

# Tabled information - Reference 014/13PT(b)

## **Presentation to the Town Belt Management Plan Hearings Committee 17 April 2013 by Action for Environment Inc**

### *Public consultation*

The report refers to 259 "written" submissions. The word "written" needs to be questioned. 160 of these are on 'tick the box' Council forms. There were 99 individually written submissions. The report provides an analysis of the form submissions which shows that only 5 oppose "the overall objectives of the proposed legislative changes". There is no analysis of the individually written submissions. My reading of them shows that at least 30 oppose the proposed legislative changes and more oppose some aspects of them. And unlike the 'tick the box' forms the individually written submissions provide full explanations for such opposition. Therefore, they should carry more weight. So why isn't an analysis of them also shown in the report? Is this another manifestation of the culture of keeping councilors 'in the dark'?

### *5.2 Draft Town Belt Management Plan*

Time does not permit me to go into details regarding the draft management plan. Suffice to say that despite proposed minor changes the draft plan in our view offers less protection for the Town Belt's open space than the existing plan. Our concerns and request to have some of the clear objectives from the existing *WTBMP* (rightly regarded as an outstanding document) included in the draft plan have been ignored.

### *5.3 Drafting instructions*

5.3.1 The bill will provide what is described as: "relatively flexible powers".(here we come to the main objective of the policy and legislative review!) The report says "many submitters had concerns that this approach will give too many powers to officers to make major decisions". The report goes on to say "officers recommend no change to this overall approach". To paraphrase Mandy Rice Davies: "Of course they would say that, wouldn't they". Why would council officers give up the opportunity to have more power over the Town Belt just because some of its owners have expressed concerns? The crucial question is: should you, as trustees of the Town Belt, be giving them such powers?

You are considering this issue with a background of concerns about councilors not being kept in the loop and that the real power and knowledge in the Council lies in the hands of the council bureaucracy. These drafting instructions, as they are currently written, will only exacerbate that problem.

### *5.3.4 Removal of the Reserves Act*

This is also an issue of concern by submitters and will mean another level of the Town Belt's protection will be taken away and more power and discretion given to council officials. There will be no longer any possibility of appeal to the Minister of Conservation should council officials do something untoward regarding the Town Belt. The report states "Any relevant parts of the Reserve Act are going to be

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included in the local bill". If they are so important then leave the Act alone! It is frankly ludicrous that the very first land to be reserved in New Zealand is not going to be covered by the Reserves Act

### *5.3.5 The Deed should prevail*

The report says submitters have also raised concerns that the Bill will prevail "when there is inconsistency with the 1873 Deed". It states that managing the Town Belt land in accordance with the Deed creates "ongoing risk" (it doesn't say what that risk is!). The report claims the proposed legislation will put an end to the unidentified risk.

Another reason the report gives for downgrading the status of the Town Belt is that the Deed can be interpreted as providing the council with "broad powers" to manage the Town Belt land "as it sees fit". This statement ignores the fact that Council also has to manage the Town Belt in accordance with the Management Plan and the District Plan's open Space C zoning (which council officials are also going to change!). Under the Deed the Town Belt has to be managed as a "public recreation ground" for the inhabitants of the City of Wellington "*without any power of the said trustees to (alienate) or dispose of the same*".

As for the legislation providing the community with "stronger, not weaker, safeguards", one can only say "Yeah, right"! These so-called safeguards will be at the discretion of the "flexible powers" of anonymous council officials, acting without public or even councilors' knowledge and subject to all sorts of pressures (as we have seen with the proposed Badminton Hall extension). With impending reform of local government those flexible powers will be taken over by some "super council", a body which is likely to be even less responsive to citizens' concerns

The report admits that the proposed legislation is a major change from the "current situation". Under the current situation, with the Deed as the governing document, the council does not have beneficial ownership of Town Belt land. The instructions for legislation, as currently drafted, will change that. We have all seen what happens to public land that the council does have beneficial ownership of on the waterfront, where council officials do have "flexible powers". Decades of battling to protect public ownership and open space there is still ongoing.

As Action for Environment has stated in its submission, these instructions, if passed into law, will be the most radical change to the status and control of the Town Belt since it was gifted to the people of Wellington. It is akin to attempting to change a will 140 years after it has been executed. It would be a legal theft of the commons. And all this is being done for bureaucratic convenience! One submitter called aspects of the proposed legislation "despicable". Acceptance of them could be deemed breach of trust. Our parliamentary advice is that a local bill cannot be controversial. A bill based on these instructions will be

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controversial.

On behalf of Action for Environment and other submitters, who oppose this legislation, I urge you not to approve these drafting instructions as they are currently written. Such a radical change to the Town Belt's status and protection should be properly debated during the coming local body elections and the owners of the Town Belt given a chance to vote on it. This would be an opportunity to give lie the accusation in the media of Wellington City councilors being, in effect, just 'rubber stampers' for the bureaucracy.

Thank you.

Action for Environment Inc  
David Lee  
Chairman