

LOWER KAIWHARAWHARA STREAM, ESTUARY AND RECLAMATION STUDY

BACKGROUND PAPER ON LAND OWNERSHIP AND TITLES

The attached maps show various aspects of the somewhat complicated situation that currently exists. It is noted that not all comments may relate to the main issues of ecological restoration and public access to specific sites, but they present a useful background.

A) - **MAP 1** of 2006 includes (apricot colour - 1023961) the 32 acres approved for reclamation under the Loan and Empowering Bill 1967. The land was vested in Wellington Harbour Board –later transferred to the Port of Wellington (now CentrePort - CPort) under the port reform process of 1988. A large portion of the authorised boundary “out to sea” was never reclaimed but still remains (45yrs later) on CPort’s title WN991/9 despite being precluded by the Port Companies legislation and presumably ‘taken’ under the Foreshore and Seabed Act.

B) - **MAP 1** also covers two other CPort areas- 1031624 and 1042423 – on the northern end of the reclamation with titles 41A/495 and 41A/496. This land was not originally authorised for reclamation but maybe subsequently had some authorisation.

C) - These two CPort titles (para B) are subject to Part 1VA of the Conservation Act 1987 which means that a marginal strip of 20m from mean high water mark spring along their sea boundaries remains Crown land administered by the Department of Conservation (DOC) as Conservation Area No.R27 117. Under the Act there are **rights for public access**.

D) - **MAP 2** shows this DOC strip outlined in red.

E) - **MAP 3** from DOC (with notes attached) shows the second piece of ‘non-authorised’ reclaimed land, ie the long sea edge strip adjacent to the ferry’s marshalling yards marked “Crown Land”. This probably has public access rights. Much of this Crown Land has been ‘occupied’ by OnTrack (see Map 4) which has also recently constructed a concrete pathway along its sea edge.

F) - **MAP 1** also shows land in yellow held for motorway purposes by NZ Transport Agency. A wide strip of this land falls outside the actual road (on the seaward side), from the bridge over the Kaiwharawhara Stream to the DOC managed marginal strip. In April 1992 two small portions of CPort land were acquired for the motorway.

G) - **MAP 4** from OnTrack (see also pink area on Map 3 described as “Railway Transfer”) shows land that OnTrack purchased from CPort within the dotted red lines but has not been legalised although it pays the rates on it. Practically all of this land is in the ferry’s marshalling yards. Map 4 also shows a thin strip of OnTrack land on the main reclamation area (north of the estuary) where trains can be shunted on/off the ferries. The purchase by OnTrack from CPort obviously did not include the Crown land mentioned in para.E although OnTrack’s red dotted line seems to include much of it on Map 4.

H) – UPSTREAM

- the stream bed under the motorway is administered by NZ Transport Agency – part of the gazetted Crown land under Map 1. Presumably the stream bed under the railway is also Crown land.
- immediately downstream from the Hutt Rd bridge on the south side, DOC has a Conservation Area which includes both banks and the stream bed.
- the stream bed under the Hutt Rd bridge is WCC legal road as well as the bed upstream alongside and to the end of School Rd
- at the Woods Waste site (at the end of School Rd) the stream takes an abrupt turn away from the road and the ownership of the bed there needs establishing.
- further up, the stream exits from a tunnel into some small commercial activities above Mobil Oil until it reaches Trelissick Park. It is probable the bed here is WCC owned, but needs establishing, as well as in the tunnel area.

ASPECTS FOR INVESTIGATION

From the above details, it would appear that the titles/ownership situation in this whole area needs clarification by relevant authorities – with correct boundaries shown on an aerial map. Some of the issues are:

- should CPort's title to a large area of land not reclaimed under the original authority (and this could include the estuary and its banks where the 1960s original plans also did not proceed) be returned to the Crown, with possibly the estuary to some other authority such as Greater Wellington or Wellington City Council . Have there been any errors of transmittal of titles when various changes were made to the law in respect of reclamations and the authority for doing so. Also regarding the CPort title to the stream bed of the estuary, did it result from some legal oversight?
- Surely CPort's title should not include land sold to OnTrack, and On Track in turn should 'legalise' its purchase from CPort
- the pre-eminence of the marginal strip on the northern edge of the reclamation managed by DOC – land for public use - needs to be firmly recognised by CPort
- the public access status of the coastal strip of Crown Land alongside the marshalling yards (Map 3) needs to be determined – there is now a 'public walkway' along it.
- determine the ownership of the piece of land alongside the motorway marked 'Wellington Regional Council' on Map 3
- contact the owners of the small commercial activities in the lower Kaiwharawhara valley to explain the purpose of this exercise and keep them informed.

These and any other ownership matters need to be clarified by interested parties - within the context of establishing a strategic plan for the lower Kaiwharawhara valley including the reclaimed land on either side of the estuary - before a range of commercial decisions are made by stakeholders which could negatively impact on this important area. It is Wellington's Northern Gateway; the proposed terminus of WCC's Sanctuary to Sea Walkway; part of the proposed Great Harbour Way and , most importantly, it is a vital part of an ecological corridor leading to a large inland catchment where many community groups have been consistently and successfully engaged in positive restoration work, together with WCC and Greater Wellington.

Trelissick Park Group. 16 April 2012.

Insert maps