

<b>Report to:</b>	<b>Council</b>	<b>File PUBLIC EXCLUDED</b>
<b>Date:</b>	30 November 2022	
<b>Subject:</b>	Marlborough Regional Forestry Land Acquisition	
<b>Prepared by:</b>	S Poulsen - Finance Manager	
<b>Input sought from:</b>	M Fletcher - Chief Financial Officer, Marlborough District Council	
<b>Authorised by:</b>	W Doughty - Chief Executive Officer	

## 1. SUMMARY

This report seeks Council's retrospective approval for the purchase by the Marlborough Regional Forestry joint venture (MRF) of 213 hectares of forest at 2191 State Highway 63, Wairau Valley, Marlborough.

In the Council meeting of 30 August 2022, the Council agreed to establishing a delegation for MRF to enter negotiations for the purchase of forestry blocks, and for conditional sale and purchase agreements to be signed by the Kaikōura and Marlborough District Council chief executives, with the final approval of the purchase to be from both the Kaikōura and Marlborough District's Full Council Committees.

The negotiations have, however, advanced to change of ownership, with settlement date being the 25<sup>th</sup> of November 2022 – a date now past. At the time of writing this report, the sale and purchase agreement had been unconditionally signed and a deposit paid by the Marlborough District Council.

*Redacted attachments - sections 7(2)(b), 7(2)(h) and 7(2)(i) applies.*

The attachments are for information only.

## 2. RECOMMENDATION

THAT the Council:

- a) Receives this report
- b) Agrees to the purchase by the Marlborough Regional Forestry joint venture of Sunhill Forest at 2191 State Highway 63, Wairau Valley for \$2.0 million plus GST (if any)
- c) Delegates the Chief Executive Officer to determine the release of this public excluded report.

## 3. BACKGROUND

Over recent years, MRF has been looking for forestry blocks that make good economic sense, particularly those that will fill the harvest gaps identified to occur when there are no trees at suitable maturity for logging.

One of the challenges has been the closing dates for tenders and the timing of the Council approval process, mainly due to the restrictions within the Local Government Act (clause 32(1) of Schedule 7), stating that a local authority may not delegate "(c) the power to borrow money, or purchase or dispose of assets other than in accordance with the Long Term Plan (LTP)".

The intention of the paper presented to both the Council and the former Finance, Audit & Risk Committee in August 2022, was to provide for MRF to enter negotiations to the point of making a formal offer. That paper (Attachment A) was replicated at the Marlborough District Council, to ensure that both Councils were approving the same delegations. This gave the two Chief Executives the power to jointly make an offer, subject to final approval from both Council's, and the target land meeting certain investment criteria. The Kaikōura District Council resolved the recommendation on

31 August 2022, and the Marlborough District Council resolved the same recommendation on 22 September 2022.

Then, with the endorsement of the Marlborough Regional Forestry Joint Committee, a proposal to make an offer on the Sunhill Forest, located at 2191 State Highway 63, Wairau Valley was presented to the Chief Executive of the Marlborough District Council to make an offer of \$1.9M. The proposal also noted the possibility of needing to move to \$2.0M on negotiation (Attachment 2). This proposal was agreed on 5 October 2022.

Subsequent to making the initial offer, the owners countered at \$2.0M. As “cashed up” former owners of significant orcharding interests in Tasman, they were not in a hurry to sell and quite prepared to take the property to the open market.

A reminder that MRF will sell a portion of its carbon credits to fund the land purchase. Immediately prior to the purchase, MRF held just under 180,000 NZEU with a market value of \$85 each. There is no call for cash on either the Kaikōura or Marlborough District Councils to fund the land purchase.

### **3.1 Key issue – the purchase has already occurred**

While it is disappointing that the purchase of the forestry blocks has been completed without any input (or knowledge of negotiations) from the Kaikōura District Council, the outcome is never-the-less a very good one, with an ideal forestry block now having been secured. It should be noted that the decision to pursue the purchase of the land was fully supported by our previous Council.

The requirement for the Kaikōura District Council to approve all land purchases never intended for the Council to prevent or block any land purchase that met the investment criteria. Rather, the intention was to ensure compliance with the Local Government Act 2002 (Schedule 7, clause 32(1)).

### **3.2 Key issue – the price exceeded valuation but is justifiable**

A valuation was prepared for the land only by Tim Gifford of Colliers. Initially the valuation only provided one figure, \$1.4M, but this was subsequently updated on 2 October to include a range of plus or minus 5%, i.e. \$1.33M to \$1.47M (page 48 of Attachment 3).

In addition, \$449,000 has been spent in establishing the second rotation over a two-year period. MRF have been advised that the cost of establishment in 2023 would be some 18% higher due to increases in the cost of trees, labour, fuel, fertiliser and chemicals, yielding a figure of \$529,820. Combining the upper land valuation of \$1.47M and establishment of \$529,820 yields a figure of \$1,999,820M. Therefore, while at the upper end, the figure is very close to the \$2.0M requested.

The Council should also note:

When the block was harvested it achieved the highest return for that year of any of the blocks under the management of Marlborough Regional Forest Land Management Ltd (MRF’s forest managers) because of the block’s location and contours.

The owner has applied for carbon credit eligibility status. If successful, this could provide a further benefit.

The CEO has raised concerns over the process with the Marlborough District Council CEO to ensure that this does not occur again in the future. It is acknowledged that these events occurred over the busy electoral transition period for both Councils.

#### 4. FINANCIAL IMPLICATIONS AND RISKS

The outcome of the land purchase is that MRF has expanded its asset holdings by purchasing an ideal forestry block with second rotation trees, and has filled a harvesting gap that alleviates future phases of cash losses.

##### 4.1 Community Implications

There are no implications to the communities in either Kaikōura or Marlborough districts.

##### 4.2 Risk Management

The land purchase has already been completed and the change of ownership has occurred. The only risk in this report is that the Kaikōura District Council does not agree to retrospectively approve the purchase. With the purchase already concluded, such a decision would do nothing but cause embarrassment to both the Kaikōura and Marlborough District Councils. Concerns over the process have already been raised at CEO level.

##### 4.3 Health and Safety

There are no implications to health and safety in this report.

#### 5. RELEVANT LEGISLATION

##### 5.1 Policy

The Council's Financial Strategy is for forestry to generate cash surpluses after having covered all associated costs. The expansion of MRF's holdings to now include Sunhill will ensure there are few (if any) periods of cash losses in the future, due to the maturity of the trees filling the current harvesting gap.

##### 5.2 Legislation (Local Government Act, Schedule 7, Clause 32 (1))

As discussed in this report, the Kaikōura District Council was not involved in the final sign off of the sale and purchase agreement prior to land acquisition, and therefore there has been a breach of the Local Government Act.

The purpose of this report is for the Council to retrospectively agree to the land purchase, and in doing so alleviate the breach.

##### 5.3 Community Outcomes Supported

The work is in support of the following community outcomes.



**Future**  
We work with our community and our partners to create a better place for future generations



**Development**  
We promote and support the development of our economy

##### 5.4 Delegations

As discussed in this report, only the Council has the power to purchase or dispose of assets and this power can not be delegated. In this instance, for the MRF joint venture, the power needs to be exercised by both the Kaikōura and Marlborough District Councils.

#### 6. COMMUNITY VIEWS

##### 6.1 Groups and Organisations

The matter is not considered to be an item appropriate for engagement with any groups.

##### 6.2 Wider Community

No community views have been sought.