

Town Belt Legislative and Policy Review

**Submission by Dean Ingoe, Senior Resource Planner, and Andrew Cameron, Counsel,
on behalf of the New Zealand Transport Agency**

Monday 18 February 11.30am

1 Introduction

- 1.1 The NZTA has carefully read and considered the documents prepared by the Council for the Town Belt Legislative and Policy Review, and has provided a detailed written submission in response to these documents.
- 1.2 In this short presentation, we wish to focus on four key points.

2 Council's support for widening Ruahine Street to the west (into the Town Belt)

- 2.1 The first point we wish to highlight is that the NZTA welcomes the statements in the Draft Management Plan regarding the Mt Victoria duplication project.
- 2.2 As Councillors will be aware, the Mt Victoria duplication project forms part of Wellington Northern Corridor Road of National Significance, and in particular the Airport to Mt Victoria improvements.
- 2.3 The NZTA considers that these improvements will deliver significant benefits to the city by relieving congestion, improving journey times and traffic safety, and improving access to significant infrastructure, such as Wellington airport.
- 2.4 These improvements, and in particular, the planned widening of Ruahine Street, are likely to impinge on the Town Belt (subject to finalisation of the preferred option).

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- 2.5 The NZTA welcomes the manner in which the Council has taken account of these potential improvements to the State Highway in this Draft Management Plan.
- 2.6 On page 150 of the Draft Management Plan (which is set out at paragraph 4.4 of our earlier submission), the Council states that the option of widening Ruahine Street to the west is preferable to the option of widening into the residential area to the east of Ruahine Street, even though this will require compulsory acquisition of Town Belt land under the Public Works Act.
- 2.7 The NZTA has yet to make a final decision on the form of the Mt Victoria project. However, as evidenced by documents previously circulated for public engagement, the NZTA's preference (subject to completion of the formal alternatives assessment process) is to widen to the east into the Town Belt, rather than into the residential housing to the west.
- 2.8 Assuming that Town Belt land will need to be acquired for this purpose, that acquisition will be appropriately mitigated by a range of measures. The NZTA is well aware that first and foremost for the Council will be an appropriate land exchange, and it welcomes further consultation with Council officers in this regard.
- 2.9 Therefore, while a final decision has not been made on the Mt Victoria project, the NZTA does acknowledge and support the Council's preferred position for the widening of Ruahine Street, and in particular, the option of widening to the west into the Town Belt.
- 2.10 This position is set out in full in section 4 of our written submission.

3 Public Works Act

- 3.1 The second point we wish to emphasise concerns the Public Works Act. This issue is discussed in section 6 of our written submission.
- 3.2 The NZTA recommends that the Council takes this opportunity to clarify its rights and obligations as Trustee in relation to the Town Belt when faced with compulsory acquisition by the Crown.

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- 3.3 Policy 2.9.3 of the Draft Management Plan provides as follows:
- If the Crown proposes to take Town Belt land for a public work then the Council will pursue its replacement with Crown land of equal or greater landscape, ecological, and or recreational value for Town Belt purposes.
- 3.4 As is apparent from paragraph 2.8 of these submissions, the NZTA supports the intent of this policy. The Council will inevitably be faced with the possibility of acquisition of land for public works from time to time. When this is the case, we consider that the best interests of the city will be served by the Council being in a position to negotiate with the Crown for suitable replacement land, and otherwise facilitate an outcome which serves the greater public good.
- 3.5 However, in these discussions, the Council also has to consider its rights and obligations as Trustee.
- 3.6 We recommend that the Drafting Instructions clarify the rights of the Council when faced with the prospect of acquisition so that the Council is better able to implement policy 2.9.3 in practice.
- 3.7 In particular, we recommend that the Drafting Instructions are amended to provide that where the Council receives notice under s18 of the Public Works Act that land is intended to be taken for a public work, the Council has the power to enter into an agreement under s17 of the Public Works Act to sell that land, provided that:
- a As a first priority, suitable replacement Crown land has been identified; and
 - b Where (or to the extent that) suitable replacement land cannot be identified, adequate financial compensation has been agreed.
- 3.8 These requirements will then enable Council to avoid a potentially complex and protracted legal process (should it so wish) while being in a position to implement policy 2.9.3 to optimal effect.
- 3.9 As currently worded, the Drafting Instructions do not make clear the Council's rights and obligations when faced with compulsory acquisition. Amending the Instructions in

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this way would clarify the Council's role and enhance its ability to negotiate the best possible outcome for the Town Belt and Wellingtonians.

4 Boundary adjustments

- 4.1 The third point concerns boundary rationalisation in the Hataitai Sector of the Town Belt.
- 4.2 Policy 2.9.7 of the Draft Plan provides for the legal boundary of the Town Belt to be adjusted so that it conforms with the physical boundary of the Town Belt today.
- 4.3 The NZTA supports this policy.
- 4.4 We note that there are two parcels of the Hataitai Sector Town Belt which have never been removed from the Town Belt and declared legal road. These are referred to in paragraph 4.13 of our earlier submission.
- 4.5 The NZTA agrees with the Council that these two parcels should be excluded from the Town Belt. We note that Ruahine Street has existed in its current alignment since the 1930s, and was declared State Highway in 1997. The inclusion of the two parcels in the Town Belt today is anomalous.

5 Canal Reserve

- 5.1 The final point we wish to discuss concerns the Canal Reserve.
- 5.2 Originally the Canal Reserve ran from the waterfront to the 'Basin Lake' or the end of Kent Terrace for the primary purpose of enabling barges to deliver goods to Newtown warehouses. That all changed due to the upheaval of land during the 1855 Wellington earthquake.
- 5.3 The 1873 Trust Deed originally included the Town Belt 'proper' and also the Basin and Canal reserves. In 1884 it was recognised that due to the particular purpose of

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the Basin Reserve, it was no longer appropriate for it to be held under the 1873 Deed and it was re-settled under the 1884 Trust Deed.

- 5.4 Today, it is the Canal Reserve which is an anomalous part of the Town belt 'proper'. It consists of a series of landscaped traffic islands punctuated by areas of road/intersections. We note that the Drafting Instructions suggest at paragraph 8.2 that the road/intersections are now legal road.
- 5.5 Whatever the legal position, just as the Basin Reserve's status in 1884 was considered anomalous, we conclude that the current status of the Canal Reserve is equally so, particularly for the reasons summarised in the previous paragraph.
- 5.6 The Basin Reserve has none of the special recreational characteristics of the Town Belt and does not require the same governance or management regime. While it may legally remain part of the Town Belt, the reality is that for many decades the Canal Reserve has been treated as, and has now become, a very different parcel of land.
- 5.7 Therefore, in our written submission we have recommended that the Canal Reserve be re-settled (just as the Basin Reserve was) in to an appropriate contemporary management regime. This may mean that it be removed from the Town Belt and maintained and protected by an alternative status while recognising that the Canal Reserve is and will need to be available where required, for use as part of the city's roading network.

6 Conclusion

- 6.1 In summary, the four points we have discussed are:
 - a The NZTA welcomes the Council's statements concerning the Mt Victoria duplication project within the Hataitai Sector of the Draft Management Plan.
 - b The NZTA recommends that the Drafting Instructions clarify the rights and obligations of the Council when faced with compulsory acquisition under the Public Works Act.

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- c The NZTA supports the boundary adjustments identified for Ruahine Street.
- d Finally, the NZTA recommends that the Canal Reserve's future is carefully considered and potentially removed from the Town Belt, and/or made the subject of its own management plan/status which reflects its present use and context within the city's urban framework generally.