

Item 5.**Proposed Land Classification - Various Lots, Macdonald Street, Erskineville****File No: X025360****Summary**

The purpose of this report is to obtain Council approval to notify a proposed resolution to classify as operational land parts of Macdonald Street, Erskineville, specifically Lots 9, 10, 12 and 13 within deposited plan 1251243, which is to be transferred by B1 Shiyong Ashmore Pty Ltd (the Developer) to the City in accordance with a Planning Agreement.

In May 2016, the City entered into a Planning Agreement with the Developer in relation to development at 74 Macdonald Street, Erskineville. The Planning Agreement requires the Developer to transfer portions of the land to the City for a future road and pedestrian link.

A Plan of Subdivision was approved by the City in January 2020, creating six new parcels of land. The Developer is now preparing to transfer four of those parcels (Lots 9, 10, 12 and 13 DP 1251243) to the City.

Following the transfer, the City will commence construction of the extension of Macdonald Street on Lot 12 and construction of a new pedestrian link on Lots 9, 10 and 13.

It is essential that these parcels of land be classified as operational for the duration of the construction to facilitate the construction of the road and pedestrian link by the City.

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:

- (A) Council endorse public notification of the proposed resolution: "It is resolved to classify four lots of land proposed to be transferred to Council for future public purposes as road and pedestrian link in the Ashmore Precinct, being Lots 9, 10, 12 and 13 in Deposited Plan 1251243 as operational land in accordance with section 31 of the Local Government Act 1993"; and
- (B) Council note that a further report to Council, to inform the outcomes of public notification and recommendation of land classification, will follow the notification period.

Attachments

Attachment A. Identification Plan - Plan of Subdivision

Background

1. In April 2016, the City granted Stage One development consent for demolition of an existing warehouse and construction of a residential flat building containing 93 residential apartments with basement parking, landscaping and public domain works, including a pedestrian walkway and pocket park at 74 Macdonald Street, Erskineville. At the time, the property was formally known as Units 16-20 1A Coulson Street, Erskineville.
2. Concurrent to the development consent, the City entered into a Planning Agreement with the owner, B1 Shiyong Ashmore Pty Ltd. The Planning Agreement provides for the construction and dedication of a new road (Zenith Street), the embellishment and transfer of land for the extension of Macdonald Street and pedestrian link, and a monetary contribution towards the future road extension and pedestrian link.
3. In January 2020, the City approved a plan of subdivision providing for the creation of six lots, as per the following schedule:
 - (a) Lot 8, development lot;
 - (b) Lot 9, future pedestrian link of 305.4m²;
 - (c) Lot 10, future pedestrian link of 117.5m²;
 - (d) Lot 11, road dedication for Zenith Street;
 - (e) Lot 12, future extension of Macdonald Street of 677.9m²; and
 - (f) Lot 13, future pedestrian link of 37.6m².
4. Lots 9, 10, 12 and 13 are presently owned by B1 Shiyong Ashmore Pty Ltd (the Developer) and are due to be remediated, embellished and transferred to the City in accordance with the Planning Agreement, in March 2020.
5. Lots 9, 10 and 13 will become a pedestrian link across the former Ashmore Estate linking Pearl Street to Macdonald Street. The link will be constructed by the City and then dedicated as public reserve.
6. Lot 12 will become a continuation of Macdonald Street. The road extension will be constructed by the City and then dedicated as a public road.
7. The Developer has also provided a monetary contribution of \$807,095.12 towards the cost of constructing the future road extension and pedestrian link.
8. To facilitate the construction of the road and pedestrian link by the City, it is recommended that an interim operational land classification be applied.

Organisational Impact

9. There is no organisational impact arising from this proposed resolution to classify these lots as operational land.

Budget Implications

10. The classification of land under the Local Government Act 1993 does not have any direct budgetary implications. Once the abovementioned parcels of land are transferred to the City, they will be recognised as in-kind contributions income, and held as land assets in accordance with the City's Infrastructure, Property, Plant and Equipment (IPPE) Asset Recognition and Capitalisation Policy.

Relevant Legislation

11. 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

12. The land needs to be classified within three months of land transfer to the City or the land automatically reverts to a community classification.

Options

13. 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

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

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