

## **Proposed Land Classification - 506-518 Gardeners Road, Alexandria**

**File No: X038472**

### **Summary**

The purpose of this report is to obtain Council approval to notify a proposed resolution to classify as operational land parts of 506-518 Gardeners Road, Alexandria, specifically Lot 2 within deposited plan 1231238, which is to be transferred by Equinix Australia Pty Ltd (the Developer) to the City in accordance with a Planning Agreement.

In August 2018, the City entered into a Planning Agreement with the Developer in relation to a development at 506-518 Gardeners Road, Alexandria. The Planning Agreement requires the Developer to transfer portions of the land to the City for a future road. A Deed of Variation to the Planning Agreement was executed on 12 August 2020 to defer the completion of the temporary landscaping works to the transferred land until the issue of the final Occupation Certificate or within 36 months of the issue of the first Occupation Certificate – whichever is the earliest. The effect of the Deed was to allow the development to be completed in stages by occupying the transfer land to continue the construction activities on later building stages and complete the temporary landscaping works as part of the final stage of the development.

A Subdivision Application was lodged with the City in May 2020, to create two new parcels of land. In conjunction, the Developer is now preparing to transfer the relevant parcel of land (Lot 2 in DP 1231238) to the City, once the application is approved.

Following the transfer, the Developer will continue to occupy the land under a Construction Access Licence (Licence) for a maximum period of 36 months or until the construction of the adjacent building is complete, whichever is the earliest. At the conclusion of the term of the Licence, the Developer will return the land to the City's control, landscaped in accordance with the requirements of the Planning Agreement as amended.

It is essential that the parcel of land be classified as operational for the duration of the construction access licence to facilitate the Developer's construction works, and until such time as the City has secured the adjacent land to allow the future construction of the road.

This report seeks Council's endorsement to notify a proposed resolution to classify the above-mentioned parcels as operational land under the Local Government Act 1993.

## **Recommendation**

It is resolved that Council:

- (A) endorse public notification of the proposed resolution: "It is resolved to classify proposed Lot 2 in Deposited Plan 1231238 being land proposed to be transferred to Council for future public purposes as road at 506-518 Gardeners Road Alexandria, as operational land in accordance with section 31 of the Local Government Act 1993"; and
- (B) note that a further report to Council, to inform of the outcomes of public notification and recommendation of land classification, will follow the notification period.

## **Attachments**

**Attachment A.** Identification Plans including Future Road and Green Links

## Background

1. On 5 July 2018, deferred commencement consent was granted for a concept proposal for a staged construction of a part 3 and 4 storey data centre to be operated 24 hours, 7 days per week. The proposal includes the detailed design and approval of Stage 1 works including construction and use of a three storey building to the northern portion of the site for data centre operations, new internal roads, 33 at grade car parking spaces, fencing and landscaping at 506-518 Gardeners Road, Alexandria.
2. Concurrent to the development consent, the City entered into a Planning Agreement with the owner, Equinix Australia Pty Ltd. The Planning Agreement provides for the transfer of land to the City and the construction of temporary landscaping for a future road reserve prior to the issue of the first Occupation Certificate.
3. On 12 August 2020, the City entered into a Deed of Variation to the Planning Agreement to defer the completion of the temporary landscaping works until the final Occupation Certificate, or within 36 months of the issue of the first Occupation Certificate, whichever is the earliest. The effect of the Deed was to allow the development to be completed in stages.
4. In May 2020, the City received a subdivision application providing for the creation of two lots, as per the following schedule:
  - (a) Lot 1, development lot; and
  - (b) Lot 2, future road reserve of 2,245 square metres.
5. Lots 1 and 2 are presently owned by Equinix Australia Pty Ltd (the Developer) and are due to be remediated and transferred to the City in accordance with the Planning Agreement, following approval of the subdivision application.
6. The Developer will be required to enter into a Construction Access Licence with the City to occupy Lot 2 during the continued construction activity.
7. Lot 2 will be landscaped at the conclusion of the Construction Access Licence in accordance with the requirements of the Planning Agreement as amended.
8. Lot 2 will remain landscaped until such time as the City has secured the adjacent land to allow the future construction of the road and which will then be dedicated as a public road.
9. To facilitate the construction of the development, and of the road by the City in the future, it is recommended that an interim operational land classification be applied.

## Organisational Impact

10. There is no organisational impact arising from the proposed resolution to classify this lot as operational land.

### Financial Implications

11. The classification of land under the Local Government Act 1993 does not have any direct budgetary implications. Once the abovementioned parcel of land 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 Asset Recognition and Capitalisation Policy.

### Relevant Legislation

12. 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 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 28 days.

### Critical Dates / Time Frames

13. The land needs to be classified within three months of land transfer to the City or the land automatically reverts to a community classification. As the land is proposed to transfer to the City in late October 2020 the classification would need to be endorsed no later than late January 2021. The land may be classified as operational prior to transfer to the City.

### Options

14. 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. 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**

15. Subject to Council endorsing the recommendation, the proposed resolution will be publicly notified as soon as possible for a minimum period of 28 days.
16. All submissions will be considered in the subsequent Council report to endorse.

**AMIT CHANAN**

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