

**Item 11.****Land Classification - Lots 5 and 7, 2-38 Baptist Street and 397-399 Cleveland Street, Surry Hills****File No: X101723.005****Summary**

On 19 February 2024, Council endorsed public notification of the proposed resolution 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 (now registered as Lots 5 and 7 in Deposited Plan 1298679) at 2-38 Baptist Street and 397-399 Cleveland Street, Redfern, which are to be transferred to Council for public purposes, as operational land in accordance with section 31 of the Local Government Act 1993 (NSW).

In the case of Lot 5, the endorsed proposed resolution was on the basis that:

- the primary future use is for a park; and
- 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.

The proposed resolution to classify the land was publicly notified for a period of 29 days commencing 23 February 2024 and closing on 22 March 2024. No submissions were received.

This report recommends Council classify the above-mentioned land parcels as operational land under the Local Government Act 1993 (NSW).

## **Recommendation**

It is resolved that Council endorse classifying Lot 5 and Lot 7 in Deposited Plan 1298679 as operational land in accordance with section 31 of the Local Government Act 1993 (NSW), being a subdivision of Lots 100 and 101 in DP 1285547 at 2-38 Baptist Street and 397-399 Cleveland Street, Redfern, on the basis that in the case of Lot 5, the primary future use is for a park and 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.

## **Attachments**

**Attachment A.** Identification Plans

## Background

1. On 20 December 2017, the City entered into 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.
2. 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 eight 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).
3. 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).
4. 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.
5. 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 plan of subdivision now registered creating Lots 5, 6 and 7 in Deposited Plan 1298679.
6. 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.
7. 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.
8. Attachment A - Identification Plans shows the development site in the context of the wider area and the registered plan of subdivision showing the lots to be transferred.

## Financial Implications

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

### Relevant Legislation

10. 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 and amended 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 no less than 28 days.

### Critical Dates / Time Frames

11. The land is to be classified as operational prior to transfer to the City, which addresses the timing requirement to classify within three months of land transfer to the City under section 31 of the Local Government Act 1993 (NSW).

### Options

12. If the land is not classified as operational within three months of transfer to the City, it will revert to a community classification under section 31(2A) of the Local Government Act 1993 (NSW).
13. The temporary operational classification for Lot 5 in Deposited Plan 1298679 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

14. The proposed resolution land classification was publicly notified for a period of 29 days commencing 23 February 2024 and closing on 22 March 2024.
15. No submissions were received.

### KIM WOODBURY

Chief Operating Officer

Nicholas Male-Perkins, Commercial Manager