



PUBLIC EXCLUDED

Report PE 03.25
Date 24 January 2003
Files N/03/09/17
N/03/13/25
Committee Hutt River Advisory
Author Daya Atapattu, Project Engineer

Hutt River Floodplain Management Plan: Belmont Encroachments

1. Purpose

- To update the Advisory Committee with progress on resolving Belmont Encroachments.
- To seek the Advisory Committee's endorsement of variations from the approved guidelines for managing the Belmont Encroachments.

2. Exclusion of the public

Grounds for exclusion of the public under section 48(1) of the Local Government Official Information and Meetings Act 1987 are:

That the public conduct of the whole or relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist, i.e. to enable the Council to carry on, without prejudice or disadvantage, negotiations.

3. Background

At Belmont many of the adjoining properties currently encroach onto parts of the Regional Council owned river berm. As part of the Belmont improvement project, we started a process to resolve these encroachment issues. In order to expedite the process, we recommended a set of guidelines for dealing with these encroachment issues directly to the Landcare Committee. The Committee approved these guidelines in November 2002. A copy of these guidelines is provided as **Attachment 1**.

The boundary surveys completed in October 2002 showed that out of 23 adjoining properties 20 have encroached onto Council land. Some encroachments are minor intrusions and others are significant with sheds, garages, driveways and swimming pools etc constructed on Council land.

4. Consultation

Consultation with affected landowners started in November 2002. Letters were sent advising them of the extent of encroachments and inviting them to meet with our property consultant, Peter O'Brien. A copy of the survey plan and a copy of Council guidelines accompanied all letters.

During December 2002, Peter O'Brien met with all affected property owners on an individual basis. The meetings have been amicable and the majority of owners have expressed some relief to have their encroachments sorted out and regularised.

5. Outcome of meetings

Attachment 2 contains a schedule with summary outcomes of individual meetings. In the majority of cases, the Council guidelines will be applied without variation. In some instances it has become necessary to seek the Regional Council approval to a variation from the guidelines to achieve a practical and reasonable outcome.

All landowners have been advised of details of the encroaching improvements that have to be removed from Council land. Most landowners have agreed to remove them. In some cases we have agreed to provide some assistance for removal. We have also advised landowners that the Council will meet its half share of costs for the landowners to have a reasonable fence at the common boundary.

It is proposed to grant a total of 17 licences including some that require variations from the approved guidelines (see Section 6 of this report). The 17 licences include 15 nominal charge, 10 cents per annum licences, and two market rate or minimum \$175.00 per annum licences.

The licences will be personal to the current owner. A new owner can request that a new licence be granted.

6. Variations from guidelines

Fences

Section 1 of the Council guidelines states that no private fences shall be on Council land. We propose a variation from Section 1 of the guidelines for the following encroachments:

Property	Nature of Encroachment
11 Charles Street	Minor encroachment (approx. 100 mm) by part of the timber fence. It is considered unreasonable to ask the fence to be removed.
7A Richard Street	Front yard including lawn, deck, driveway and fence.

At 7A Richard Street, the fence, part of the access drive, a section of timber deck, and lawn and garden have encroached onto Council land. This land is well back from the river's edge and the encroachments will not interfere with the proposed edge protections or enhancement works. We propose to grant a license at the current market rate or a minimum of \$175.00 per annum. The owners are about to retire and will request the license if affordable. If the owners are unable to afford the licence they plan to withdraw from the Council land.

Licence fees

Section 4.3 of the Council encroachment guidelines sets a minimum encroachment fee of \$175.00 per annum for all structural intrusions. It is considered unreasonable to charge \$175.00 for some nominal encroachments.

We propose to charge a nominal annual licence fee of 10 cents for the following encroachments which is a variation from section 4.3 of the guidelines.

Property	Nature of Encroachment
7 Carter Street	Minor encroachment by the garage eaves
12 Edwin Street	Minor encroachment by part of the timber deck
66A Owen Street	Minor encroachment by a part of a shed corner

7. Future actions

We have advised affected landowners to remove those encroaching improvements that will not be licensed, before 30 June 2003. Peter O'Brien will monitor the progress and contact those who have not complied by the end of May 2003. We will report any remaining issues to the June 2003 Advisory Committee.

The affected landowners will be given an opportunity to comment on the proposed edge protections and enhancement works during the consultation period commencing from March 2003. Licenses will be issued after the completion of the proposed works in June 2004.

8. Communication

Affected property owners were consulted individually and this will continue until the encroachments are resolved and licences are issued where necessary.

Belmont encroachment issues received wide publicity in the local press in November 2002. The publicity was upsetting to a number of residents.

9. Recommendations

That the Committee:

1. *receive the report.*
2. *note the contents of the report.*
3. *recommend to the Landcare Committee that the proposed variations from the Encroachment guidelines, set out in Section 6 of this report, be approved.*

Report prepared by:

Report approved by:

Daya Atapattu
Project Engineer

Geoff Dick
Manager, Flood Protection

Rob Forlong
Divisional Manager, Landcare

Attachment 1 : Guidelines for managing encroachments on Council land at Belmont

Attachment 2 : Summary outcomes schedule