

Item 9.

Proposed Land Classification - 57C Ashmore Street, Erskineville

File No: 2024/653454

Summary

The purpose of this report is to obtain Council approval to notify a proposed resolution to classify the land known as 57C Ashmore Street, Erskineville (being Lot 8 in DP 1262184) which will shortly be transferred to the City by Greenland Golden Horse Investments Pty Ltd (the Developer) in accordance with registered Planning Agreement AM746494 as varied by registered Deed of Variation of Planning Agreement AP549072, as operational land on a temporary basis.

This land will need to have an interim operational classification while the adjoining area of Kooka Walk (pedestrian green link) is under construction. This will support the City's ongoing management of the land until the area can be re-classified as community land, categorised and incorporated into the Generic Plan of Management. The plans are in accordance with the Sydney Development Control Plan 2012 (DCP).

This report seeks Council's endorsement to notify a proposed resolution to classify 57C Ashmore Street, Erskineville as operational land under the Local Government Act 1993 (NSW) following transfer from the developer until the works are complete and the land can be re-classified as community land.

Recommendation

It is resolved that Council:

- (A) endorse public notification of the proposed resolution: "It is resolved to classify 57C Ashmore Street, Erskineville NSW 2043 (being Lot 8 in DP 1262184) which is to be transferred to Council for future public purposes, as operational land in accordance with section 31 of the Local Government Act 1993 (NSW)", on the basis that the classification is an interim measure to support operational management until the land can be re-classified as community land and included within the Generic Plan of Management; and
- (B) note that a further report to Council, to inform of the outcomes of public notification and recommendation on classification will follow the notification period.

Attachments

Attachment A. Identification Plans (Lot 8 in Deposit Plan 1262184)

Background

1. On 18 October 2017, Development Consent was granted for a Stage 1 Development Application (DA) for works at 57 Ashmore Street and 165-175 Mitchell Road, Erskineville for a mixed-use precinct including residential, commercial and recreational uses. The development includes building envelopes for 9 development blocks ranging in height between 2 and 8 storeys and concept design for public domain works including new streets, a park and trunk drainage (D/2015/966).
2. On 25 July 2017, the City entered into registered Planning Agreement AM746494 with Greenland Golden Horse Investment Pty Ltd as trustee for The Greenland Golden Horse Investment Trust and The Trust Company Limited as custodian for the Goodman Industrial Europe Finance Trust in relation to that development. It is noted that the Trust Company Limited agreed to be a party to the planning agreement solely in its capacity as landowner pending completion of the sale of its property to Greenland Golden Horse Investment Pty Ltd.
3. On 12 September 2019, the parties entered into registered Deed of Variation of Planning Agreement AP549072 to accommodate an alternative arrangement on the lodgement of the bank guarantees to secure the Developer's works. The Deed of Variation also updated the parties to reflect the new entities of Greenland Golden Horse Investment Pty Ltd as trustee for The Greenland Golden Horse Investment Trust and Greenland Golden Horse Investment No.5 as trustee for The Greenland Golden Horse Trust No. 5 (collectively referred to as 'Greenland Golden Horse') as parties to the Planning Agreement.
4. The Planning Agreement (as amended) requires the Developer to provide public benefits over the 7 phases of development including:
 - (a) the dedication and embellishment of 8,354.6m² as new roads - Foundry Street, Stovemaker Lane, Metters Street, Coppersmith Lane, Macdonald Street, Alpha Street and Hadfield Street;
 - (b) the dedication and embellishment of 7,411m² as a pedestrian green link - Kooka Walk;
 - (c) the dedication and embellishment of 7,446m² as McPherson Park;
 - (d) the creation of an easement for public access to pedestrian through-site links; and
 - (e) the construction of a trunk stormwater drain.
5. A subdivision plan was approved by the City on 14 October 2020, creating 10 new parcels of land in relation to the Phase 1 and 2 developments. The Developer registered the subdivision plan (DP 1262184) and dedicated Lots 9 and 10 as road reserves, as required for completion in relation to Phase 1.
6. On 14 November 2022, a Deed of Novation of the Planning Agreement (as amended) was executed transferring the obligations of Phase 3-7 of the property from Greenland Golden Horse Investment Pty Ltd to two related parties, Erskineville Development Pty. Ltd. and Erskineville Investments Pty. Ltd. as trustees for the Erskineville Investment Trust (collectively referred to as 'Erskineville Developments and Erskineville Investments').

7. The development is progressing. Phase 1 is complete. Phase 2 and 3 are under construction, and development consent has been provided for Phase 4.
8. In accordance with the registered Planning Agreement (as amended), the Developer of Phase 2 (Greenland Golden Horse) will construct and dedicate Lot 7 for Stovemaker Lane. The Developer will also construct and transfer Lot 8 which will be a section of the Kooka Walk. This will be transferred as part of the Phase 2 public benefits. As the section of Kooka Walk in Phase 2 is only 1.5 wide, the Developer is required to construct a temporary pathway that includes safe access and egress from the new building development.
9. In accordance with the registered Planning Agreement (as amended), the Developer of Phase 3 (Erskineville Developments and Erskineville Investments) will construct and dedicate the adjoining portion of the Kooka Walk and extensions to Metters Street and Coppersmith Lane as part of the Phase 3 public benefits. These works are ongoing.
10. The Developer's works for Phase 2 are nearing completion and the Developer will soon be seeking to transfer Lot 8 to the City in March 2025.
11. With the Phase 3 works to Kooka Walk immediately abutting Lot 8, any access by the Phase 3 Developer to Lot 8 will be managed by the City following transfer.
12. To facilitate the future embellishment works to the land following completion of the adjoining works to Kooka Walk, it is essential that an interim operational land classification is applied.

Financial Implications

13. The classification of land under the Local Government Act 1993 (NSW) does not have any direct budgetary implications. Once 57C Ashmore Street, Erskineville is transferred to the City, it 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

14. 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

- 15. The land needs to be classified within three months of land transfer to the City or the land automatically default to a community classification.
- 16. As the land is proposed to transfer to the City in March 2025, the classification would need to be endorsed no later than June 2025.

Options

- 17. Allowing the land to default to community land will hinder the development of the area. The land will be embellished for use by the community and reclassified as community land to ensure that it is preserved for public use.

Public Consultation

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

KIM WOODBURY

Chief Operating Officer

Mary Ghaly, Public Lands Coordinator