

Proposed Land Classification - Proposed Lots 5 and 7, 2-38 Baptist Street and 397-399 Cleveland Street, Redfern

File No: X101723.005

Summary

The purpose of this report is to obtain Council approval to notify a proposed resolution to classify as operational land Proposed Lots 5 and 7 in the Plan of Subdivision of Lots 100 and 101 in DP 1285547, which is to be transferred by Surry Hills Projects Pty Ltd in its capacity as trustee of the Surry Hills Trust (the Developer) to the City in accordance with registered Planning Agreement AN132353, as varied by registered Deed of Variation of Planning Agreement AT661632.

On 20 December 2017, the City entered into registered Planning Agreement AN132353 with the Developer in relation to a planning proposal at 2-38 Baptist Street and 397-399 Cleveland Street, Redfern. The Planning Agreement was subsequently amended by registered Deed of Variation of Planning Agreement AT661362 dated 27 September 2023. The Planning Agreement (as amended) requires the Developer to provide public benefits including:

- Dedication and embellishment of approximately 279m² (Lot 6 – Road Widening) of the land to the City for footway widening to Marriott Street. The road dedication is made under the Roads Act 1993 (NSW) upon registration of the Subdivision Plan.
- Dedication and embellishment of approximately 500m² of the land to the City for a public park (Proposed Lot 5 - Park).
- Dedication and embellishment of approximately 610m² of the land to the City for a pedestrian and cycle way (Proposed Lot 7 - Pedestrian and Cycle Way).

A Plan of Subdivision was approved by the City on 15 September 2023, creating seven new parcels of land. The Developer is now proceeding to register the Plan of Subdivision and transfer the above-mentioned lands to the City.

Whilst Proposed Lot 5 - Park will be embellished by the developer it will need to have an interim operational classification to support the City's ongoing management until the park can be classified as community land, categorised as park and included within the next update of the Generic Plan of Management scheduled for 2024/25.

Proposed Lot 7 - Pedestrian and Cycle Way whilst intended to be dedicated as road was varied to reflect public support for an exclusive pedestrian and cycle way abutting the park. The Development however required an easement burdening Lot 7 to support emergency fire service access. The application of the operational classification is required to support the ongoing management and use of the land.

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 (NSW).

Recommendation

It is resolved that:

- (A) Council endorse public notification of the proposed resolution: "It is resolved to classify Proposed Lot 5 (Park) and Proposed Lot 7 (Pedestrian and Cycle Way) in the Plan of Subdivision of Lots 100 and 101 in DP 1285547 at 2-38 Baptist Street and 397-399 Cleveland Street, Redfern which is to be transferred to Council for public purposes, as operational land in accordance with section 31 of the Local Government Act 1993 (NSW)"; on the basis that in the case Proposed Lot 5 (Park):
 - (i) the primary future use is for a park; and
 - (ii) the classification is an interim measure to support operational management until it can be included within the Generic Plan of Management and classified as community and categorised as park;
- (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 Plans

Background

1. The Council of the City of Sydney amended the planning controls that apply to 2-38 Baptist Street and 397-399 Cleveland Street, Redfern under the Sydney Local Environmental Plan 2012 (SLEP 2012), to enable an increase in maximum building heights to the development of up to 18 metres in Marriot Street, 22 metres in Cleveland Street and 25 metres in Baptist Street, along with public benefits including sustainability measures to the development, new road reserves and a public park.
2. On 20 December 2017, the City entered into a registered Planning Agreement AN132353 in conjunction with the amendment of the planning controls. The Planning Agreement provides for land dedication and embellishment of footway widening to Marriot Street, land dedication and embellishment of a partially pedestrian/cyclist only and part shared zone laneway, land dedication and embellishment of a new public park, sustainability measures, and the provision of a community bus for the duration of the construction of the retail component of the development.
3. On 14 November 2019, Development Consent was granted for redevelopment of the site, including the adaptive reuse of the heritage listed former Bank of NSW building (397-399 Cleveland Street) for retail purposes, demolition of all other existing structures on site, site remediation, excavation and construction of a mixed use development (residential, retail and commercial) comprising 8 buildings in total, with a public through-site link from Baptist Street to Marriott Street, a public park with associated landscaping and public domain works, and a strip of road widening to Marriott Street (D/2018/1128).
4. On 15 September 2023, the City approved the Plan of Subdivision to create four lots for the building development (residential, retail, commercial and hotel) and three lots for the new infrastructure (public reserve, Marriot Street footway widening and pedestrian and cycle way).
5. On 27 September 2023, the registered Deed of Variation of Planning Agreement AT661632 was executed to facilitate a change of use of the shared zone to pedestrian and cycling only to align with public support.
6. The residential, retail and commercial components of the Development are nearing completion and the delivery of public benefits under the Planning Agreement (as varied) are progressing with the transfer of Proposed Lots 4, 5 and 7 expected in March/April 2024.
7. The Pedestrian and Cycle Way will connect Baptist Street through to Marriot Street and provide direct access to the existing children's play equipment in the Marriot Street closure and adjacent new public park.
8. As Lot 7 was varied from a shared zone to an exclusive pedestrian and cycle way excepting the required emergency fire service vehicle easement benefiting the adjoining development the application of an operational classification over this land will support the ongoing management and use of the asset. t
9. Attachment A: Identification Plans shows the development site in the context of the wider area and the approved Plan of Dubdivision showing the lots to be transferred.

Key Implications

Organisational Impact

10. There is no organisational impact arising from this proposed resolution to classify these parcels of land as operational land.

Financial Implications

11. The classification of land under the Local Government Act 1993 (NSW) 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

12. The following sections of the Local Government Act 1993 (NSW) 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 and varied 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 not less than 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.
14. As the land is proposed to transfer to the City in March 2024, the classification would need to be endorsed no later than June 2024.

Options

15. Dedication of Proposed Lot 7 - Pedestrian and Cycle Way as operational land was supported in community consultation and will support the ongoing management of this land.
16. A temporary operational classification for Proposed Lot 5 - Park will allow the City to manage the land until the land is included within the scheduled update of the Generic Plan of Management.

Public Consultation

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

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Chief Operating Officer

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