



PUBLIC EXCLUDED

Report PE 05.559
Date 5 September 2005
File PK/11/01/08

Committee Policy, Finance and Strategy
Author Murray Waititi Manager, Parks and Forests
Peter O'Brien, Property Consultant

Purchase of Waitangirua Farm from Landcorp Farming Ltd

1. Purpose

To inform the Council of the terms of purchase, the terms of the Crown grant, the form of Council title to the land, and to confirm the purchase of Waitangirua Farm.

2. Exclusion of the Public

Grounds for the 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 exists (i.e. to preserve commercial confidentiality and to enable the Council to carry on negotiations), including commercial negotiations, without prejudice or disadvantage.

Interests protected:

Wellington Regional Council

Landcorp Farming Ltd

Porirua City Council

3. Significance of decision

The matters in this report do not trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

4. Background

At the Policy, Finance and Strategy Committee meeting of 16 December 2004, Council considered an asking price made by Landcorp Farming Limited (LCFL) for Greater Wellington Regional Council (GWRC) to purchase Waitangirua Farm. Council resolved to:

1. **authorise** officers to reject the Landcorp Farming Limited offer.
2. **authorise** officers to initiate discussions with Landcorp Farming Ltd to explore options for purchasing or otherwise protecting the key areas of Waitangirua Farm for park purposes.

Council (see Attachment 1. Report PE 05.34) identified key areas of the farm for addition to the Park and resolved to seek LCFL agreement to the sale and purchase of those areas. LCFL agreed to sell Council the key areas. Valuations were obtained by each party and negotiations were conducted. Negotiations included Porirua City Council (PCC) which had advised it wished to purchase land to contribute to the park. Negotiations resulted in Attachment 2. Report PE 05.266 and Council resolved to:

1. **approve** in principle the conditional purchase of parts of the land in CT40A/782, being blocks A, D, E, H & J (Attachment 3) from LCFL for the sum of \$5,100,000 plus GST but subject to acceptable funding assistance from the Crown.
2. **approve** GW meeting all costs associated with the subdivision of Waitangirua Farm to create the four titles required, being one title for GW, one for PCC and two for land retained by LCFL, all at an estimated cost of \$30,000 plus GST.
3. **approve** the expenditure of up to \$72,000 to cover valuation and property consultancy and contingency costs.
4. **approve** (subject to recommendations 3, 4 & 5 above being approved) GW seeking to grant LCFL a licence, over the land being purchased, plus the Takapu, Dry Creek, Kilmister and Sweetacre blocks, for a term to 30 June 2011 at a peppercorn rent and on the terms and conditions as detailed in the attached draft licence.
5. **notes** the intention of PCC to purchase from LCFL, subject to obtaining Crown financial assistance, blocks F, G & I.
6. **approve** GW assuming management responsibilities for blocks F, G & I (now K) as part of Belmont Regional Park should they be purchased by PCC.
7. **note** that if appropriate government funding assistance is obtained, Council will be asked to confirm the purchase.

From the time of Report PE 05.266, Council has worked with Department of Conservation (DoC) to apply for a Crown grant to assist with funding of the

purchase. Through that process it has been clarified that PCC wish to purchase areas G & K for inclusion in the Park, but area F for other purposes.

5. The area proposed to be purchased

A map of the areas to be confirmed for purchase by GWRC and PCC are contained in Appendix 3. In summary, GWRC will be purchasing (with Crown assistance) blocks A, D, E, H and J:

- Block A – Waitangirua including the Farm infrastructure,
- Block D – Hill road including significant areas of conservation covenant,
- Block E – Belmont Road,
- Block H – Cannons Creek including significant areas of conservation covenant and
- Block J – the central farm area which also includes areas of conservation covenant.

PCC is to confirm that it wishes to acquire:

- without Crown assistance, Block F – an area off Sievers Grove for housing purpose,
- with Crown assistance, Block G – Carnarvon containing significant areas of regenerating bush for the purpose of the Park and
- with Crown assistance, Block K (was I) – an area which has been identified by Transit NZ as eventually being required for part of the Transmission Gully motorway for the purpose of the Park.

PCC is seeking approval to have Blocks G and K managed as part of Belmont Regional Park in the same manner as Hutt City Council has included its land in the Park under Council control and management.

LCFL will retain blocks B & C and intends to sell those blocks for residential development purposes.

5.1 Variation requested

During the ongoing negotiation process, LCFL requested that the settlement be restructured. LCFL, for accounting and taxation purposes, require the consideration to be expressed as \$5,600,000 and that the licence fee be expressed as a one off payment at term commencement of \$500,000.

The two payments will be transacted contemporaneously and the net effect will remain as was proposed previously being purchased at an effective \$5,100,000 and a \$0.10 licence fee.

This proposal was referred to the Council's Finance Division for comment. The LCFL proposal has been deemed to be appropriate structure for settlement and has therefore been agreed to.

5.2 The proposed transaction and funding contributions

The Crown has approved a grant to GWRC to assist with the purchase of portions of Waitangirua Farm for inclusion in Belmont Regional Park. With this approval, the Crown has confirmed that it will fund 50% of the purchase price of the land to be held in public ownership for reserve purposes, as well as fully funding the costs associated with the transaction and reimbursing the Council for foregone lease revenue (See table 1).

The grant is made subject to GWRC and PCC declaring the land to be held for the purpose of Reserve pursuant to the Reserves Act 1977 (Section 14 RA 77).

GWRC and PCC will have the land transferred to them from LCFL as fee simple title held in the name of the respective Council. The titles will be memorialised that the land is held for the purpose of a reserve pursuant to the Reserves Act 1977.

Table 1: Funding Contributions

Funds from Crown	Department of Conservation	889,000
	Internal Affairs	2,296,000
		\$3,185,000
Crown contribution to be used for	Porirua City Council - land	267,500
	GWRC - land	2,800,000
	GWRC - all transaction costs	117,500
		\$3,185,000
Porirua City Council	For housing	135,000
Porirua City Council	For Belmont Regional Park	267,500
Crown contribution	For Belmont Regional Park	267,500
Settlement with LCFL		\$670,000
GWRC for Belmont Regional Park		2,800,000
Crown contribution		2,800,000
Settlement with LCFL		\$5,600,000
Receipt of 5 years licence fee from LCFL at settlement date		500,000
Net effective settlement cost to Greater Wellington		\$5,100,000
GWRC to meet all costs of the transaction (survey, resource consent, titles, legal, valuation and consultancy fees)	Crown contribution (100%)	\$117,500

GWRC's purchase will be funded by:

Five years licence fee from LCFL at settlement date	500,000
Land Purchase Reserve Contribution	800,000
Net amount to be Loan Funded	1,500,000
Total GWRC share of land to be purchased	\$2,800,000

The required funds will be borrowed at a cost to Landcare of \$150,000 per annum.

5.3 Landcorp licence

LCFL will remain farming the Farm until at least 30 June 2011. The licence fee for the initial term shall be a one off payment of \$500,000 plus GST, payable at date of settlement and grant of licence. If the licence is renewed, a market licence fee will be assessed, agreed and imposed.

A grazing licence has been drafted and the terms agreed in principle. LCFL has agreed that it will graze the land, allow and promote recreational use of the Farm, continue to keep the land clear of pest plants, fertilise the land, pay the annual rates and maintain the buildings.

The licence also provides for GWRC to be granted the first right of refusal to purchase the LCFL stock and plant at its market value at the end of the licence term. GWRC will then be free to decide if it wishes to farm the land itself or if it will seek to place another grazier on the land.

The licence also allows for continued Council access to the farm for ongoing research and monitoring for wind energy purposes. However, any access to the farm for the construction of a wind farm will have to be negotiated and agreed with LCFL at the time.

The licences that LCFL hold to graze the Takapu and Dry Creek blocks owned by DoC but which are now under GW control and management, and the Kilmister block owned by Hutt City Council will be terminated and replaced with the proposed Waitangirua Farm licence.

Council should note that, in lieu of this licence, no further funding to manage the farm is required apart from that which the Council elects to spend to contribute to Quality for Life outcomes.

6. Where to from here?

The actions to be taken by GWRC to achieve settlement and transfer, and an estimate of the time those actions will take are:

Table 2: Action plan and timeframe

	Action	Time/weeks
1	Prepare a scheme plan of subdivision	4

2	Prepare resource consent applications to Wellington City Council (WCC), Hutt City Council (HCC) & PCC	10
3	The relevant territorial authority (TA) processing of resource consent applications	8
4	Survey subdivision when the TA consents to subdivision being available	4
5	TA process survey certifications - 223 & 224 (c) certificates	8
6	Lodge survey with LINZ for approval	4
7	Deposit Land Transfer plan & and obtain new Titles	6
	Total time estimated	44 weeks

It is important to be aware that TA processing of all subdivision applications, particularly at WCC and HCC, are experiencing delays. It can be expected therefore that the time periods allowed for TA processing may be longer in reality than the estimate provided.

Department of Internal Affairs has advised that it will formally advise GWRC of the conditions under which it will release the Crown grant. Department of Internal Affairs has also advised that it would prefer to distribute the entire grant to GWRC and for GWRC to be responsible for provision of the appropriate funds to PCC. In anticipation, written agreement has already been reached between GWRC and PCC as to the appropriate portion of the Crown grant PCC should receive toward the land purchase.

The conditions likely to be imposed by Department of Internal Affairs are:

- GWRC and PCC to provide evidence of purchase agreements with LCFL. These will be entered into if purchase is approved by the Councils. The documents have already been drafted and agreed with LCFL.
- Written evidence between GWRC and PCC that:
 - a) GWRC should receive the entire Crown grant,
 - b) GWRC will distribute a portion of the Crown grant to PCC and
 - c) PCC agrees to the portion of the Crown grant it shall receive.
- GWRC and PCC to confirm (with evidence) that all conditions of the contracts with LCFL have been complied with/met and the contracts are unconditional.

In essence, the Crown grant will not be available to GWRC and PCC until immediately prior to settlement.

We note that at the time of the writing this report, PCC is yet to consider its proposed purchase. It is anticipated that PCC will consider the proposal at its Council meeting on 18 October. I will update the Council of the outcome of that meeting when information comes to hand.

7. Recommendations

That the Committee recommends that Council:

1. **Receive** the report.
2. **Note** the content of the report.
3. **Approve** the withdrawal from the Land Purchase Reserve, \$800,000 to assist in funding the purchase.
4. **Approve** Council purchasing areas A, D, E, H & J from Landcorp Farming Limited for \$5,600,000 with the assistance of a Crown grant on the terms set out in the attached draft agreement for sale and purchase subject to any minor boundary and cost adjustments that may arise through the surveying and subdivision process.
5. **Approve** at date of settlement, granting LFL a five year farming licence for a licence fee of \$500,000 payable at a date of licence commencement as set out in the attached draft deed of licence.
6. **Affix** the Council seal to all documents required to give effect to the proposal.

Report prepared by:

Report prepared by:

Report approved by:

Murray Waititi
Manager, Parks and Forests

Peter O'Brien
Property Consultant

Barry Turfrey
Chief Financial Officer

Attachment 1: Report PE 05.34

Attachment 2: Report PE 05.266

Attachment 3: Map of the areas to be confirmed for purchase by GWRC and PCC

Attachment 4: Draft agreement for sale and purchase

Attachment 5: Draft deed of licence