

ITEM 7. PLANNING PROPOSAL TO RECLASSIFY 1A NEWCOMBE STREET PADDINGTON FROM COMMUNITY LAND TO OPERATIONAL LAND**FILE NO: S091888****SUMMARY**

On 14 May 2012, Council approved the development application for 1 Newcombe Street, Paddington proposing 20 residential apartments, retail premises and associated car parking, subject to deferred commencement and conditions of consent.

In response to concerns about vehicular access and traffic impacts in surrounding residential streets, Council endorsed the proposal to reopen Newcombe Street at the Oxford Street end, so vehicles access the site from Oxford Street, and to close Newcombe Street, near Gordon Street. This requires the reopening of the northern end of Newcombe Street, known as 1A Newcombe Street. No. 1A Newcombe Street is currently classified as 'community land' and is used for the location of market stalls on Saturdays, in association with Paddington Markets, on the adjoining Church site. The applicant must also relocate vehicle access to the basement-level car parking from Gordon Street to the proposed private lane off Newcombe Street, near Oxford Street.

The conditions of consent require the applicant to obtain the approval of Roads and Maritime Services for vehicular access to the site to be provided from Oxford Street via Newcombe Street. This will require the re-opening of the northern end of Newcombe Street and the closure of the southern end of Newcombe Street at the Gordon Street intersection.

On 1 June 2012, Roads and Maritime Services advised that they have no objection to the proposal to re-open Newcombe Street at Oxford Street and the proposed road closure on Newcombe Street at Gordon Street, subject to the standard planning and referral requirements. This included consideration of the tree removal and replanting in the revised location.

The re-opening of Newcombe Street as a road requires the reclassification of the land under the *Local Government Act 1993* and an amendment to the relevant local environmental plan under the *Environmental Planning and Assessment Act 1979*.

The purpose of this report is to seek the Central Sydney Planning Committee's approval for the public exhibition of a Planning Proposal for the reclassification of 1A Newcombe Street from 'community land' to 'operational land' to reflect the resolution of Council in response to vehicle access arrangements for the approved development application at 1 Newcombe Street, Paddington.

If endorsed by Council and the Central Sydney Planning Committee (CSPC), the Planning Proposal will be referred to the Department of Planning and Infrastructure, with a request for a Gateway Determination.

Following the Gateway Determination for the Planning Proposal, formal consultation with State agencies and the community will commence. The reclassification of the land also requires a public hearing to be held following the public exhibition of the Planning Proposal.

RECOMMENDATION

It is resolved that the Central Sydney Planning Committee:

- (A) approve the Planning Proposal to reclassify 1A Newcombe Street, Paddington from Community Land to Operational Land, shown at Attachment A to the subject report, for submission to the Department of Planning and Infrastructure with a request for a Gateway Determination in accordance with Section 56(1) of the *Environmental Planning and Assessment Act 1979* and Section 39(1) of the *City of Sydney Act, 1988*, and, following receipt of the Gateway Determination, approve the public exhibition of the Planning Proposal in accordance with the Gateway Determination; and
- (B) note that the report to the Planning Development and Transport Committee on 23 July 2012 recommends that Council delegate authority to the Chief Executive Officer to make any minor variations to the Planning Proposal following receipt of the Gateway Determination, to enable the commencement of public exhibition;

ATTACHMENTS

Attachment A: Planning Proposal

Attachment B: Resolution of Council of 14 May 2012 – Development Application: 1 Newcombe Street Paddington

Attachment C: Resolution of Council of 14 May 2012 in relation to Memorandum by the Chief Executive Officer – Newcombe Street Paddington – Partial Road Opening and Closure

BACKGROUND

1. No. 1 Newcombe Street, Paddington is located at the corner of Newcombe and Gordon Streets, Paddington adjacent to the Uniting Church along Oxford Street where Paddington Markets operate on Saturdays.
2. A development application for the redevelopment of the site for 20 apartments, retail space and associated parking generated a number of objections, primarily raising concerns about parking, traffic and servicing impacts.
3. At the meeting of the Planning Development and Transport Committee on 7 May 2012, the Committee expressed support to relocate an existing road closure from the Oxford Street end of Newcombe Street to the Gordon Street end. This would allow all vehicle movements to the development to come off Oxford Street, rather than Gordon Street. It would also provide access from Oxford Street for Paddington Markets stallholders on Saturdays to reduce traffic impacts as a result of the redevelopment of 1 Newcombe Street. The Committee proposed to provide the site with direct access to Oxford Street so that vehicles do not have to use Gordon Street. The Resolution of Council of 14 May 2012 is provided at Attachment B.
4. On 14 May 2012, Council approved the development application for 1 Newcombe Street, subject to the road closure in Newcombe Street and the re-opening of Newcombe Street, near the intersection of Oxford Street, along with the closing and embellishment of Newcombe Street, near the intersection of Gordon Street.

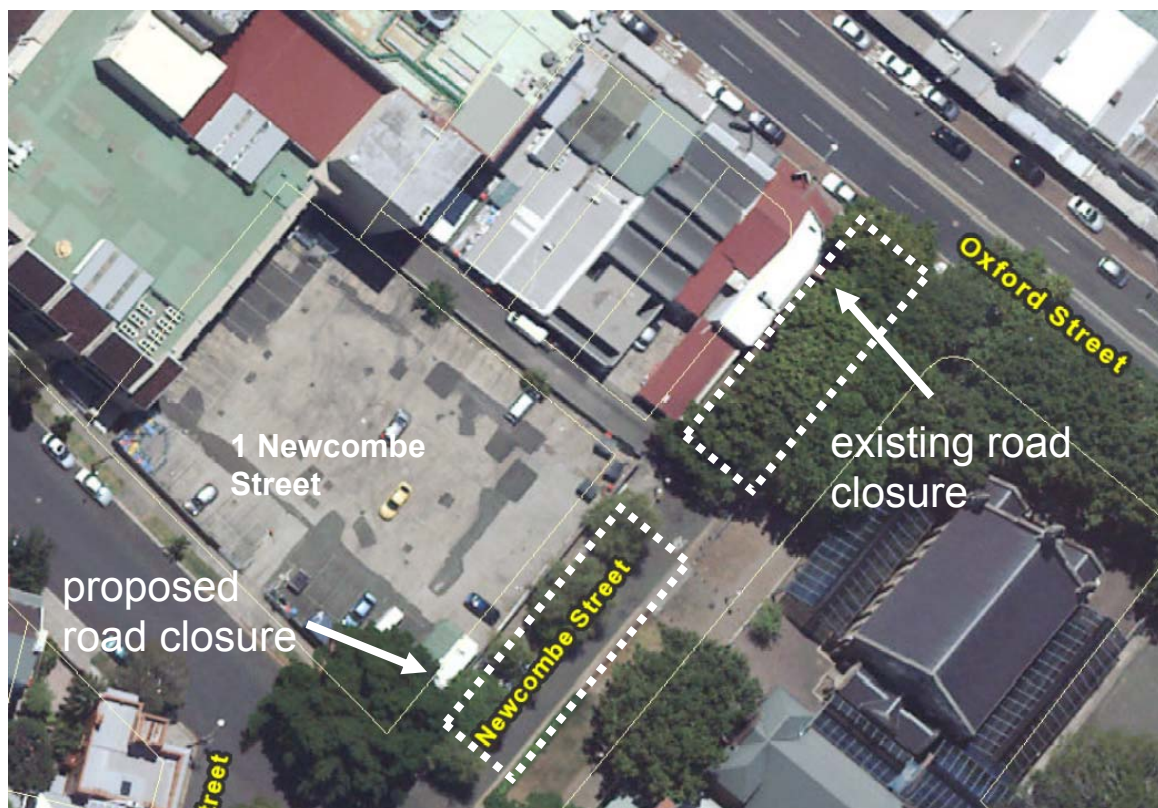


Figure 1 shows the location of the development site at 1 Newcombe Street, Paddington, the existing road closure at the northern end and the proposed road closure at the southern end of Newcombe Street.

Planning Proposal

5. In order for Newcombe Street to be reopened at the Oxford Street end, and closed at the Gordon Street end, the land must be reclassified under the *Local Government Act 1993* by way of a planning proposal prepared under the *Environmental Planning and Assessment Act 1979*.
6. On 14 May 2012, Council resolved to commence the process to prepare a planning proposal to amend the relevant local environmental plan for the reclassification of the land at 1A Newcombe Street, Paddington from community land to operational land.
7. The *Local Government Act 1993* requires that councils follow a reclassification process involving the identification of land that is to be reclassified from 'community' to 'operational' in the relevant Local Environmental Plan (LEP). The use of land as a road requires it to be classified as 'operational'.
8. The Planning Proposal shown at Attachment A sets out the justification for the reclassification of the land from 'community' to 'operational', thus satisfying the relevant section of the *Local Government Act 1993*. The reclassification of the land will allow the reopening of Newcombe Street at Oxford Street, providing vehicle access to the approved development at 1 Newcombe Street, Paddington, and address local concerns in relation to traffic impacts.
9. Oxford Street is a Classified Road and any new opening onto a Classified Road cannot be undertaken without approval from Council as the relevant road authority in accordance with Section 138(1) of the Roads Act 1993.
10. Roads and Maritime Services has raised no objections to the traffic management measures to reopen 1A Newcombe Street, Paddington subject to the following additional requirements:
 - (a) consent by the Council, following community consultation;
 - (b) the proposed works be referred to the Local Pedestrian, Cycling and Traffic Calming Committee for endorsement; and
 - (c) the preparation of a Traffic Management Plan that is to be submitted to Roads and Maritime Services for approval.
11. Roads and Maritime Services has also agreed, in principle, to grant approval to the proposed road closure of the southern end of Newcombe Street, at Gordon Street, for the property known as 5010 Newcombe Street. Roads and Maritime Services will continue working with Council to resolve issues as they may arise.

Re-opening of 1A Newcombe Street, Paddington

12. The site is currently zoned Local Recreation 6(a) under the *South Sydney Local Environmental Plan 1998* and RE1 Public Recreation under the *draft Sydney Local Environmental Plan 2011*. Newcombe Street is a two way no-through road with access to an un-named private lane.

13. The land at the northern end of Newcombe Street must be reclassified from 'community' to 'operational' to enable the construction of and subsequent dedication of the land as a road. The reclassification of this land from 'community' to 'operational' does not require the rezoning of the site. Roads are a permissible use in the 6(a) zone under the *South Sydney Local Environmental Plan 1998* and the RE1 zone under the *draft Sydney Local Environmental Plan 2011*.
14. It is proposed that this work is undertaken in two stages. The first stage will involve paving and tree removal and the reopening of 1A Newcombe Street, near the intersection of Oxford Street. The second stage will involve the closure of the southern end of Newcombe Street, known as 5010 Newcombe Street, Paddington.
15. On 14 May 2012, Council resolved to commence the process to reclassify Council-owned community land, being 1A Newcombe Street, Paddington to operational land by way of a Planning Proposal. A copy of Council's resolution of 14 May 2012 is shown at Attachment B.
16. Any process to amend a local environmental plan requires Council and the Central Sydney Planning Committee to endorse a Planning Proposal in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and Section 39 of the *City of Sydney Act, 1988*. If endorsed, the Planning Proposal will be forwarded to the Department of Planning and Infrastructure and will be placed on public exhibition if a Gateway Determination is issued.
17. No. 1A Newcombe Street, Paddington is owned by the Council and is classified 'community' under Part 2, Division 1 of the *Local Government Act 1993*. The land must be reclassified from 'community' to 'operational' to permit construction and the subsequent dedication of this land as a road.
18. The road closure has been classified as 'community land' since June 1994, in accordance with the requirement under the *Local Government Act 1993* to classify public land as 'community land' or 'operational land'. In accordance with Part 2, Division 1 of the *Local Government Act 1993*, the reclassification will be undertaken as an amendment to the recently endorsed and soon to be gazetted *Sydney Local Environmental Plan 2011*.
19. Council's City Infrastructure and Traffic Operations Unit has advised that the procedure for any road opening and closure will require the preparation of a traffic study to review existing movements and model the future impacts that may arise from the proposal. The required studies will also need to address the design of the new road and the design of the new road closure.
20. The scope of works to be undertaken will involve the design of the road opening and consideration of the new road, footway extension, the relocation of the bus shelter, kerbs, footpaths and the removal and reinstatement of the existing park and trees. The preparation of any Plan/s will require approval from the Council and the Pedestrian, Cycling and Traffic Calming Committee and referral to Roads and Maritime Services for approval.
21. Council currently leases 1A Newcombe Street, Paddington to stallholders for the Paddington Markets on Saturdays. Consultation with lease holders regarding the relocation of their stalls will occur prior to the works commencing.

22. The permanent closure of the southern end of Newcombe Street, near Gordon Street, requires Council to obtain a permanent road closure under Section 34 of the *Roads Act 1993*. This will also require a number of steps, including advertising in the media and consultation with the local residents and businesses. Concurrence of the Local Pedestrian, Cycling and Traffic Calming Committee is also required.
23. A subsequent development application will also be required for the new road closure at the southern end of Newcombe Street, Paddington.
24. The City will also be required to prepare a Plan of Management to identify any issues that may affect the community land and how the space is intended to be used, maintained and managed in the future. In accordance with the *Roads Act 1993*, the publication notification of land to be dedicated as a public road is also required.
25. The proposed road closure of 5010 Newcombe Street, Paddington will be separately reported to Council.
26. The process to secure funding and engage a consultant has commenced with the preparation of a Project Initiation Brief for the consideration of the Initiation Review Group within the next month or two. The consultant will be engaged to undertake the required traffic management studies.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030 Vision

27. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. The reclassification of 1A Newcombe Street from 'community' to 'operational' land is aligned with the following Sustainable Sydney 2030 strategic direction and objective:
 - (a) Direction 6 - Vibrant Local Communities and Economies recognises and seeks to build on our diverse City communities with diverse lifestyles, interests and needs – each with an important economic and employment role.

The reclassification of the land from 'community' to 'operational' and the creation of the new park as a result from the road closure, presents an opportunity to enhance the amenity enjoyed by the adjacent residential community in Paddington and the opportunity to introduce activity fronting Oxford Street.

Risks

28. The City has commenced the process of preparing the Project Initiation Brief to engage consultants to commence the required traffic management studies and design work for the new road and road closure. The Initiation Review Process will allocate the budget to undertake the work. The preparation of traffic studies and additional design work will mitigate any risks and impacts and ensure they can be managed.

Social / Cultural / Community

29. The reclassification of the land from 'community' to 'operational' does not represent a loss of land used for a public purpose. The Paddington community will benefit from the location of the existing space at 1A Newcombe Street, Paddington to the southern end of Newcombe Street in a location more accessible to the local residents.
30. The existing bus shelter on Oxford Street will need to be repositioned as a result of the opening of 1A Newcombe Street.

Environmental

31. The replanting of mature trees to replace existing trees will be addressed in detail during the design phase, as part of a study for the design of the new road and community land to the south of Newcombe Street. The studies will be reported back to Council at a later stage.
32. The closure of Newcombe Street at the Gordon Street intersection provides an opportunity for an increased amount of open space and additional tree planting.

BUDGET IMPLICATIONS

33. The planning proposal to reclassify the land at the northern end of Newcombe Street from 'community' to 'operational' has no direct budget implications. However, the future works to close Newcombe Street at the southern end are expected to cost approximately \$630,000. This was addressed under the Costing and Scope of Works in the Memorandum by the Chief Executive Officer to Council on 14 May 2012 (see Attachment C).
34. A Project Initiation Brief is currently being prepared to commence the process of engaging a consultant to undertake the studies required for the reopening of Newcombe Street and the design of a new road and road closure. A project budget will be approved by the Initiation Review Group to commence this work.

RELEVANT LEGISLATION

35. *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulations 2000* outline the requirements for amending a local environmental plan.
36. The *City of Sydney Act, 1988* requires the approval of the Central Sydney Planning Committee for the preparation of a Planning Proposal.
37. The following Acts are relevant to the re-classification of land and the closure of the road as described in this report:
 - (a) Sections 56(2)(c) and (e) and 57 of the *Environmental Planning and Assessment Act 1979*;
 - (b) Part 2 Division 1 of the *Local Government Act 1993*, which contains the requirements for classification of land, including the need for a public hearing when land is to be reclassified from 'community' to 'operational'; and
 - (c) Section 34 of the *Roads Act 1993*.

CRITICAL DATES / TIME FRAMES

38. It is important that the reclassification of 1A Newcombe Street, Paddington be completed prior to the road closure of the southern end of Newcombe Street, Paddington. The two can happen concurrently and prior to the occupation of the new development at 1 Newcombe Street, Paddington.
39. A number of approvals and plans are required to address the concerns relating to traffic management and the design of the new road and road closure. It is envisaged that the process will take between 12 and 24 months.
40. The next steps are:
 - (a) forward the Planning Proposal (shown at Attachment A) to the Department of Planning and Infrastructure, with a request for a Gateway Determination;
 - (b) upon receipt of the Gateway Determination, publicly exhibit the Planning Proposal for a minimum of 14 days. This will be determined as part of the Gateway Determination; and
 - (c) following the public exhibition of the Planning Proposal, a public hearing will be held in accordance with Section 29 of the *Local Government Act 1993* and Section 57 of the *Environmental Planning and Assessment Act 1979*. The outcomes will then be reported back to Council.

OPTIONS

41. If Council and the Central Sydney Planning Committee do not approve the Planning Proposal, shown at Attachment A, traffic access to the proposed development at 1 Newcombe Street, Paddington will be via Gordon Street, rather than Oxford Street.

PUBLIC CONSULTATION

42. The proposed land re-classification will be placed on exhibition and advertised in accordance with the Gateway Determination made by the Minister for Planning in accordance with the *Environmental Planning and Assessment Act 1979*. The exhibition period is no less than 14 days.
43. As the Planning Proposal is to reclassify land from community land to operational land, a public hearing must be undertaken in accordance with Section 29 of the *Local Government Act 1993* and Section 57 of the *Environmental Planning and Assessment Act 1979*. A public notice will be sent or published at least 21 days before the start of the public hearing. The public hearing must take place before the Minister can make an amendment to the LEP.
44. Council currently leases 1A Newcombe Street, Paddington to stallholders for the Paddington Markets on Saturdays. Consultation with the lease holders regarding the relocation of their stalls will occur prior to the commencement of works associated with the reopening of 1A Newcombe Street, Paddington.
45. A communications strategy outlining the consultation process is currently being developed. This process will shortly commence and involve discussions with adjacent business owners.

46. The proposed closure of the southern end of Newcombe Street will be advertised in accordance with the requirements of the Roads Act 1993. All submissions must be made within the 28 day advertising period.
47. If approved, public exhibition will take place in accordance with the Gateway Determination made by the Minister for Planning and Infrastructure, in accordance with Sections 56 and 57 of the *Environmental Planning and Assessment Act 1979*.

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