

**ITEM 7. PUBLIC EXHIBITION - PLANNING PROPOSAL: SYDNEY LOCAL ENVIRONMENTAL PLAN 2012 - REZONING OF SITES IN PYRMONT****FILE NO: X000023****SUMMARY**

The City's planning controls are critical to delivering strong economic, cultural, social and environmental outcomes for the City. The Sydney Local Environmental Plan 2012 (the LEP) and Sydney Development Control Plan 2012 (the DCP) are the primary planning controls that guide future development throughout the City of Sydney Local Government Area.

These controls came into operation on 14 December 2012 and are largely a translation of the City's previous controls and development policies.

The planning controls implement the City's vision for the development of land and deliver sustainable places to live and work, while protecting the City's valuable heritage.

The City has prepared a planning proposal to rezone a number of sites in Pyrmont. When the Central Sydney Planning Committee (CSPC) and Council adopted the LEP in March 2012 both resolved to prepare a planning proposal to rezone certain sites in Pyrmont from B4 Mixed Uses to R1 General Residential. This was to ensure the zoning reflected the uses that had been developed and reflected the resulting character and uses. In addition, two parks in Pyrmont were proposed to be zoned public recreation in the preparation of the LEP but could not be until the parks were subdivided from the development sites. The sites have now been subdivided and can be rezoned.

The planning proposal will amend the LEP and rezone the following sites in Pyrmont:

- (a) from B4 Mixed Use to R1 General Residential zone:
  - (i) 1 Distillery Drive;
  - (ii) 15 Bowman Street;
  - (iii) 25 Bowman Street;
  - (iv) 35 Bowman Street;
  - (v) 5 Tambua Street; and
  - (vi) 66 Bowman Street; and
- (b) from B4 Mixed Use to RE1 Public Recreation zone:
  - (i) 11 Bowman Street;
  - (ii) 1A Distillery Drive; and
  - (iii) 3 Distillery Drive.

The rezoning will reflect the uses that have been developed, increases certainty for proponents, the community and the City and secures existing open space that was delivered through these residential developments.

During the research and preparation of this planning proposal it was found that four sites previously proposed to be rezoned contain commercial uses in floorspace specifically constructed for commercial uses. It is recommended that these four sites are not rezoned to general residential as the mixed use zone will provide these premises the flexibility needed to support business opportunities, jobs and services in this highly accessible precinct.

This report recommends that the Central Sydney Planning Committee approve the planning proposal at **Attachment A** for submission to the Greater Sydney Commission for gateway determination and then public exhibition.

## RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee approve Planning Proposal: Sydney Local Environmental Plan 2012 - Rezoning of sites in Pyrmont, shown at Attachment A to the subject report, for submission to the Greater Sydney Commission with a request for a Gateway Determination;
- (B) the Central Sydney Planning Committee approve Planning Proposal: Sydney Local Environmental Plan 2012 - Rezoning of sites in Pyrmont for public authority consultation and public exhibition in accordance with the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016 that Council seek authority from the Greater Sydney Commission to exercise the delegation of the Greater Sydney Commission of all the functions under section 59 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016 that authority be delegated to the Chief Executive Officer to make minor changes to the Planning Proposal: Sydney Local Environmental Plan 2012 - Rezoning of sites in Pyrmont following receipt of the Gateway determination, to prepare for public exhibition; and
- (E) the Central Sydney Planning Committee not proceed with the preparation of a planning proposal to rezone 2 - 8 Point Street, 45 Bowman Street, 3 Harris Street, and 2-4 and 6-8 Mount Street Walk, Pyrmont.

## ATTACHMENTS

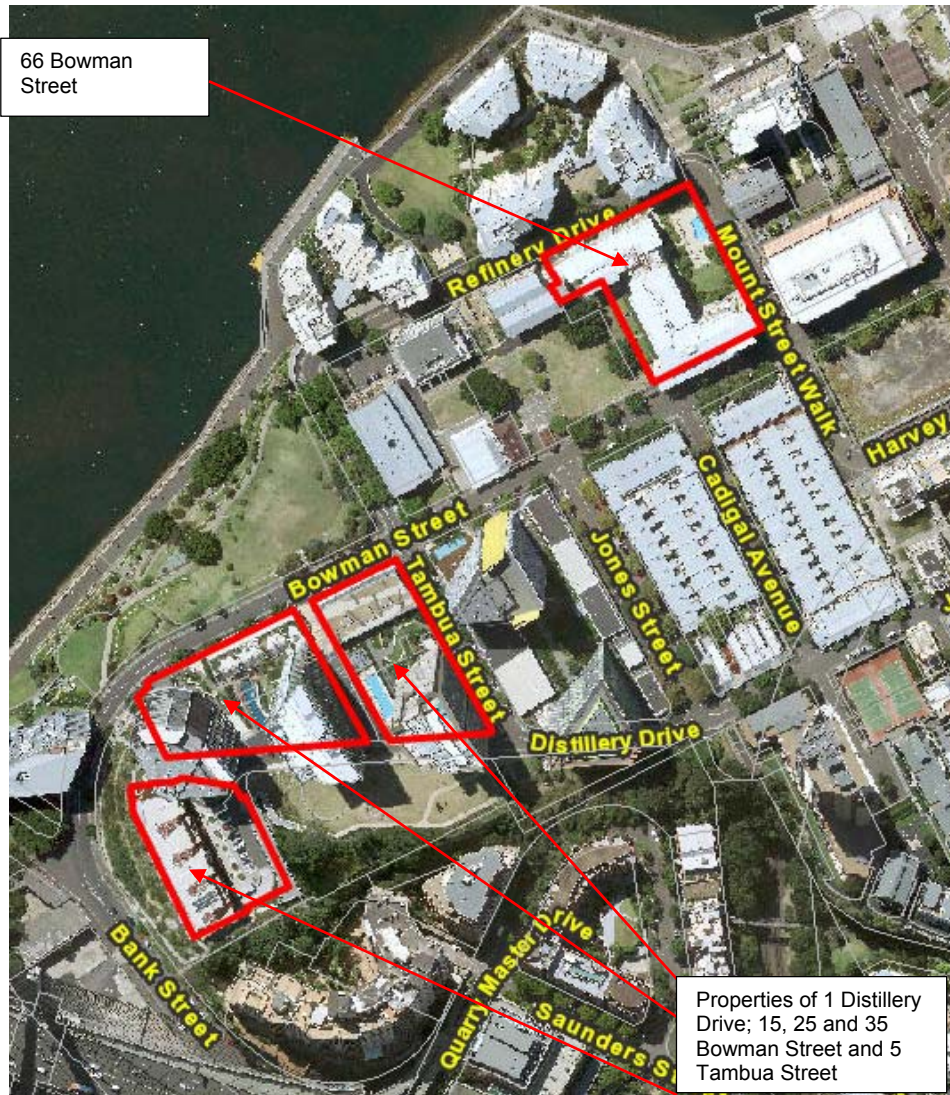
**Attachment A:** Planning Proposal: Sydney Local Environmental Plan 2012 - Rezoning of Sites in Pyrmont

**BACKGROUND**

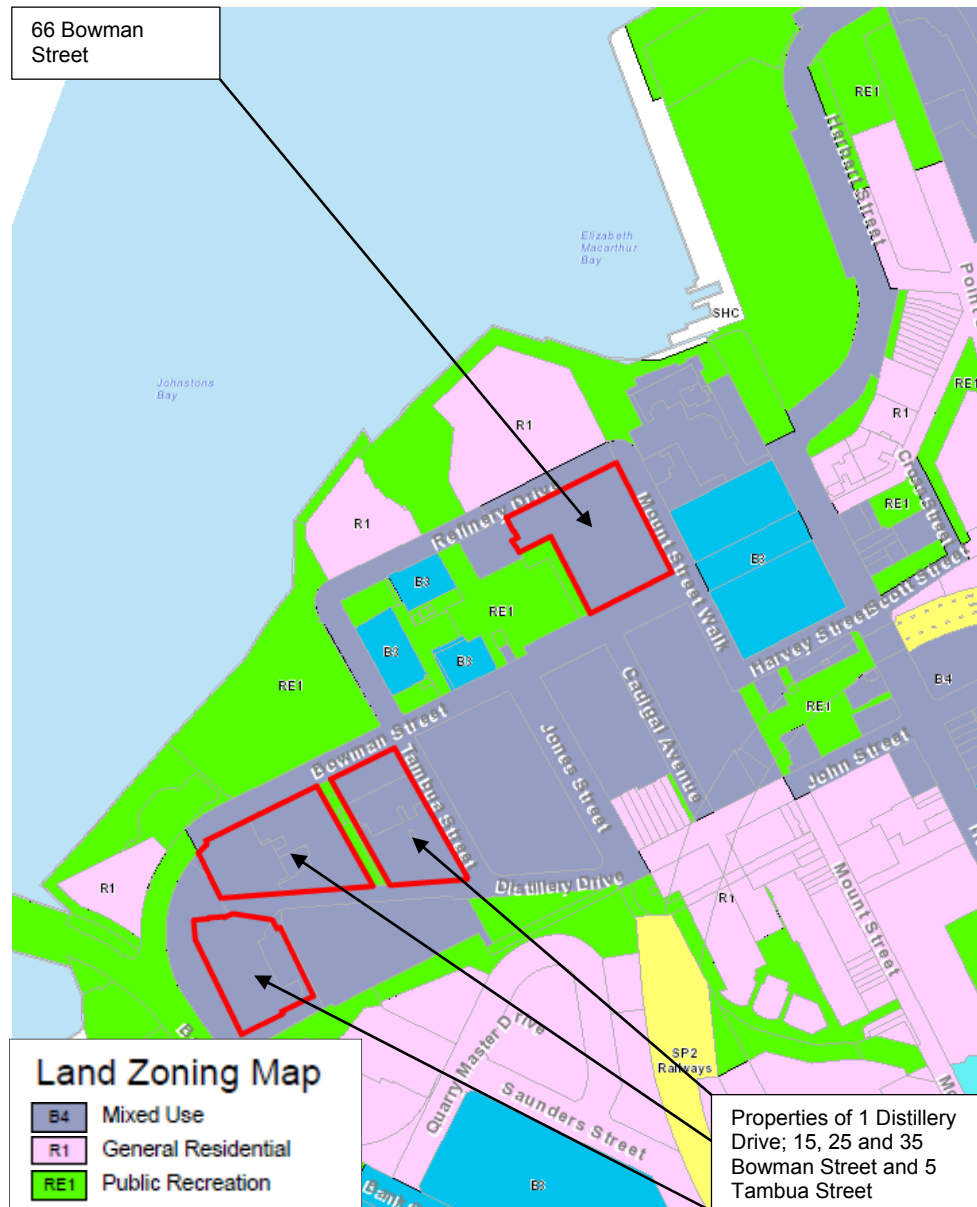
1. The *Sydney Local Environmental Plan 2012* (the LEP) and *Sydney Development Control Plan 2012* (the DCP) came into operation on 14 December 2012. The planning controls are largely a translation of the City's previous controls and development policies.
2. The planning controls implement the City's vision for the development of land and deliver sustainable places to live and work, while protecting the City's valuable heritage.
3. This report details proposed amendments to the LEP arising from the preparation of the LEP.
4. When the CSPC adopted the LEP on 8 March 2012, it resolved to prepare a planning proposal to rezone sites in Pyrmont from mixed use to residential. This was to address submissions that requested the zoning be changed to match the existing uses.
5. When the City prepared the draft LEP it intended to zone two parks for open space. However, this could not occur until the parks had been subdivided from the development sites. The parks have now been subdivided and can be zoned to RE1 Public Recreation.
6. The amendments will ensure the zoning reflects the existing land uses and secures public open space.
7. The City has prepared the *Planning Proposal: Sydney Local Environmental Plan 2012 - Rezoning of sites in Pyrmont* (the planning proposal) at **Attachment A** to implement the planning control changes.
8. This report recommends approval of the planning proposal for submission to the Greater Sydney Commission for gateway determination and then public exhibition.

**Sites to be rezoned from Mixed Use to General Residential**

9. The planning proposal seeks to rezone the following sites in Pyrmont, as shown in Figures 1 and 2 of this report, from B4 Mixed Use to R1 General Residential:
  - (a) 1 Distillery Drive;
  - (b) 15 Bowman Street;
  - (c) 25 Bowman Street;
  - (d) 35 Bowman Street;
  - (e) 5 Tambua Street; and
  - (f) 66 Bowman Street.



**Figure 1:** Aerial photograph showing sites proposed to be rezoned outlined in red



**Figure 2:** Existing land use zoning map, Sydney LEP 2012 showing sites to be rezoned in red

10. During the public exhibition of the draft Sydney LEP 2011, the City received a submission from the Pymont community group noting that the B4 Mixed Use zoning had been applied to large number of sites at Pymont Point that are now occupied by recently constructed strata residential buildings. The submission requested that the sites be rezoned to R1 General Residential.
11. The change of zoning requested in the submission would have been a significant change to the exhibited draft LEP and therefore requires a separate process to change the LEP. Therefore, it was recommended that a planning proposal be prepared for rezoning. As a result, the CSPC and Council on 8 March and 12 March 2012, respectively, resolved to prepare a planning proposal for the following sites in Pymont:

- (a) 2-8 Point Street;
  - (b) 5 Tambua Street;
  - (c) 15 Bowman Street;
  - (d) 25 Bowman Street;
  - (e) 45 Bowman Street;
  - (f) 66 Bowman Street;
  - (g) 3 Harris Street; and
  - (h) 2-4 and 6-8 Mount Street Walk.
12. This report commences the process to change the LEP. The current mixed use zoning was a translation of previous planning controls applying to the sites. Under the *Sydney Regional Environmental Plan 26* (SREP 26) and *Sydney Local Environmental Plan 2005* (LEP 2005), these sites were zoned Residential-Business. The objectives of the residential–business zone were to accommodate a mixture of residential and employment generating development. However, redevelopment of Pyrmont resulted in more residential development than intended by SREP 26 and the character of this part of Pyrmont is predominately residential.
13. The proposed rezoning will ensure the land use zoning is consistent with the existing land uses expected from the community. It is recommended that the sites listed above, except those discussed below, be zoned R1 General Residential.

### **3 Harris Street, 2-4 and 6-8 Mount Street Walk, 2-8 Point Street and 45 Bowman Street**

14. This report recommends that the CSPC does not proceed with rezoning three sites included in the resolution of 8 March 2012. A review of the sites found a mix of uses and non-residential spaces exist on these sites and rezoning them to R1 General Residential will reduce the flexibility needed for businesses to use these spaces.
15. The R1 General Residential zone prohibits most non-residential uses and there is little flexibility to consider other uses given the highly specific land use definitions in the NSW Government’s standard local environmental plan. Only ‘shops’ and ‘food and drink premises’ are permitted, but they are permitted only in buildings that were constructed as a ‘shop’ or a ‘pub’. The intention of this clause was to enable the ongoing use of corner shops and pubs in local neighbourhoods.
16. Rezoning these sites to R1 General Residential would mean that these spaces could not be used for ‘business premises’, such as banks, post offices, hairdressers, dry cleaners, travel agencies, real estate agents or other similar local services appropriate to the area. It would also mean an applicant would need to demonstrate the building was constructed for the specific purpose of a ‘shop’ before it could be used as a ‘shop’ or a ‘food and drink premises’, such as a restaurant or café, which is difficult if the non-residential space was constructed to accommodate a range of uses.

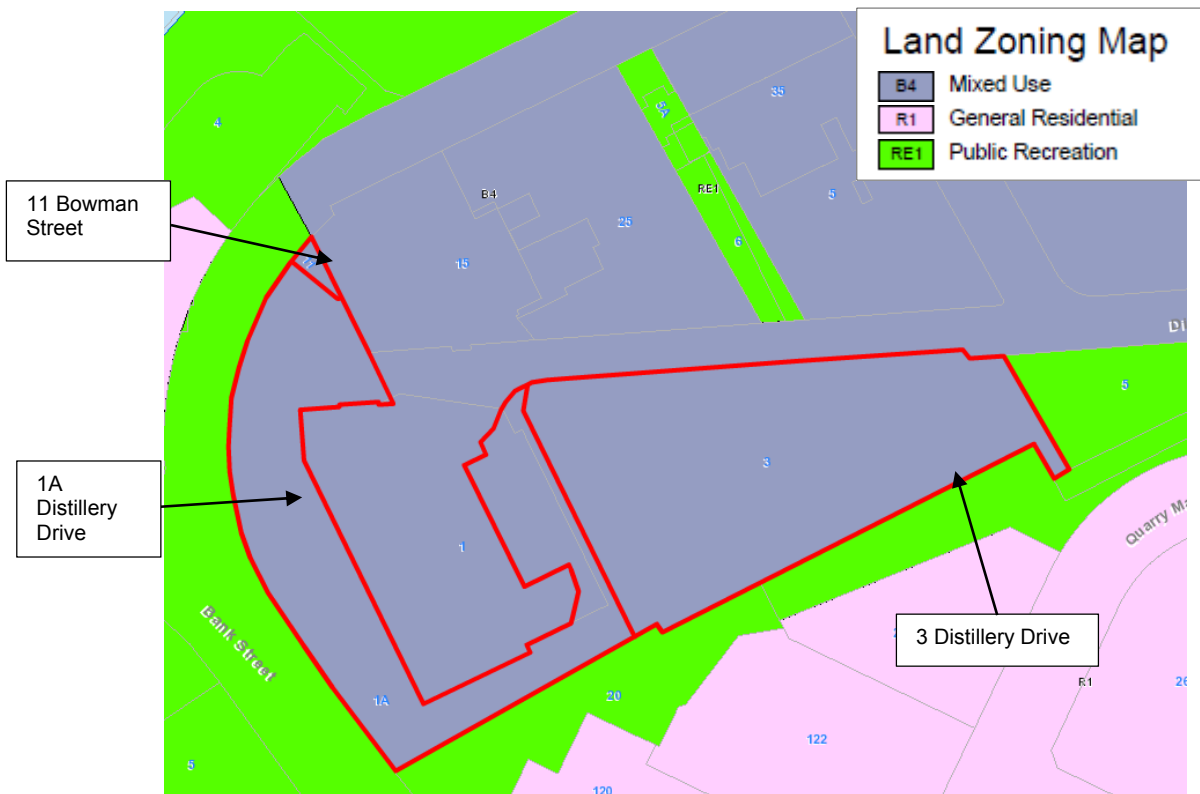
17. Generally, rezoning these sites to R1 General Residential would significantly limit the opportunities for compatible local business to open and to remain occupied rather than vacant. The specific issues for each of the sites is discussed below.
18. 3 Harris Street is a mixed use development, with two restaurants located within commercial floor space at the ground floor. If it was rezoned to R1 General Residential it would mean that these spaces could not be used for 'business premises', such as banks, post offices, hairdressers, dry cleaners, travel agencies, real estate agents or other similar local services appropriate to the area. This would significantly limit the uses and make it difficult for business to operate. It is therefore appropriate to retain the B4 Mixed Use zone for this site and 2 - 8 Mount Street Walk because the stratum lots overlap each other.
19. The land at 2-4 and 6-8 Mount Street Walk are strata residential buildings and part of a stratum lot with 3 Harris Street. These three sites cannot be zoned differently because the stratum lots overlap each other. The commercial premises of 3 Harris Street sitting below 2-4 of Mount Street Walk, which then overlaps 6-8 Mount Street Walk. All sites are recommended to retain the B4 Mixed Use Zoning.
20. 2-8 Point Street, is currently zoned B4 mixed use. The existing land uses on this land include an underground public car park, a public park and two strata residential buildings. As the car park is below the park it cannot be zoned differently. Therefore, if the City was to rezone 2-8 Point Street from B4 Mixed Use to R1 General Residential, the Wilson Public Carpark would need to rely on existing use rights to continue operations and any future use or adaption of the underground space would be highly limited with the residential and community uses unlikely to be appropriate for the car park space. It is therefore appropriate to retain the current B4 zone under the LEP.
21. 45 Bowman Street is a strata residential building, with a ground floor office occupied by an estate management business. The B4 zone is appropriate for this site given that it contains a business premises serving the local area. Under the R1 zone the business premises would not be permitted and existing use rights would be created. Food and drink premises and shops could only be permitted only if an applicant demonstrated the space was constructed as a shop. Otherwise a business would be relying on existing use rights. Therefore, the B4 Mixed Use zone is most appropriate for the site.
22. It is recommended that the B4 mixed use zone for these sites be retained to provide flexibility for the commercial spaces to be adapted for businesses that provide services for this high density local community.

#### **Sites to be rezoned from Mixed Use to Public Recreation**

23. The planning proposal will rezone the following sites in Pyrmont, as shown in Figures 3 and 4 of this report, from B4 Mixed Use to RE1 Public Recreation:
  - (a) 11 Bowman Street;
  - (b) 1A Distillery Drive; and
  - (c) 3 Distillery Drive.



**Figure 3:** Aerial photograph showing the location of 11 Bowman Street, 1A and 3 Distillery Drive, Pymont



**Figure 4:** Existing land use zoning map, Sydney LEP 2012



24. The City intended to zone the parks RE1 Public Recreation as the sites were zoned public recreation under the previous planning controls of SREP 26 and Sydney LEP 2005. However, the parks were part of a larger development lot and due to the mapping requirements of the NSW Government's Standard LEP, only one zone could be applied to a single lot. The Department of Planning advised that the sites should be zoned mixed use and could be rezoned after subdivision.
25. The sites have been subdivided and now can be rezoned. The parks have been dedicated to the Department of Planning by the developer and will eventually be handed over to the City in time. City staff have been working with Sydney Harbour Foreshore Authority (SHFA) to conclude the termination of the Ultimo Pyrmont Public Services Agreement, a joint agreement that governs the recoupment of funding for public infrastructure listed in the *Ultimo Pyrmont Section 94 Contributions Plan 1994* (the Ultimo Pyrmont Plan). Once the Ultimo Pyrmont Plan is terminated the Department of Planning lands can be transferred to the City, as outlined in the existing Council resolution 'Conclusion of Ultimo-Pyrmont Service Agreement' of 22 February 2010". This is currently expected to occur in the second half of this year.
26. The proposed RE1 Public Recreation zone will reflect the previous planning controls and the existing parks. These parks are an important part of the local open space network which contribute to the amenity of the Pyrmont area. The zoning will secure public of existing open space. Therefore it is recommended that the sites be zoned to RE1 Public Recreation zone.

## 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, of which the following are most relevant to the Proposal:
  - (a) Direction 6 - Vibrant Local Communities and Economies - The planning proposal responds to objective 6.1 maintain and enhance the role and character of the Villages. The zoning of the sites to residential or public recreation will have positive social and environmental impacts including consistency with community expectations of amenity of living in a residential area and protection of open space.
  - (b) Direction 9 - Sustainable Development, Renewal and Design - The planning proposal is consistent with the outcomes of action 9.4.1 to regularly review and streamline development controls. The planning proposal seeks to improve the operation of the controls to reflect both the intended use of the land under the previous planning controls and the land uses developed.

### Strategic Alignment – A Plan for Growing Sydney

28. *A Plan for Growing Sydney* is the strategic plan for the Sydney metropolitan area over the next 20 years. It sets out four goals, with 22 directions and 59 supporting actions to deliver the goals.

29. The Plan identifies key priorities for the Pyrmont-Ultimo Precinct including retaining a commercial core in Pyrmont for long-term employment growth and support the land use requirements of the creative digital technology knowledge hub in Pyrmont-Ultimo.
30. Given the predominant residential nature of the sites recommended for rezoning they are unable to support employment uses. Retaining the four sites recommended to remain B4 Mixed Use will continue to support employment uses.

### RELEVANT LEGISLATION

31. Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000.

### PUBLIC CONSULTATION

32. If recommendations of this report are adopted, the planning proposal will be placed on public exhibition in accordance with the requirements of any Gateway Determination issued by the Greater Sydney Commission. It is recommended that the proposed planning controls be placed on public exhibition for a minimum of 14 days.
33. The public exhibition will be notified by:
  - (a) notification on the City of Sydney website;
  - (b) advertisement in *The Sydney Morning Herald* and relevant local newspapers; and
  - (c) directly inviting comments from the owners of the affected land.
34. Exhibition materials will be made available for viewing on the City of Sydney website, at the One Stop Shop at Town Hall House, and at the Glebe Neighbourhood Service Centre.
35. Following public authority consultation and public exhibition, the outcomes will be reported to back to Council and the CSPC.

### GRAHAM JAHN, AM

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(Benjamin Pechey, Manager Planning Policy)  
(Jack Kelly, Student Planner)