

ATTACHMENT A

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**PLANNING PROPOSAL TO RECLASSIFY
1A NEWCOMBE STREET PADDINGTON
FROM 'COMMUNITY LAND' TO
'OPERATIONAL LAND'**

PLANNING PROPOSAL

To reclassify 1A Newcombe Street, Paddington from
'Community Land' to 'Operational Land'

~~July 2012~~ [June 2015](#)

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Introduction

This Planning Proposal explains the intent of, and justification for, the planning proposal to reclassify the land known as 1A Newcombe Street, Paddington from 'Community Land' to 'Operational Land'.

The proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

It is proposed to reclassify Council owned land known as 1A Newcombe Street, Paddington from 'community' to 'operational' land and discharge any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land.

Background

The site

This Planning Proposal relates to a parcel of land at 1A Newcombe Street, Paddington and is shown at Figure 1. The site has an area of approximately 595.7sqm and is owned by the Council of the City of Sydney (the proponent).

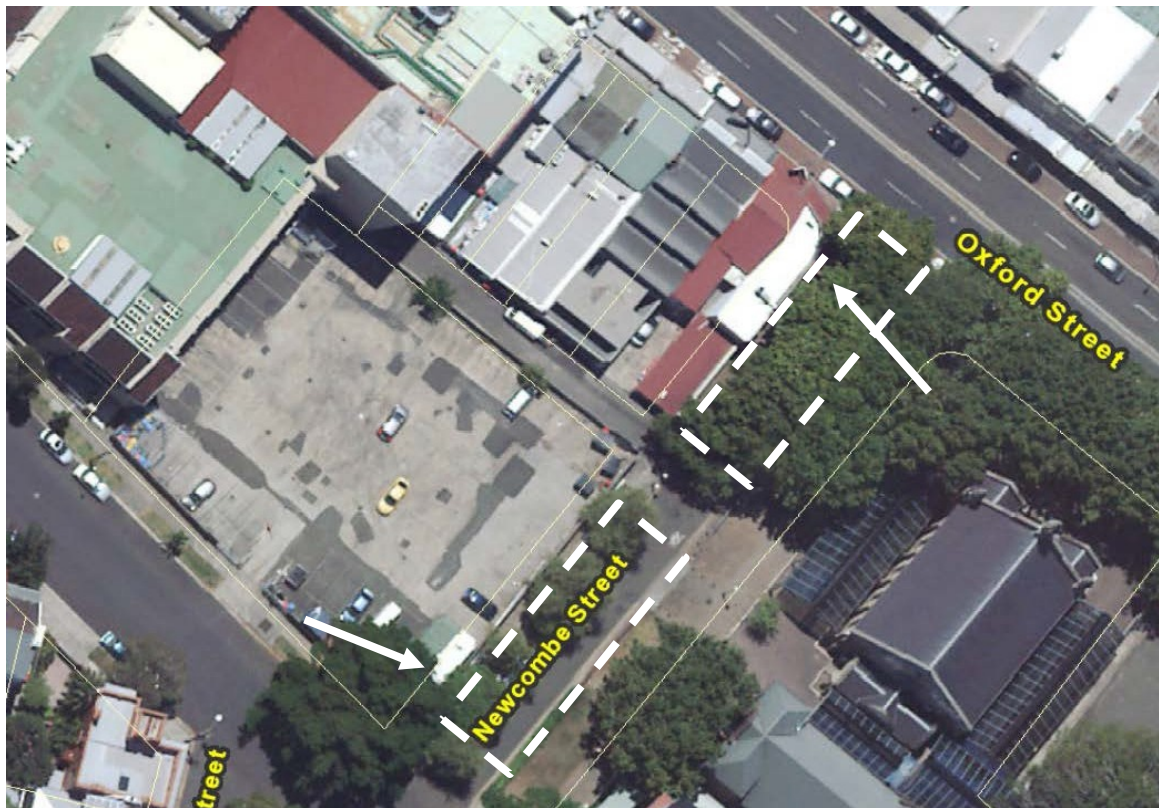


Figure 1 shows the location of the development site at 1 Newcombe Street, Paddington, the existing road closure at the northern end and the proposed road closure at the southern end of Newcombe Street.

The site is currently used for the location of market stalls on Saturdays in association with the "Paddington Markets" held on the adjoining Uniting Church along Oxford Street, Paddington.

The land is currently classified 'Community Land' under the *Local Government Act 1993*. The road closure has been classified as 'Community Land' since June 1994.

The Planning Controls

The site is zoned ~~6(a) Local Recreation under the South Sydney Local Environmental Plan 1998~~ and RE1 Public Recreation under the ~~draft~~ Sydney Local Environmental Plan ~~2011~~2012.

The land is currently classified 'community land' under the *Local Government Act 1993*.

While this planning proposal seeks to reclassify the land from 'community' to 'operational' land, a rezoning is not required as 'roads' are permissible with consent in ~~both open space~~ the zones.

Background

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.

A development application for the redevelopment of the site for 20 apartments and retail space and associated parking generated a number of objections primarily raising concerns about parking, traffic and servicing impacts. 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. 1A Newcombe Street, Paddington is owned by the Council of the City of Sydney 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.

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 ~~draft~~ Sydney Local Environmental Plan ~~2011~~2012.

Subsequent to the reopening of the northern end of Newcombe Street the closure of the southern end of Newcombe Street, currently a two-way street will be undertaken under the *Roads Act 1993*.

Part 1 – Objectives or Intended Outcomes

To enable the reclassification of Council owned [land at 1A Newcombe Street, Paddington](#) from 'community' land to 'operational' land—~~known as 1A Newcombe Street, Paddington~~.

Part 2 – Explanation of the Provisions

The Planning Proposal for the site seeks to reclassify land owned by the City of Sydney from 'community' to 'operational' and discharge any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land.

Public land under the control and ownership of Council is to be classified as either 'community land' or 'operational land' under the *Local Government Act 1993* and is in most instances achieved by a Local Environmental Plan.

The *Local Government Act 1993* is the primary piece of legislation that deals with classification and management of public land. The *Local Government Act 1993* stipulates the process of reclassifying Council owned public land to be achieved.

It is proposed to amend the *Sydney Local Environmental Plan 2012*, by incorporating the subject site 1A Newcombe Street, Paddington within Schedule 4 "*Classification and reclassification of public land, Part 2 Land classified, or reclassified, as operational land – interests changed*" as follows:

Schedule 4 Classification and reclassification of public land

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
1A Newcombe Street, Paddington	Lot 10, DP 606238	Easement for water mains affecting the land shown so burdened in DP606238 and easement for electricity purposes affecting the land shown so burdened in DP606238

The Planning Proposal does not seek to amend any other controls in the *Sydney Local Environmental Plan 2012*.

30 Reclassification of community land as operational

- (1) A local environmental plan that reclassifies community land as operational land may make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:
 - (a) any reservations that except land out of a Crown grant relating to the land, and
 - (b) reservations of minerals (within the meaning of the [Crown Lands Act 1989](#)).
- (2) A provision referred to in subsection (1) has effect according to its tenor, but only if the Governor has, before the making of the local environmental

plan, approved of the provision.

This Planning Proposal for the reclassification of the land known as 1A Newcombe Street, Paddington has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979*.

Section 29 of the *Local Government Act 1993* and Section 57 of the *Environmental Planning and Assessment Act 1979* require a public hearing to be held to consider the reclassification of community land.

Part 3 – Justification

Section A – Is the planning proposal the result of any strategic study or report

The proposed reclassification of land does not represent a departure from the planning strategies or objectives for Paddington.

The reopening of the northern end of Newcombe Street (at the intersection of Oxford Street) and closure of the southern end of Newcombe Street (at the intersection of Gordon Street) will resolve the traffic concerns raised in relation to the development application approved for the redevelopment of 1 Newcombe Street, Paddington.

Section B – Is the planning proposal consistent with the local council’s community plan, or other local strategic plan

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, Paddington provides an opportunity for the realisation of Sustainable Sydney 2030. Of these, the following Direction is relevant:

Direction	Comment	Compatible ✓ / x
Direction 6 - <i>Vibrant Local Community and Economies</i> recognises and seeks to build on our diverse City communities with diverse lifestyles, interests and needs. Objectives include creating a network of Activity Hubs as places for meeting, shopping, creating, learning and working for local communities.	The project which will involve the reopening of the northern end of Newcombe Street will assist with the vibrancy of Oxford Street, Paddington and the redevelopment of 1 Newcombe Street, Paddington to accommodate 20 residential apartments, 504sqm of retail and associated car parking. This Planning Proposal will contribute to these outcomes.	✓

Section C – If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished

N/A

Section D – The concurrence of the landowner, where the land is not owned by the relevant planning authority

The parcel of land known as 1A Newcombe Street is classified as 'community land' and is owned by the relevant planning authority being the Council of the City of Sydney.

Section E – Whether the planning proposal will comply with the relevant directions under Section 117 of the Environmental Planning and Assessment Act 1979

The Planning Proposal is consistent with all relevant Ministerial Directions under Section 117 of the *Environmental Planning and Assessment Act 1979*, as demonstrated below:

Section 117 Direction	Comment	Compatible ✓/x
1.1 Business and Industrial Zones	The reclassification of the land will not impact on any existing business or industrial zoned land in the City of Sydney Local Government Area.	✓
3.1 Residential Zones	The Planning Proposal will support the mixed use development at 1 Newcombe Street which proposes to accommodate a total of 20 residential units. The site is in a location which is close to existing transport infrastructure.	✓
6.2 Reserving Land for Public Purpose	The planning proposal proposes to increase land used for a public purpose. The reopening of the northern end of Newcombe Street as a road will not result in the loss of this land for a public purpose. It is proposed that the southern end of Newcombe Street, an existing two-way street, be closed and used as a park.	✓
6.3 Site specific provisions	The planning proposal supports the existing Business - Mixed Use zoning for the site by reclassifying land from 'community' to 'operational' to enable the redevelopment of 1 Newcombe Street, Paddington.	✓

Part 4 – Community Consultation

Public Exhibition

This Planning Proposal ~~is to be~~ was exhibited for a period of not less than 14 days in accordance with section 4.5 of *A Guide to preparing LEPs*.

In accordance with Section 34(3) of the *Local Government Act 1993*, the public notice ~~must~~ specify a period of not less than 28 days during which submissions may be made to the Council.

Notification of the public exhibition ~~will be~~was on:

- on the City of Sydney website;
- in newspapers that circulate widely in the area (The Sydney Morning Herald and relevant local newspaper); and
- in writing to the adjoining landowners, community groups and relevant public authorities.

Information relating to the Planning Proposal ~~will be~~was on display at:

- Council locations at Town Hall House (456 Kent Street, Sydney) and the Kings Cross Customer Service Centre (50-52 Darlinghurst Road, Kings Cross)

Public Hearing

As the planning proposal for the reclassification of land from “Community” to “Operational”, a public hearing ~~must be~~was undertaken in accordance with section 29 of the *Local Government Act 1993*.

Notification of the public hearing ~~will be~~was issued at least 21 days before the start of the hearing:

- on the City of Sydney website;
- in newspapers that circulate widely in the area (The Sydney Morning Herald and relevant local newspaper); and
- in writing to the adjoining landowners, community groups relevant public authorities.

Information relating to the Public Hearing ~~will be~~was on display at:

Council locations at Town Hall House (456 Kent Street, Sydney) and the Kings Cross Customer Service Centre (50-52 Darlinghurst Road, Kings Cross)

[The public hearing was conducted on Tuesday 12 May 2015 at the Paddington Public School in accordance with the requirements of the *Local Government Act 1993*. In accordance with the *Environmental Planning and Assessment Act 1979*, the public hearing was facilitated by an independent party who also produced a report.](#)