

Land Classification - 13 George Julius Avenue, Zetland

File No: X101722.005

Summary

On 19 February 2024, Council endorsed public notification of the proposed resolution to classify 13 George Julius Avenue, Zetland (being Lot 1 in DP 1265902) which is soon to transfer to Council for future public purposes, as operational land in accordance with section 31 of the Local Government Act 1993 (NSW).

The endorsed proposed resolution was on the basis that:

- the primary future use of the land is for park, open space, and active and/or passive recreation and road;
- the classification is an interim measure to support construction and delivery of the new park and road; and
- following completion of the park and road and conclusion of obligations set out in registered Planning Agreement AN390315 and Deed of Variation AS45538, the land will be further subdivided creating separate portions for the road to be dedicated and for the park to be classified as community land and categorised within a plan of management.

The proposed resolution land classification was publicly notified for a period of 29 days commencing 23 February 2024 and closing on 22 March 2024. No submissions were received.

The Planning Agreement (as amended) requires the Developer to provide public benefits including:

- the dedication and embellishment of 5,618 square metres as new roads; and
- the transfer of a 6,234 square metre Parkland Lot, (now being 13 George Julius Avenue), to the City for part of a future road (George Julius Avenue) and public reserve (Gunyama Park Stage 2).

It is essential that the Parkland Lot (now being 13 George Julius Avenue) be classified as operational land, on an interim basis, to facilitate the construction of the road and park and at a later stage be subdivided to dedicate the road and create a separate lot for Stage 2 Gunyama Park.

Section 31(2) of the Local Government Act 1993 (NSW) allows Council to resolve to classify land prior to Council acquiring the land.

Recommendation

It is resolved that Council classify 13 George Julius Avenue, Zetland (being Lot 1 in DP 1265902), which is to be transferred to Council for future public purposes, as operational land in accordance with section 31 of the Local Government Act 1993 (NSW), on the basis that:

- (A) the primary future use of the land is for park, open space, and active and/or passive recreation and road;
- (B) the classification is an interim measure to support construction and delivery of the new park and road; and
- (C) following completion of the park and road and conclusion of obligations set out in registered Planning Agreement AN390315 and Deed of Variation AS45538, the land will be further subdivided creating separate portions for the road to be dedicated and for the park to be classified as community land and categorised within a plan of management.

Attachments

Attachment A. Identification Plan

Background

1. On 30 July 2013, consent was granted for the Stage 1 Development Application for demolition of existing structures, proposed land uses including retail/commercial floor space and residential uses, building envelopes including basements, internal street layout including footpaths and other pedestrian/cycle within the site, location and development of open space as per the landscape concept plan concept for infrastructure upgrades including stormwater and flood mitigation measures, and development staging (D/2011/1760).
2. On 10 June 2016, the City entered into registered Planning Agreement AK511255 with the then property owner, Lincon Development Pty Ltd, in relation to the Stage 1 Development Consent. The Planning Agreement provides for public benefits being:
 - (a) the construction and dedication of road reserves including:
 - (i) approximately 1406.3 square metres for part of a north-south road (George Julius Avenue);
 - (ii) approximately 1841.6 square metres for an east-west road (Peters Street);
 - (iii) approximately 831.9 square metres for a north-south through site link (Leticia Street);
 - (iv) approximately 1426.7 square metres for an east-west road (Rose Valley Way); and
 - (v) approximately 111.5 square metres for a footway widening (Epsom Road frontage); together with
 - (b) the transfer of a 6,234 square metre Parkland Lot (now 13 George Julius Avenue) to the City for part of a future road (George Julius Avenue) and public reserve (Gunyama Park Stage 2).
3. The terms of the Planning Agreement required the dedication of the Parkland Lot prior to the issue of the first Occupation Certificate for any part of the Development, with all other public benefits to be provided prior to the relevant Occupation Certificate under a Stage 2 Development Consent. The Parkland Lot will allow the City to complete Stage 2 of Gunyama Park and an extension of George Julius Avenue to connect to Zetland Avenue.
4. On 28 May 2018, the City entered into registered Planning Agreement AN390315 (which varied and superseded registered Planning Agreement AK511255) to facilitate a change to the staging and scope of the public benefits to align with the detailed Stage 2 Development Application (D/2015/913) and include the upgrade of the stormwater channel through the site (Green Square Stormwater Drain Works) and additional road reserves (Rose Valley Way and Epsom Road setback).
5. On 8 February 2022, a Deed of Novation was executed, transferring the obligations of the Planning Agreement (as amended) from Lincon Development Pty Ltd to Lincon Epsom Projects Pty Limited.

6. On 11 April 2022, the City entered into registered Deed of Variation of Planning Agreement AS45538 to change the order in which the infrastructure is delivered to support the order in which the buildings are to be completed. The provision of the Parkland Lot remains to be delivered prior to the first Occupation Certificate for any part of the Development.
7. On 2 May 2022, the City approved the Plan of Subdivision, creating the lots for the building developments, the new public roads and Parkland Lot (future road and public reserve) over five stages. The first two stages of the subdivision have been enacted, creating the Parkland Lot (Lot 1 in DP 1265902) known as 13 George Julius Avenue.
8. The first of the buildings in the development is nearing completion and the developer is preparing to transfer the Parkland Lot (Lot 1 in DP 1265902) to the City in mid-May 2024.
9. On 11 December 2023, Council endorsed the project scope for Gunyama Park Stage 2 and George Julius Avenue North.
10. The City intends to commence any required remediation of the land and construction of the extension of George Julius Avenue and Stage 2 of Gunyama Park in the second half of 2024.
11. The developer has requested to continue to occupy the Parkland Lot following the transfer in order to assist in ongoing construction activities in the development. The developer will be required to enter into a Construction Access Licence for this purpose and then vacate the site prior to the City's commencement of construction works.
12. To facilitate the future development of the road and park by the City, it is essential that an interim operational land classification be applied.
13. The City will further subdivide the land creating:
 - (a) the road portion to be dedicated as road on completion; and
 - (b) the land for Gunyama Park Stage 2 which will, at completion and operational integration, be reclassified as community and categorised within a plan of management.
14. Attachment A: Identification Plans shows the development site in the context of the surrounding area and the land to be transferred to the City.

Key Implications

Financial Implications

15. The classification of land under the Local Government Act 1993 (NSW) does not have any direct budgetary implications. Once 13 George Julius Avenue is transferred to the City, it will be recognised as in-kind contributions income, and held as a land asset in accordance with the City's Infrastructure, Property, Plant and Equipment (IPPE) Asset Recognition and Capitalisation Policy.

Relevant Legislation

16. The following sections of the Local Government Act 1993 are relevant:
 - (a) Section 25 requires all public land to be classified as either community or operational land;
 - (b) Section 31(2) permits Council to resolve to classify land prior to acquisition;
 - (c) in satisfaction of section 31(3), the proposed resolution is not inconsistent with the planning agreement (as registered and amended on title) nor any other Act or the terms of any trust applying to the land; and
 - (d) Section 34 requires the proposed resolution to classify be publicly notified and made available for inspection by the public for a period of no less than 28 days.

Critical Dates / Time Frames

17. The land is to be classified as operational prior to transfer to the City, which addresses the timing requirement to classify within three months of land transfer to the City.

Options

18. If the land is not classified as operational within three months of transfer to the City, it will revert to a community classification under the Local Government Act 1993 (NSW). A community classification for unimproved land to be embellished by the City would restrict and impede the City's capacity to undertake the construction of the public infrastructure and unnecessarily complicate the ultimate dedication as public road and public reserve.

Public Consultation

19. The proposed resolution land classification was publicly notified for a period of 29 days commencing 23 February 2024 and closing on 22 March 2024.
20. No submissions were received.

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