



Item
Meeting 2017 Feb 06

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2017 February 01
FROM: DIRECTOR FINANCE **FILE:** 9100-50
SUBJECT: 2017 UPLAND CONSENT AGREEMENT RENEWALS
PURPOSE: To obtain Council approval for the assignment and/or extension of terms of four existing upland consent agreements.

RECOMMENDATIONS:

- 1. **THAT** Council approve the assignment and extension of terms of the existing upland consent agreements; and
- 2. **THAT** the City Solicitor be authorized to prepare new Upland Consent Agreements as outlined in this report.

REPORT

On 2015 January 01, the Ministry of Forests, Lands and Natural Resource Operations (FLNR), took over responsibility for administration of Crown land in the Lower Fraser River estuary from Port Metro Vancouver (PMV). Existing water lot tenure agreements with PMV were set to expire on 2017 January 01, and the Ministry has since been making efforts to ensure that Water Lot tenure holders have valid upland consent agreements in place with each applicable municipality, as the Province seeks to enter into longer-term replacement agreements with each tenure holder.

The City of Burnaby currently has eight Upland Consent agreements with Water Lot tenure holders.

1. MAYBERRY FARMS (Existing Contract # 10000209)

Mayberry Farms Ltd operates a large cranberry farm on 165 acres of land they purchased from Burnaby Business Park Ltd. Since 1998 they have drawn water from the Fraser River for irrigation and harvesting. They have a pump facility located at the foot of Tillicum Street. The water flows from the pump into a main which is primarily located on private lands on the east side of Tillicum. The intake and outlet screens and pipes are located within a waterlot at the foot of Tillicum. A portion of the irrigation line is located within the Tillicum Street road allowance with the pump itself being located on the adjacent City lands immediately east of Tillicum. These lands comprise part of the Burnaby Fraser Foreshore Park System. (See Schedule A for location)

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Permission for this upland consent was initially approved for a five year period from 1998 October 15 to 2003 October 14. A further five year term was approved in 2003. In 2008 Mayberry Farms asked for a new 10 year approval stating that their land would not be a viably producing cranberry farm without its current water supply.

While Mayberry Farms' agreement with the City actually runs through until 2018 November 21 they have approached the City to secure an additional ten years to that term. Planning has indicated that it has no objection to the term, so long as the farm use continues. Mayberry Farms prepaid \$200 + GST for their existing agreement. The new rate for the ten years from 2018 November 21 through 2028 November 20 shall be \$400 + GST for the term.

2. INTERNATIONAL FOREST PRODUCTS LTD. ASSIGNMENT TO PACIFIC CUSTOM LOG SORTING (Existing contract # 10000211)

International Forest Products Ltd. has held a waterlot agreement and an Upland Consent with the City since at least 1997. The agreement has been regularly renewed with the last approved term running from 2013 October 01 through until 2017 October 16. Although Interfor still has about 10 months remaining on its current agreement it is looking for an additional five year term, since it is in the process of reassigning their Water Lot Licence #913492 to Pacific Custom Log Sorting (1950 Brigantine Drive, Coquitlam, B.C., V3K 7B5). The Upland Consent area is shown on Schedule "B".

It is proposed to extend the agreement for another five year term which would run from 2017 October 17 through 2022 October 16 at the rates shown in the following table rates:

		Year	Rate (\$)
International Forest Products Ltd. to be assigned to Pacific Custom Log Sorting	Lot 6317	2017 October 17 to 2018 October 16	2,300.00
		2018 October 17 to 2019 October 16	2,369.00
		2019 October 17 to 2020 October 16	2,440.07
		2020 October 17 to 2021 October 16	2,513.27
		2021 October 17 to 2022 October 16	2,588.67

The rates are subject to GST.

3. WESTERN FOREST PRODUCTS INC. (Existing contract # 10000206, and # 10000212)

Western Forest Products (and its predecessors MacMillan Bloedel; Weyerhaeuser Company Limited; Cascadia Forest Products) have held three waterlot agreements and two associated upland consents with the City of Burnaby since at least 1991. (See Schedule "C" for the Upland Consents.) This company has assigned two of its waterlot agreements to another company, specifically Harken Towing Co. Ltd. (P.O. Box 7, 1990 Argue Street, Port Coquitlam, BC V3C

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3V5). The third waterlot agreement is in the process of being assigned to Hodder Tugboat Co. Ltd. (16031 River Road, Richmond, BC V6V 1X5).

Given that PMV's responsibility has passed to the MFLNR, the Ministry wants its waterlot holders to show that the upland consent agreements are in place. Western Forest Products had another year (to 2017 December 31) remaining on its existing upland agreements with the City; However, its assignee Harken Towing Co. Ltd. has offered to pay the City one flat fee for the two upland consents as the waterlots are physically adjoining. They are offering \$2,500/year plus GST which is a substantial increase over the previous arrangement. The information is summarized in the table below:

			Term	Annual Rent (\$)
Western Forest Products	Assigned to Harken Towing	Wheaton Street End; Former Waterlot Lease NO. 8021 now #2411434 (WSMIA)	2017 January 01 - December 31	2,500
Western Forest Products	Assigned to Harken Towing	Formerly Waterlot Lease 8004, Now #2411441 (Harken Big Bend)	2017 January 01 - December 31	2,500
			2017 January 01 - December 31	2,500
			2017 January 01 - December 31	2,500
			2017 January 01 - December 31	2,500
			2017 January 01 - December 31	2,500

All rates are subject to GST.

Western Forest Products' third waterlot is being transferred to Hodder Tugboat Co. Ltd. The following table summarizes the proposed term for their upland consent:

			Term	Annual Rent (\$)
Western Forest Products	Assigned to Hodder Tugboat Co. Ltd.	Formerly Waterlot 8005-8016; Now #2411433	2017 January 01- December 31	1,600
			2018 January 01- December 31	1,600
			2019 January 01- December 31	1,600
			2020 January 01- December 31	1,600
			2021 January 01- December 31	1,600

All rates are subject to GST.

The water lot leases are of varying dimensions in the river, therefore the adjoining upland dimensions are also of varying lengths. The rates are reflective of the length of the respective Upland Consent. The Mayberry Farms rate is very low because it reflects a very small water lot. The Upland Consents do not allow the log booms to be secured to or connect to the land at either high or low tide. The Consents are subject to termination by the City of Burnaby upon issuance of a minimum 30 day notice to the Consent Holders.

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The Consent holders are required to erect and maintain signs forbidding the public to trespass on the water lot. The Consent holders are required to indemnify the City of Burnaby for any circumstance resulting from any act or omission by them, related to the relationship.

4. Other Upland Consent Agreements

The City has four remaining Upland Consent agreements with Island Timberlands and Properties for which renewal discussions have yet to take place. The City has reached out to the company to establish if they wish to enter into new agreements prior to expiration this year:

- Contract # 10000208 - 2012/10/14 – 2017/10/14
- Contract # 10000210 - 2012/10/14 – 2017/10/14
- Contract # 10000214 - 2012/10/14 – 2017/10/14
- Contract # 10000215 - 2012/10/14 – 2017/10/14

RECOMMENDATION

It is recommended that Council approve the assignment and extension of terms of the existing upland consents as outlined in this report and that the City Solicitor be authorized to prepare the new Upland Consent Agreements as outlined in this report.



for Denise Jorgenson
DIRECTOR FINANCE

DJ:RR/mm

Copied to: Director Planning and Building
City Solicitor

Attachments: 1 – Schedule "A"
2 – Schedule "B"
3 – Schedule "C"

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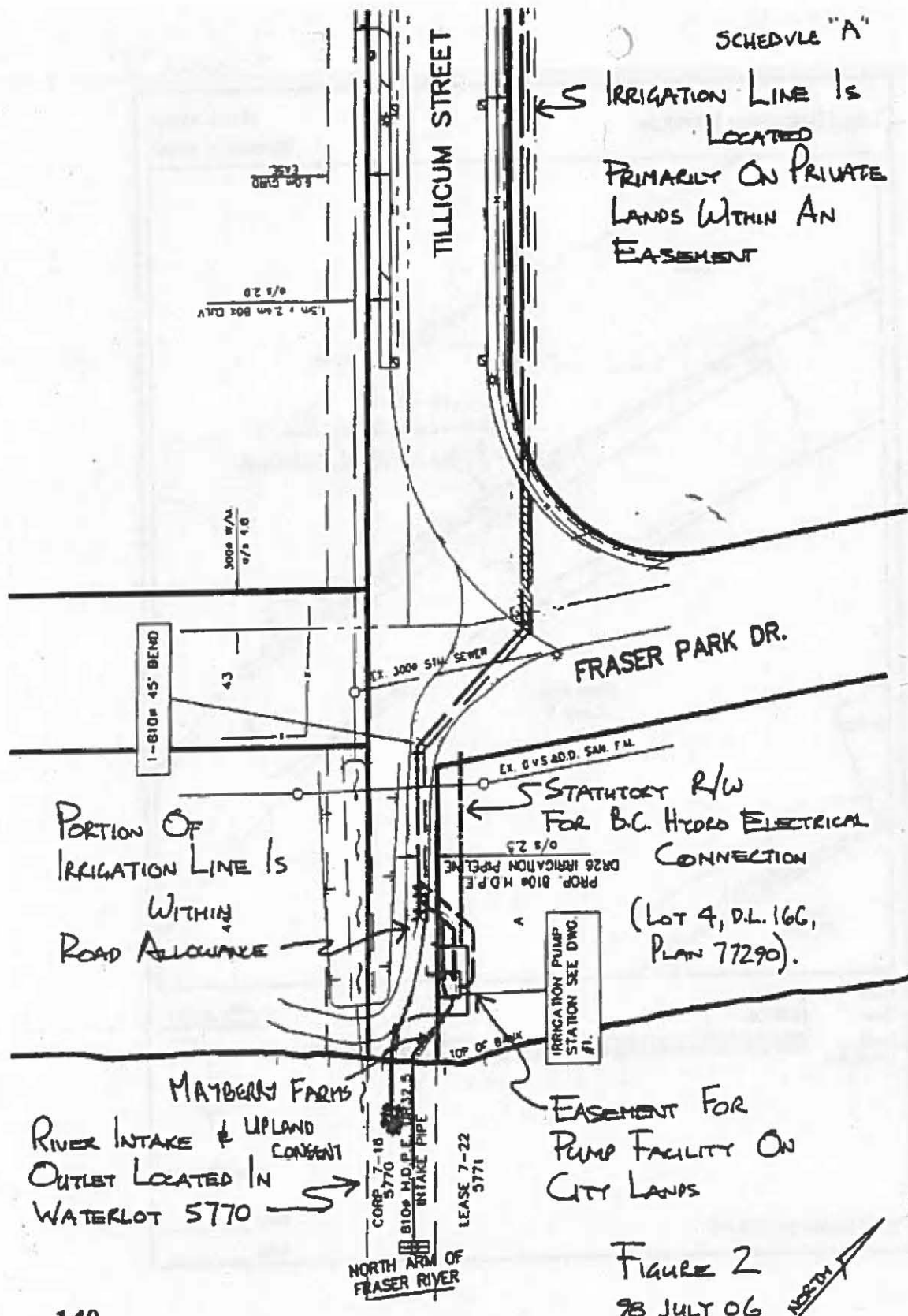
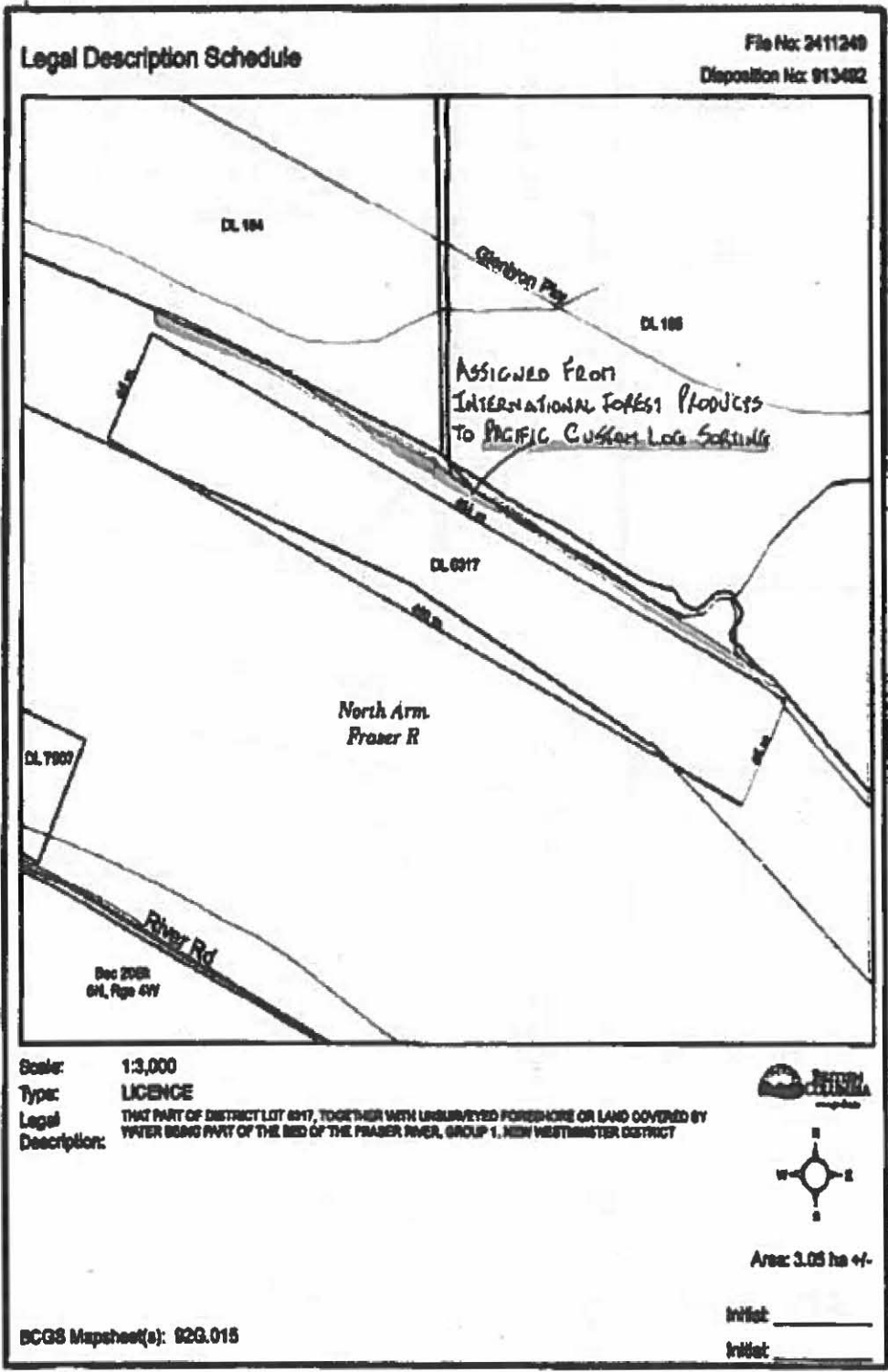


FIGURE 2
28 JULY 06



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SCHEDULE "B"



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