

Item 9.

Ausgrid's Proposed Acquisition by Agreement for Easement over Community Title Lot 1 DP270785, 67A Bourke Road, Alexandria (Part) for Underground Electrical Cables and Other Purposes

File No: S117083

Summary

In 2012, the City acquired Lots 2-11, 67A Bourke Road, Alexandria, within a Community Plan of subdivision whereby 15 Industrial/Mixed use lots and one Community lot had been created. The remaining lots within the Community scheme (Lots 12-16) were purchased by Waverley Council.

The Community Plan in relation to Lot 1 (at Attachment A) comprises a common roadway and associated infrastructure and measures 8,516 square metres. The Plan came into existence in February 2013 on registration of the plan of subdivision. Both the City of Sydney and Waverley Councils hold interests in this Community scheme, which has since been constituted on registration of the Community Plan.

In 2013, the Community Association appointed managing agents, Body Corporate Services, to manage Lot 1 in accordance with the Community Management Statement for Land at 67A Bourke Road, Alexandria, on behalf of both Waverley and City of Sydney Councils.

In August 2017, Ausgrid wrote to the Community Association's managing agents proposing the acquisition of an easement from the Community Association DP270785 for the purpose of installing cables, which the City understands will service the Sydney Airport and WestConnex, for a total area of 1060 square metres, being 12.45 per cent of the whole lot.

In February 2018, Waverley Council (on behalf of the Community Association DP270785) appointed Valuers - FPV Consults - to provide a critique valuation for the Ausgrid cable easement on common property land. Budget implications are detailed at Confidential Attachment C.

This report seeks Council approval for the acquisition of this easement as this transaction is not delegated to the Chief Executive Officer.

Recommendation

It is resolved that:

- (A) Council note that the City and Waverley Council hold interests in the Community Scheme, being Community Association DP270785, comprising Lot 1 in DP 270785;
- (B) Council approve the acquisition of part Lot 1 in DP 270785 by Ausgrid (as shown at Attachment A to the subject report) for an easement over part of the common property of the Community Association to be used for the purpose of the installation of underground electrical cables and associated purposes;
- (C) Council approve the amount of compensation to be received from Ausgrid in return for the grant of easement as set out in Confidential Attachment C, and note that this amount will be split amongst Waverley Council and the City as members of the Community Scheme, in accordance with the Community Management Statement and based on their total individual units of entitlement within the Community Scheme; and
- (D) authority be delegated to the Chief Executive Officer to approve and direct the Community Association to:
 - (i) complete the negotiations and do all things necessary to finalise the Deed of Agreement for Easement with Ausgrid; and
 - (ii) approve the execution and administration of the Deed of Agreement for Easement with Ausgrid.

Attachments

- Attachment A.** Map of Lot 1 DP 270785 Community Title Plan
- Attachment B.** Map of Part Lot 1 DP 270785 Community Title Plan to be acquired by Ausgrid
- Attachment C.** Budget Implications (Confidential)

Background

1. In 2012, the City acquired Lots 2-11, 67A Bourke Road, Alexandria, within a Community Plan of subdivision whereby 15 industrial/mixed use lots and one Community lot have been created. The remaining lots within the Community scheme (Lots 12-16) were purchased by Waverley Council.
2. The Community Plan in relation to Lot 1 (at Attachment A) comprises a common roadway and associated infrastructure and measures 8,516 square metres. The Plan came into existence in February 2013 on registration of the plan of subdivision. Both the City of Sydney and Waverley Councils hold interests in this Community scheme, which has since been constituted on registration of the Community Plan.
3. In 2013, the Community Association appointed managing agents, Body Corporate Services, to manage Lot 1 in accordance with the Community Management Statement for Land at 67A Bourke Road, Alexandria, on behalf of both Waverley and the City of Sydney Councils.
4. In August 2017, Ausgrid wrote to the Community Association's managing agents proposing the acquisition of an easement for a total area of 1060 square metres, being 12.45 per cent of the whole lot, from the Community Association DP270785 for the purpose of installing cables, which we understand will service the Sydney Airport and WestConnex.
5. The actual location on Lot 1 of the proposed easement is in front of the Waverley Council Depot at the southern end of the Community Title road - refer to Attachment B.
6. Ausgrid provided the Community Association with a copy of a Valuation Report prepared by Preston Rowe Paterson, of the Market Value of the proposed easement within Lot 1 DP270785, Alexandria NSW. This amount is referred to in Confidential Attachment C.
7. In February 2018, Waverley Council (on behalf of the Community Association DP270785) appointed Valuers - FPV Consults - to provide a critique valuation for an Ausgrid cable easement on common property land. FPV advice is detailed at Confidential Attachment C.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

8. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This report is aligned with the following strategic direction and objectives:
 - (a) Direction 1 - A Globally Competitive and Innovative City - enabling Ausgrid to provide vital electrical infrastructure to service the Local Government Area and transport infrastructure.

Organisational Impact

9. The location of the easement and associated works is not expected to have any impact on the day to day operation of the City of Sydney's Alexandria Canal Depot, but may have an impact on Waverley Council Depot.

Risks

10. Ausgrid must ensure that the Long Term Environmental Management Plan (February 2009) in place for 67 and 67A Bourke Road, Alexandria, is complied with, i.e. that the capping system in place is maintained such that that that system can function as an effective physical barrier to the underlying asbestos contaminated land filling material.

Environmental

11. Ausgrid must comply with the Long Term Environmental Management Plan in place for 67 and 67A Bourke Road, Alexandria.

Budget Implications

12. The City's share of the income received as compensation for the grant of the easement with Ausgrid will be received in the 2018/19 financial year as per the Community Association distribution at Confidential Attachment C. The Council forecast will be updated to record this income when the Deed of Agreement for Easement has been executed.

Relevant Legislation

13. Section 44 of the Electricity Supply Act 1995 permits a networks operator to acquire land or an interest in land for the purposes of exercising its functions by that Act or any law, either by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.
14. Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991 provides that the provisions of Division 1 (Pre-acquisition procedures) and Part 3 (Compensation for acquisition of land) do not apply to any such compulsory acquisition if the owners have agreed in writing on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
15. Section 8 of the Community Land Management Act 1989 provides details regarding the requirements for affixing the seal of the Community Association and completing an attestation clause as provided in Approved Form 18 of the Community Land Development Act 1989.
16. Section 10A(2) of the Local Government Act 1993: Attachment C to the subject report contains confidential commercial information which if disclosed would confer a commercial advantage on a person with whom Council is conducting or proposes to conduct business and would prejudice the commercial position of the person who supplied it.

Critical Dates / Time Frames

17. Ausgrid has informed the Community Association that they need to undertake the installation of the cable works as soon as possible.

Options

18. Council could refuse to provide consent to the proposed acquisition, in which case Ausgrid would proceed by compulsory acquisition without agreement under the Land Acquisition (Just Terms Compensation) Act 1991.

AMIT CHANAN

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