

## MEMORANDUM

To Will Gauntlett, Growth and Analytics Manager  
From Anthony Averill, Strategic Property Manager  
Subject Proposed District Plan Submission - Redwood Grove Access to Elmwood Lane Cell  
Date 13 December 2021

Further to our recent discussions regarding the proposed response to submissions received on the Proposed District Plan, that refer to access to Land in Elmwood Land from Redwood Grove, Tamahere, I have reviewed the information at hand and respond as follows.

### **Background:**

The Council has notified the Proposed District Plan. As part of the notification process the Council has received a multi-party submission (Ref 694.1), that in essence object to a notation on Planning Map (Map 27.2) that shows an indicative alignment for a road connection across property at 6 Davren Way and 23B Redwood Grove, Tamahere. I understand that there are further submissions supporting this and also further submissions seeking to have the alignment retained. This alignment indicates a connection from Redwood Grove to land that is currently accessed off Elmwood Lane.

The intention of the indicative alignment is to enable a public and legal road access to be formed at some stage in the future to enable the Tamahere Growth cell to be further developed.

In 2013 the Council entered an unconditional contract with the owner of the property at 6 Davren Way, being Lot 7 DP 464708. This agreement secures a 10-metre-wide parcel of land that will when legalised, connect Redwood Grove with the Elmwood Land properties along the alignment shown in the Proposed District Plan.

This Public Works Act 1981 agreement is protected by way of a Compensation Certificate, on the title, that provides for the following.

- The required land is defined by plan and has an area of 2207 square metres – subject to survey. (Refer Attachment A).
- The acquisition of the required land will be by Section 20 of the Public Works Act 1981, it then vests as road.
- The Council acting in its sole discretion can cancel the agreement.
- Settlement and possession would occur within one month on Council advising the owner that the Council requires the land strip to be vested.
- Compensation as per the agreement is Full and Final

Proceeding to implement this agreement will provide the legal road as indicated. However, the Council only has an agreement to acquire 10 metres, when Council would usually seek to acquire a 20-metre-wide parcel for a Legal Road.

The Council are aware that the owner of the property at 23B Redwood Grove along the north of this alignment would, by virtue of their involvement in the submission to the Proposed District plan, oppose such access being achieved by way of Agreement with the Council. There is a consent notice on this property that notes the future need for the road, however this does not guarantee an acquisition would be successful.

In the interests of considering the content of the Proposed District Plan Submissions further, the Council engaged The Property Group (TPG) to explore alternative access options and to advise if there was a more feasible access route to replace the alignment from Redwood Grove and mitigate the concerns raised by the initial Submissions.

TPG on Council's behalf, have researched options and engaged with a number of property owners in the locality and they note the following.

- The partial or total acquisition of 5 Green Haven Lane could be an alternative. The owner was not approached, but any access would require a significant land purchase by Agreement.
- The option of Council declaring Elmwood Lane a legal road was also considered as this was an option proposed by the submitters. TPG investigated the interests on 31 titles that have easement interests in Elmwood Lane. Of these 31 properties, 22 no longer require access to their properties via Elmwood Lane.
- Eight other owners in Elmwood Lane, either partially or entirely, rely on Elmwood Lane for physical and legal access to their properties. The consent of all these eight owners would be required for Elmwood Lane to be declared a legal road, The Council does not have any legal options to compel these owners to legalise Elmwood Lane as road.
- TPG has engaged directly with these eight owners and have advised that all apart from one owner would consent to Elmwood Lane being declared Road, by agreement.
- TPG advise the last remaining owner would not be receptive to further approaches by the Council to seek a voluntary agreement.

### **Redwood Grove access width**

The agreement at 6 Davren Way would secure a 10-metre width legal road. The Council has not implemented this agreement to date, as it was believed a wider access way would be required. However recent advice from the Council Roding Manager has confirmed that subject to reviewing the development proposal and road design, access could be possible along this strip, however the outcome would be less than the standards usually required.

### **Options**

- 1) Proceed with the Agreement at 6 Davren Way and seek to secure further land from 23B Redwood Grove. Half the land has been contractually secured however the prospect of securing more land would seem remote.
- 2) Proceed with the Agreement at 6 Davren Way and enable the formation of a road within the current 10 metres. The land has been contractually secured, however the outcome, while possible, would be less than the engineering standards usually require.
- 3) Proceed to seek agreement with the last remaining owner at Elmwood Lane to enable this access from Newell Road to be legalised. It is understood this owner would not be receptive to any approach from the Council to provide his consent to legalising a public road down Elmwood Lane.

- 4) Proceed to purchase a completely new alignment from an adjoining property. The costs for Council to undertake the design, negotiations and acquire land from another property and likely unwilling owner would be extensive, without the prospect of success.
- 5) Advise the owners of 286A–C Newell Road (Elmwood Lane), that they should approach the neighbours to either seek their consent to the legalisation of Elmwood Lane as road, or purchase land from another neighbour. This option avoids further public funds being spent to secure an alternative or improved route. Those parties with the most to gain (Elmwood landowners with development potential and Redwood owners who do not like the indicative road alignment) could work together to progress alternatives. Council could work with the owners to legalise the land as road, following any agreement they might achieve.

### **Conclusion**

It is recommended that in the first instance the alignment across 6 Davren Way from Redwood Grove remains protected through the existing 2013 acquisition agreement being kept “alive” with the Compensation Certificate and secondly the alignment remaining in the Proposed District Plan, to ensure the intent is clear.

In order to avoid the less than ideal outcome of a 10 metre wide legal road corridor we would recommend that before the Council proceeds to implement the Redwood Grove Access option and to avoid further public funds being spent acquiring more land or trying to convince the remaining property owners, that the owners of the properties at 286A – C Newell Road, potentially with the support of their neighbours on Redwood Grove, be encouraged to engage with their neighbours to see if they can either convince the owners to change their mind to enable the legalisation of Elmwood Lane. Failing that these three owners could secure sufficient land to enable an alternative to the Redwood Grove Access, by purchasing an interest in properties fronting Newell Road or Greenhaven Lane. These are not options open to the Council to pursue.

If the proposal to have this lead by the Owners at 286 A – 286C Newell Road is progressed then we would recommend the Redwood Grove Access route continue to be protected until such time as an alternative is finalised, at that point both the need for the Agreement at 6 Davren Way and the indicative Alignment in the District Plan could be extinguished.

# Attachment A – Plan of Proposed Alignment – 6 Davren Way

(Denoted as area D, 2207m<sup>2</sup>)

