

## Item 4.

### Land Classification - Future North Rosebery Park

**File No:** S127831

#### Summary

In March 2016, the City entered into a Planning Agreement with Karimbla Properties (No.49) Pty Ltd (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.

To date, two parcels of land have already been transferred as Public Reserve for the future Greenlink. The Developer is currently undertaking remediation works prior to the transfer of the third parcel, Lot 308 DP 1232046, 9A Rosebery Avenue, Rosebery. Due to remediation delays, the transfer is now due to occur in late August 2019.

Following the transfer of Lot 308, it is proposed that the developer undertake basic works such as turfing to make the park useable.

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

On 24 June 2019, Council resolved to publicly notify for a minimum period of 28 days a proposed resolution to classify the land as Operational.

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.

The proposed resolution to classify the land was publicly notified in The Sydney Morning Herald on 4 July 2019. Submissions closed on 31 July 2019. As of the date of this report, no submissions have been received.

#### Recommendation

It is resolved that Council classify 9A Rosebery Avenue, Rosebery, being Lot 308 in Deposited Plan 1232046, as Operational land in accordance with section 31 of the Local Government Act 1993.

#### Attachments

Nil.

## Background

1. In March 2016, 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.
2. 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.
3. 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.
4. 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
5. 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 Voluntary Planning Agreement (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.
6. The Developer will remediate and stabilise the land prior to transferring it to the City in accordance with the Planning Agreement.
7. This was due to occur in June 2019; however, the Developer has been delayed by the remediation works. The transfer is now expected to occur in late August 2019.
8. 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).

9. A Community classification of the land would restrict the Developer undertaking the initial limited scope of works and any subsequent construction by other contractors.
10. On completion of all construction, the land may be reclassified as Community.
11. Lot 308 will become North Rosebery Park.

### **Relevant Legislation**

12. Section 25 of the Local Government Act 1993 requires all public land to be classified as either community or operational land.
13. Section 31 of the Local Government Act 1993 requires Council to classify newly acquired land as operational or community land within three months from the date of acquisition of the land. The following sections of the Local Government Act 1993 are relevant:
  - (a) Section 31(2) permits Council to resolve to classify land prior to acquisition or within three months following acquisition; and
  - (b) Section 34 requires the proposed resolution to classify be publicly notified and made available for inspection by the public for a period of 28 days.

### **Critical Dates / Time Frames**

14. The proposed resolution was publicly notified for 28 days.

### **Public Consultation**

15. The proposed resolution was publicly notified in the Sydney Morning Herald on 4 July 2019.
16. No submissions were received.

### **AMIT CHANAN**

Director City Projects and Property

Cailin Martin, Business Support Officer