

## Proposed Land Classification - Future North Rosebery Park and Greenlink

**File No: S127831**

### Summary

The purpose of this report is to obtain Council approval to notify the proposed classification of land at 9A Rosebery Avenue, Rosebery (specifically Lot 308 DP 1232046), which is to be transferred by Karimbla Properties (No.49) Pty Ltd (the Developer) to the City in accordance with a Planning Agreement, as Operational land under the Local Government Act 1993 while the North Rosebery Park is constructed.

In March 2016, the City entered into a Planning Agreement with the Developer in relation to the development of 25-55 Rothschild Avenue and 5-13 Rosebery Avenue, Rosebery. The Planning Agreement requires the Developer to transfer portions of the land to the City for a future park and Greenlink.

A Plan of Subdivision was approved by Council in February 2019, representing Phase Three of a four-phase subdivision, creating nine new parcels of land, two of which have been dedicated as Public Reserve for the future Greenlink. The Developer is now preparing to transfer the third parcel, Lot 308 DP 1232046, to the City for the future North Rosebery Park, in June 2019.

Following the transfer of Lot 308, it is proposed that the developer remediate the site and undertake basic works such as turfing to make the park useable. Subsequently the City will undertake community consultation to inform the final design and then tender and complete construction works.

Section 25 of the Local Government Act 1993 requires all public land to be classified as either Community or Operational land. A Plan of Management is also required.

Classifying the land as Operational up until construction completion will facilitate the construction of the park. An Operational classification allows greater flexibility in providing access to contractors, and in the first instance allows the City to licence the Developer for the initial works without the constraints imposed by a Community classification.

If the land is not classified as Operational within three months of transfer to the City, it will revert to a Community classification. This will limit the City in how it can engage contractors to build the park.

On completion of construction and development of a Plan of Management, the land may be reclassified by Council as Community.

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

This report seeks Council's endorsement to notify a proposed resolution to classify the above mentioned parcel as operational land.

## Recommendation

It is resolved that Council:

- (A) endorse public notification under sections 32(4) and 34 of the Local Government Act 1993 of the proposed resolution: "It is resolved to classify land at 9A Rosebery Avenue, Rosebery (Lot 308 DP 1232046) as shown in the attached Plan as Operational land in accordance with section 31 of the Local Government Act 1993"; be publicly notified, on the basis that:
  - (i) the primary use of the land is for a park, open space, and active and/or passive recreation;
  - (ii) the classification is an interim measure to minimise delays in the construction of the new park; and
  - (iii) following completion of the park and conclusion of obligations set out in the planning agreement, the open space may be classified as Community land;
- (B) note that a further report to inform the outcomes of public notification and recommendation on land classification will follow the notification period.

## Attachments

**Attachment A.** Draft Plan of Subdivision referencing Lot 308 DP 1232046

## Background

1. In March 2016, the City granted Stage One development consent for indicative envelopes for a mixed use development involving four phases, fourteen buildings with residential units, retail, child care centres, car parking and public domain works at 25-55 Rothschild Avenue and 5-13 Rosebery Avenue, Rosebery.
2. Concurrent to the Development Consent, the City entered into a Planning Agreement with the owner Karimbla Properties (No.49) Pty Ltd. The Planning Agreement provides for the dedication and embellishment of land for footpath widening and a new road, the dedication of land for public open space and a monetary contribution for community infrastructure including a future park and greenway. It also allowed the option for the developer to provide the City with cash in lieu of undertaking the work themselves.
3. In June 2016, the City granted Stage Two consent for an integrated development application. This related to Phases One and Three of the aforementioned Stage One development consent. This application included a proposed subdivision of nine lots.
4. In February 2018, the City entered into a Deed of Variation with the Developer to amend the Planning Agreement by adjusting the scope of works and monetary contribution and altering the timing of the four phases of the Planning Agreement.
5. A section 4.55(1A) modification of consent was lodged by the Developer in March 2018 and subsequently approved in May 2018, allowing a provision to modify the concept staged subdivision plans to introduce stages of subdivision, in order to create lots which will form the basis of the future strata plan, and also create separate lots for the dedication of the road widening strips.
6. In February 2019, the City approved a plan of subdivision providing for the creation of nine lots, as per the following schedule:
  - Lot 301, Development lot
  - Lot 302, Public Reserve Dedication (future Greenlink)
  - Lot 303, Public Reserve Dedication (future Greenlink)
  - Lot 304, Development lot
  - Lot 305, Future Road Widening
  - Lot 306, Future Road Dedication
  - Lot 307, Future Road Dedication
  - Lot 308, Future Public Park
  - Lot 309, Road Widening Dedication
7. Land located at 9A Rosebery Avenue, Rosebery (Lot 308 DP 1232046) is presently owned by Karimbla Property (No. 49) Pty Ltd. However the developer has elected not to complete the full works outlined in the original VPA. The VPA has now been amended for the developer to undertake a limited scope of works to North Rosebery Park, sufficient for public use in the first instance.

8. The Developer will remediate and stabilise the land prior to the transfer in June 2019 to the City in accordance with the Planning Agreement.
9. Immediately following this transfer the developer will undertake the limited scope of works to allow public use of the park (e.g. turfing and paths).
10. A community classification of the land would restrict the developer undertaking the initial limited scope of works and subsequent construction by other contractors.
11. The City will then consult with the community, complete the design and construct the park.
12. On completion of all construction the land may be reclassified as Community.
13. Lot 308 will become North Rosebery Park
14. To facilitate the construction of the park by the City, it is recommended that the land be classified as operational land while the North Rosebery Park is constructed.

## Key Implications

### Risks

15. If the land is not classified as operational within three months of transfer, it will revert to a community classification under the Local Government Act 1993. This would restrict the City in having the developer undertake the limited scope of work in the first instance and the subsequent full construction of the park.

## Relevant Legislation

16. The following sections of 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) Sections 32(4) and 34 require the proposed resolution to classify be publicly notified and made available for inspection by the public for a period of 28 days; and
  - (d) in satisfaction of section 31(3), the proposed resolution is not inconsistent with the planning agreement (as registered on title) nor any other Act or the terms of any trust applying to the land.

## Critical Dates / Time Frames

17. The land needs to be classified within three month of transfer or the land automatically reverts to a community classification.

**Public Consultation**

18. Subject to Council endorsing the recommendation and at the earliest opportunity thereafter, the proposed resolution will be publicly notified for a minimum period of 28 days.
19. All submissions will be considered in the subsequent Council report to endorse the classification.

**AMIT CHANAN**

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