

Compulsory Acquisition - Infrastructure NSW - Unformed Road, Adjoining Merriman Street, Barangaroo

File No: X102592

Summary

To formalise land ownership within the Cutaway, Barangaroo Reserve, Infrastructure NSW will enter into an Acquisition Deed with The Council of the City of Sydney (City) for Infrastructure NSW to acquire part of 5010 and 5015 Merriman Street being a 300sqm rectangular-shaped parcel of unformed road.

The City and Infrastructure NSW (formerly the Barangaroo Delivery Authority), have worked collaboratively over many years on public domain works to integrate Barangaroo Reserve including boundary adjustments to align with the current built form.

Part of land occupied by The Cutaway is an unformed portion of 5010 and 5015 Merriman Street that runs parallel to the western boundary of Merriman Street, as built, and contains the skylights and voids a key feature of the Cutaway.

The unformed portion of 5010 and 5015 Merriman Street was intended to be subdivided, closed and transferred following the completion of Barangaroo Reserve including the Cutaway.

The Cutaway is currently being fitted out as a new cultural facility over three levels which will include enclosing the open voids that highlight the exposed sandstone rock face along its eastern boundary.

The unformed portion of 5010 and 5015 Merriman Street will, upon gazettal, extinguish the road status and transfer the land.

Infrastructure NSW will acquire the unformed portion of 5010 and 5015 Merriman Street under Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) at a nominal amount subject to practical completion of Infrastructure NSW's fitout works for the cultural facility within the Cutaway due for completion in 2025.

Recommendation

It is resolved that:

- (A) Council endorse the acquisition by Infrastructure NSW of part 5010 and 5015 Merriman Street, being a 300 square metre portion of unformed road forming part of the Cutaway, Barangaroo, by agreement under Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991; and
- (B) authority be delegated to the Chief Executive Officer to progress and finalise all negotiations and enter into all necessary documentation to effect the transaction.

Attachments

Attachment A. Identification Plan and Images

Attachment B. Plan of Acquisition

Background

1. In 2012, the City and the Barangaroo Delivery Authority (now Infrastructure NSW) entered into an agreement for the Headland Park (future Barangaroo Reserve) Integration Works.
2. The objective of this agreement was to ensure key components of the public domain affected by the integration works would be designed, constructed and delivered in a way which benefited the community and encouraged the public use and enjoyment of Barangaroo. An integral part of meeting this objective included boundary adjustments to ensure that operational and risk management reflected the as built form.
3. A key feature of the 6-hectare Barangaroo Reserve is The Cutaway, a void constructed below the Barangaroo Headland Park that has been temporarily used for events since 2015. Capable of being a permanent 3-storey cultural venue, the void was created as part of the Headland Park works by the excavation of the former sandstone below ground and formation of concrete slabs and walls to provide an above ground undulating finished ground level for the park and below ground space for cultural events and activities. (Refer Attachment A - Identification Plan and Images).
4. The Cutaway includes a 300 square metre rectangular-shaped, unformed portion of 5010 and 5015 Merriman Street, running 120 metres along the western boundary of Merriman Street as built. Within this portion of unformed road sits the existing void/roof openings of the Cutaway covered with netting that highlights the exposed sandstone rock face (Refer Attachment A - Identification Plan and Images).
5. On 8 February 2023, the City as landowner provided consent to Infrastructure NSW's development application to close the existing roof openings/void as part of the void fit-out works for the new cultural facility that will span three levels and include:
 - (a) new event and gallery spaces
 - (b) dedicated First Nations education space
 - (c) enclosure of the open ceiling voids with soundproof, glass skylights
 - (d) improved acoustics, entry and forecourt
 - (e) onsite amenities, offices for staff and back-of-house facilities, including commercial kitchen.
6. That development application was subsequently approved on 22 December 2023 and works to complete the new cultural facility are currently being undertaken by Infrastructure NSW.
7. The most efficient approach to address the legacy boundary issue is for Infrastructure NSW to compulsorily acquire the unformed portion of 5010 and 5015 Merriman Street. This approach expedites the closure of the unformed road and subsequent transfer.
8. Infrastructure NSW and the City have reached agreement for Infrastructure NSW on practical completion of its works, to compulsorily acquire the unformed road portion for \$1 under Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991.

Key Implications

Risks

9. This approach is within the City's risk appetite, which states:
 - We aim to strike a balance between achieving our strategic objectives and ensuring the long-term sustainability of infrastructure assets; and preserving and promoting culture and heritage, embracing innovation, and ensuring the long-term sustainability and accessibility of cultural/heritage assets.
10. The acquisition of this land by Infrastructure NSW will minimise any risk to the long-term sustainability of The Cutaway as a cultural facility.

Financial Implications

11. The City's balance sheet will be adjusted to reflect the compulsory acquisition of land. There will be no cash impact.
12. Infrastructure NSW will reimburse the City's reasonable legal costs.

Relevant Legislation

13. Infrastructure NSW may, for the purposes of exercising its functions in relation to a major infrastructure project as authorised by a project authorisation order, acquire land by agreement or compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.
14. Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) allows an authority of the State and the owner of land to agree in writing that the land be compulsorily acquired by that authority.

Options

15. The Council could decide not to address the boundary issue however this would be inconsistent with the City's land management practises and inconsistent with land boundary adjustments between the City and Infrastructure NSW and its predecessors over the years.
16. Ownership retention and ongoing management through a licence or lease would similarly be inconsistent with the adopted approach to asset ownership and the City's risk appetite.

Public Consultation

17. No public consultation is required for this transaction.

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