

Report PE07.523
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Committee Utility Services Committee
Authors Peter O'Brien, Property Consultant
Tony Shaw, Manager, Engineering Services

Akatarawa Forest: Proposal to Dispose of Land for Road (Transmission Gully Motorway) by way of Exchange

1. Purpose

- To advise the Utility Services Committee of a request from Transit NZ to acquire land from Akatarawa Forest for the purpose of legal road, being the Transmission Gully Motorway.
- To seek the Utility Services Committee endorsement to proceed with the land disposal for the purpose of a public work on the basis of an exchange of land.

2. Significance of the decision

The matters for decision 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.

3. 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:

The information contained in this report relates to Greater Wellington entering into a Memorandum of Agreement with Transit NZ for the disposal of Council land and acquirement of Transit NZ land in compensation. The Memorandum of Agreement has not yet been entered into. The report outlines terms of the proposed agreement which may still be negotiated. Having this part of the meeting open to the public would disadvantage the Council if further negotiations were to take place. The Council has not been able to identify a public interest favouring disclosure of this particular information in public proceedings of the meeting that would override this prejudice.

4. Background

Transit NZ has resolved to proceed with the purchase of all land designated for road on the Transmission Gully alignment. Part of the designation alignment comprising 21.75 hectares is over land held by council as the Akatarawa Forest, which is held for the primary purposes of water supply, forestry and recreation.

To the south of the land required for road, Transit NZ holds a block of land which adjoins the Akatarawa Forest. The Transit NZ block is in excess of the designated alignment as the former owner required Transit NZ to purchase the whole block. Part of that block at the common boundary with the Akatarawa Forest is of strategic interest to council, as the boundary is adjacent to a ridgeline proposed for the Puketiro wind farm development. Council has an interest in protecting the quality of the wind flow to this ridge. Council ownership of this portion of the Transit NZ land will also provide greater flexibility in optimising the placement of turbines without needing to seek adjoining owner encroachment approval.

Transit NZ has confirmed that it is prepared to acquire the council land and to transfer the defined portion of its land to council in exchange pursuant to Section 106 of the Public Works Act 1981.

5. Proposal

To dispose of land to Transit NZ for the public work purpose of road (Transmission Gully Motorway) and as compensation to have transferred to council an area of Transit NZ land in exchange.

6. The Property

6.1 Land required by Transit NZ

The council land required by Transit NZ is shown outlined in yellow on the attached Plan B and extends to 21.75 hectares in area. The council land is contained in CT WN 41D/398 which consists of a total of approximately 5578 hectares and the land is legally described as being part of Section 1 Titi District. Only part of the land acquired by Transit NZ will have a road built over it. The balance land will be retained by Transit NZ as Road and will be used as severance. In essence much of the bush clad nature of the council land will remain as it is today.

6.2 Transit NZ land for transfer to Council

The Transit NZ land which has been identified by council to be of strategic value is shown outlined blue on the attached Plan B and also extends to 21.75 hectares in area and comprises a strip of land no less than 100 metres wide which runs the full length of the common boundary between the Akatarawa Forest and the Transit NZ block. The Transit NZ land is held for the purpose of Road by Proclamation B696329 (NZ Gazette 1998 pages 4495 and 4496, being part Lot 2 DP 71399).

7. The current market value

Council and Transit NZ agreed, due to the nature of the assessment, to jointly instruct Gerald Smith, a registered valuer, to assess the current market value of each area of land. Each party reserved the right to seek a further opinion if not satisfied with the outcome. In the event, Mr Smith produced an assessment which was acceptable to both parties.

- The current market value of the council land was assessed to be 21.75 hectares of valley floor and steep hill at \$550.00 per hectare being \$12,000 plus GST if any.
- The current market value of the Transit NZ land was assessed to be 21.75 hectares of steep hill and ridge line at \$1,100.00 per hectare being \$23,925 plus GST if any.
- Equality of exchange payable by council to the Crown, \$11,925.00 plus GST if any.

8. Memorandum of Agreement

Following a without prejudice negotiation process, Transit NZ has drafted an Agreement which provides for Crown purchase of land for road and compensation to be by way of exchange with equality of exchange to be paid by council to the Crown. The agreement accurately reflects the negotiation process and issues agreed. Oakley Moran has perused the agreement from a legal perspective and confirms that it is a suitable agreement for council to execute.

The Agreement provides for:

1. Transit NZ to acquire 21.75 hectares of council land for the purpose of road at a value of \$12,000.
2. Transit NZ to transfer in exchange 21.75 hectares of its land to council at a value of \$23,925.
3. There will be a payment as equality of exchange by council to the Crown of \$11,925.

Each party will be responsible for the cost of defining by survey the land it is to receive and for meeting its own legal costs incurred in the transaction. The Crown will fence the land acquired for road from the balance of the council land.

The agreement is conditional on the Crown obtaining all statutory, regulatory and other clearances required for the disposal of the exchange land to council.

9. Funding provision

Funding provision for purchase of the property is made within the long term financial strategy. Financing will be achieved within the Utility Services funding envelope.

10. Communication

Direct communications with the community on this report are not considered appropriate at this stage.

11. Recommendations

That the Utility Services Committee:

1. ***Receives the report.***
2. ***Notes the content of the report.***
3. ***Endorses the disposal of 21.75 hectares to the Crown for the purpose of road (Transmission Gully Motorway) at an assessed value of \$12,000.***
4. ***Endorses the compensation being acquisition of 21.75 hectares of Crown owned land by way of exchange at an assessed value of \$23,925.***
5. ***Endorses council paying the Crown as equality of exchange the consideration of \$11,925.***
6. ***Endorses the council seal and/or authorised signatory being affixed to all documents and plans to give effect to this transaction.***

Report prepared by:

Peter O'Brien
Property Consultant

Report prepared by:

Tony Shaw
Manager
Engineering Services

Report approved by:

Murray Kennedy
Divisional Manager, Water
Supply, Parks and Forests

Attachment 1: Plan B (The Exchange Land)