

## 9. STRUCTURE ON STREET APPLICATION: FLOWERS TRACK

|  |  |
|--|--|
| <b>Officer responsible</b><br>Asset Management Team Leader | <b>Authors</b><br>Brian Neill, Network Operations Team Leader, DDI 941 8616<br>Weng-Kei Chen, Asset Policy Engineer City Streets, DDI 941 8655 |
|--|--|

The purpose of this report is to seek the Board's approval for the construction of a double garage and appropriate retaining walls across Flowers Track at the end of Whitewash Head Lane. The retaining walls would support driveways to serve the undeveloped sites fronting Flowers Track opposite the end of Whitewash Head Lane. This proposal is indicated on the plans attached to this report prepared by Elliot Sinclair and Partners (No 232939). These plans have now been updated and amended copies will be displayed at the Board meeting together with plans for other options for the structures. Refer also to clauses 14 and 16.6.

### EXECUTIVE SUMMARY

The Council has a responsibility to provide a mechanism through which the developer can construct access to the subdivided property on the south side of Flowers Track opposite Whitewash Head Lane. It is a matter of decision for the Community Board, on behalf of Council as the legal owner of the road, as to the final form of that access. Due to the high level of public interest in this development, which will impact on a public walkway (Flowers Track), the Council has chosen to consult on options and determine the most appropriate one for servicing the land in question. This consultation has been by way of two public meetings, two deputations to the Community Board and meetings with individuals.

The community consulted wishes to see access provided by way of the most "simple" option bearing in mind the safety aspects and also maintaining the integrity of the 100 year old track. The Council has now received four options; option 1 is the site developer's preference, while option 1A is Council staff's preference.

The Board is also to consider whether or not to approve the granting of a Deed of Licence for the construction of a garage under the proposed driveway accesses to the land in question.

### BACKGROUND

The applicant, Mr T D Brankin, owns two undeveloped sites which have frontages onto the unformed legal road commonly known as Flowers Track. Mr Brankin has recently been granted access rights by the High Court allowing his sites to have access onto Whitewash Head Road via Whitewash Head Lane, a private right of way. In order to have access to the sites the lane needs to be extended by the formation of driveways across Flowers Track.

This application is to request the Board's approval to construct the retaining structures to support the driveways.

The application also includes a proposal to incorporate the construction of a double garage beneath the driveways with access from the driveway of 35 Whitewash Head Lane. This proposal is unusual and would not normally be considered (being outside the Council's normal practice) as it involves the building of a garage solely on Council land when there is already onsite garaging available to the owner of the property involved.

At the present time the property has an internal access double garage and a single garage constructed on Whitewash Head Lane. The single garage will be removed to provide space for the construction of the proposed driveways across Flowers Track. The proposal to include the construction of a garage under the proposed driveways is unique and offers opportunity to provide additional offroad parking facilities.

### CONSULTATION

Residents and community organisations in the area have been involved in the process both leading up to the High Court decision to allow access from the subdivided property owned by Mr Brankin on the south side of Flowers Track opposite Whitewash Head Lane, and on the formation of the driveways across Flowers Track itself. The Board, following consideration of a report from the City Streets Unit relating to this application (19.11.03), decided to meet onsite in December to discuss the proposals. Local residents also attended the onsite meeting and made a deputation to the Board outlining their views. The Board then decided to request an additional design option showing a single driveway across Flowers Track, and to hold a public meeting to receive community feedback on the design options.

The public meeting was held on Wednesday, 21 January and was attended by 12 community representatives who did not support the options presented by the site developer's engineer (which both showed two driveways) or the garage structure. The meeting then requested clarification of some legal issues and requested that a third design option be developed showing a single driveway across Flowers Track.

The Community Advocate has also received representations from individuals from Whitewash Head Lane. This feedback confirmed the feeling of the public meeting. One resident suggested that if access needs to be given across Flowers Track, it should be as "simple" as possible.

## **LEGAL OPINION**

The public meeting on 21 January requested clarification of some legal issues relating to the High Court's decision. These questions have been addressed and will be reported on by the Council's Legal Advisor, Rachel Dunningham from Buddle Findlay at the Board meeting. This part of the report will also be separately circulated to Board members prior to the meeting.

## **OPTIONS**

When considering the application at its meeting on 19 November 2003, the Board sought more detail on the proposals and how they would impact on the walking track environment. The developer's engineer subsequently provided two options (Option 1 and Option 2) for consideration by those attending the public meeting on 21 January 2004.

### **Option 1**

Option 1 was based on the original proposal that was discussed at the onsite meeting in December, providing for two driveways and a separate pathway for track users that followed the grades that would be established for the proposed driveways. Although the total area covered by the driveways and a realigned Flowers Track pathway had been increased from the original proposal where pedestrians were expected to use the driveways as access, the engineer considered this the most acceptable proposal for this project. Engineer Martin Sinclair suggested to the meeting that Option 1 would have less impact on the surrounding environment and that track users would not be unduly compromised.

### **Option 2**

Option 2 provided for separate driveways as in Option 1, but had less impact on the alignment of the existing sections of Flowers Track affected by this project. Option 2 included some steps that would be introduced for pedestrians using the track with a single point crossing of the driveway structure.

As mentioned earlier in this report, community feedback from the public meeting on 21 January did not support either option. The meeting requested that a third design option be developed showing a single driveway across Flowers Track to service the two properties.

### **Third and Fourth Options**

The third option (a single driveway across Flowers Track) has been developed and will be presented at the meeting as Option 2A. A variation on Option 1 will also be presented (Option 1A).

#### *Option 2A (Third Option)*

In this option the proposed driveway would span the boundary between lots 40 and 41 of the subdivision eliminating the retaining wall between the two properties. The effect of this option would be to provide one access point for both properties coupled with the Flowers Track pathway on the same alignment as Option 2. The advantages/disadvantages of the 2(A) option over Option 1(A) are:

#### *Advantages*

- Fewer disturbances to the surrounding track environment.
- Retention of more of the existing track alignment.
- The new pathway would be shorter.
- Aligns with residents' desires to have a single entry point onto the subdivided land.

### *Disadvantages*

- The pathway would be steeper requiring the introduction of new steps on both the uphill and downhill sections of track either side of the driveway.
- More obvious retaining walls which would be visible from the Sumner beachfront.
- Planting options would be compromised.
- Cars and other motor vehicles using the driveway would be above pedestrians until they reached the crossing point. This could be disconcerting for some users of the pathway.
- Not supported by the developer.

### *Option 1A (Fourth Option)*

This option has been developed from Option 1 in that the area between the two properties has been reduced allowing less disturbance to the section of Flowers Track above the driveway structure. The advantages and disadvantages of this option as measured against Options 2 and 2(A) are:

### *Advantages*

- The new (lower) pathway would be at the same level as the driveway.
- There would be proportionately more cut and fill exposing natural rock walls rather than built up retaining structures.
- More opportunities for planting particularly within the landscape between the two driveways as they enter the properties.
- The gradient on the new lower track pathway would be similar to existing but without steps.
- With lower retaining walls the visual aspect from the Sumner beachfront would be less.
- With pedestrians using the lower pathway which parallels the proposed driveway visibility would be improved which should provide for a safer facility.
- Supported by the developer.

### *Disadvantages*

- The amount of rock to be excavated would be greater than with other options but acceptable to the developer.
- The driveways servicing the properties would be steeper.
- The realigned Flowers Track would be longer than with other options.
- The area of disturbance would be greater and more of the present track would be removed.

### **Notes:**

1. Option 2 is not acceptable to the developer but was presented as a minimum width option as requested by the Board at its meeting in December 2003.
2. Option 2A has been included at Council Officers' request to demonstrate the way in which a single driveway could be provided to the subdivision. The developer also does not support this option.
3. The proposed garage structure can be incorporated in any of the above options and materials used and plant varieties can be tailored to suit all options.
4. The Council's Landscape Architect, Dennis Preston, has visited the site and appraised the various options that are being presented to the Board. Dennis will be available to comment on the various options from the landscape perspective.

### **CONCLUSION**

The proposals for constructing a driveway across Flowers Track linking Whitewash Head Lane with the subdivided property on the south side of the Track have been developed to a point where the Board should be able to make a decision on a preferred option bearing in mind the developer's proposal (Option 1) and legal advice relating to the developer's rights. The Board will also need to consider whether or not to approve (or decline) the siting of a new garage on unformed legal road (Flowers Track).

Options 1, 1A and 2 are acceptable on technical grounds. However, Option 2A is, for lot 40, not acceptable on technical grounds as it compromises access to the section by requiring substantial retaining walls on private land.

**Staff****Recommendation:**

1. That the Board approve Option 1(A).
2. That the application to build retaining walls commensurate with the preferred plan on legal road for the proposed driveways be approved subject to:
  - i. Deeds of Licence being entered into with the Council.
  - ii. Resource and building consents being obtained.
  - iii. The final engineering and landscaping plans being approved by the City Transport and Greenspace Managers.
  - iv. A temporary traffic management plan being approved prior to commencement of the works.
  - v. The track being kept tidy and safe for pedestrians at all times during the construction of driveways.
3. That the application to construct a double garage on unformed legal road (Flowers Track) under the proposed driveways be approved subject to:
  - i. Deeds of Licence being entered into with the Council.
  - ii. Resource and building consents being obtained.
  - iii. The final engineering and landscaping plans being approved by the City Transport and Greenspace Managers.
  - iv. A temporary traffic management plan being approved prior to commencement of the works.
  - v. The track being kept tidy and safe for pedestrians at all times during the construction of driveways.

**Chairperson's****Recommendation:**

For discussion.