

**ITEM 3. PROPOSED LAND CLASSIFICATION – COMMUNITY STRATUM  
LOT, TRAM SHEDS, HAROLD PARK**

**FILE NO: S120438**

**SUMMARY**

The Harold Park Voluntary Planning Agreement entered into between Mirvac and the City for the redevelopment of the former Harold Park Paceway and the Rozelle Tram Sheds secured a range of benefits to the City, including a 500m<sup>2</sup> community facility as part of the proposed refurbishment of the Tram Sheds.

The Tram Sheds have been subdivided to create two stratum lots, Lot 1 being the Developers Lot and Lot 2 being the Community Facility within Deposited Plan 1207279 registered on 31 August 2015.

The stratum Lot 2 will transfer to Council in late July, with the City's internal fitout to commence in August and completion towards the end of the year.

The Tram Sheds is a mixed use building, stratum subdivided and regulated by the *Conveyancing Act 1919*. The Tram Sheds Building Management Statement (registered on title) regulates the Members, Owners and Occupiers of the Building in respect of the control, management and maintenance of the components of the Building. It requires the Members to create a Building Management Committee to manage the shared facilities and attend to the other administrative matters.

Under the Local Government Act 1993, all Council-owned land must be classified as either community or operational land. The community classification is intended to support the management of recreational open space and reserves. The application of this classification to the stratum is not practical and, in some circumstances, could interrupt the use of the Community Facility.

This reports seeks Council's endorsement to notify a proposed resolution to classify the Community Facility as operational land, enabling the City to perform its obligations and exercise its rights under the Building Management Statement.

**RECOMMENDATION**

It is resolved that Council:

- (A) endorse the public notification of the proposed resolution "It is resolved to classify the proposed transfer of lot 2 in Deposited Plan 1207279 being a community stratum freehold lot as operational land in accordance with section 31 of the Local Government Act 1993"; and
- (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:** Identification Plan

**BACKGROUND**

1. On 17 August 2011, the City and Mirvac entered into a planning agreement in relation to the provision of public benefits associated with the proposed Harold Park redevelopment (comprising both the former Harold Park Paceway and the former Rozelle Tram Depot) with a minimum to include:
  - (a) 3.8 hectares of land for open space;
  - (b) 1,000m<sup>2</sup> of land for affordable housing and housing for people with a disability;
  - (c) a 500m<sup>2</sup> community facility within the former Tram Sheds;
  - (d) essential infrastructure; and
  - (e) a monetary contribution.
2. In July 2012, the Central Sydney Planning Committee (CSPC) approved the Stage 1 concept (D/2011/1298) comprising the staged construction of residences, 3.8 hectares of public open space, and adaptive re-use of the former Tram Depot buildings for commercial use
3. On 7 April 2014, approval was given to the adaptive re-use of the former Rozelle Tram Sheds as a retail/commercial development, including a 2345sqm supermarket, 400sqm gym, 500sqm community facility and ancillary car parking for 144 vehicles
4. On 23 November 2015, approval was given to the fitout and use of the community facility.
5. Mirvac are to transfer the community facility on or prior to issue of the final occupation certificate for the Tram Shed Building relating to the proposed development. Upon transfer, the City will proceed to fitout the facility, which is expected to open in late 2016.

**Community Stratum**

6. On 23 November 2015, planning consent was granted for the fitout and use of a community space within the Tram Sheds at Harold Park as a Community Facility on Level 2 with a lettable area of approximately 500m<sup>2</sup>.
7. The permitted use of the community stratum is a venue available for hire to community, private and commercial uses between 7.00am and 10.00pm, Monday to Sunday inclusive, with a maximum capacity of 250 persons.
8. Uses include dance classes; meetings; training and seminars; recreation and fitness classes; art/craft classes; children's programs; community meetings and approved private functions.
9. The use as a venue for hire is operated and managed in accordance with the Harold Park Community Facility Plan of Management which accompanied the development application of fitout and use.
10. Access to the facility is via lift and travelator from Maxwell Road and Level 1 or direct access from the Level 2 car park. Six car spaces have been allocated to the community space. Bicycle spaces are also to be allocated for the use of community facility patrons.

11. The community facility will have a sprung floor, making it suitable for a wide range of activities, and includes a kitchen, storeroom and bathroom. Support utilities include toilets (in addition to the accessible toilet provided within the space), garbage rooms and loading dock access.
12. The facility will be unlicensed, with hirers required to satisfy Responsible Service of Alcohol requirements and, where required, apply for a temporary liquor license.

**Land Classification**

13. Under the Local Government Act 1993, all Council-owned land must be classified as either community or operational land.
14. Generally, the community land classification is appropriate for parks and open spaces, with the operational land classification appropriate for land for commercial, community and related uses.
15. The Tram Sheds Building is a mixed use building, stratum subdivided and regulated by the *Conveyancing Act 1919*.
16. The Building Management Statement, registered on title, regulates the Members, Owners and Occupiers of the Building in respect of the control, management and maintenance of the components of the Building. The members of the Tram Sheds Building are the Tram Sheds Lot Owner (Developer) and Community Centre Lot Owner (City).
17. The Members must:
  - (a) promptly comply with their obligations under this Statement and the Act;
  - (b) obey the directions of the Building Management Committee;
  - (c) make sure Insurances are effected and maintained;
  - (d) implement decisions of the Building Management Committee;
  - (e) comply with the Easements;
  - (f) include in any lease or other agreement for a Member's lot, (including the terms and conditions for hiring out the Community Centre Lot) obligations on the Occupier, lessee, and Authorised Users to comply with this Statement and the Easements; and
  - (g) ensure the Strata Manager and Facilities Manager carry out their respective obligations under this Statement.
18. The stratum could not be classified as community under the Local Government Act as it would inhibit the City's ability to exercise its obligations, duties and rights under the Building Management Statement.
19. Precedents for an operational land classification of community buildings include Kings Cross Neighbourhood Centre and Kings Cross Library.

**RELEVANT LEGISLATION**

20. 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) 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; 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**

21. Upon the Council endorsing the recommendation herein, the proposed resolution would be publicly notified for 28 days.
22. The outcomes of this process would be reported back to Council at the earliest opportunity.

**PUBLIC CONSULTATION**

23. 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.
24. All submissions will be reviewed and a subsequent report considered by Council.

**AMIT CHANAN**

Director City Projects and Property

Nicholas Male-Perkins, Development Manager