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Report to the Utility Services Committee
from Barry Leonard, Plantation Forestry Manager

Section 230 Resolution: Valley View Forest

1. Purpose

To brief the Committee on the process required to declare surplus to requirements two small portions of land contained in certificate of title volume 25A folio 510.

2. Background

- 2.1 By Report PE-99.582 of 6 October 1999, Council resolved to enter into an agreement with the Partners of Rallywoods for reciprocal access between Valley View Forest and Bulls Run Road.
- 2.2 That agreement has been negotiated and completed. The agreement with the partners of Rallywoods is conditional on the Council being able to grant a reciprocal right-of-way through Valley View Forest.
- 2.3 Investigation of the feasibility of granting a right-of-way revealed:
 - (1) Part of the forestry road through Valley View passes through land owned by MRF Bradley for which there is no right-of-way held.
 - (2) Part of the forestry road passes through land owned by MRF Bradley for which there is a right-of-way in favour of the Council but which does not extend to any other party.
 - (3) Part of the forestry road passes through land owned by Upper Hutt Developments (No 7) Limited (UHD7L), (formerly owned by Craigs Flat Limited), for which there is a right-of-way in favour of the Council but which does not extend to any other party.

- (4) Part of the forestry road passes through land owned by the Upper Hutt City Council for which there is a right-of-way in favour of the Council but which does not extend to any other party.
- 2.4 Items 2.3 (1) and (2) above, Mr Bradley and the Council have entered into a conditional contract and the Council is now the equitable owner of the land it requires and is able to enter into contractual commitments with the Rallywoods Partners.
- 2.5 Item 2.3 (3) above, UHD7L and the Council have entered into a conditional contract and the Council is now the equitable owner of the land it requires and is able to enter into contractual commitments with the Rallywoods Partners.
- 2.6 Item 2.3 (4) above, the Upper Hutt City Council has confirmed that it will grant consent to the use of its land for a right-of-way in favour of the Rallywoods Partners.
- 2.7 In negotiating with both Mr Bradley and UHD7L it was recognised that an exchange of land would provide each party with an equitable solution. In particular, the Council would be the owner of all the land over which its forestry road passes and it need have no reference to another party if it elects to grant a right-of-way to the Partners of Rallywoods.
- 2.8 The area of Council land to be exchanged with Mr Bradley is not planted with plantation trees and has no economic or future plantation value. The area is part of a bush and scrub covered hillside that immediately adjoins Mr Bradley's property and is the subject of a right-of-way from the Council to Mr Bradley. The area contains a 4-wheel drive access track. The land and its cover will not change with the transfer of ownership. It will achieve a quid pro quo where each parties present right-of-way becomes their freehold ownership.
- 2.9 The area of Council land to be exchanged with UHD7L is not planted with plantation trees and has no economic or future plantation value. The area is relatively open and immediately adjoins UHD7L's property. The land is near identical in area and contour with that being obtained by the Council in exchange. The area of UHD7L land being obtained by the Council does contain a stand of pines, planted by the Council, which are due for harvest in 2007. Council will therefore obtain a dual benefit from the exchange.
- 2.10 The Council certificate of title 25A/510 extends to 1615.2796 hectares. The Bradley exchange will see some 6 to 8 hectares transfer to Bradley and some 3.5 hectares transfer to the Council. While the areas may be unbalanced, the relative values are in favour of the Council. The UHD7L exchange will see some 2.5 hectares transfer to UHD7L and some 2.5 hectares transfer to the Council. As the areas immediately adjoin one-another the areas and relative values are in balance.
- 2.11 The Council has no present or future known use for land proposed to be disposed of by way of exchange.

- 2.12 Section 230 of the Local Government Act requires 14 clear days public notice to be given of the Council intention to consider a resolution to sell or exchange land. That notice has been given.

3. **Current Situation**

If the Council resolves that these two portions of the Valley View Forest property are surplus to requirements and are 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 to the person from whom it was acquired. Except where it would be impracticable, unreasonable or unfair to do so or where there has been a significant change in the character of the land.

In this instance, as the two areas of Council land are land-locked, it is deemed to be impractical to offer them back to the former owner or their successor. The only practical purchasers are the adjoining owners.

The public notice is due to be published on Saturday 17 June and the 14 clear day's requirement will be met on Sunday 2 July.

It is proposed that the substantive motion be considered at the meeting of the Policy and Finance Committee on 4 July.

4. **Recommendation**

That the report be received and the contents noted.

Report prepared by:

Approved for submission:

B M LEONARD
Manager, Plantation Forestry

DAVID BENHAM
Divisional Manager, Utility Services