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Report 99.238

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Report to the Wellington Regional Council
from Peter O'Brien, O'Brien Property Consultancy Limited

Section 230 Resolution : Land Sale – Otaki “Quarry”

1. Proposal

To declare surplus to the requirements of the Wellington Regional Council the land contained in certificates of title volume 20A folio 1287 and volume 52D folio 889, Wellington registry.

2. Background

- (1) In 1968 the Manawatu Catchment Board, under the Public Works Act 1928, acquired from Mr M K Bryant an area of 2.5925 hectares which fronted on to the Otaki Gorge Road at the entrance to the Otaki River gorge. The land was acquired for the purpose of establishing a quarry to extract material for use in **stopbank** construction and, where some of the material met the specification, for use as **riprap** for flood protection work along the Otaki River.
- (2) In 1977 the Manawatu Catchment Board acquired, by way of transfer, a further area of 1.1742 hectares which sat immediately to the rear of the land referred to in (1) above from the successor to Mr Bryant's title, Mr G L Biggs. The land was acquired to expand the size of the quarry.
- (3) In 1979 the Manawatu Catchment Board acquired, by way of transfer, a further area of 3.4200 hectares which sat immediately to the rear of the land referred to in (1) and (2) above from the successor to Mr Biggs's title, Pineglen Forestry Company Limited. The land was acquired to expand the size of the quarry.
- (4) The quarry has been used only once since the Regional Council took ownership in 1989. In 1992 some overburden material was used for a minor **stopbank** construction.

- (5) In 1993 a report was commissioned on the future of the quarry from Ian R Brown Associates Ltd, geological engineering consultants. That report found that the quarry had been poorly managed and developed which resulted in inadequate access to the higher parts of the quarry for extraction. To advance the quarry face back into the hillside will require extensive benching and removal of overburden. The overburden has little economic value. While a potential 22,355 tonnes of riprap material (meeting Council's rock riprap A and B grading envelopes) remains available at the quarry, the additional cost to meet safety and management requirements will amount to some \$8.28 per tonne, which is not economic.
- (6) Ian R Brown Associates Ltd noted that the existing slopes of the quarry do not present a high risk of failure and that any measures to improve stability would involve considerable cost. It was concluded that it would be prudent to ensure that future uses of the land do not involve placing structures or people too close to the rock faces.
- (7) The quarry has not been used for seven years and is not perceived as having any use or future benefit for providing construction material for the Council. It is therefore regarded as surplus to requirements and available for disposal.
- (8) Section 230 of the Local Government Act requires 14 clear days public notice to be given of the Council's intention to consider a resolution to sell land. That notice has been given, the advertisement placed in the Evening Post on Saturday 1 May is attached (**Attachment 1**).

3. Current Situation

Before the property can be sold by way of exchange, the Regional Council must resolve that the property is surplus to requirements. This conforms with the case Travis Estates v Christchurch City Council where it was found that no negotiation could be entered into prior to making a decision to sell.

If the Council resolves that the property is surplus to requirements and is to be disposed of, the requirements of Section 40 of the Public Works Act 1981 must first be satisfied.

Section 40 of the public Works Act 1981 requires that the land must be offered for sale first to the person(s) from whom it was acquired. The offer is to be at the current market value as assessed by a registered valuer or at any lesser price the Council considers reasonable. If the former owners elect to purchase the land, a sale is conducted. If the former owners elect to not purchase the land then the Council is free to sell the property to the Council's best advantage which may be to the adjoining owner or it may be on the open market. The adjoining owner of this property has already expressed an interest in purchasing the land.

While being conscious that it is necessary to follow the prescription of the Rowan case where the former owner(s) are deceased, it is not necessary to contemplate in this instance as both Messrs Bryant and Biggs are alive and Mr Biggs was the sole director of Pineglen Forestry Company Limited. Preliminary correspondence has been entered into with both Messrs Bryant and Biggs.

4. Proceeds from Sale

It is recommended that proceeds from sale of the land be applied to the retirement of debt incurred in the same “area of benefit” as the quarry. This is considered to be equitable, vis a vis the original purchase costs assumed to be a charge to the now discontinued Otaki Rating Scheme, through the previous Manawatu Catchment Board.

5. Recommendations

- (1) *That pursuant to Section 230 of the Local Government Act, Council resolve that the land contained in certifikates of title volume 20A folio 1287 and volume 52D folio 889 be declared surplus to requirements and available for sale.*
- (2) *That subject to recommendation (1) being approved and pursuant to the requirements of Section 40 of the Public Works Act 1981, the properties be offered for sale at their respective current market values as assessed by a registered valuer, or at any lesser price to be set by the General Manager, to the persons from whom they were acquired.*
- (3) *That the proceeds from the sale of land be applied to the retirement of debt incurred in the same area of benefit as the quarry.*
- (4) *That the Council Common Seal be affixed to the necessary documents to achieve sale.*

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Attachment 1 : Evening Post Advertisement