

ITEM 8. POST EXHIBITION: PLANNING PROPOSAL - AMENDMENT TO SYDNEY LOCAL ENVIRONMENT PLAN 2012 - 37 – 61 NICKSON STREET, SURRY HILLS; 39 PINE STREET, NEWTOWN; AND LAND REQUIRED FOR CLASSIFIED ROAD PUPOSES IN ALEXANDRIA, WATERLOO, ZETLAND AND ROSEBERY

FILE NO: S101832

SUMMARY

In March 2012, Council and the Central Sydney Planning Committee (the Committee) endorsed the draft *Sydney Local Environmental Plan 2011* following consideration of a report on the submissions received during public exhibition. The report noted that a number of submissions requested changes that, although considered to have merit and be consistent with Council's policy objectives, would result in significant departures from the exhibited Local Environmental Plan and could not be adopted without further exhibition.

On 8 March 2012 and 12 March 2012, respectively, the Central Sydney Planning Committee and Council resolved to prepare and exhibit a planning proposal for the following amendments to the *Sydney Local Environmental Plan 2012* (the LEP):

- (a) rezone land at 37 to 61 Nickson Street, Surry Hills from B4 Mixed Use to R1 General Residential;
- (b) identify the Three Proud People mural at 39 Pine Street, Newtown as a heritage item; and
- (c) identify portions of five small parcels of land as being required by the Roads and Maritime Authority for classified road purposes to support future road widening.

The Planning Proposal was submitted 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*. The Gateway Determination to proceed with the public exhibition of the Planning Proposal was received on 25 January 2013.

The Planning Proposal was publically exhibited from 18 February 2013 to 4 March 2013. The exhibition generated two submissions, as described in this report. The Heritage Council of NSW made a submission in relation to the 'Three Proud People' mural at 39 Pine Street, Newtown, which concluded that the mural is worthy of statutory heritage protection. The second submission was from RPS Group on behalf of 61 Nickson Street Joint Venture. The submission related specifically to 61 Nickson Street, requesting that a ground floor office be made permissible.

This report recommends no change to the Planning Proposal as a consequence of public exhibition. It recommends Council endorse the Planning Proposal, shown at **Attachment A**.

Noting that the Minister has authorised Council to exercise its delegation to make the local environmental plan, it is recommended that the Planning Proposal at **Attachment A** be approved by the Committee, to make as a local environmental plan.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note the two submissions received to the public exhibition of the 'Planning Proposal: Amendment to the Sydney Local Environmental Plan 2012 – 37 to 61 Nickson Street, Surry Hills, 39 Pine Street, Newtown and land required for classified road purposes in Alexandria, Waterloo, Zetland and Rosebery' as described in the subject report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal, as shown at **Attachment A** to the subject report, to make as a local environmental plan under section 59(2) of the Environmental Planning and Assessment Act 1979; and
- (C) the Central Sydney Planning Committee note that authority be delegated to the Chief Executive Officer to make any minor amendments to the Planning Proposal, to correct any minor drafting errors.

ATTACHMENTS

Attachment A: Planning Proposal: Amendment to the Sydney Local Environmental Plan 2012 – 37 to 61 Nickson Street, Surry Hills, 39 Pine Street, Newtown and land required for classified road purposes in Alexandria, Waterloo, Zetland and Rosebery

BACKGROUND

1. The *Draft Sydney Local Environmental Plan 2011* (draft LEP 2011) was exhibited from 2 February 2011 to 4 April 2011 together with the *Draft Sydney Development Control Plan 2010*, the *draft Green Square Affordable Housing Program* and the *draft City of Sydney Competitive Design Policy*. The exhibition generated over 1,000 submissions.
2. In March 2012, Council and the Central Sydney Planning Committee (the Committee) endorsed the draft LEP following consideration of a report on the submissions. The report noted that a number of submissions requested changes to the draft that, although considered to have merit and be consistent with Council's policy objectives, would result in significant departures from the exhibited Local Environmental Plan and could not be adopted without further exhibition.

Planning Proposal

3. On 8 March 2012 and 12 March 2012, respectively, the Central Sydney Planning Committee and Council resolved to prepare and exhibit a planning proposal to amend the *Sydney Local Environmental Plan 2012* (the LEP) as follows:
 - (a) rezone land at 37 to 61 Nickson Street, Surry Hills from B4 Mixed Use to R1 General Residential;
 - (b) identify the Three Proud People mural at 39 Pine Street, Newtown as a heritage item; and
 - (c) identify portions of five small parcels of land as being required by the Roads and Maritime Authority for classified road purposes to support future road widening.
4. The Planning Proposal is at **Attachment A** and includes the resolutions of the Central Sydney Planning Committee and Council from 8 March 2012 and 12 March 2012, respectively, and the Three Proud People Mural Heritage Assessment.

Public Exhibition

5. The Planning Proposal at **Attachment A** was submitted 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*. The Gateway Determination to proceed with the public exhibition of the Planning Proposal was received on 25 January 2013.
6. The Planning Proposal was publically exhibited for 15 days from 18 February 2013 to 4 March 2013 and was consistent with requirements of the Gateway Determination. Two submissions were received and are discussed below.

Rezoning of 37-61 Nickson Street, Surry Hills

7. The Planning Proposal seeks to amend the LEP by rezoning the properties at 37 - 61 Nickson Street, Surry Hills from B4 Mixed Use to R1 General Residential. The properties are on the western side of Nickson Street, between Cartmore Lane and the site of a residential flat building at 628 - 634 Crown Street. The properties are located in a residential area with predominately two-storey terraces. To the west and south of Nickson Street on Cleveland and Crown Streets are properties zoned B2 Local Centre and serve retail, business, entertainment and community uses.

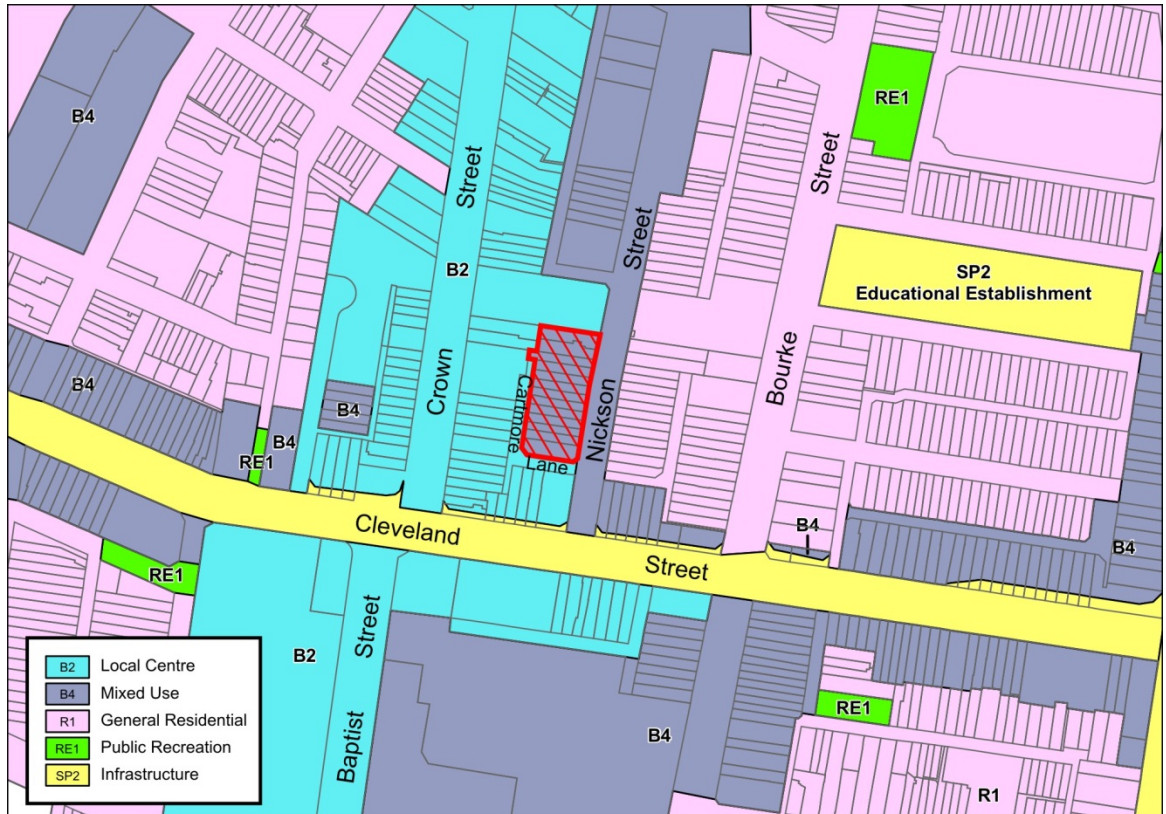


Figure 1: The area to be rezoned from B4 Mixed Use to R1 General Residential is outlined and hatched in red.

8. Previously under the South Sydney LEP 1998, 37 - 61 Nickson Street, Surry Hills was zoned 2(b) Residential (medium density). The Surry Hills Urban Design Study undertaken in 2006 recommended the retention of the residential zoning, however an internal review recommended a B4 Mixed Use zoning given the proximity of the land to the commercial areas of Cleveland and Crown Streets.
9. These properties were exhibited with a B4 Mixed Use zoning in the draft LEP 2011. A further review of the appropriateness of the B4 Mixed Use zone was undertaken. It concluded that Zone R1 General Residential should be applied to the properties at 37 - 61 Nickson Street, Surry Hills, given that they comprise terrace houses predominantly used for residential purposes and will maintain the residential character of the Nickson Street, Surry Hills locality.

10. The rezoning to R1 General Residential is also proposed to include the Nickson Street roadway adjoining the subject properties. This is consistent with the Department of Planning and Infrastructure's instructions for zoning and mapping in Standard LEPs.
11. One submission was received from RPS Group on behalf of 61 Nickson Street Joint Venture. The submission did not object to the rezoning in full; though it did not support of the effect the rezoning would have in prohibiting a ground floor office at 61 Nickson Street, a two storey Victorian terrace. A photo of which appears at Figure 2.



Figure 2: Property at 61 Nickson Street, Surry Hills, located on the corner of Cartmore Lane and Nickson Street.

12. RPS Group submitted a Development Application (DA) on 23 August 2013 for commercial and residential uses, consisting of alterations and additions to the existing terrace building. The proposed ground floor commercial use is permissible under the current B4 Mixed Use zone but not under R1 General Residential zone proposed by the Planning Proposal. The DA is assessed under the adopted controls at the time of submission and the Planning Proposal is a matter for consideration. The DA's compliance with all relevant planning controls and consideration of objections will be determined in the DA assessment process. The DA is still under assessment and if it was to be approved, one office will not compromise the zone objectives. Once a prohibited use lapses, the site will need to return to a permitted used such as residential, meaning the long term desired future character could be delivered.
13. It is recommended the rezoning of Nickson Street properties, including number 61, to the R1 General Residential zone proceed. R1 General Residential is the most appropriate zone having regard to surrounding residential uses and the desired future character of the street. A mixed use zoning on one property in a predominantly terrace housing residential area would set an undesirable precedent for ad-hoc and inconsistent land use in a residential precinct.

Heritage listing of the Three Proud People mural

14. The “Three Proud People mural” is located on the eastern façade of the terrace house at 39 Pine Street, Newtown. It faces onto Leamington Lane and the main western railway line. The mural is a reproduction of a famous photo of the 1968 Olympic Black Power Salute at the Olympic Stadium in Mexico, one of the most overtly political statements in the 110-year history of the modern Olympic Games. The mural also represents significance for Australia with an Australian sportsman, Peter Norman, featured in the Silver Medal position. The mural was painted just before the Sydney 2000 Olympics.
15. The Three Proud People mural came to the attention of the City in the course of a campaign to save homes in Leamington Avenue and Pine Street, Newtown (including 39 Pine Street) from resumption by RailCorp for the construction of a city “relief line” from Eveleigh to Wynyard.
16. In 2010 the City engaged City Plan Heritage to undertake a heritage assessment of the mural. The assessment concluded that the mural warranted heritage listing as an item of local heritage significance:

“The Mural is a tribute to one of the most controversial moments in the Olympic history and relates to the Sydney Olympics due to its painting in the lead up to the Games. Since then the Mural became part of the local community as a reminder of the 1968 Mexico City Olympics.”



Figure 3: Location of Three Proud People mural (shown as a red line). The Macdonaldtown Station railway platform extends diagonally across the lower section of this photograph.

17. The proposal for resumption of terrace houses was subsequently cancelled by Transport for NSW after more than 600 people marched to Leamington Avenue on 14 August 2010, including representation by number of prominent guest speakers.

18. The Heritage Council of NSW made a submission to the Planning Proposal exhibition in relation to the 'Three Proud People' mural at 39 Pine Street, Newtown, which concluded that the mural is worthy of statutory heritage protection. It is recommended to proceed with heritage listing of the 'Three Proud People' mural.



Figure 4: The Three Proud People mural at 39 Pine Street, Newtown.

Land proposed to be reserved for classified road purposes

19. The City consulted the former Roads and Traffic Authority in the preparation of the Land Reservation Acquisition Map in the draft LEP 2011. A submission from the Roads and Maritime Authority during exhibition of the draft LEP 2011 requested road reservations on five parcels of land and that they be shown on the Land Reservation Acquisition Map.
20. The five parcels of land have been identified for future acquisition by the Roads and Maritime Service for the purpose of classified roads. These parcels of land will support future road widening. Reservation of land enables affected landowners to require the Roads and Maritime Service to acquire that land under the owner-initiated acquisition provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.
21. The proposed road reservations comprise portions of the following parcels of land as shown in Figures 5 to 9:
- (a) northern side of Henderson Road, corner of Wyndham Street, Alexandria (Part of Lot 1000 DP1092450)
 - (b) eastern side of Botany Road, corner of John Street, Waterloo (Part of Lot 1 DP229389)

- (c) land at McEvoy Street, opposite Harley Street, Alexandria (Parts of Lots 1 & 5 DP243107 and Lot 1 DP230727);
- (d) land adjoining 377-497 Botany Road, Zetland (Lot 1 DP 628547); and
- (e) 583 Botany Rd, Rosebery (Lot 11 DP 604322).

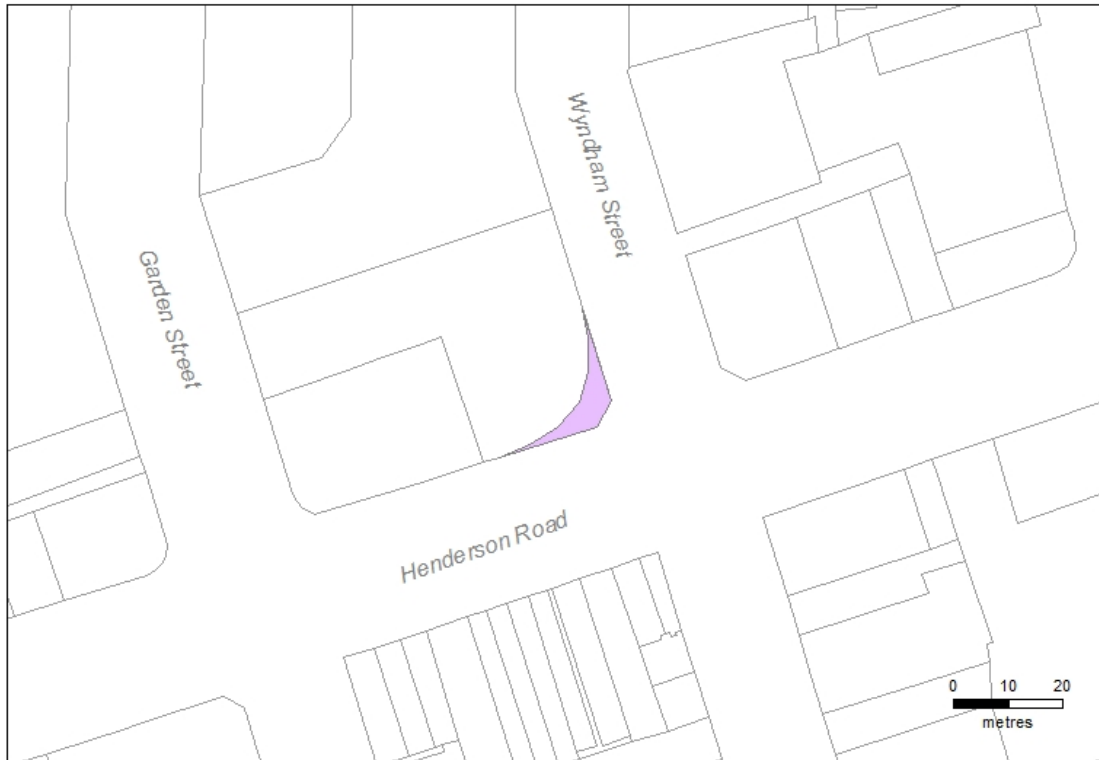


Figure 5: Location of proposed road reservation at the corner Henderson Road and Wyndham Street, Alexandria



Figure 6: Location of proposed road reservation at the corner of John Street and Botany Road, Waterloo

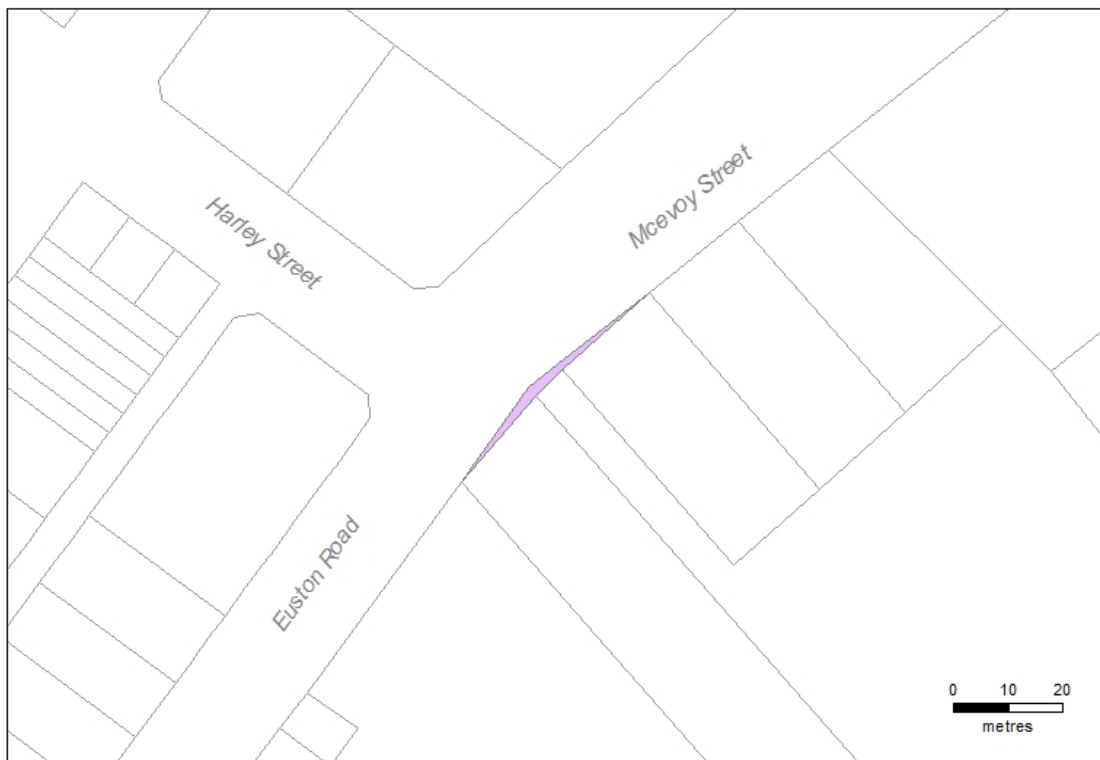


Figure 7: Location of proposed road reservation, McEvoy Street, Alexandria opposite Harley Street



Figure 8: Location of proposed road reservation adjoining 377-497 Botany Road, Zetland

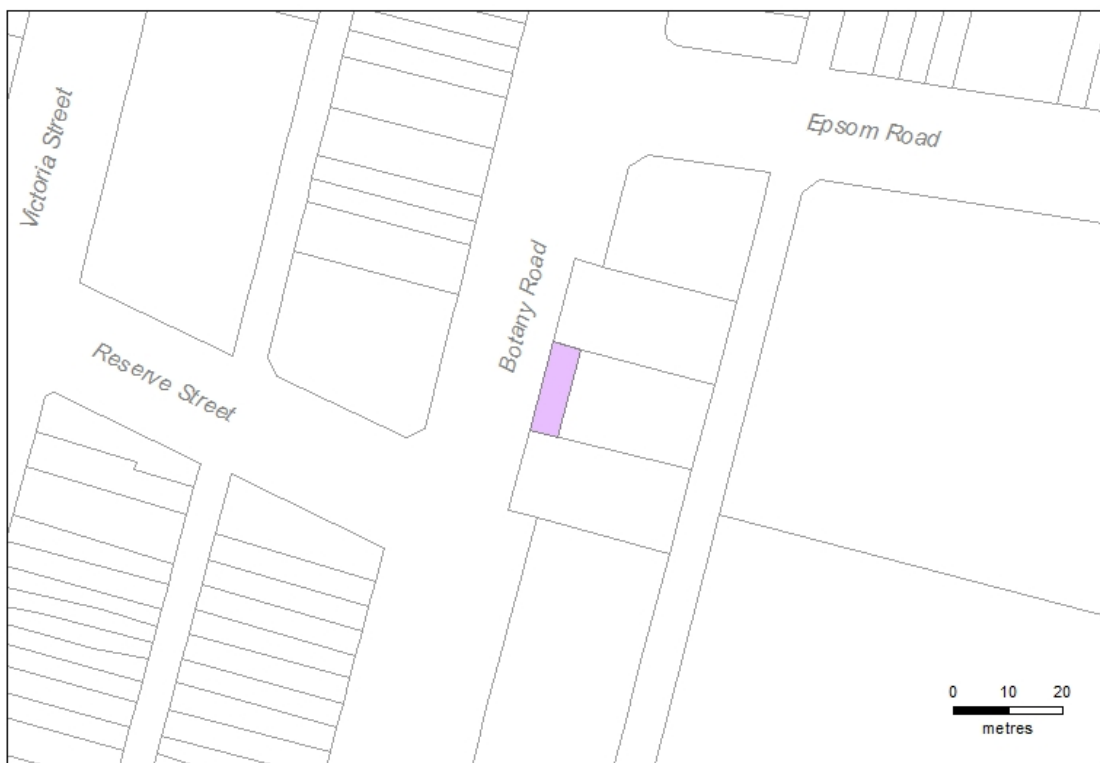


Figure 9: Location of proposed road reservation adjoining 583 Botany Road, Rosebery

22. It is also proposed to amend the Land Zoning Map to apply the SP2 Classified Road zone to two of the parcels of land (Part of Lot 1000 DP1092450; and Parts of Lots 1 & 5 DP243107 and Lot 1 DP230727). The remaining three parcels are already zoned SP2 Classified Road.
23. Two of the parcels of land straddle the boundary of the LEP (Parts of Lots 1 & 5 DP243107 and Lot 1 DP230727, and Lot 1 DP 628547), only the land within the boundary of the LEP are addressed in the planning proposal. Identification of the remaining portions will need to be separately addressed in future planning proposals applying to the adjoining land.
24. No submissions were received in response to these changes. It is recommended to proceed with the reservation of land and amendments to LRA and Land Zoning Maps.

Next Steps

25. Noting that the Minister has authorised Council to exercise its delegation to make the local environmental plan, it is recommended that the Planning Proposal at **Attachment A** be approved by the Committee to be made as a local environmental plan.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030 Vision

26. *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. This report is aligned with the following SS2030 strategic directions and objectives:
 - (a) Direction 9 - Sustainable Development, Renewal and Design – the Planning Proposal improves development controls and protects heritage.
 - (b) Direction 10 - Implementation through Effective Governance and Partnerships – The Planning Proposal was publically exhibited, community and stakeholders were given opportunity to make submissions, which have been addressed in this report.

RELEVANT LEGISLATION

27. *Environmental Planning and Assessment Act 1979; Environmental Planning and Assessment Regulation 2000.*

PUBLIC CONSULTATION

28. The Planning Proposal was publically exhibited for 15 days from 18 February 2013 to 4 March 2013. The exhibition was consistent with Gateway Determination. Notices were placed in The Sydney Morning Herald, City News and Central Newspaper at the beginning of the exhibition. Copies of the Planning Proposal were available online at all Neighbourhood Services Centres and the One Stop Shop. Two submissions were received, which have been addressed in this report.

GRAHAM JAHN, AM

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(Tina Kao, Planner)