

Absolutely Positively
Wellington City Council

Me Heke Ki Pōneke

Ordinary Meeting of Environment and Infrastructure Hearings Panel

Ngā Meneti | Minutes

9:30 am Rāpare, 2 Haratua 2024

9:30 am Thursday, 2 May 2024

Ngake (16.09), Level 16, Tahiwī

113 The Terrace

Pōneke | Wellington



PRESENT

Councillor Abdurahman
Councillor Brown (Chair)
Councillor Free
Councillor Matthews
Councillor Randle
Councillor Wi Neera (via audiovisual link)

IN ATTENDANCE

Councillor Chung
Councillor Pannett (via audiovisual link)
Councillor Rodgers
Councillor Young

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1. Meeting Conduct

1.1 Karakia

The Chairperson declared the meeting (hui) open at 9:30am and read the following karakia to open the hui.

**Whakataka te hau ki te uru,
Whakataka te hau ki te tonga.
Kia mākinakina ki uta,
Kia mātaratara ki tai.
E hī ake ana te atākura.
He tio, he huka, he hauhū.
Tihei Mauri Ora!**

Cease oh winds of the west
and of the south
Let the bracing breezes flow,
over the land and the sea.
Let the red-tipped dawn come
with a sharpened edge, a touch of frost,
a promise of a glorious day

1.2 Apologies

No apologies were received.

1.3 Conflict of Interest Declarations

No conflicts of interest were declared.

1.4 Confirmation of Minutes

Moved Councillor Brown, seconded Councillor Matthews

Resolved

That the Environment and Infrastructure Hearings Panel:

1. Approves the minutes of the Environment and Infrastructure Hearings Panel Meeting held on 5 April 2023, having been circulated, that they be taken as read and confirmed as an accurate record of that meeting.

Carried

1.5 Items not on the Agenda

There were no items not on the agenda.

1.6 Public Participation

There were no public participants.

Secretarial note: The following members of the public addressed the hearings panel regarding their written submissions on Item 2.1 Half Cost Paths Policy Review and Water Services Bylaw Review Oral Submissions.

**ENVIRONMENT AND INFRASTRUCTURE
HEARINGS PANEL
2 MAY 2024**

Name	Organisation
Carolyn Scaddan	
Chris Scott	
Nick Hough	
Shan Jordan	
Barry John Brown	
Kate Jamieson	
Paul Ramsay	
Gillian Hubbard	
Alistair Stewart	
Kerry-Lynn Sorrell	
Robyn Tiller	

The meeting adjourned at 10:33am and returned at 10:45am with all members present.

Hadleigh Petherick	
Chris Miles	
Sophie Kalderimis	
Alastair Bisley	
Tom Zajac	

(Councillor Free left the hui at 11:11am)
(Councillor Free returned to the hui at 11:14am)

Rosemary Collins	
Nigel Charman	
John Dalgiesh	
Douglas Lynn	
Philippa Conway	
Marilyn Powell	
Carolyn Kern	
Elizabeth (Lisa) Stockler	

The meeting adjourned at 11:58am and returned at 12:31pm with the following members present: Councillor Abdurahman, Councillor Brown, Councillor Free, Councillor Matthews, Councillor Randle.

Emma Martin	
Anna Thomas	
Andrew Hoy	
Alice Donnell	
Poul Israelson	
Jennie Cauchi	
Nuala	
Augusta Connor	
Matt Dean	
Carl Savage	Greater Brooklyn Residents Association Inc
Colin Fraser	

The meeting adjourned at 1:37pm and returned at 1:59pm with the following members present: Councillor Abdurahman, Councillor Brown, Councillor Free, Councillor Matthews, Councillor Randle.

Scott Austin	
Jon Harris & Rowena Johnstone	
Tim Bollinger	
Dianne Roberts	
Jeroen & Anke Kole , Katie Hardwick-Smith & Francis Wevers, Rula & Liam Farrell	
Avryl Bramley	Mount Vic Residents Association
Avryl Bramley (regarding Water Services Bylaw)	
Irene Zohrab	

2. General Business

2.1 Half Cost Paths Policy Review and Water Services Bylaw Review Oral Submissions

Moved Councillor Brown, seconded Councillor Matthews

Resolved

That the Environment and Infrastructure Hearings Panel:

1. Receive the information.
2. Hear the oral submitters and thank them for their submissions.

Carried

Attachments

- 1 Alice Donnell Presentation
- 2 Alistair Stewart Presentation 2
- 3 Alistair Stewart Presentation
- 4 Andrew Hoy presentation
- 5 Carolyn Kern Presentation
- 6 Carolyn Scadden Presentation
- 7 Douglas Lynn Presentation
- 8 Emma Martin Presentation
- 9 Irene Zohrab Presentation 2
- 10 Irene Zohrab Presentation
- 11 Jeroen Kole Presentation
- 12 Jon Harris Presentation
- 13 Marilyn Powell Presentation
- 14 Nigel Charman Presentation
- 15 Paul Ramsay Presentation
- 16 Philippa Conway Presentation
- 17 Poul Israelson Presentation

The hui concluded at 2:53pm with the reading of the following karakia:

Unuhia, unuhia, unuhia ki te uru tapu nui	Draw on, draw on
Kia wātea, kia māmā, te ngākau, te tinana, te wairua	Draw on the supreme sacredness To clear, to free the heart, the body and the spirit of mankind
I te ara takatū	
Koia rā e Rongo, whakairia ake ki runga	Oh Rongo, above (symbol of peace)
Kia wātea, kia wātea	Let this all be done in unity
Āe rā, kua wātea!	

Authenticated: _____
Chair

Ordinary Meeting of Environment and Infrastructure Hearings Panel

Minute item attachments

9:30 am Thursday, 2 May 2024
Ngake (16.09), Level 16, Tahiwī
113 The Terrace
Pōneke | Wellington

Business

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17. Poul Israelson Presentation

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Alice Donnell - handout.

Item 2.1 Attachment 1

Alistair J. Stewart - handout

(...)

CITY ENGINEER'S DEPARTMENT

C.E. File.....19/213.....

T.C. File.....

Location of Slip [REDACTED]

Date of Slip *Several over the years*

1. Slip in relation to legal boundaries:

- (a) wholly on road ✓
- (b) partly on road

2. (a) who constructed road and batter and when?

- (b) any subsequent work by City Council affecting such batter

3. Cause of slips - any action or omission by the owner that may be considered a cause or a contributing factor causing the slip

Failure of wooden breastwork between 101 & 105, probably defective drain in vicinity of 105-107, poor surface grading & s.w. control between 105 & 113.

4. (a) Does slip affect access to property concerned and are there any other properties affected and to what degree?

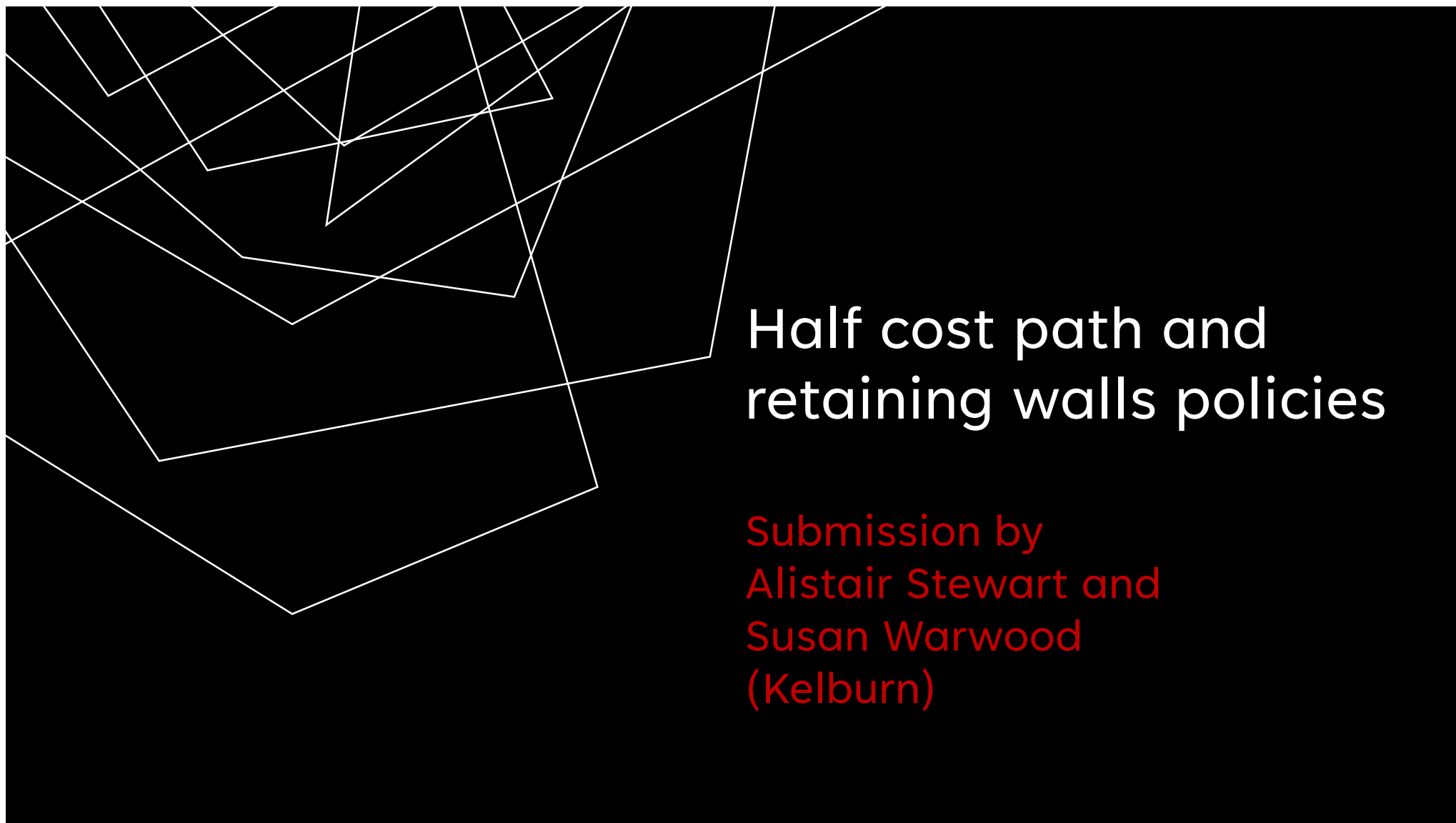
The access is still quite usable but is definitely in danger at several points.

- (b) Was access affected approved in writing by the Department?

- 2 -

5. Are services affected and to what degree? *house services to at least seven properties transverse the area*
6. Some indication of extent - if any - of remedial work required *A large batter wall about 200' long & varying in height up to 30' will eventually be required.*
7. Has it been necessary to carry out any temporary work for:
- (a) public safety? *Yes.*
- (b) temporary access to property? *A wooden bridge outside No 109 was constructed some years ago & ~~has~~ repaired recently.*
- (c) any further work required in the interest of public safety. *Not at present.*
8. Has the slip been photographed? *No.*
9. Has any claim or request been made on behalf of the owner in connection with slip? *See letter dated 17/10/66 on T.C.'s memo dated 24/10/66.*
10. General (any further comments.) *A full investigation appears to be required. Sanitary branch should check all sewers & SW. drain which transverse the batter.*

210



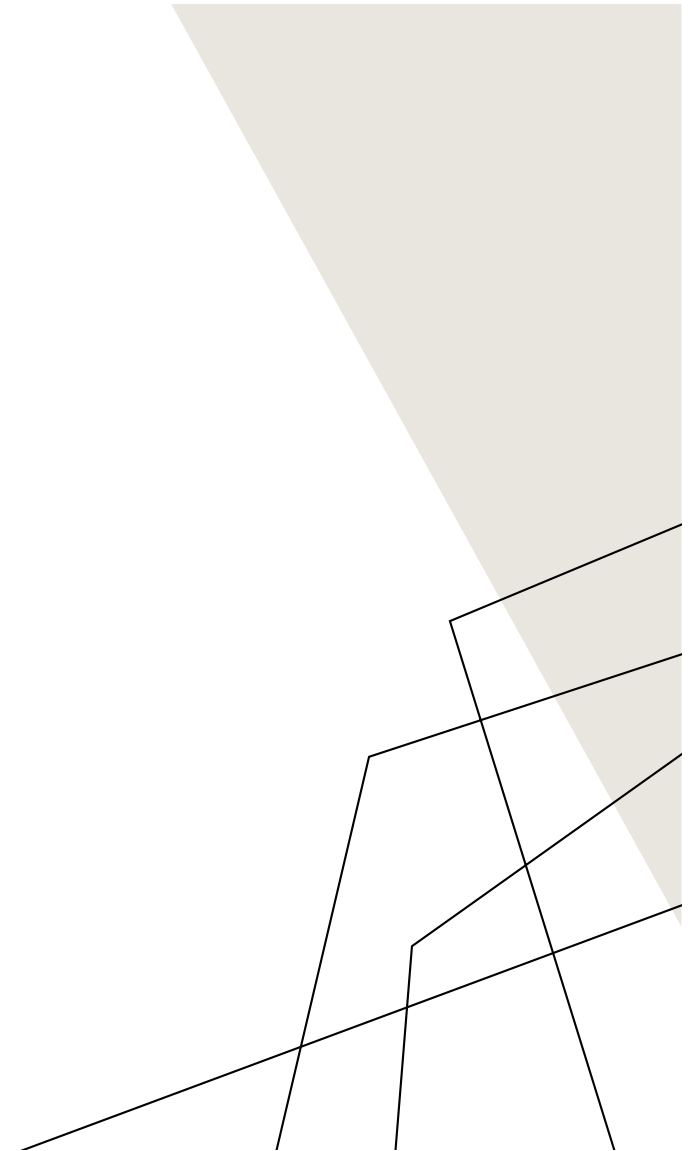
Half cost path and retaining walls policies

Submission by
Alistair Stewart and
Susan Warwood
(Kelburn)

1 ► THE POLICY CAN WORK

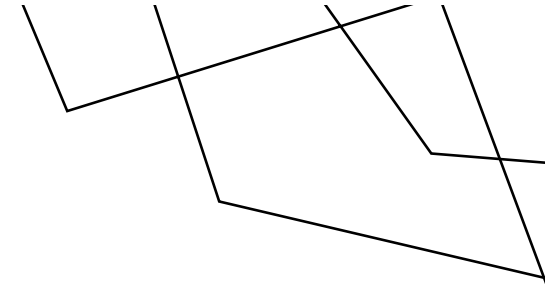
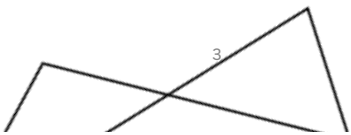
- Despite years of council neglect and lack of clarity information, it delivers successful outcomes
- The half-cost contribution provides an incentive for communities to come together with council
- Result: **win / win solutions** mutually agreed with council rather than dispute and litigation
- If there are alleged equity issues, or difficulties communicating the policy – let's fix them, so it works for all Wellington people
- Let's not just cancel it

2



2 ► IT'S A PART OF WELLINGTON

- Our network of informal pathways is part of Wellington's quirky charm
- They bring communities together – on foot
- It would be a shame if barriers and locked gates went up, forced by liability or safety issues
- What happens if slips and damage that's too expensive for individual homeowners to fix cuts off access?
- The last thing Wellington needs is more abandoned properties



3 ► WE ARE NOT THE EXPERTS

- In the proposed like-for-like, council will do some fixes, but to what building standards 1900? 1920s?
- But when homeowners need to do fixes, the full compliance load of 2024 standards will fall on us amateurs (resource consent, geotechnical, engineering, health and safety, traffic management...)
- If the landowner (the council) even allows us to!
- Potential to spend \$XXXXX+ but we still won't own any of it
- If we are forced to accept a hand-over, it's like we are being asked to sign **a blank cheque**

4 ► THE PROCESS IS FLAWED

- Where is the mandate? Are ratepayers clamouring for this change? Did councillors include it in their manifestos?
- Rather, the initiative appears to be driven by council officers for administrative convenience
- Now that more people know about it, the level of submissions and media interest show that people do value the policy
- “You don’t know what you’ve got till it’s gone”
- The Proposal document is not balanced – benefits from the policy are given barely a paragraph
- The paths and retaining walls policies are mixed together, but **retaining walls** are much more significant with major potential for harm

5 ► WHAT MIGHT HAPPEN?

- Risk of another **council cost blow-out**: do you really know what the like-for-like work that is promised will cost, and how long it might take?
- Let's not rush into another change, then leave it to courts to clarify the real-world implications
- Will changing the policies really simplify things? Won't removing the incentive lead to more entrenched disputes and refusals to engage with council?
- If council persists in handing over responsibility for shared paths and retaining walls to the public, everyone will need more information on the consequences
- Homeowners will need individualized information on their liabilities – and the right to opt out and abandon a path/structure

SOLUTIONS ▶

Maintain and strengthen the half-cost policy

- Option 1
- Option 5

Slow down

Defer your decisions, especially on the retaining walls policies

- Consider community wellbeing
- Compassion: people are really frightened
- Commission more detailed work
- Clarify the legal issues
- Consult



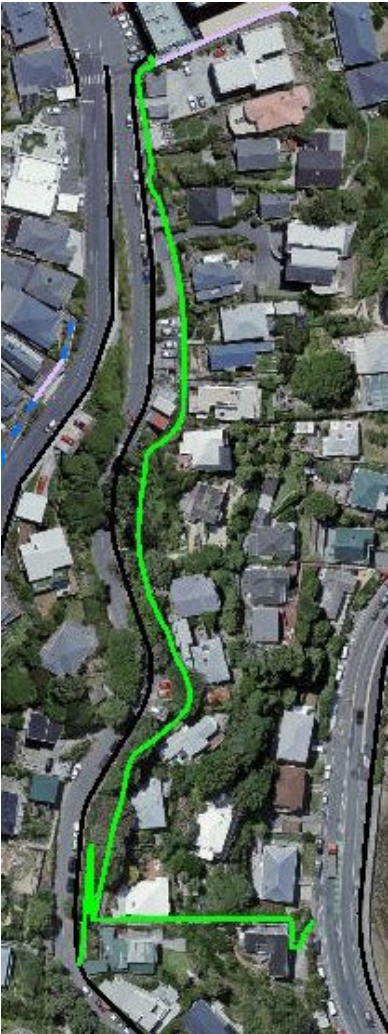
THANK YOU

Alistair Stewart

Kelburn



Item 2.1 Attachment 4



My name is Carolyn Kern, I live at [REDACTED] in Wadestown, in a home that is accessed by walking up a footpath over WCC Council owned land. I thank the Committee and the Council Members for allowing me to make this oral submission today.

With an allowance of only 5 minutes for my oral submission, I can not speak to my concern that there is not legal authority for the existing Half-Cost Path Policy, and neither is there legal authority for the proposed "Homeowners Pay Whole-Cost Path Policy". I therefore submit the following notes for the Committee and the Council to consider.

My analysis below is not a formal legal opinion, but only my view after a cursory review of the legislation and bylaws. Kindly excuse my analysis if the Committee or WCC has obtained a legal opinion that the existing and the proposed policies are within the authority granted to WCC by Parliament and would be enforceable (on a basis that I failed to identify).

Absent such a formal legal opinion, however, I would encourage the Committee Members and the Council Members to refrain from enacting the proposed policy (and to reconsider the existing policy) and to consult further with the community on possible solutions that are within the existing legal framework.

Being a solicitor, I always begin my analysis of any proposed change by trying to determine:

- * what is the legal authority for the existing situation? and
- * is there legal authority for what is proposed?

Authority for existing Half-Cost Path Policy – appears to be lacking:

Wellington City Council Public Places Bylaw 2022 (WCC Public Place Bylaw)

- Made under authority of ss 145 & 146 of the Local Government Act 2002 (and a few other Acts of Parliament)

The Local Government Act 2002 is an Act of Parliament that provides for the "democratic and effective local govt." The Local Government Act sections 145 & 146 grant the authority to WCC to make bylaws.

According to the WCC website, this includes bylaws to regulate land under the control of the Council to enhance the public's well-being and enjoyment of public places.

In the WCC Public Place Bylaw, "public place" is defined as "any area of a public nature that is open to or used by the public, whether free or requiring payment, which is owned, managed, maintained or controlled by the Council or Council Controlled Organisations," and it specifies that this includes a "footpath" an "alley" and a "lane or accessway".

Section 6 of the WCC Public Place Bylaw states that the Council may "prescribe conditions for access to or use of any public place" and that it may revoke any approval previously given at any time.

Section 8 of the Bylaw provides that the Council may set fees and charges where payment is a condition for access to, or use, or continued use, of any public place.

Thus, as to the existing Half-Cost Path Policy–

If agreement to/abiding by this policy is a "condition" set by the Council for homeowners to access or use the public footpaths, it may be an overreach, particularly where such use of the public footpath

is the only access available to the homes. Such a condition does not apply to the public at large, who are free to use the public footpaths.

Section 8 authorises the Council to set fees and charges, where payment is a condition for access to or use or continued use of any public place (which includes footpaths), but no one would expect the “fees and charges” imposed might range into the hundreds of thousands for construction of a retaining wall, for example, to support a path that is crumbling down the hillside. Again, members of the public that are not homeowners on a particular path would not be required to pay such a fee or charge but would still be entitled to use the footpath. This cannot be the case.

As to the proposed “Homeowners Pay All Costs for Path on WCC-owned Land Policy,” likewise, there does not appear to be legislative authority for such a policy.

Outside of the WCC Public Places Bylaw, it is possible that the WCC has granted a right of way easement to homeowners, giving them the right to pass over Council owned paths to access their property and possibly attached conditions to this easement (being the Half-Cost Path Policy), however, as these are public places, it is unlikely that such an easement was necessary in order for the homeowners to have these rights, as they belong to the public unconditionally (unless the Council places a fee or charge for their use).

Absent legal authority for the proposed policy, I suggest the Committee and the Council go back to the starting point and develop a proposal that is both workable and enforceable in consultation with the affected homeowners.

Half Cost Paths Oral Submission

Thank you for the opportunity to give feedback on your proposal to change the half cost path policy.

I have been legally advised that the time allocated for the presentation of submission is totally inadequate in the particular circumstances of the case, which involve complex issues of fact and law. Detail is lacking in the information presented. Let it be noted, I object to the limited time frame allowed and appear under protest in the circumstances. I believe this is an important point should a judicial review of the council's decision be sought.

I am alarmed by this proposal. My house was built in 1924 before the policy existed. When I bought my property 13 years ago, I had no idea about the half cost path policy. The path is on council land, and it was my belief I only had responsibility for the paths and steps within my boundaries. I would not have bought the house had I known about the liability for the path.

I first became aware of the policy in May 2022 on receiving a letter from the council advising the access path and bank had been assessed at a high risk of collapse and the footbridge poses a life safety risk to the public using it. No-one on our path was aware it was a half cost path.

The previous owner of my property also had no idea, and another previous owner repaired the path with a wooden walkway bearing all the costs himself.

I've found by talking to people on other paths, they were not aware they are on half cost path and as many people did not receive the proposal letter (my neighbour, a friend on Sefton and my partner are examples) it's possible that some affected residents have not had the opportunity to respond to this proposal.

None of the 3 homeowners on our path could afford the "preliminary estimate" of more than \$40K each for the remedial work. One of our neighbours was in her late 70s. If fixing our small path is estimated at a quarter of a million, this is not going to be a cheap exercise to repair all the 288 – 403 affected paths.

We are just normal people, not rich people, we endure a crippling cost-of-living crisis, our insurance has almost doubled in the last few years, our rates are astronomical. Many people are uncertain if they will have a job in a few months. Most homeowners simply cannot afford these figures. It's not even a confirmed quote, it's an open-ended estimate which to most people is scary and something they won't commit to. We can't add these large amounts to our mortgages as it's nothing to do with our houses, it's not our land.

I totally agree that the current policy does not work. People I have met on other paths are often single, retired or WINZ. Getting a consensus to pay these amounts is in most cases impossible. If the policy for half the costs doesn't work now, how is it ever going to work if you push it to 100%. It feels like the council just wants to get rid of their problem.

Homeowners cannot take out insurance against slips or earthquake damage because we don't own the land. Slips are prevalent, often due to the widening of our roads, the banks are sheer and unstable.

This proposal is causing me and others unbelievable stress and anxiety. I am not sleeping because of my concerns about the potential costs which could run into millions if we have a bad slip.

This is council land and work must comply with regulations. If homeowners have the responsibility, they are more likely to try to do the work themselves, potentially creating safety issues. Or if no agreement can be found, and the path becomes dangerous it could lead to a fatal accident like the one on Glenmore Road, or people not being able to access their homes.

The council have mentioned concerns about "fairness & equity", but I would like to make it clear that we have no greater benefit than the houses along the roadside which have paths and driveways that cross reserve land. I don't see much difference. Is the next step charging homeowners along council reserve for the upkeep of pavements and curbs? Are you going to charge people who live in cul-de-sacs for their road upkeep.

These paths have allowed greater development of the hills around Wellington, and you benefit from our rates.

Also, there are inaccuracies in the classification of paths, there are dead-end paths which serve several houses which I believe are council maintained but not classified as half cost paths.

The fully funded path that runs parallel to Grosvenor Terrace near Orchard steps serves 4 houses and because it has steps at the other end on a dangerous bend with no pavement, it is not a half cost path. Noone would ever use this as a through way.

Our path is on council land, and I believe it's the council's responsibility. I will legally fight this proposal and I will engage with others to do the same resulting in hundreds of lawsuits, or a class action.



Item 2.1 Attachment 6



Douglas Lynn, [REDACTED], 1 May 2024

Oral submission on WCC's Statement of Proposal for the Review of the Half Cost Path Policy (February 2024)

Tena koutou katoa. Thank you for your time this morning. I've lived in [REDACTED] in Mt Victoria for over twenty years. It's nearly ninety steps up to my letterbox.

I joined with my fellow residents and rate payers in Doctors Common in making an in-depth joint written submission (dated 27th March). As stated in our submission, we believe that the issues raised by the Council in this proposal do not justify the proposed change in policy. Conversely, we argue that these very same issues are good reasons why the Council should instead take full responsibility for maintaining the paths.

This morning, I want to raise just three points for your consideration.

My first point concerns fairness, equity, and cul-de-sacs.

Fairness, equity, and cul-de-sacs

Under Option 5 in the Proposal, under the fairness and equity policy objective, there is this statement: '*Rate payers are paying for the facilities that serve a small portion of private property owners*'. This is not an even-handed statement. Why are we on the paths being differentiated from rate payers? We're not a different breed. As private property owners we are of course rate payers and thereby contributing to facilities all across the city.

Take for example, cul-de-sacs. Just around the corner from where I live there are steep roads that exist solely to provide access to the *private properties* situated on those roads. The fundamental difference between these cul-de-sacs and where I live is simply that they are luxury versions of a path. Not only do they generally provide nicely paved footpaths, but they also provide access and parking spaces for motor vehicles. I ask myself, why are we, the rate payers on the paths, being singled out while cul-de-sacs get preferential treatment?

A correct analysis of fairness and equity under Option 5 would be as follows: '***It is fair and equitable that the rate payers who own private properties on the paths are treated on the same basis as the rate payers who own private properties in cul-de-sacs***'. To deny this would be to persist in maintaining a biased slant that is actually unfair and inequitable.

My second point concerns the vision and outcome that underpins the recommended option.

© I ē 4/4/24

Douglas Lynn, [REDACTED] Mt Victoria, 1 May 2024

Vision and outcome

In recommending Option 4, the Council is seeking to rid itself of continuing responsibility for these pesky paths, other than its health and safety obligations as a landowner. But there is no vision for how the paths would likely fare under Option 4. I'm not surprised. The Proposal makes it plainly evident that the outlook for the paths would be bleak, and that they would fare poorly in the decades ahead. Paragraphs 23 through 30 in particular are especially pertinent. If the Council – with its permanence and continuity, its regulatory powers, its civil engineering and project management expertise, and all of its other resources – if the Council has failed to make the current arrangement succeed, how could anyone reasonably expect a miraculous turnaround just because the property owners were now being left to their own devices. Let's be frank. That's why there is no vision and outcome in this proposal for the future of the paths under Option 4.

My final point concerns public benefit and health and safety.

Public benefit and health and safety

Under fairness and equity for Option 4, there is the statement that: *'Supporting infrastructure on road reserves can be argued to be of public benefit'*. We in Doctors Common most certainly do argue this. We frequently encounter visitors on the paths. There are domestic and overseas tourists, locals out for a stroll, and even younger folk who run up and down the steps for physical training. **In short, paths, walkways, and tracks, including the half cost paths, are an intrinsic and attractive feature of Wellington's cityscape, and are of public benefit.**

The Council should be concerned for the future prospects for health and safety in the decades ahead if Option 4 is adopted. For Option 4, under the operational and financial feasibility objective, it is stated that *'... the Council will only respond to safety needs rather than undertaking regular condition assessments'*. This is surprising. It is well and truly established in modern health and safety policy and practice that it is not sufficient to just wait for accidents to happen. Instead, there is a public expectation, and in many cases a legislative requirement, that organisations will proactively monitor for risks and hazards within the scope of their responsibilities.

An additional benefit for Option 5 under this feasibility objective would be: ***'The Council would be well placed to integrate its health and safety responsibilities with its maintenance and renewal programme'***.

That is the end of my submission, thank you.

Submission on Half Cost Paths Policy



Emma Martin

[REDACTED] Melrose, Wellington

2 May 2024

- I oppose the proposed changes to the Council policy on half cost paths, as they relate to the ‘half cost path’ (pedestrian steps) on Antico St, Melrose, which I believe has been **incorrectly designated** as a half cost path.
- The Antico St steps form part of a continuous walkway from the bottom to the top of Antico St
- Used by the public for **general travel purposes** along the road, as per the Council’s definition of a public footpath
- There is **no other footpath** on Antico St
- Antico St is narrow, steep and twisty, and it is unsafe for children in particular to walk up and down the road

Definitions

Half cost paths are pedestrian paths on Council land, usually road reserves (the strip of land between your property’s front boundary and an existing formed road or footpath) that provide sole access to three or more private properties

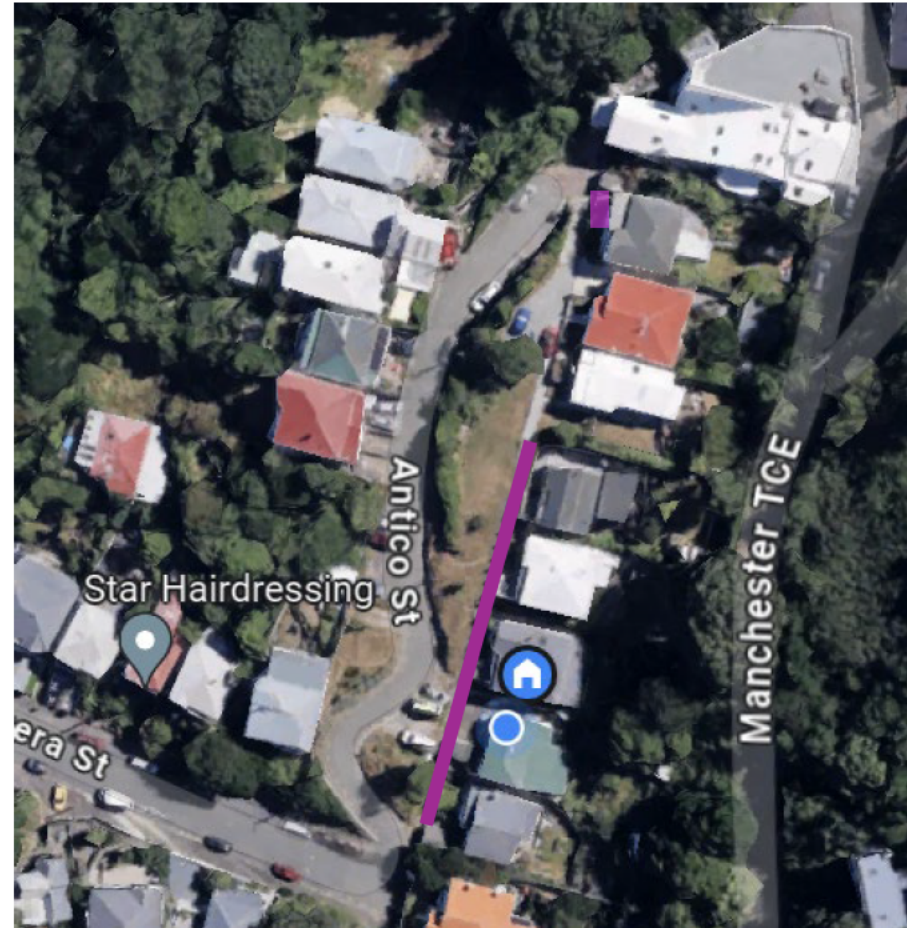
Public footpaths are located on Council land (normally road reserve) and used by the public for general travel purposes along the road. They are fully managed and maintained by the council

- Aerial view of Antico St. Very narrow, steep, dead end street



Item 2.1 Attachment 8

- Aerial view of Antico St. Very narrow, steep, dead end street
- Purple line shows Antico St steps



- Aerial view of Antico St. Very narrow, steep, dead end street
- Purple line shows Antico St steps
- Green line shows the continuation of the path



Item 2.1 Attachment 8

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- Purple line shows Antico St steps
- Green line shows the continuation of the path
- There is also an additional informal path up from the street



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- Purple dots show the households that the Council wants to make fully responsible for maintenance of the 'half cost path'



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- Purple dots show the households that the Council wants to make fully responsible for maintenance of the 'half cost path'
- Green dots show other households that use or potentially use the 'half cost path'
- I understand two of my neighbours in green dot households have made submissions confirming they use this path daily



Item 2.1 Attachment 8



Would you want your child to walk to school up and down this street?



Would you want your child to walk to school up and down this street?

Item 2.1 Attachment 8



- The Antico St steps are the only safe way for residents of Antico St to walk up and down the street
- It is unfair for a small number of residents to pay for what is by the Council's own definition a public footpath
- I submit that the council should re-designate the Antico St steps as a public footpath and assume full responsibility for maintaining them

Submission From: Irene Zohrab, [REDACTED], Wellington, 6012.
To: WCC Environment and Infrastructure Hearings Panel
Subject: **Half Cost Path Policy Review**
Date: 02 May, 2024

I have been the owner-rate payer of [REDACTED] since 1970 (including encroachment fees for parking down in Kelburn Pde) using an access path to my property situated on top of a bank with a sheer drop to the traffic below. I have contributed in the past to half the maintenance cost of this path, and on a number of occasions paid fully personally (for instance, when a big tree on the bank had to be removed after its roots had lifted the asphalt on the path and created a major health and safety issue).

I wish to submit that the WCC retains its current policy regarding the maintenance of such paths and associated remedial work and does not renege on its original agreement to pay at least half of such costs. However, I submit that the responsibility for looking after crumbling cliff faces or banks and retaining walls adjoining public roads and foot traffic should not be the responsibility of property owners with properties situated on such “hilly terrain”, a characteristic of Wellington’s ambience. This maintenance should not occur only as “reactive to requests or slip incidents” as specified in the Council Document of February 2024 *Statement of Proposal for the Review of the Half Cost Path Policy*, but be an ongoing responsibility of WCC and other organisations in the immediate area using such public roads, which are also a tourist attraction. If the WCC cannot cover such costs out of its rates receipts, then it might consider introducing a form of poll-tax (in addition to rates as is the case in London) for all residents of Wellington, not just its property owners.

I wish to submit also that whatever the Policy the Environmental and Infrastructure Committee decides to recommend at its meeting on 05 June 2024, that decision should not apply to ALL access paths. Exceptions should be able to be made based on indisputable evidence that shows that the condition of certain access paths and the cliff faces they are situated on had been affected by earlier decisions made by WCC, including the lack of timely remedial action, as well as the actions of the immediate neighbours of said paths, such as (in our case in Kelburn) of Victoria University of Wellington occupying Crown land, and making decisions beyond the control of rate payers. One example is when around 2013-2014 Fletcher Construction began building the VUW Biological Sciences Gateway project across the road from properties that are served by our access path (while demolishing our cardecks for 74 and 72KP encroaching on to Council land – see photo) and various trucks belonging to contractors damaged the concrete steps up to our path and detached the iron railing which makes it hazardous and a health and safety issue. This will have to be replaced, and the owners of this access path (now serving 72, 74, 76 KP) should not be liable for any costs. (See photo, plus Gateway websites.)

Further, about a third of the Gateway Te Toki a Rata Science building (4000sqm out of a total of 12500sqm) is situated underground on KP within meters of the access path. The drilling of the foundations was at 10 - 20 meters deep and resulted in constant vibrations from the drilling lasting several years. (VUW newsletter May 2015) In addition, several incredibly heavy cranes that were located for a number of years either just under the sheer bank of the access path, or across the road a few

meters away from it. (See photos of cranes etc and temporary steps to access path.) All this has undermined the path and the bank. The path has cracked and is subsiding along its outer edge that hangs over the cliff face, and requires new resurfacing, and the bank has to be strengthened. (See photo of cracked path.) This was already required even in 2015 when the WCC Structures Engineer wrote to me saying “A long term remedial option is drilled pins into the rock along the cut slope with mesh”. The bank below the access path may have been also undermined by other WCC building work in recent years, such as the installation of a new concrete electric power and utility pole encroaching onto it, plus other building work such as the welcome replacement of storm water drains that were installed down the bank and drilled to connect with drains meters underground, plus construction (at my request) of a small channel and a sump, new gas pipes, gas meters and other infrastructure. (See photos)

Originally, our access path appears to have connected to the next access path serving properties further along from 76 to 86KP, thus maintaining it as a public paths would have been the responsibility of Council, or of a larger number of house owners. Our path was used by postmen, milkmen and the public as a thoroughfare to the next path. But the path was truncated after the WCC gave consent for a block of flats to be built in front of 70 Kelburn Parade (70 KP) with drive-on access for three garages, and for 68 Kelburn Parade (68 KP). The applicants (then owners of 70 KP) built some concrete steps with a steel railing going up from KP to enable access to the other remaining properties. These steel railings and steps now require repairs due to damage caused by contractors of the VUW Gateway project. Thus over time the number of properties that our access path served has been reduced and the burden of maintaining the path by fewer owners has increased, with some being absentee owners overseas. The connection between our path and the next access path was also blocked by the previous owners of 76KP, who wanted to discourage burglars and a mound of excavated earth was dumped on that path so that it is no longer a thoroughfare. When the WCC later replaced the next path serving 76 to 80KP etc they did not reinstate that connection, but made it worse by reducing the width of the path and building it to connect instead directly to the gate of 76KP (that now has two exits and entrances along two different paths). However, numbers 72 and 74 have been reduced to only having one access and exit, since the thoroughfare connection has been blocked. Should our path and the cliff-face eventually collapse and be red-stickered, then the residents of 72 and 74 KP will be left without any access or exit at all.

The owners of the properties that this access path services should not be expected to pay for the required work. I submit that the cost sharing in this instance should not apply. However if the Council makes that decision, then cost sharing should only apply once the paths and the banks beneath the paths are brought up to a safe, sustainable standard, and deemed structurally safe and sustainable by an independent engineer, at the cost of the Council.

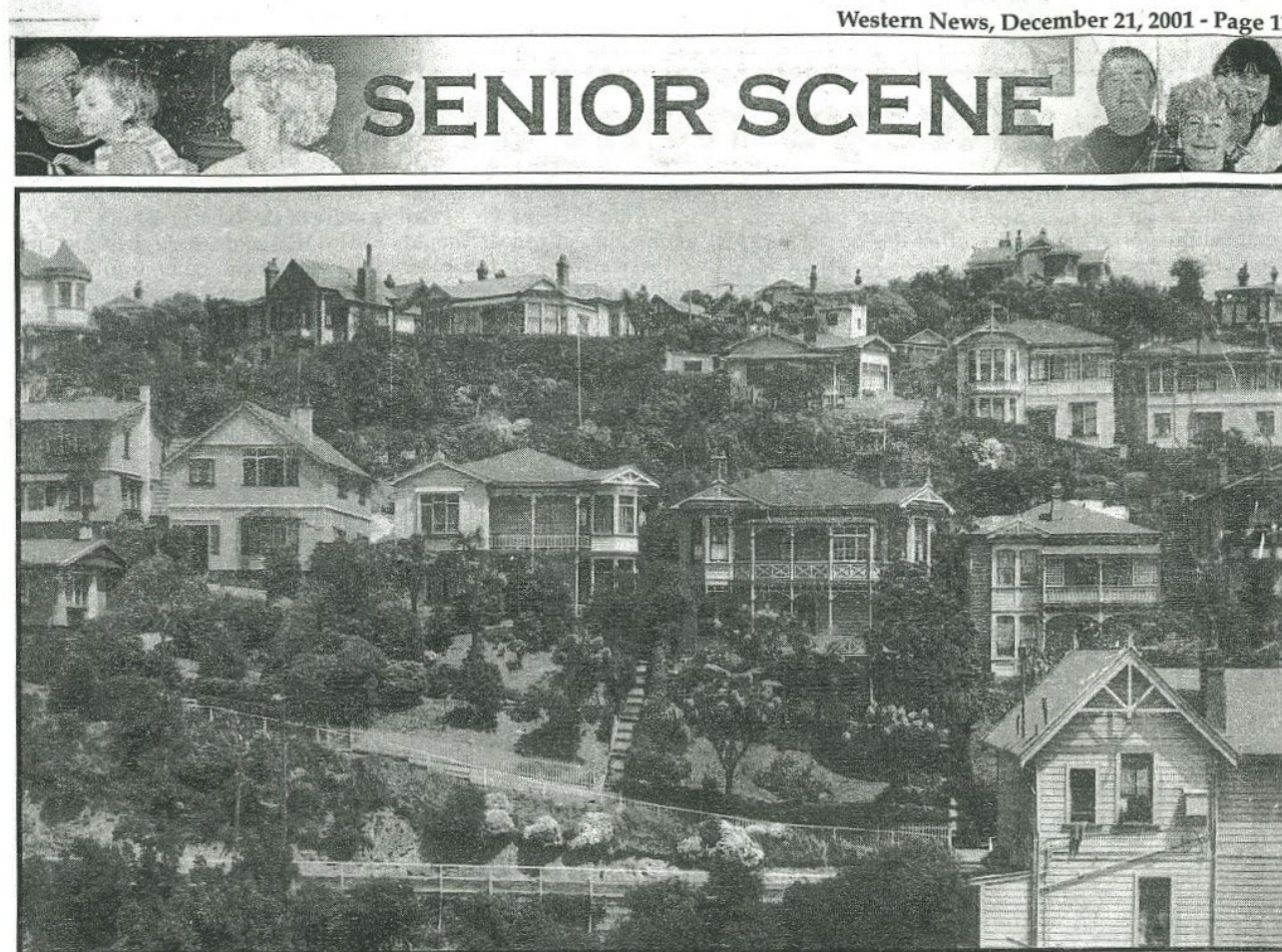
Irene Zohrab

[REDACTED]

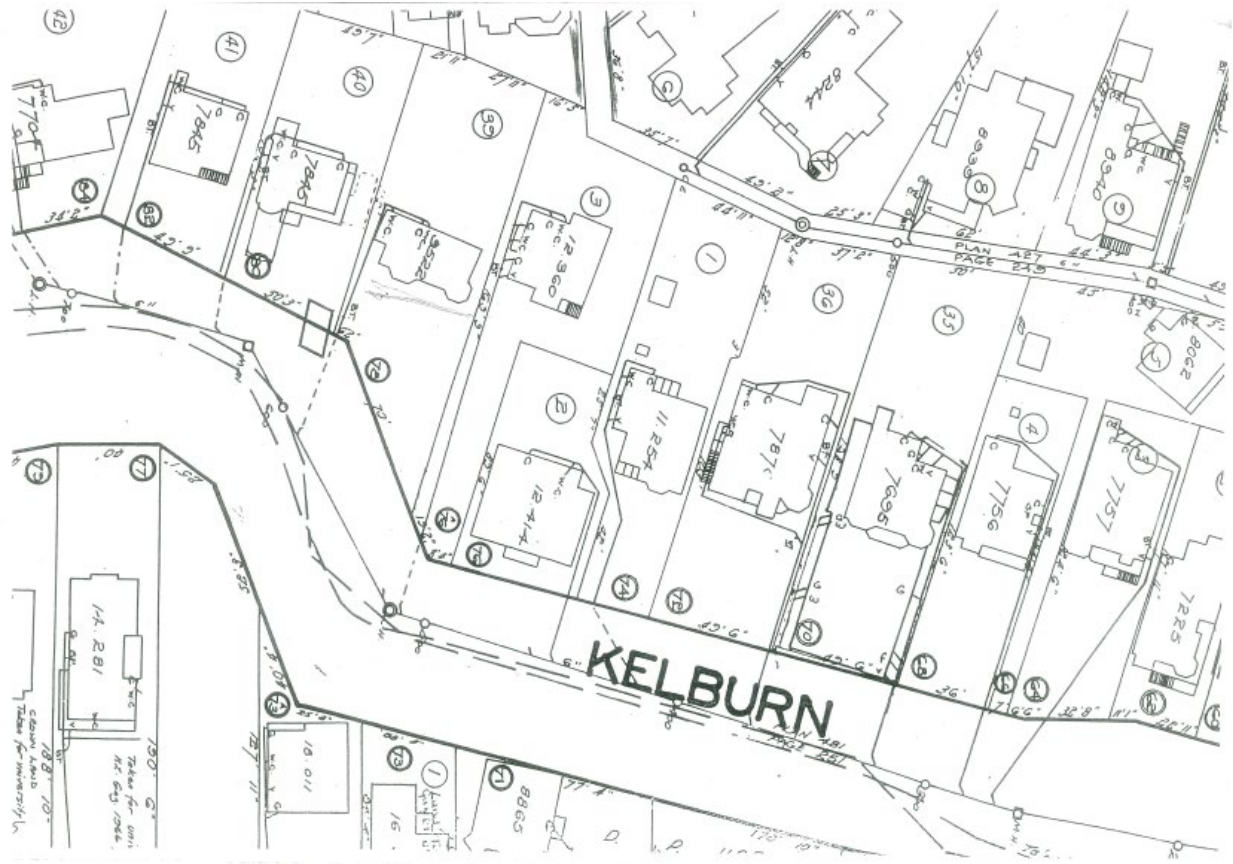
Tel: [REDACTED] or [REDACTED]

References: <https://www.stuff.co.nz/dominion-post/business/commercial-property/81574733/victoria-universitys-gateway-science-building-takes-shape>
<https://www.nzsee.org.nz/db/2016/Papers/O-57%20Cattanach.pdf>

VUW News letter 19 May 2015; Letter from WCC Structures Engineer.



Approx. 1930s. Kelburn Parade 68-76



Old WCC Map showing boundaries Kelburn Parade 62-84.
Replaced by Aerial site and Intranet Viewer Map



**Topographic Data WCC. Elevations and property boundaries Kelburn Parade 70 -76
Orange -tiled gable roof of 74KP**



**Kelburn Parade steps built when WCC gave consent to build drive-on flats in front of 70KP.
Railing on steps leading to 72-76KP dislodged from concrete base.**



Fletcher Construction Cranes to VUW Gateway construction. Temporary steps to 72-76



Kelburn Parade car decks before being demolished



**VUW Biological Sciences Building with residents' parks on WCC land.
Te Toki a Rata. (Partial view – chimneys hidden).**

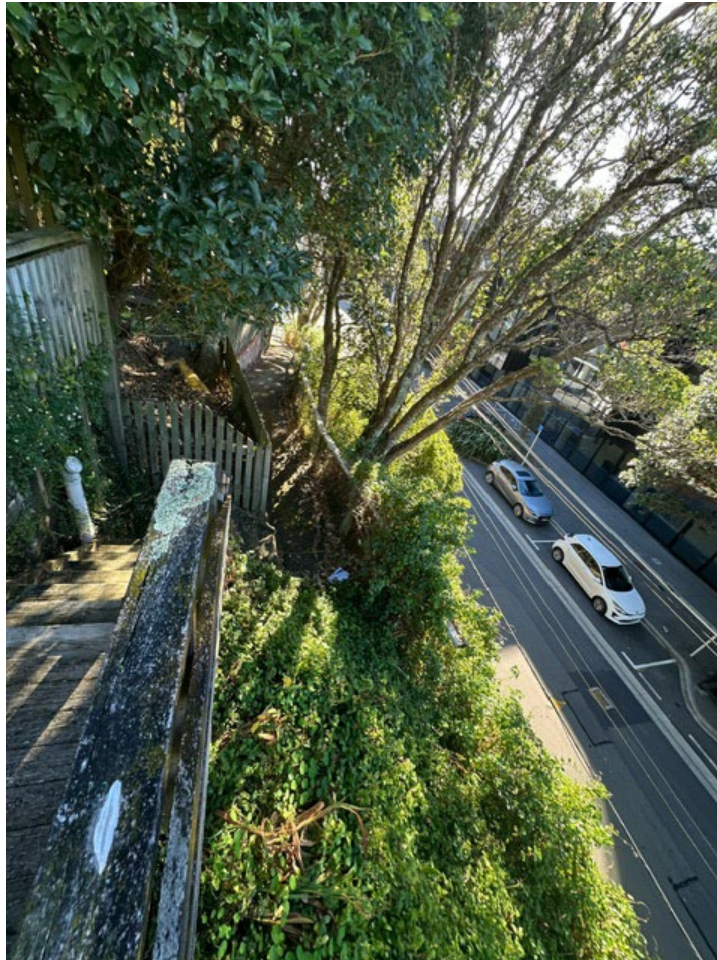
Item 2.1 Attachment 10



Communal path – July 2022



cracks in path



From path looking down to roadway



photo of pole taken January 2022



Cracks in ground by handrail



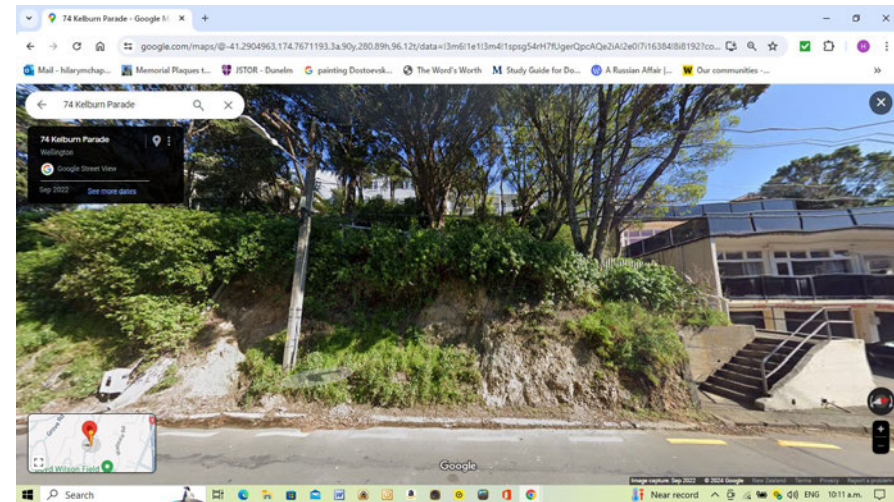
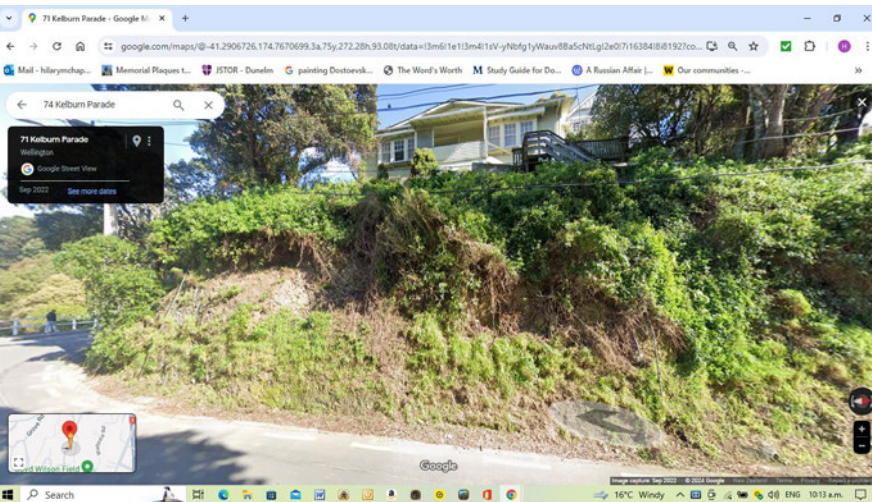
Metal post with railing to steps to 72-76 dislodged from concrete base by reversing trucks etc



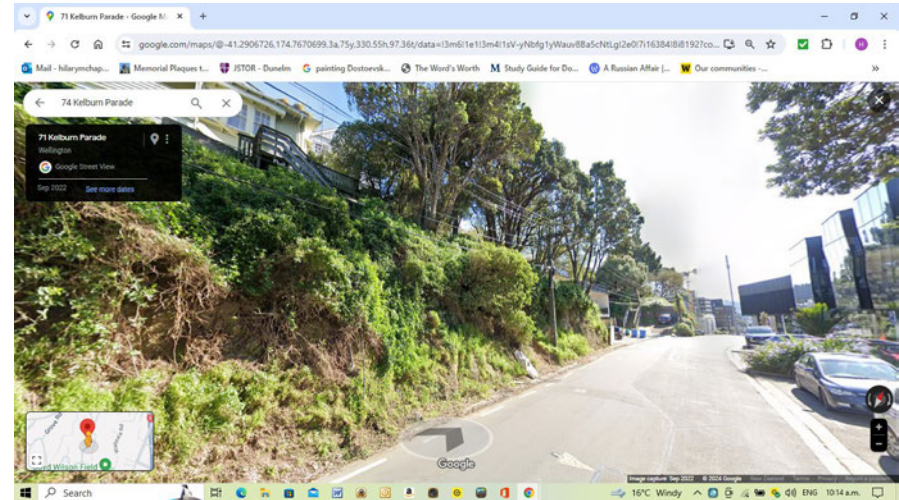
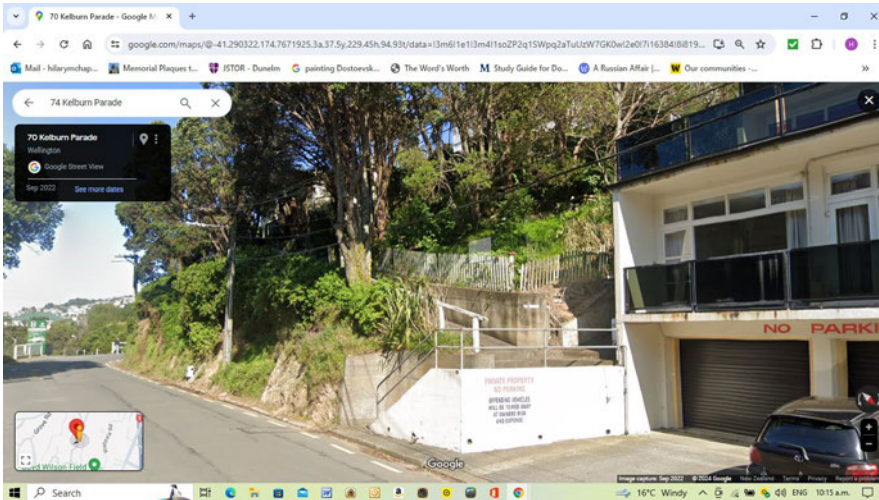
Previous thoroughfare path blocked by dumped excavated earth obstructing egress in emergency at 76KP



Blocked thoroughfare



Kelburn Parade – the bank today 72-76KP



Kelburn Parade – the bank today



Kelburn Machinery 2015

Submission on proposed Half cost path policy
2 May 2024

Residents of Wadestown Rd [REDACTED]

Thank you for the opportunity to provide feedback

Access to Wadestown Rd 125/127/129



Footpath renewed in 2012
under Half cost path policy

Long-term solution:
concrete instead of tarseal



Potential retaining wall a much bigger scale than the footpath itself.
Just a few households cannot carry this responsibility.
This is council reserve and must remain council responsibility!



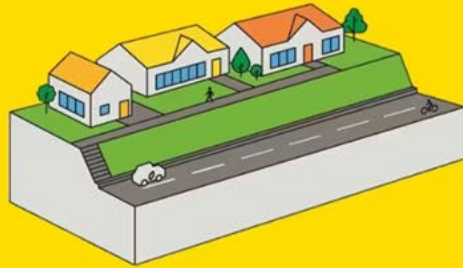
Wadestown Road is a main public transport route and emergency throughfare



Ngā mihi nui – thank you for your attention!



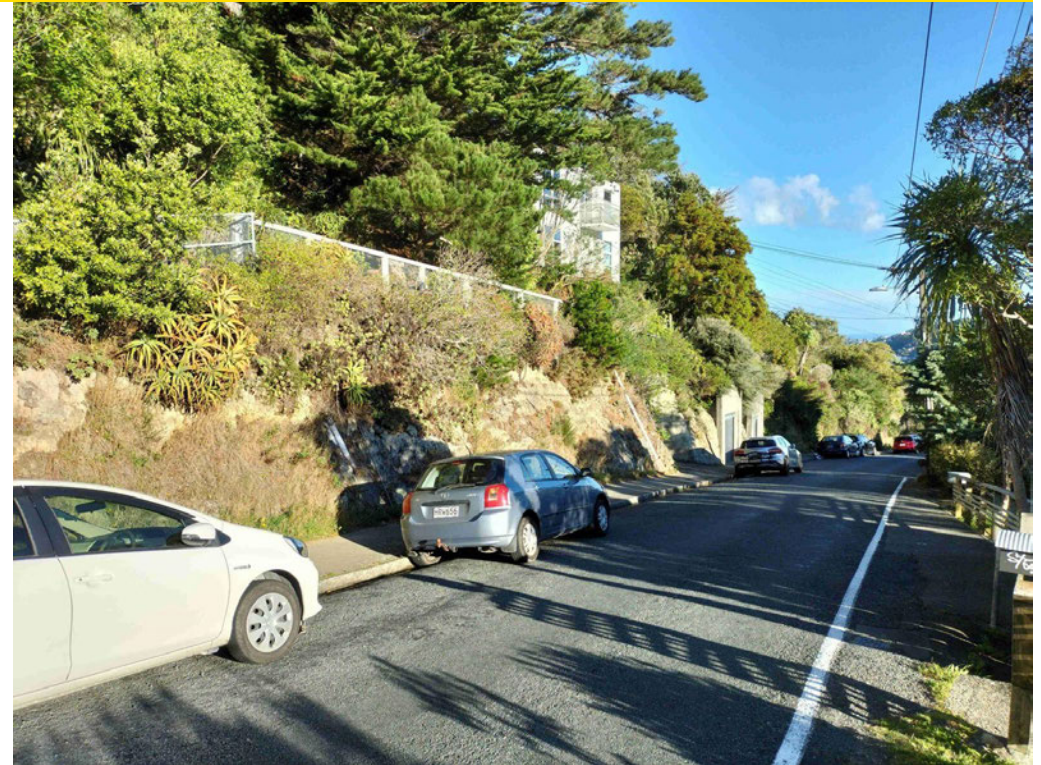
Pātai - questions?

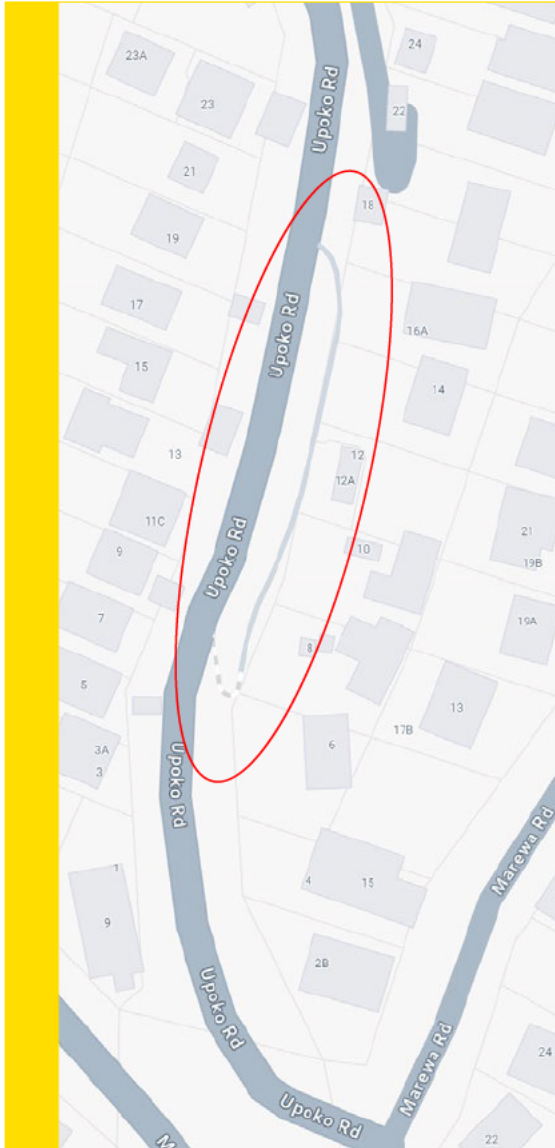


Half Cost Path Policy review

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

Upoko Road Hataitai





Example of where the proposal does not make sense:

- Raised Shared path
- Major roadside bank (5m high) under raised council path
- 7 completely dependent properties (30+ people) plus other properties impacted
- Built as a through path, now bookended by driveways
- Two main access points
- **Major risk & cost impact on adjacent landowners**



Half Cost Path Policy review

16 & 16A Upoko Road



Upper access



Half Cost Path Policy review

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

14 Upoko Road



12 and 12A Upoko Road



Half Cost Path Policy review

Wellington City Council
Environment and Infrastructure
Hearings Panel

Path condition

10 Upoko Road



Half Cost Path Policy review

Wellington City Council
Environment and Infrastructure

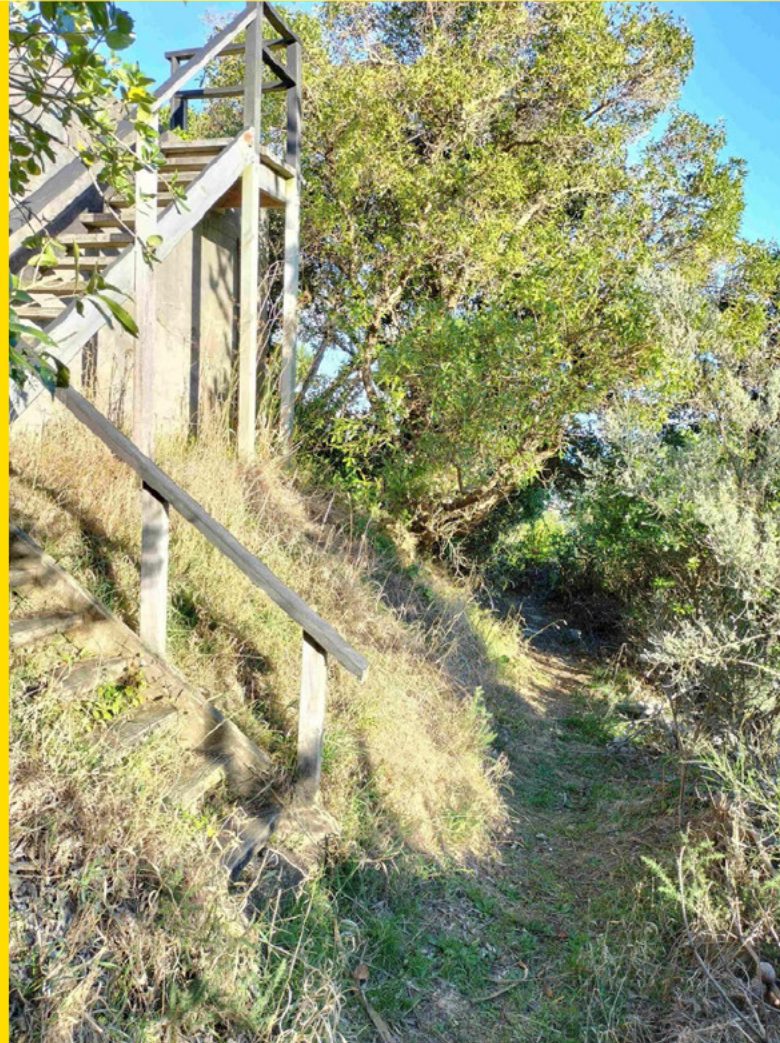
Item 2.1 Attachment 12



8 Upoko Road



6 Upoko Road



4 Upoko Road



Half Cost Path Policy review

Absolutely Positively
Wellington City Council
2024

2, 2A & 2B Upoko Road



South end of path

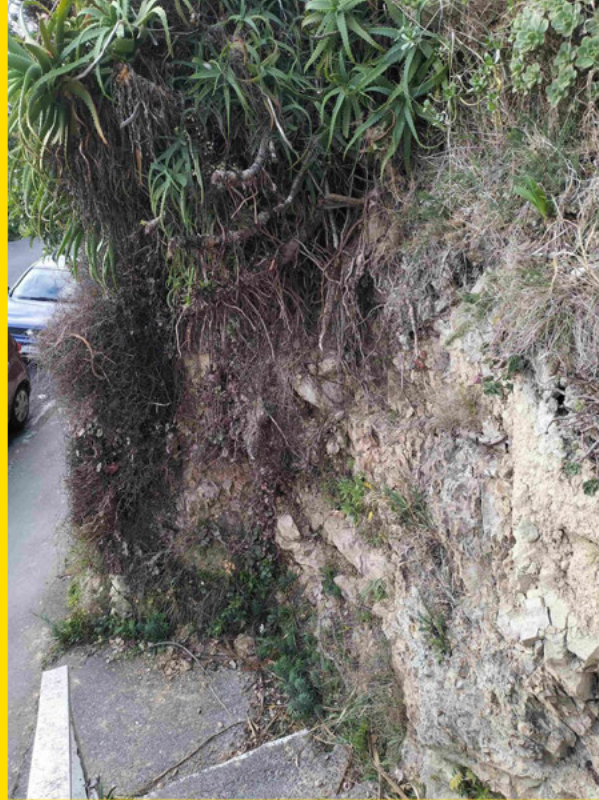


Half Cost Path Policy review

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke



Lower Access stairs



Bank Condition



Half Cost Path Policy review

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

Opposite 10 Upoko Rd



Opposite 8 Upoko Rd



Upper Access point



Opposite 16 Upoko Rd



Half Cost Path Policy review

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

Practical Issues

- Biggest risk is the major roadside bank
- How to get agreement from property owners
- Council water, stormwater, sewerage, & gas services on bank and path
- Insurance
- Private tradesmen not willing to undertake work on public land

This shared path was not designed to be maintained by private landowners and is not suitable for it.



Principles

- Reneging on a longstanding commitment for a minority
- Core infrastructure
- Out of touch timing
- Breaches Council goals

“Wellington has affordable, resilient and safe housing – within an inclusive, accessible, connected, and compact city.”



Recommendations - Slight variation on option 5

- Council is the appropriate body to maintain the structure of the roadside bank, drainage, trees, safety rails, and the path surface to a basic level.
- Adjacent property owners could be allowed to maintain a higher standard of path surface if they wish



**Shared paths are a positive part of Wellington hillside suburbs.*

*Please help up to maintain these community assets.**

Thank you for listening.

Any Questions?



Half Cost Path Policy review

Absolutely Positively
Wellington City Council
2024



Katherine Ave, Thorndon
With two pedestrian paths on Council land which provides sole access to three or more properties. has stormwater channels, kerbs and surfaces.



Stowe Hill, Thorndon

Retaining wall and footpath on Council land. Footpath and vehicle path for sole use of three or more private properties.

Very similar to Plunket Street but Stowe Hill benefits from a vehicle path as well.



**Parliament Street,
Thorndon**

Retaining wall and footpath on Council land. Sole use for three or more private properties.

Has steps, surfaces, handrails and stormwater channels.

Very similar to Plunket Street.

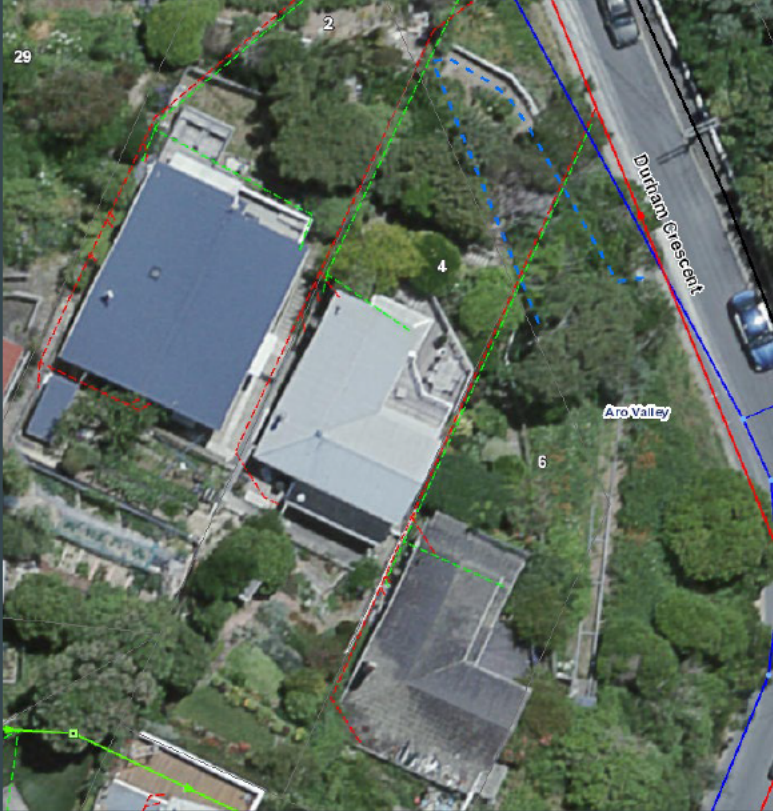
Half Cost Path Submission



2, 4, 6, 8 Durham Crescent
Aro Valley

Nigel Charman

Shared Path



Half-Cost Maintenance - Owners' Contributions

2003
10 bays of handrail \$883

2003
New asphalt \$273

2013
Slip between lower path and road,
Sprayed concrete \$5,572

2022- ongoing
Slip between lower and upper path,
Hydroseeding estimate \$5k-2.5k



Half Cost Path option selected

Option 3 (Invoice for half cost)

Under this option, the Council undertakes necessary maintenance work (by Council contractors) on the path following a request from property owners, and funds 50 percent of the cost through general rates. The other 50 percent of the cost would be paid by the relevant property owners upon invoice.

The owners of 2, 4, 6, 8 accept some responsibility for maintaining the path and handrail, but not the land supporting it

Retaining wall / Supporting structures

We submit that Council should take up full maintenance responsibility for retaining its land

Retaining wall / Supporting structures rationale

1. Property owners are unable to insure or claim EQC on WCC owned road reserve land (*we've tried*)
 - If council forces owners to be liable, owners would be taking on the uninsurable risk of hundreds of thousands of dollars of retaining/support.
 - property owners also cannot get a mortgage to remediate road reserve as it is not owned by them.
 - council, as the landowner, retains health and safety responsibilities for its land.

Retaining wall / Supporting structures rationale

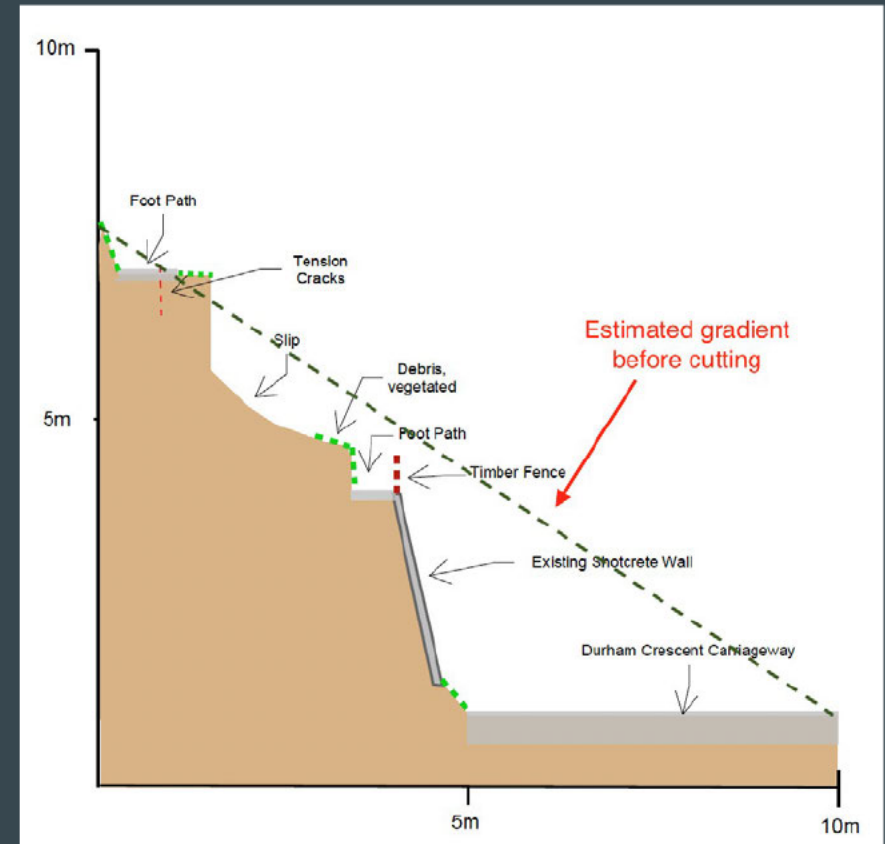
2. The upper path is on the boundary of 4 Durham Crescent. Should a slip affect this path, it is likely that 4 Durham Crescent would also be affected.

This may open up legal questions over who would be responsible for supporting the path and the land above it?

Retaining wall / Supporting structures rationale

3. The hillside has been cut historically to provide a flat road below our property.

This benefits all users of the road, so should be a general public risk rather than specific to the property owners.



Submission Summary

Half Cost Path

Option 3 - Owners pay half, Council invoices owners

Retaining / Support

Council to fully fund



- This is a long-standing Council commitment to current property owners:
 - Primarily the result of large-scale historic suburban developments (e.g. Brooklyn, Hataitai, Kelburn, etc.) that were supported and approved by the Council
 - Reinforced by subsequent Council-approved sub-divisions and consents
 - Many people have made decisions to purchase or develop their properties based on this policy.
- The policy applies to both public and private paths serving three or more properties.
- Recent interpretation by the Council – especially during this review – has been inconsistent and contradictory.
- The focus should be on making the current policy more explicit and workable – absolutely nothing was proposed in the review to address this.
- The Council could consider ‘grandfathering’ this policy to prevent it from applying to any future sub-divisions or developments.
- The inclusion of retaining walls is disingenuous:
 - They are not within the original intent and scope of the half-cost path policy
 - The risks and costs associated with them are significantly different and significantly greater
 - They should be dealt with separately as a specific issue in their own right.
- The current proposal is insufficient to enable Councillors to make an informed and justifiable decision.

Item 2.1 Attachment 16







Before the wall.



Item 2.1 Attachment 16





Item 2.1 Attachment 16





Item 2.1 Attachment 17

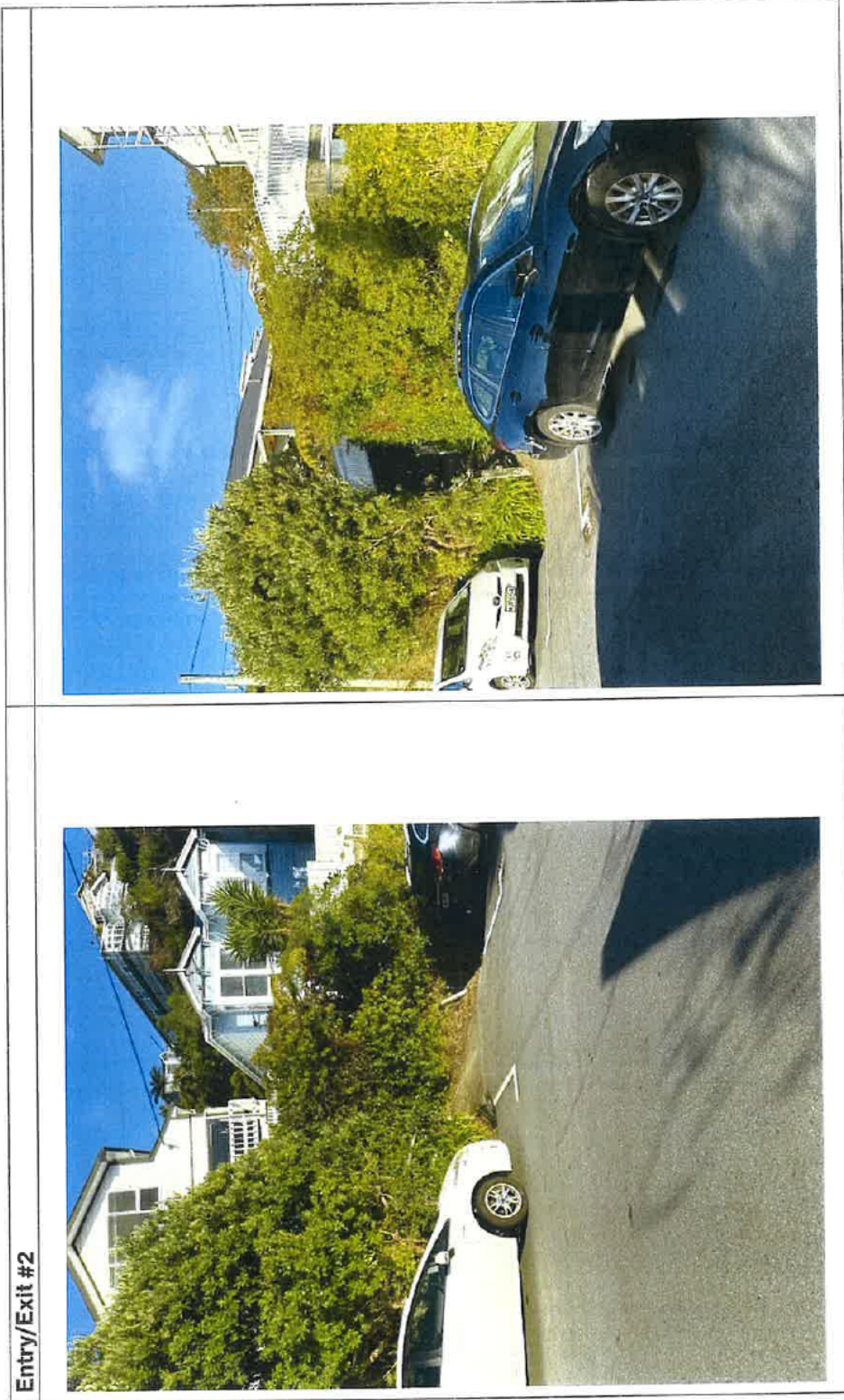
**Wellington City Council: Pathway Policy Review
Environment and Infrastructure Hearings Panel, 2 May 2024
Submitter: Mr Poul Israelson, 32 Sugarloaf Road, Brooklyn**





Entry/Exit #1

Item 2.1 Attachment 17



Entry/Exit #2

	Entry/Exit #3
	Sugarloaf Rd cut into slope, creating bank and need for path

Item 2.1 Attachment 17

Key Points

- The path is a throughfare that the public use to walk along Sugarloaf Road to the Brooklyn War Memorial Reserve and to connect to Mitchell Street. The throughfare serves a public benefit and is an important pedestrian link to the wider reserve and street network. The public often use and stop on the path to take advantage of the views over Wellington Harbour.
- The throughfare has 3 entry/exit points with 8 houses having access across its length. Each entry/exit along the throughfare provides multiple route options for pedestrians and the public to use.
- The throughfare was created by the formation of Sugarloaf Road carriageway that cut into the existing slope. There are no retaining walls.
- There is a considerable amount of vegetation on the carriageway side of the throughfare. Homeowners already maintain and dispose of the vegetation from the Council's road reserve to ensure unobstructed access for themselves and the public.
- The throughfare itself has not been maintained by council for some years. Residents have fixed the barrier on the throughfare; however, there are roots from road reserve trees that have created damage by uplifting the surface.
- Utilities, such as water tobies, electricity, communications and gas connections, are all located in the path.
- The outcome that is trying to be achieved by the proposed pathway policy is akin to that of a private Right of Way. In the situation of a private ROW, the landowners share responsibility for the maintenance and operation of the assets through an agreement registered on the titles of the landowners. The key difference is that the land is owned by the landowners. If the Council wanted to pass the responsibility of the operation and maintenance of pathway assets, the only reasonable and fair option would be for the Council to engage surveyors, valuers and lawyers to formally close the road where the pathway policy is proposed to apply and to transfer the land to private landowners. Any transfer would need to consider the value of the land compared to the value of the assets based on their condition and the value of work required to bring the assets up to the relevant standard. In some situations the Council would be cash positive, but cash negative in others. This option would need to be tested through a thorough economic analysis. The only other reasonable and fair option is for the Council to take actual responsibility for the assets on its own land (i.e. remove the pathway policy), similar to what landowners are required to do through private ROWs.

