



PUBLIC EXCLUDED

Report PE 05.266
Date 2 June 2005
File PK/11/01/08

Committee Policy, Finance and Strategy and Council
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Waitangirua Farm - update of progress made

1. Purpose

To obtain approval in principle to the purchase (subject to appropriate Government funding assistance) of the majority of Waitangirua Farm (the Farm) for addition to Belmont Regional Park (the Park).

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 of 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:

- Greater Wellington Regional Council (GW),
- Porirua City Council (PCC) and
- Landcorp Farming Limited (LCFL).

All are parties to the sale and purchase and licence of parts of Waitangirua Farm.

3. Significance of decision

Council staff have considered carefully whether the matters in this report trigger the Significance Policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002. Our assessment is that on balance, they do not trigger those provisions.

Nevertheless, we consider that the Council, through this report, other Council reports (i.e. Reports PE 04.714, PE 05.34, and 05.175), and the background information relating to this matter, is in compliance with sections 76 to 79 of the Local Government Act 2002. Council has considered a variety of options (outlined in the reports and background documents) as well as considering community views on the matter (most notably, but not entirely, through the 12,771 signature petition presented to Council from the Friends of Belmont Regional Park).

4. Background

Reports PE 04.714 (**Attachment 1**) and PE05.34 (**Attachment 2**) provide further background detail.

In March 2003, during a meeting between GW and LCFL officers, LCFL indicated that it was considering closing its operation on both Waitangirua and Whareroa farms.

Late in 2004 LCFL confirmed that they wished to dispose of Waitangirua Farm. The land was offered to the Office of Treaty Settlements (OTS) as it is LCFL practice to offer any land it intends to dispose of to OTS for the purpose of settling any Waitangi Treaty claims. LCFL has advised that it holds a clearance to sell the land from OTS.

LCFL was authorised by its Board of Directors to give GW the first right of refusal on the farm on a without prejudice basis. LCFL offer for GW to purchase the Farm was as follows:

- purchase price \$10,500,000 (Ten Million, Five Hundred Thousand dollars)
- the farm would be sold in one complete unit (all 1,243 ha non subdivided)
- the asking price was not negotiable
- a “claw back” provision was to be included in the sale agreement requiring GW to pay LCFL a portion of any revenue received as proceeds from any future wind farm development
- any sale would be subject to the provisions of Section 27b of the State Owned Enterprises Act (1986) which allows ownership of the land to be resumed by the Crown to satisfy Waitangi Tribunal claims. The owner has no say in any resumption, but is compensated with current market value for the land.

The offer was to remain valid for six months and was to be reviewed in April 2005. The Council rejected the LCFL offer, and authorised officers to initiate discussions with LCFL to explore options for purchasing or otherwise protecting the key areas of Waitangirua farm for park purposes.

From the outset, LCFL considered that the Farm had value in excess of its value as a working farm. Most of the perceived added value arose from the

potential to subdivide the land for residential and rural/residential purposes. Consequently, LCFL prepared a “theoretical subdivision proposal” which divided the farm into smaller blocks. LCFL had valued the farm based on the value of each block.

5. Action taken

In the first instance, GW officers concentrated on identifying those parts of the Farm which had recreation and conservation values. These areas were our first priority for protection and/or acquisition. Report PE 05.34 provided a first cut at those priority areas which was endorsed by the Landcare Committee on 8 February 2005. Subsequent work provided more detail on which areas of the Farm were most important to Belmont Regional Park. **Attachment 3** shows those high value areas.

The areas of highest conservation value are blocks D and H. Blocks D and H have access points into the Park (Cannons Creek and Hill Road), some key track networks, as well as conservation covenants comprising areas of regenerating native forest.

Other important features of the Farm include the open space, landscape and recreational values which are associated with the main body of the farm land. If GW wishes to protect these values then we would need to retain the majority of the land as an economic working farm.

If farming were to cease on that land it would revert to weeds and thus lose much of its recreational and landscape value. Hence, our other high priority was to ensure that the residual farm would have sufficient infrastructure to operate as an effective unit so that the Council was not exposed to either high and ongoing land management costs or additional capital costs in building new farm infrastructure (e.g. woolsheds, stockyards etc). Council can retain a viable working farm (with its open space, landscape and recreational value) by obtaining Blocks J (grazing land) E (grazing land) and A (grazing land plus farm infrastructure).

The artificial boundaries created by LCFL’s theoretical subdivision comprised a good fit with GW perception of what should and what need not be purchased for use of the Park. The main difference was that we adjusted the boundary of Block A to obtain the necessary farm infrastructure. This represents the most significant change from the priority areas endorsed by the Landcare Committee in February.

GW and LCFL each obtained professional valuation assessments of all the blocks making up Waitangirua Farm. LCFL obtained an overall assessment of \$10.411 million and GW an overall assessment of \$7.45 million (for the entire property).

For completeness, it should be noted that LCFL did not revalue the farm in April 2005 in recognition of the progress being made towards an outcome which is acceptable to the parties.

A series of meetings have been held to clarify and debate areas of difference in the valuations. PCC was also invited to the later meetings as it had expressed an interest in purchasing some blocks that GW had little interest in from the perspective of retaining the integrity of the Park (Blocks G, I and F).

6. The areas proposed to be purchased

In summary, GW concluded that it was desirable to acquire (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.

PCC concluded that it was desirable for it to acquire, (with Crown assistance), blocks F, G and K:

- Block F – an area off Sievers Grove,
- Block G – Carnarvon containing significant areas of regenerating bush and
- Block I – an area which has been identified by Transit NZ as eventually being required for part of the Transmission Gully motorway.

PCC staff also expressed the desire to have the land it acquired from LCFL managed by GW as part of the Park.

LCFL has agreed to retain blocks B & C.

Block B is at the north west extreme of the Farm and overlooks both Porirua and Whitby. In asking to purchase part of Waitangirua Farm only, GW has caused block B to have no existing legal road access. Part of the agreement therefore provides for either PCC to provide legal access to block B via land it owns off Stemhead Lane or for GW to provide legal access for block B over land it purchases in block A.

Block C is at the south west extreme of the Farm and overlooks Porirua, but obtains its access via Takapu Road.

7. The proposed transaction

GW's valuation of the above blocks is \$4.95 million. LCFL have valued the blocks A, D, E, H, and J at \$5,750,000. This left a gap of \$795,000 between LCFL's expectations and GW's value.

Without prejudice negotiations have resulted in the following proposal which would bridge that gap:

- PCC to purchase blocks F, G & I for the sum of \$670,000 plus GST.

- GW to purchase blocks A, D, E, H & J for the sum of \$5,100,000 plus GST subject to GW granting to LCFL a licence to graze the farm together with other areas of the Park for a period up to 30 June 2011 and at a rental of 10 cents per annum. GW is also to pay subdivision costs estimated at \$30,000.

It is very important that LCFL remain on the Farm under a grazing licence for at least five years. This would provide GW with the time to manage the transition to GW management of the land. If LCFL were to leave then GW would either need to farm the land itself (the stock alone would be worth around \$1.5m) or find an alternative grazier. Our advice is that an alternative grazier would not be easy to find (primarily because of the capital outlay). In addition, we have estimated that GW would incur additional management costs in the order of \$200,000 pa (probably offset by a grazing rental of \$80,000 to \$100,000 pa).

Hence to have LCFL remain on the Farm after purchase was a valuable commodity for GW. From the LCFL perspective, the right to graze the land had a value between \$80,000 and \$100,000 per annum.

Negotiations concluded that LCFL would remain farming the Farm until 30 June 2011 at \$0.10 per annum. In recognition of the peppercorn licence fee, LCFL agreed to allow the true value of the licence fee to be capitalised and reduced from the purchase price. This reduced the LCFL asking price to \$5,250,000. To conclude the negotiations the difference in price remaining was split and \$5,100,000 adopted.

LCFL originally wanted GW to purchase all of Waitangirua Farm as one entity. In accepting that GW would only purchase nominated portions, LCFL required GW to meet all the costs of subdividing Waitangirua Farm into the various portions. Based on quotations obtained, GW believes it will be possible to achieve the subdivision and issue of new titles for the overall sum for legal, survey and resource consent of \$30,000.

PCC has verbally undertaken, as its contribution, to waive all reserve fund contributions arising from this initial subdivision. All subsequent subdivisions will attract reserve fund contributions.

8. The grazing licence

A grazing licence has been drafted and the terms agreed in principle. LCFL 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 GW 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. GW 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.

Up to 30 June 2011, the licence fee will be \$0.10 pa. If the licence is renewed, a market licence fee will be assessed, agreed and imposed.

At the present time, LCFL holds licences to graze the Takapu block owned by DoC but which is now under GW control and management, the Dry Creek block which is also DoC owned and under GW management and the Kilmister and Sweetacre blocks which are Hutt City Council owned and now under GW management. We consider that GW has sufficient influence to arrange for the termination of those licences which return very little real rent, and their subsequent amalgamation with the Waitangirua Farm land purchased and to grant one overall licence.

9. The wind farm issue

From the outset of negotiations, LCFL had required any agreement entered into to be subject to a caveat regarding future use of the Farm for wind power generation. Discussion clarified that LCFL intended the title to be caveated to require the property to be revalued at the time a wind farm development took place and for GW to pay LCFL any differential in the land value which might arise. GW considered that proposal inappropriate.

GW advised that any sale proposal must be free of all caveats. LCFL, after consideration, accepted that position and agreed to propose the sale proceed with no caveat in place.

GW, if it is the purchaser of the Farm, will be free to explore the development of a wind farm without application of any subsequent penalty payable to LCFL.

10. The Farm title

The certificate of title for Waitangirua Farm is subject to numerous water rights, rights of way and pipeline easements. Overriding all the memorials registered is a Section 27B State Owned Enterprises Act 1986 memorial which provides for the resumption of the land on the recommendation of the Waitangi Tribunal. This Act does not provide for third parties, such as the Council as owner of the land, to be heard in relation to the making of any such recommendation.

LCFL has provided a copy of a letter dated 12 May 2005 from the Office of Treaty Settlements which in substance says – “ *Our negotiations Manager, (name) advises he does not wish to pursue these acquisitions as advised in earlier correspondence from this office. It is considered that Section 27B memorial of the SOE Act 1986 is sufficient protection of claimant interests.*”

This appears to confirm that there is a possibility of a Waitangi Tribunal claim for this land being lodged. It is therefore possible that the land may be acquired from GW in the future for claim settlement purposes. Resumption of ownership by the Crown for this purpose, will require the Crown to pay current market value for the land and improvements.

11. Funding implications

It is anticipated that the funds which will be required to complete the transaction will comprise:

Action	Potential cost	
Land purchase	5,100,000	
Valuation	6,000	
Property consultancy	21,000	
Legal	5,000	
Survey and resource consent	25,000	
Total estimated funds required	\$5,157,000	With contingency say \$5,200,000

12. Funding provision and priority

No specific funding provision is made for purchase of Waitangirua Farm in the current LTCCP.

The Parks and Forests Land Purchase Reserve will have a balance of around \$921,000 (at 30 June 2005). However, \$104,000 has been committed to pay GW's half share of the State Highway 2 underpass at Kaitoke (see report 03.449). This will leave a balance of approximately \$817,000. The remaining balance of \$4.4 Million would incur annual debt repayment of \$423,000 per annum. This repayment amount assumes that the interest rate on the debt continues to be 7.25%p.a. and that the loan is funded over 20 years in line with the current Council Treasury Management Policy for loan funding land purchases.

A decision to purchase the land would result in a breach of the Parks and Forests Internal Debt Limits as the Parks & Forests Department *Debt to Rates* ratio would exceed 50%. Hence, as a minimum the Council would need to adjust the Parks and Forests Internal Debt Limit in the Treasury Management Policy.

13. Funding the purchase

While the purchase price is considerably less than the \$10.5 million originally proposed by LCFL, the Chief Financial Officer has advised that given GW's other capital commitments (notably on Transport) and the potentially significant breach of the Council's Internal Debt Limit, the full purchase price will be extremely difficult to fund. Hence the option of the Council funding the entire purchase alone is not considered further in this report.

Council was aware of this situation and has sought assistance from central Government. At a meeting in early May with Government Ministers and Officials Councillors Buchanan and Laidlaw obtained an undertaking that Ministers were prepared to look at a "package" with a view to taking it to Cabinet for funding assistance. There were no promises made that any funding would be forthcoming.

It is proposed that the cost of purchase be shared with the Crown providing 50% of the funds and each local authority providing the remaining 50% of that land that they wish to purchase.

If this arrangement is acceptable, GW's 50% share would be \$2,600,000. PCC's contribution would be around \$335,000 and the Crown would pay approximately \$2,900,000.

Under this scenario the annual debt repayment on the GW share would be \$172,000.

Once negotiations with the government are concluded we will put a further report to Council so that it can confirm whether the purchase terms are acceptable.

14. Financing the ongoing running of the property

As with all land purchases for Regional Parks there will be ongoing costs to manage the land. We are not seeking any additional funding for the running of the property in the 2005/06 year. Although there may be some additional funding required we can identify that as part of the LTCCP process.

Looking further ahead, while LCFL is farming the land we do not expect running costs to be too significant as things will be managed much as they are now. However, if the Council chooses to encourage greater public access to the farm or provides additional capital developments then that will need to be funded.

When Landcorp leave the farm (2011) it is likely that the Council will incur additional land management costs.

15. The fall back position

If Crown funding is not available, then it is proposed that GW revert to purchase of blocks D & H only. Those blocks contain the most significant conservation covenants and park access points. The blocks possess a combined value of \$750,000 plus GST so could be purchased from the Parks and Forests Land Purchase Reserve. This fall back position has been advised to and has been acknowledged by LCFL.

16. Recommendation

That the Committee recommend that Council

1. *receive the report*
2. *note its contents*
3. *approve in principle the conditional purchase of parts of the land in CT 40A/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.*

4. **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.*
5. **approve** *the expenditure of up to \$72,000 to cover, valuation and property consultancy and contingency costs*
6. **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.*
7. **notes** *the intention of PCC to purchase from LCFL, subject to obtaining Crown financial assistance, blocks F, G & I*
8. **approve** *GW assuming management responsibilities for blocks F, G & I as part of Belmont Regional Park should they be purchased by PCC.*
9. **note** *that if appropriate government funding assistance is obtained, Council will be asked to confirm the purchase.*

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- Attachments: 1. Report PE 04.714 dated 3 December 2004
2. Report 05.34 dated 1 February 2005
3. Plan – Belmont Regional Park Options v4 Update 17/05/2005