

SUPPLEMENTARY EXPERT STATEMENT

IN THE MATTER OF: RESOURCE CONSENT SP/0179/20

3MS of Cambridge Limited Partnership

1863, 1865, 1871 and 1881 Cambridge Road

STATEMENT OF: John Miles, Manager Property Projects

DATE: 21 May 2021

1 This report sets out a supplementary expert statement on the above application.

2 I have read the Applicant's expert statement of Matthew Craig Smith.

NEGOTIATIONS FOR THE ACQUISITION OF LAND FROM 3MS FOR INFRASTRUCTURE WORKS AS PER THE STRUCTURE PLAN

3 In relation to the evidence of Mr. Smith, I note that he adds a chronology of negotiations that took place between the Council and 3M's in relation to the acquisition of land on the 3Ms site.

4 I would point out that Council continued to try to resolve the impasse with these negotiations up until 21 December 2020 when Council made an offer of \$14,125,000 for the approx. area of 140,901m² required for the infrastructure works to 3Ms and this offer was subsequently rejected.

5 In normal circumstances where there is a difference of opinion between the respective valuers it would be the usual practice for the valuers for both parties to meet to see if there were any grounds for movement in their valuation advice. This did not take place as 3Ms, through their legal adviser, advised that they were not prepared to allow the meeting between the valuers to take place.

NEGOTIATIONS FOR THE ACQUISITION OF LAND IN RELATION TO THE APPLICATION FOR SUBDIVISION CONSENT

BACKGROUND CONTEXT – CRITICAL INFRASTRUCTURE

- 6 The application proposes to locate critical infrastructure, as per the scheme plan (a collector road and stormwater swale), off the applicants' landholdings. This is a departure from the planned location of this infrastructure in the Operative Waipa District Plan Structure Plan, with these facilities shown within the applicants' property, apart from some smaller sections of land required for the proposed roundabout on Cambridge Road, that impacts land to the west and south of the applicants' land. My understanding is that the infrastructure is critical to service "upstream" growth cells (C1 and C7), the growth cell it is located within (C2) and will feed into "downstream" growth cell C3.
- 7 The relocation of the infrastructure off the application site requires that Council secures the land associated with this infrastructure from landowners to the west of the applicants' site.
- 8 Since the application was lodged, Council staff have contacted the adjoining landowners to seek their views on the possibility of acquiring land to the west of the applicants' land for potential movement of the collector road and swale. Some landowners are not happy to see their land used for the infrastructure, whereas others are more comfortable subject to timing and compensation.
- 9 Council staff have held discussions with several parties around possible purchase or acquisition of their land for infrastructure. These discussions are commercially sensitive, and the details are not available for public release. However, in general terms, the outcome of these discussions is that some landowners are likely to oppose any attempt to relocate the infrastructure works onto their property.
- 10 It should be noted that I understand that 3Ms have purchased the land at 694 Grasslands Drive Cambridge which is to the west of and adjoining the applicants' land.

I understand that the property transaction has not settled at the date of writing this statement.

11 It should also be noted that discussions with landowners to the west have only been in general terms as no detailed land requirement plan has been drafted because I understand further engineering work is required to establish the land requirements.

12 If landowners to the west are not prepared to negotiate the sale of the required land to the Council, then it does have the ability to compulsory acquire the land in accordance with the provisions of the Public Works Act 1981 (PWA).

13 In my experience this is likely to be a time-consuming process if the landowners were to object following the issue of a S23 Notice of Take under the PWA. Any such objection would need to be heard by the Environment Court and a decision of that Court would then determine if the land could be taken.

14 In short, there is no certainty as to the Council's ability to compulsory acquire the land until it undertakes the PWA process. Prior to getting to this stage the Council would need to issue a S18 Notice of Desire and then engage in 3 months of negotiations. If those negotiations fail Council can then proceed to a S23 Notice of Take under the PWA. In my experience it would likely take at least 18 months to get any certainty around the land acquisition with no guarantee it will be successful.

15 On the basis of discussions undertaken to date, the security of the land to the west of the applicants' land relating to the infrastructure remains uncertain.

16 It is my professional opinion that Council would need to exercise its compulsory acquisition powers for at least one of the properties, with this property being critical to the roading and roundabout configuration of the proposed subdivision where the collector road meets Cambridge Road.

17 The outcome of compulsory acquisition could be dependent on the Environment Court process, and in my view, the success of compulsory acquisition remains uncertain. It is conceivable that the Environment Court may require the collector road and stormwater swale to be relocated back as it is shown in the Operative District Plan. As

I have noted above I would estimate that a decision on securing this critical infrastructure would not be able to be obtained within the next 18 months given the statutory time frames involved in the process and the ability of getting an Environment Court hearing should the affected landowner object to the S23 take.

RESERVE LAND ACQUISITION

- 18 The application plans show the removal of reserve land that is identified in the Operative District Plan (the structure plan). This reserve land is to provide for an active sports field and a destination playground to service the wider urban (C2 and C3) catchments and is shown in the District Plan as being located on the application site.
- 19 Council Parks' staff and the applicants' consultants have negotiated the reinstatement of the reserve land back onto the application site.
- 20 I have been involved in seeking valuation advice in relation to those two sites, one being for the Active Reserves Property - Sports Field comprising approx. 38,669m² and the other for the Active Reserve Property – Playground comprising approx. 5,151m².
- 21 Through negotiation and agreement with the applicant, Council made an offer to 3Ms by way of a Sale and Purchase Agreement for the reserve land (reinstated on the applicants' land). This was sent to 3Ms on 20 April 2021 at 11:14am. I understand all matters were basically agreed but note that Mr Smith in his evidence states that 3Ms will not sign the sale and purchase agreement until the issue of consent conditions for the resource consent have been resolved.

OVERALL CONCLUSION

- 22 My overall conclusion is that:
- 22.1 The probability of securing all the land required for the infrastructure works if the collector road and swale are moved to the west off the applicants' property through negotiation alone with the affected landowners is unlikely;

- 22.2 It is anticipated that WDC will need to compulsory acquire some of the land through the compulsory acquisition process set out in the PWA;
- 22.3 Compulsory acquisition has some risks associated with it in relation to objections following the issue of a S23 Notice of Take and any objection needs to be heard by the Environment Court;
- 22.4 S24 of the PWA sets out that the objection is to be heard by the Environment Court and part of their consideration relates to consideration given to alternative sites, routes and methods of achieving the objectives and decide it would be sound fair and reasonably necessary for achieving the objectives of the local authority for the land to be taken;
- 22.5 My concern is that the affected landowners may argue that these matters could be achieved through compulsory acquisition of the land from the applicant as per the existing scheme plan and this would be a decision for the Environment Court to make;
- 22.6 The timeframe to obtain an Environment Court decision, if a landowner objected could take 18 months to obtain;
- 22.7 The ability for Council to secure all the properties required for the “off-site” infrastructure through compulsory acquisition remains uncertain;
- 22.8 Designating the land could assist but it is also no guarantee of success in acquisition;
- 22.9 This infrastructure remains critical for servicing not only the proposed subdivision, but growth cells C1, C7, C2 and C3 in their entirety.

Signed



John Miles
MANAGER PROPERTY PROJECTS