Act 1977;
- (c) Schedule 5 is not part of the Wellington Town Belt and vests in the Council.

Clause 28 provides the method by which Wellington Town Belt land is to be entered in the registers.

Clause 29 provides transitional provisions relating to the *Wellington Town Belt Management Plan (June 2013)*.

Clause 30 provides for the part revocation of the Schedule to the Health Sector Transfers (Wellington City Council) Order 2002 (SR 2002/393).

Clause 31 addresses repeals as a result of the Bill.

Consultation draft

Grant Robertson

Wellington Town Belt Bill

Local Bill

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Preamble

- (1) Whakatauki:

“Tumutumu parea, rākau parea, whānui te ara ki a Tāne”

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

This was uttered by Te Wharepouri Te Kakapi-o-te-Rangi during the arrival of the colonial ships within the Wellington harbour, and upon the Petone foreshore during the 1830s. Te Wharepouri saw the benefits of building positive relationships with the colonial settlers and working together towards common goals and initiatives. Hence, the focus of this proverb is about the journey of life, overcoming obstacles and issues, and focusing on the main tasks at hand.
- (2) The New Zealand Company was a private land settlement company formed in London in May 1839, which planned to establish a settlement at Wellington harbour. The Company’s representatives arrived at Wellington harbour in September 1839.
- (3) At the time of the New Zealand Company’s arrival, the iwi groups with *take raupatu* over all of the lands within the Wellington harbour and its environs were Te Ātiawa, Ngāti Ruanui, Taranaki, Ngāti Tama (together, Taranaki Whānui ki Te Upoko o Te Ika) and Ngāti Toa Rangatira. These iwi each had their own *ahi kā* over particular areas as follows:
 - (a) Te Ātiawa at Te Whanganui ā Tara and parts of the south-west coast;
 - (b) Taranaki and Ngāti Ruanui at Te Aro;
 - (c) Ngāti Tama at Kaiwharawhara and environs, and parts of the south-west coast; and
 - (d) Ngāti Toa Rangatira at parts of the south-west coast.
- (4) The New Zealand Company’s initial settlement plan provided for the original Town Belt, being public reserves of 1,562 acres (approximately 632 hectares) around the proposed town of Port Nicholson (now Wellington City), that would separate it from the Company’s rural district. These reserves included the land that is now the Wellington Botanic Garden. The instructions from the Company’s secretary, John Ward, to its surveyor, William Mein Smith, included that this land be “public property on condition that no buildings be ever erected upon it”.
- (5) On 16 October 1841, the Governor of New Zealand notified that the reserves provided for in the Company’s plans were “reserved by the Crown for Public

Preamble

Wellington Town Belt Bill

- Purposes”. This was done without consulting or, at that time, compensating the relevant iwi groups.
- (6) On 3 June 1861, the Crown conveyed some of the original Town Belt to the Superintendent of the Province of Wellington “in trust for the purposes of Public Utility to the Town of Wellington and its inhabitants”.
 - (7) The Wellington City Reserves Act 1871 instructed the Superintendent to convey some of the original Town Belt to the Council’s predecessor (being the Corporation of the City of Wellington, described as the “Mayor, Councillors and Citizens of the City of Wellington”) upon trust for “purposes of public utility to the City of Wellington and its inhabitants”. The Superintendent carried out this instruction in 1873 by executing the Town Belt Deed, which conveyed three parcels of land on trust to the Council’s predecessor. The three parcels were the land known as the “Town Belt”, “Canal Reserve” and “Basin Reserve”.
 - (8) The “Town Belt” parcel and the “Canal Reserve” parcel were conveyed to the Council’s predecessor upon trust “to be for ever hereafter used and appropriated as a public Recreation ground for the inhabitants of the City of Wellington”.
 - (9) The “Basin Reserve” parcel was subsequently resettled on the Council’s predecessor by deed dated 17 October 1884 as a separate trust, and the Town Belt Deed has no further application to it.
 - (10) The report of the Waitangi Tribunal *Te Whanganui ā Tara me ōna Takiwā: Report on the Wellington District* (Wai 145, 2003) concluded that breaches of the Treaty of Waitangi by the Crown had occurred, including in relation to the Crown’s acquisition of lands within the Wellington harbour and its environs. The historical claims of Taranaki Whānui ki Te Upoko o Te Ika were settled on 19 August 2008 and the historical claims of Ngāti Toa Rangatira were settled on 7 December 2012.
 - (11) As well as the significance of some of the land to mana whenua, the concept of the original Town Belt and having open green space around the central city are important to the inhabitants of Wellington generally. Over time, many people and community groups have cared for the Wellington Town Belt and worked to recover parts of the original Town Belt not vested in the Council.
 - (12) There is some uncertainty about the legal status of the Wellington Town Belt, the extent to which the Wellington Town Belt is protected for future generations, and the Council’s powers to protect, manage and enhance the Wellington Town Belt. This Act will provide certainty by:
 - (a) becoming the principal source of the Council’s powers for protecting, managing and enhancing the Wellington Town Belt; and
 - (b) providing a transparent statutory basis for the Council’s trusteeship and management of the Wellington Town Belt; and

Wellington Town Belt Bill

Part 1 cl 4

- (c) providing a mechanism for land to become part of the Wellington Town Belt.
- (13) The objects of this Act cannot be attained otherwise than by legislation.

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Wellington Town Belt Act **2015**.

2 Commencement

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

Part 1
Preliminary provisions

Purpose and principles

3 Purpose

The purpose of this Act is to—

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

4 Principles

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

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Part 1 cl 5

Wellington Town Belt Bill

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

Interpretation and application

5 Interpretation

In this Act, unless the context otherwise requires,—

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

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

Council means the Wellington City Council

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

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

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

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

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

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Wellington Town Belt Bill

Part 2 cl 8

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

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

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

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

Wellington Botanic Garden means the land described in Schedule 6

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

6 Meaning of Wellington Town Belt

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

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

Part 2

Status and management of the Wellington Town Belt

Status

7 Name

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

8 Legal status

- (1) The Council holds the Wellington Town Belt on behalf of the inhabitants of the city of Wellington as trustee of the trust created by the Town Belt Deed.
- (2) The Town Belt Deed is to be read as if the only term of the trust is to forever hereafter use and appropriate the Wellington Town Belt as a public recreation ground for the inhabitants of the city of Wellington.

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Wellington Town Belt Bill

- (3) For the purposes of subsection (2), **public recreation ground** means an area provided for—
- (a) recreation, sporting activities and the enjoyment of the public, with an emphasis on the retention of public access, open spaces and outdoor activities; and
 - (b) the protection of the natural environment and historic heritage.

9 Public access

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

Management plan

10 Management plan

- (1) The Council must adopt a management plan for the Wellington Town Belt.
- (2) In exercising its powers with respect to the Wellington Town Belt, the Council must comply with the management plan.
- (3) The Council must review the management plan at intervals of not more than 10 years and, as appropriate, replace or amend it by passing a resolution adopting a new plan or amendments to the current plan.
- (4) Any new plan or amendments to the current plan must be prepared in draft, and the Council must—
- (a) make the draft publicly available for inspection; and
 - (b) invite the public to make submissions on the draft; and
 - (c) give every submitter who asks to be heard a reasonable opportunity to appear in support of the submitter's submission; and
 - (d) take into account all submissions made on the draft.

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Wellington Town Belt Bill

Part 2 cl 13

- (5) The Council may, without complying with subsection (4), amend the management plan, if it passes a resolution that—
- (a) the proposed amendments are minor or technical in nature; and
 - (b) compliance with subsection (4) is unnecessary.

11 Contents of management plan

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

Powers

12 Powers of the Council

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

13 Restrictions on the Council's powers

Despite section 12, the Council has no power to—

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

Part 2 cl 14

Wellington Town Belt Bill

- (c) authorise any business activity on the Wellington Town Belt other than in accordance with sections 18 to 20.

14 Delegation of the Council's powers

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

15 Consultation

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

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Wellington Town Belt Bill

Part 2 cl 17

- (b) grant licences under section 19; and
 - (c) grant easements, leases, and licences under section 20.
- (4) Before exercising a power in subsection (3), the Council must consider the views of the public and persons likely to be affected by, or to have an interest in, the proposed exercise of the power, including by—
- (a) making information on the proposed exercise of the power publicly available and inviting submissions on it; and
 - (b) taking into account all submissions made on the proposed exercise of the power.
- (5) At all times there must be an employee of the Council whose—
- (a) role includes acting as a liaison officer between the public and the Council with respect to the Wellington Town Belt; and
 - (b) role includes oversight of the management plan under section 10; and
 - (c) name and contact details are made publicly available.

Uses

16 Leases

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

17 Licences

- (1) The Council may, on any conditions that it considers appropriate, grant licences in respect of the Wellington Town Belt.
- (2) A licence under this section must—
 - (a) specify what activities are authorised by the licence; and
 - (b) not be granted for a term, including any renewals, exceeding 10 years; and

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Part 2 cl 18

Wellington Town Belt Bill

- (c) not allow a right to transfer, sub-licence, assign, or otherwise dispose of the licensee's interest without the Council's consent.

18 Business activities

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

Special areas

19 Application to Chest Hospital and Wellington Zoo

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

Public services

20 Public services

- (1) Despite anything in this Act, the Council may, on any conditions that it considers appropriate, grant easements, leases, and licences and authorise business activities in respect of the Wellington Town Belt for public services and sections 16 to 18 do not apply.
- (2) Before deciding whether to exercise any power under subsection (1), the Council must consider—
 - (a) the effect on the Wellington Town Belt of the proposed public service; and
 - (b) alternative sites, routes, or other methods for achieving the objectives of the proposed public service.

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Wellington Town Belt Bill

Part 3 cl 23

- (3) Any public service owned by the Council on the Wellington Town Belt at the commencement of this Act is lawful and may be the subject of an easement in favour of any party entitled to use the service.
- (4) The Council may grant a right under this section to itself.

Part 3

Additions to, or removals of parts of, the Wellington Town Belt

21 Adding land to the Wellington Town Belt

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

22 No removal of land from the Wellington Town Belt

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

23 Application of the Public Works Act 1981

- (1) Sections 17 to 21, 27, and 114 of the Public Works Act 1981 do not apply to the Wellington Town Belt.
- (2) Sections 40 to 42 of the Public Works Act 1981 do not apply to the addition of land to the Wellington Town Belt under section 21.
- (3) The Council and the inhabitants of Wellington each have standing to object under section 23(3) of the Public Works Act 1981 to the taking of any part of the Wellington Town Belt.
- (4) Whenever, following a notice of intention to take part of the Wellington Town Belt under section 23 of the Public Works Act 1981, steps may be taken under section 26 of that Act, the following provisions apply:
 - (a) the Council and the Minister must make all reasonable endeavours to agree the compensation that will be made to the Council before the Minister makes any recommendation to the Governor-General to issue a Proclamation taking the land:
 - (b) when agreeing any compensation under paragraph (a), the Minister's discretion is not limited by any amount of compensation assessable under the Public Works Act 1981:

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Part 3 cl 24

Wellington Town Belt Bill

- (c) any compensation agreed under paragraph (a) may include a grant of land:
- (d) where Wellington Town Belt is taken or acquired without compensation being agreed under paragraph (a), then compensation for the land that is taken or acquired must be assessed on the basis of the reasonable cost of equivalent reinstatement of land of similar or better value for use as part of a public recreation ground for the inhabitants of the city of Wellington than the land taken or acquired:
- (e) paragraph (d) does not apply where only the subsoil of the relevant land is taken or acquired.

24 Wellington Town Belt not reserve or road

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

25 Application to the Wellington Botanic Garden

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

Part 4

Miscellaneous provisions

26 Existing rights not affected

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

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Wellington Town Belt Bill

Part 4 cl 28

- (e) any public service that is lawfully established on the Wellington Town Belt.
- (2) This Act does not affect the operation of any law that confers rights to access, operate, inspect, maintain, replace or upgrade public services.
- (3) Despite section 31, the Council and any lessee of the lease granted under the Wellington City Exhibition Grounds Act 1959 have the same rights and obligations in all respects as if that Act had not been repealed.
- 27 Land not to be part of the Wellington Town Belt**
- (1) On and from the commencement of this Act, the land described in Schedule 3—
- (a) ceases (where relevant) to be subject to the Town Belt Deed and the Reserves Act 1977; and
- (b) vests in the Council as road within the meaning of section 315 of the Local Government Act 1974.
- (2) On and from the commencement of this Act, the land described in Schedule 4—
- (a) ceases (where relevant) to be subject to the Town Belt Deed; and
- (b) vests in the Council as local purpose reserve under the Reserves Act 1977.
- (3) On and from the commencement of this Act—
- (a) the land described in Schedule 5 ceases (where relevant) to be subject to the Town Belt Deed and the Reserves Act 1977; and
- (b) the fee simple estate in the land vests in the Council free of any encumbrance, interest, or other right or obligation affecting the land existing immediately before the commencement of this Act.
- 28 Entry of the Wellington Town Belt in registers**
- (1) The Registrar-General must, in accordance with a written application by the Council, do anything that is necessary to give effect to this Act, including, without limitation, subsections (2) to (6).
- (2) If part of the Wellington Town Belt is not subject to the Land Transfer Act 1952, the Registrar-General must, in accordance with a written application by the Council,—
- (a) make an entry in the index book of the Deeds Register Office; and
- (b) upon such registration the land becomes subject to the Land Transfer Act 1952.
- (3) To the extent that part of the Wellington Town Belt is not all of the land contained in a computer freehold register, or there is no computer freehold register

Part 4 cl 29

Wellington Town Belt Bill

- for part of the Wellington Town Belt, the Registrar-General must, in accordance with a written application by the Council,—
- (a) create a computer freehold register for the fee simple estate in the land in the name of the Council; and
 - (b) record on the computer freehold register any interests that are registered, notified, or notifiable and that are described in the application.
- (4) If part of the Wellington Town Belt is all of the land contained in a computer freehold register, the Registrar-General must, in accordance with a written application by the Council,—
- (a) record against the computer freehold register a notification that the land is subject to this Act; and
 - (b) remove from the computer freehold register any notification that the land is subject to the Town Belt Deed or the Reserves Act 1977, or held for any purpose that is inconsistent with this Act.
- (5) Subsections (2) and (3) are subject to the completion of any survey necessary to make an entry in the index book or create a computer freehold register.
- (6) The Registrar-General must, in accordance with a written application by the Council—
- (a) register any instrument granting a right under section 20; and
 - (b) comply with subsections (2) to (4) in relation to any land that vests under section 21 in the Council as Wellington Town Belt; and
 - (c) do anything that is necessary to give effect to section 27, including to create computer freehold registers and record anything in, and remove anything from, the register.
- (7) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to any matter required for the purpose of, or incidental to, this section.

29 Transitional provisions

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

30 Part revocation of Order in Council

Clauses 9, 10 and 11 of the Schedule to the Health Sector Transfers (Wellington City Council) Order 2002 (SR 2002/393) are hereby revoked.

31 Repeals

The Acts specified in Schedule 7 are repealed.

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Consultation draft

Wellington Town Belt Bill

Schedule 1

**Schedule 1
Town Belt Deed**

s 5

Dated 20th March 1873

The Superintendent of the Province of Wellington

to

The Corporation of the City of Wellington

Town Belt and Basin Reserve Wellington

C of W No. 1

C O N V E Y A N C E

under the Wellington City Reserves Act

Corpn. Book Fol. 1

THIS DEED

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

BETWEEN

THE HONOURABLE WILLIAM FITZHERBERT

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

of the one part and

THE MAYOR COUNCILLORS and **CITIZENS OF THE CITY OF WELLINGTON**

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

of the other part

WITNESSETH

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

Consultation draft

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Schedule 1

Wellington Town Belt Bill

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

SCHEDULE 1

FIRSTLY ALL THOSE several pieces or parcels of land adjoining the City of Wellington containing by admeasurement One thousand and sixty one acres one rood and two perches more or less and forming part and parcel of the lands commonly called or known by the name of the Town Belt described in the first part of the first schedule to “The Wellington City Reserves Act 1871” SECONDLY ALL THAT piece or parcel of land situate in the City of Wellington aforesaid and containing by admeasurement Nine acres and three roods more or less and commonly called or known by the name of the basin Reserve BOUNDED on all sides by Sussex Square and THIRDLY ALL THAT piece or parcel of land situated in the City of Wellington aforesaid and contain-

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Consultation draft

Wellington Town Belt Bill

Schedule 1

ing by admeasurement Five acres and one rood more or less and commonly called or known by the name of the Canal Reserve AS all and singular the said lands are delineated in the plan numbered 1 on this skin and thereon colored Red.

SCHEDULE 2

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

SCHEDULE 3

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

SIGNED SEALED AND DELIVERED

By the Honourable William Fitzherbert
Superintendent of the Province of Wellington
in the presence of us

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

C.B. BORLASE
Provl. Solr.
Wellington
Wm. Jones
Clerk to Superintendent
William **SEAL** Fitzherbert

Schedule 2

Wellington Town Belt Bill

Schedule 2

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

s 6(a)(iii)

Area	Description	Instrument
1.1558 ha	Lot 73 Deposited Plan 33790	Computer Register 668467
0.6118 ha	Section 28 Ohiro District	Computer Register WN593/206
0.2727 ha	Lots 445–447 Deposited Plan 9808	Computer Register WN559/64
0.1999 ha	Lots 449–450 Deposited Plan 9808	Computer Register WN489/262
0.0986 ha	Lot 60 Deposited Plan 34918	Computer Register WN11C/754
0.0918 ha	Lot 448 Deposited Plan 9808	Computer Register WN549/96
0.0938 ha	Lot 20–22 Application Plan 1524	Computer Register WN23A/607
4.7345 ha	Section 2 Survey Office Plan 452140	Computer Register 590650
33.9405 ha	Section 30 Ohiro District and Section 1153 Town of Wellington	Computer Register WN676/81
15.0027 ha	Part Section 1 Upper Kaiwharawhara District	Computer Register WN6D/671
0.0296 ha	Part Section 1 Upper Kaiwharawhara District	Computer Register WN20A/507
0.4070 ha	Section 34 City of Wellington	Computer Register WN75/271
2.3028 ha	Lot 3 Deposited Plan 316137	Computer Register 63102
0.0929 ha	Part Lot 11 Deposited Plan 32496	Computer Register WN10C/1492
0.8973 ha	Lot 4 Deposited Plan 316137	Computer Register 63103
0.2786 ha	Lot 2–8 Deposited Plan 1402	Computer Register WN501/195
0.2188 ha	Lot 13–17 Application Plan 1524	Computer Register WN388/156
0.2023 ha	Part Section 11 Ohiro District	Computer Register WN81/265
0.1937 ha	Lot 4–8 Deposited Plan 22555	Computer Register WN934/78
0.0850 ha	Lot 18–19 Deposited Plan 1402	Computer Register WNE2/465
0.0555 ha	Deposited Plan 11417	Computer Register WN464/324
0.4983 ha	Part Lot 1 Deposited Plan 10508	Computer Register WN608/49
0.0921 ha	Lot 18–19 Deeds Plan 124 and defined on Application Plan 1524	Computer Register WN345/47
0.2522 ha	Part Section 36 City of Wellington	Computer Register WN125/25
0.0354 ha	Part Lot 24 Deposited Plan 1453	Computer Register WN162/266
0.0692 ha	Part Lot 4 Block IX Deposited Plan 995	Gazette Notice 327970.1
0.0665 ha	Part Lot 5 Block IX Deposited Plan 995	Gazette Notice 279720.1
0.1658 ha	Lot 2 Deposited Plan 306858	Computer Register 55700

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Consultation draft

Wellington Town Belt Bill

Schedule 2

Area	Description	Instrument
0.1366 ha	Section 1 SO 303812 and Section 8 SO 303817	Part Computer Register 123577
0.2109 ha	Section 1 Survey Office Plan 22375	Computer Register WN597/102
0.9489 ha	Section 2 SO 303812 and Section 4–6 SO 303817	Part Computer Register 69533
0.0234 ha	Part Section 435 Town of Wellington	Computer Register WN46C/419
8.1142 ha	Section 1324 Town of Wellington	Computer Register WN22C/3
13.4047 ha	Part Lot 1 Deposited Plan 66893	Computer Register WN47A/439
0.8479 ha	Lot 3 Deposited Plan 78149	Computer Register WN44D/514
0.7147 ha	Section 167 Evans Bay District	Computer Register WN22B/899
0.3828 ha	Lot 44 Deposited Plan 66894	Computer Register WN36B/370
0.3462 ha	Section 1342 Town of Wellington	Computer Register WN38A/760
0.1617 ha	Lot 2 Deposited Plan 80801	Computer Register WN47B/602
0.1456 ha	Lot 2 Deposited Plan 66893	Computer Register WN36B/369
0.0631 ha	Lot 8 Deposited Plan 313319	Computer Register 52420
0.1678 ha	Section 1 Survey Office Plan 23070	Computer Register WN624/38
0.1044 ha	Part Lot 102–105 Deeds Plan 114	Computer Register WN863/42
70.0183 ha	Lot 1, Lot 3 and Lot 6 Deposited Plan 5461, Part Lot 1 Deposited Plan 8709 and Lot 3 Deposited Plan 33855	Computer Register WN12D/1439
7.1139 ha	Coloured Green Deposited Plan 10541	Computer Register WN469/200
6.4657 ha	Deposited Plan 10086	Computer Register WN19A/369
45.3454 ha	Part Lot 1 Deposited Plan 10322	Computer Register WN47B/388
1.3376 ha	Section 1 SO 481442	Part Computer Register WN48B/341
0.2518 ha	Section 2 SO 481442	Part Computer Register WN48B/341
33.3238 ha	Parts Lot 1 Deposited Plan 8519 and Parts College Reserve	Part Computer Register WN48B/341 (less Sections 1–5 SO 481442)
24.1836 ha	Part Lot 1 Deposited Plan 8754	Computer Register WN47B/502
10.2960 ha	Part Lot 1 and Lots 2 and 3 Deposited Plan 10507	Computer Register WN427/150
0.6032 ha	Lot 2 Deposited Plan 32684	Computer Register WN10A/992
0.2588 ha	Part Lot 1 Deposited Plan 34279	Computer Register WN18D/1361
0.2515 ha	Lot 4 Deposited Plan 81724	Computer Register WN48B/339
0.1629 ha	Lot 1 Deposited Plan 46505	Computer Register WN18C/585
0.1075 ha	Lot 1 Deposited Plan 32684	Computer Register WN10A/991

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Schedule 2

Wellington Town Belt Bill

Area	Description	Instrument
0.0948 ha	Lot 1 Deposited Plan 80322	Computer Register WN47A/234
0.0928 ha	Lot 1 Deposited Plan 33006	Computer Register WN9C/1229
0.0803 ha	Lot 1 Deposited Plan 47203	Computer Register WN18D/ 1360
0.0727 ha	Lot 2 Deposited Plan 46132	Computer Register WN17B/358
0.0670 ha	Lot 3 Deposited Plan 32684	Computer Register WN10A/993
0.0662 ha	Lot 1 Deposited Plan 34024	Computer Register WN15A/ 1225
0.0607 ha	Lot 1 Deposited Plan 33683	Computer Register WN20B/500
0.0596 ha	Lot 3 Deposited Plan 81724	Computer Register WN48B/338
0.0584 ha	Lot 1 Deposited Plan 34625	Computer Register WN12C/1223
0.0579 ha	Lot 5 Deposited Plan 81724	Computer Register WN48B/340
0.0541 ha	Part Lot 1 Deposited Plan 46132	Computer Register WN47C/458
0.0511 ha	Lot 2 Deposited Plan 81724	Computer Register WN48B/337
0.0407 ha	Part College Site Reserve	Computer Register WN19A/370
0.0374 ha	Lot 1 Deposited Plan 81724	Computer Register WN48B/336
0.0278 ha	Lot 1 Deposited Plan 33290	Computer Register WN10A/ 1025
0.0260 ha	Lot 1 Deposited Plan 34790	Computer Register WN11B/1136
0.0102 ha	Lot 11 Deposited Plan 8655	Computer Register WN385/90
0.0088 ha	Lot 2 Deposited Plan 80751	Computer Register WN47B/501
0.0079 ha	Lot 1 Deposited Plan 80170	Computer Register WN46D/916
0.0060 ha	Lot 2 Deposited Plan 80322	Computer Register WN47A/235
0.0050 ha	Lot 1 Deposited Plan 80751	Computer Register WN47B/500
0.0043 ha	Lot 1 Deposited Plan 81126	Computer Register WN47C/457
0.0033 ha	Lot 1 Deposited Plan 84926	Computer Register WN52B/853
0.0032 ha	Lot 1 Deposited Plan 80376	Computer Register WN47A/347
0.0028 ha	Lot 1 Deposited Plan 80431	Computer Register WN47A/502
0.0027 ha	Lot 1 Deposited Plan 80711	Computer Register WN47B/387
0.0018 ha	Lot 2 Deposited Plan 84926	Computer Register WN52B/854
0.1866 ha	Lot 2 Deposited Plan 45564	Computer Register WN19B/859
0.1365 ha	Lot 3 Deposited Plan 45564	Computer Register WN19B/860
0.2201 ha	Lot 1 Deposited Plan 45564	Computer Register WN19B/858
0.2995 ha	Lots 35–36 Deposited Plan 17934	Computer Register WN42D/764
18.6364 ha	Section 2 Survey Office Plan 38299	Computer Register WN58B/128
0.4075 ha	Part Subdivision 3 Block XVA Polhill Gully Native Reserve	Computer Register WN362/202
0.4027 ha	Lot 12–15 Block VIII Deposited Plan 995	Computer Register WN425/168
0.1477 ha	Lot 2–3 Block IX Deposited Plan 995	Computer Register WN849/7
0.0779 ha	Lot 1 Block IX Deposited Plan 995	Computer Register WN835/93

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Consultation draft

Wellington Town Belt Bill

Schedule 2

Area	Description	Instrument
0.0717 ha	Part Lot 6 Block IX Deposited Plan 995	Computer Register WN834/34
15.7584 ha	Part Lot 1 Deposited Plan 8914 and Lot 2 Deposited Plan 8914	Computer Register WN46D/912
0.0030 ha	Lot 1 Deposited Plan 80168	Computer Register WN46D/910
0.0020 ha	Lot 2 Deposited Plan 80168	Computer Register WN46D/911
3.3061 ha	Lot 1 Deposited Plan 51766	Computer Register WN21A/468
6.4719 ha	Part Section 13–14 Orangi Kaurapa Block, Part Lot 4 Deposited Plan 706 and Lot 2 Deposited Plan 51241	Computer Register WN21C/945
0.1406 ha	Lots 1 and 2 Deposited Plan 2322	Computer Register 668465
2.9815 ha	Part DP A 2182 and Part Section 10 Ohiro District	Part Gazette Notice 066328.1 (less Lots 1–3 DP 5855)
0.0506 ha	Lot 16 Deposited Plan 2011	Part Proclamation 789176
0.1362 ha	Lots 18 and 19 Deposited Plan 27337	Computer Register WNE2/191
2.7879 ha	Section 1 SO 474071	Part Computer Register WN437/213
30.5575 ha	Section 1 SO 476360	Part Computer Register WN52B/855
0.4142 ha	Section 2 SO 476360	Part Computer Register WN716/19
1.1292 ha	Section 3 SO 476360	Part Computer Register WN716/19
0.0527 ha	Section 4 SO 476360	Part Computer Register WN716/19
0.0181 ha	Section 5 SO 476360	Part Computer Register WN52B/855
0.2178 ha	Section 6 SO 476360	Part Computer Register WN52B/855
7.9383 ha (deduced)	Part Lot 1 DP 8835	Part Computer Register WN52B/855 (less Sections 1, 5–7 and 9 SO 476360)
31.6008 ha	Section 1 SO 474197	Part Computer Register WN19B/861
0.0746 ha	Section 2 SO 474197	Road
0.0859 ha	Section 3 SO 474197	Road
0.2292 ha	Section 4 SO 474197	Road
0.0251 ha	Section 5 SO 474197	Part Computer Register WN19B/861
0.3216 ha	Section 6 SO 474197	Part Computer Register WN19B/861
0.0764 ha	Section 8 SO 474197	Road
0.0008 ha	Section 3 SO 19450	Part Computer Register WN19B/861

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Schedule 2

Wellington Town Belt Bill

Area	Description	Instrument
24.7080 ha (deduced)	Part Lot 1 DP 10181	Part Computer Register WN19B/861 (less Sections 1, 5–7, and 9–11 SO 474197 and Section 3 and an area coloured red SO 19450)
0.1673 ha	Section 1 SO 19450	Road
0.1145 ha	Section 2 SO 19450	Road
0.0096 ha	Section 4 SO 19450	Road
0.6395 ha	Section 1 SO 474199	Road
0.7561 ha	Section 2 SO 474199	Part Computer Register WN46D/915
0.5498 ha	Section 3 SO 474199	Part Computer Register WN46D/915
27.9636 ha	Part Lot 1 DP 10397	Part Computer Register WN46D/915
27.4201 ha	Lot 1, Lots 4–6, Part Lot 2 and Part Lot 7 DP 10337	Part Computer Register WN46D/917
24.7585 ha	Lots 3, 7 and 8 and Part Lots 1, 2 and 4 DP 10508	Part Computer Register WN12D/1438 (less Lots 5 and 6 DP 10508, Sections 1–2 SO 480332)
0.0458 ha	Section 1 SO 18330	Part Deeds Index 1/4A
0.0497 ha	Section 2 SO 18330	Part Deeds Index 1/4A
0.0497 ha	Section 3 SO 18330	Part Deeds Index 1/4A
0.0908 ha	Section 4 SO 18330	Part Deeds Index 1/4A
0.0347 ha	Section 1 SO 18506	Part Deeds Index 1/4A
0.1212 ha	Section 1 SO 479863	Part Deeds Index 1/4A

Wellington Town Belt Bill

Schedule 3

Schedule 3

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

s 27(1)

Area	Description	Instrument
0.0730 ha	Section 7 SO 476360	Part Computer Register WN52B/855
0.1791 ha	Section 8 SO 476360	Part Computer Register WN716/19
0.1173 ha	Section 9 SO 476360	Part Computer Register WN52B/855
0.0975 ha	Section 10 SO 476360	Part Computer Register WN716/19
0.0158 ha	Section 7 SO 474197	Part Computer Register WN19B/861
0.0026 ha	Section 9 SO 474197	Part Computer Register WN19B/861
0.0048 ha	Section 10 SO 474197	Part Computer Register WN19B/861
0.0526 ha	Section 11 SO 474197	Part Computer Register WN19B/861
0.3764 ha	The land coloured red on SO 19450 with an area of 0a-3r-28.8p	Part Computer Register WN19B/861
0.7210 ha	Section 5 SO 474199	Computer Register WN46D/913, Computer Register WN46D/914 and Part Computer Register WN46D/915
0.2303 ha	Lots 5 and 6 DP 10508	Part Computer Register WN12D/1438
0.0047 ha	Section 2 SO 480332	Part Computer Register WN12D/1438
0.3688 ha	Land coloured blue on SO 27818 with an area of 0a-3r-25.8p	Deeds Index 1/4A
0.7010 ha	Section 3 SO 481442	Computer Register WN48B/341
0.0047 ha	Section 4 SO 481442	Computer Register WN48B/341
0.0831 ha	Section 5 SO 481442	Computer Register WN48B/341

Consultation draft

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Schedule 4

Wellington Town Belt Bill

Schedule 4

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

s 27(2)

Area	Description	Instrument
0.1860 ha	Section 4 SO 474199	Part Computer Register WN46D/915
0.0206 ha	Section 1 SO 480332	Part Computer Register WN12D/ 1438

Wellington Town Belt Bill

Schedule 5

Schedule 5

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

s 27(3)

Area	Description	Instrument
0.0154 ha	Lot 3 DP 10337	Part Computer Register WN46D/917

Consultation draft

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Schedule 6

Wellington Town Belt Bill

Schedule 6
Wellington Botanic Garden land

s 5

Area	Description	Instrument
24.7969 ha	Part Lot 1 DP 8530	Computer Register WN48A/126
0.0023 ha	Lot 1 DP 81339	Computer Register WN48A/124
0.0353 ha	Lot 2 DP 81339	Computer Register WN48A/125
0.0405 ha	Lot 2 DP 74620	Computer Register WN43A/732
0.0037 ha	Lot 1 DP 80242	Computer Register WN47A/35
0.2840 ha	Lot 1 DP 55960	Computer Register WN25B/56
0.1353 ha	Lot 2 DP 55960	Computer Register WN25B/57
0.1862 ha	Sections 1224 and 1225 Town of Wellington	Computer Register WNC2/1321

Wellington Town Belt Bill

Schedule 7

Schedule 7
Enactments repealed

s 31

Wellington City Exhibition Grounds Act 1959 (1959 No 8)

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

WELLINGTON TOWN BELT BILL — EXPLANATION OF POSSIBLE AMENDMENTS

Original	Explanation of original	Proposed	Explanation of changes
<p>6 Meaning of Wellington Town Belt</p> <p>In this Act, unless the context otherwise requires, Wellington Town Belt—</p> <p>...</p> <p>(b) does not include—</p> <p style="padding-left: 20px;">(i) land referred to in section 25(1); and</p> <p style="padding-left: 20px;">(ii) land referred to in section 27.</p>	<p>This is a technical clause that defines what land will and will not be Town Belt.</p>	<p>6 Meaning of Wellington Town Belt</p> <p>In this Act, unless the context otherwise requires, Wellington Town Belt—</p> <p>...</p> <p>(b) does not include—</p> <p style="padding-left: 20px;">(i) land referred to in section 25(1);</p> <p style="padding-left: 20px;">(ii) land referred to in section 27; and</p> <p style="padding-left: 20px;">(iii) land taken or declared to be road under the Public Works Act 1981.</p>	<p>This is a technical change to clarify that land taken under the Public Works Act (PWA) will no longer fall within the definition of Town Belt. This was always the intention of the Bill and so the amendment does not result in any substantive change to the Council's position.</p>
<p>23 Application of the Public Works Act 1981</p> <p>(1) Sections 17 to 21, 27, and 114 of the Public Works Act 1981 do not apply to the Wellington Town Belt.</p>	<p>This clause provides that the acquisition by agreement provisions of the PWA (Sections 17 to 21) will not apply. It also excludes section 27 that allows natural material on land to be acquired for a public work (i.e. a quarry); and section 114 that arguably allows part of the Town Belt to be declared to be a road.</p>	<p>23 Application of the Public Works Act 1981</p> <p>(1) The Council has no ability to agree under section 17 of the Public Works Act 1981 to the acquisition of any part of the Wellington Town Belt.</p>	<p>While expressed slightly differently, the exclusion of any acquisition by agreement has been maintained.</p> <p>The exclusion of section 27 (enabling a quarry) has been removed. In real terms this concession is unlikely to be significant, as the likelihood of anyone wanting to acquire gravel or fill from the Town Belt is low. It is also unlikely that consent for such an activity would be granted under the Resource Management Act 1991 (RMA).</p> <p>The exclusion of section 114 has been removed. Section 114 arguably enables the Council to agree to the Minister declaring part of the Town Belt to be road. There is no way the Council can be compelled to agree and NZTA has conceded that, in practical terms, it is very unlikely that any Council would give agreement under section 114 where that would result in a material loss of Town Belt land.</p>
<p>(2) Sections 40 to 42 of the Public Works Act 1981 do not apply to the addition of land to the Wellington Town Belt under section 21.</p>	<p>This is a technical clause that helps the Council avoid issues around the 'offer back' provisions of the PWA.</p>	<p>(2) Sections 40 to 42 of the Public Works Act 1981 do not apply to the addition of land to the Wellington Town Belt under section 21.</p>	<p>No change is proposed.</p>
<p>(3) The Council and the inhabitants of Wellington each have standing to object under section 23(3) of the Public Works Act 1981 to the taking of any part of the Wellington Town Belt.</p>	<p>This clause sought to avoid arguments that the Council had an obligation to object to <i>any</i> proposed taking of Town Belt land by ensuring that the public would have standing to make their own objections to the Environment Court.</p>	<p>(3) Nothing in this Act or the Town Belt Deed obliges the Council to object under s 23(3) of the Public Works Act 1981 to the taking of any part of the Wellington Town Belt.</p>	<p>The proposed clause protects the Council from arguments (e.g. by way of judicial review) that it must always object to any proposed taking in any circumstances, but the clause no longer explicitly provides that members of the public will have standing to object.</p> <p>Whether or not members of the public will have standing to object to the Environment Court in their own right (as beneficiaries of the relevant land) is subject to some legal uncertainty and will ultimately be resolved by the courts.</p>

Original	Explanation of original	Proposed	Explanation of changes
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Item 3.3 Attachment

<p>(4) Whenever, following a notice of intention to take part of the Wellington Town Belt under section 23 of the Public Works Act 1981, steps may be taken under section 26 of that Act, the following provisions apply:</p> <ul style="list-style-type: none"> (a) the Council and the Minister must make all reasonable endeavours to agree the compensation that will be made to the Council before the Minister makes any recommendation to the Governor-General to issue a Proclamation taking the land: (b) when agreeing any compensation under paragraph (a), the Minister's discretion is not limited by any amount of compensation assessable under the Public Works Act 1981: (c) any compensation agreed under paragraph (a) may include a grant of land: 	<p>This clause ensures that, when faced with a compulsory acquisition, there will be an opportunity for the Council and the acquiring authority to try and reach agreement on the issue of compensation (as opposed to reverting immediately to the Land Valuation Tribunal).</p> <p>It also endeavours to allow a flexible negotiation — rather than a discussion focussed on what the Council might be entitled to under the PWA.</p>	<p>(4) Whenever steps may be taken under section 26 of the Public Works Act 1981 following a notice of intention to take part of the Wellington Town Belt, the Council and the Minister or local authority (as the case may be) must make all reasonable endeavours to agree the compensation that will be made to the Council, which may include a grant of land.</p>	<p>The proposed clause preserves the opportunity for negotiation and agreement. The material changes are:</p> <ul style="list-style-type: none"> (a) To allow the compulsory acquisition to proceed without waiting for the issue of compensation to be resolved. This will prevent delay; and (b) To remove the explicit recognition that the parties' agreement need not be tied to the technical provisions of the PWA. While this deletion is arguably material, in discussion between officials it was made clear that the acquiring authority will always, as a matter of practice, want to focus on the calculation of compensation under the PWA. As a consequence it is considered that the Council will not, in practical terms, be losing much by agreeing to this change. It will still be able to negotiate hard for the best deal possible and, potentially, achieve a win-win package of compensation that avoids litigation before the Land Valuation Tribunal.
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Original	Explanation of original	Proposed	Explanation of changes
<p>(d) where Wellington Town Belt is taken or acquired without compensation being agreed under paragraph (a), then compensation for the land that is taken or acquired must be assessed on the basis of the reasonable cost of equivalent reinstatement of land of similar or better value for use as part of a public recreation ground for the inhabitants of the city of Wellington than the land taken or acquired:</p> <p>(e) paragraph (d) does not apply where only the subsoil of the relevant land is taken or acquired.</p>	<p>This clause applies where agreement cannot be reached and compensation needs to be assessed under the PWA by the Land Valuation Tribunal.</p> <p>It requires that, instead of applying the normal methodologies for assessing compensation, compensation <i>must</i> be "on the basis of the reasonable cost of equivalent reinstatement of land of similar or better value for use as part of a public recreation ground for the inhabitants of the city of Wellington than the land taken or acquired".</p>	<p>(5) If the compensation that will be made to the Council is not agreed within 6 months from any part of the Wellington Town Belt being taken under the Public Works Act 1981, the obligation under paragraph (4) expires and the following provisions apply:</p> <p>(a) the Council may make a claim for compensation under the Public Works Act 1981:</p> <p>(b) the Council may request that compensation for the land taken be assessed on the basis of the reasonable cost of equivalent reinstatement in some other place under section 65 of the Public Works Act 1981, in which case the Minister or local authority (as the case may be) shall assess compensation on that basis unless section 65 does not apply or the Minister or local authority considers that assessment on that basis would not constitute full compensation for the land taken:</p> <p>(c) in all other respects the provisions of the Public Works Act 1981 will apply, including the ability to grant land as compensation.</p>	<p>The proposed clause performs an equivalent role to the original. The material difference is to moderate the methodology that will be used to assess compensation. The proposal is that the Council may request compensation to be assessed on the basis of "the reasonable cost of equivalent reinstatement in some other place" — which is an established method under section 65 of the PWA. Such a request must be followed unless section 65 cannot be applied (which may be the case where, for example, only a very small amount of land is involved) or applying section 65 would actually disadvantage the Council.</p>