

## Item 11.

### Public Exhibition - Planning Proposal - Stables Theatre 10 and 12 Nimrod Street, Darlinghurst - Sydney Local Environmental Plan 2012 Amendment

File No: X083757

#### Summary

Greater Sydney is home to almost a third of the nation's cultural workforce, the largest concentration in the country. Creatives drive innovation, adaptation and experimentation, and are a major economic strength benefiting other sectors including tourism, education, hospitality and recreation. The growth and change in the City of Sydney area has impacted on the viability of live music venues, small theatres, galleries, studios and rehearsal spaces resulting in a significant loss of space. The City uses its planning framework to support existing and encourage new venues and cultural spaces that contribute to Sydney's cultural life.

The Stables Theatre on Nimrod Street, Darlinghurst is the long-term home of the Griffin Theatre Company which focusses on innovative and intimate productions of Australian-only drama. This planning proposal will allow for upgrades to the theatre for improved services and facilities and a moderate expansion in capacity as part of a future renewal of the theatre.

Improvements to the theatre will deliver long-term performance and rehearsal spaces on the fringe of the Eastern Creative Precinct, contributing to actions in the City's Local Strategic Planning Statement, and to directions in Sustainable Sydney 2030-2050: Continuing the Vision, and the Eastern City District Plan. The proposal will foster healthy, creative, culturally rich and socially connected communities and provide services and social infrastructure to meet the changing needs of the community.

In September 2022, Hamptons Property Services, on behalf of the site owner the Seaborn Broughton and Walford Foundation, submitted a planning proposal request to the City to permit the continued use of the site as an entertainment facility and to increase the maximum Floor Space Ratio (FSR) and height of building controls that apply to the site under the Sydney Local Environmental Plan (LEP) 2012.

The request seeks to amend Sydney LEP 2012 for 10 and 12 Nimrod Street, Darlinghurst to allow for continued use as an entertainment facility, an increase in the maximum FSR from 1.75:1 to 2:1, and an increase in the maximum height of buildings from 9 metres to 11 metres. These changes would be conditional on the site's use as a theatre.

City staff have reviewed the proposal and found that it has strategic and site-specific merit. The additional height can sit comfortably within the heritage conservation area and avoids any significant overshadowing on neighbours. The use of the theatre is longstanding and the management of impacts including noise can be improved through future upgrades which would include full acoustic treatment.

This report asks Council to approve the planning proposal included as Attachment A to this report for submission to the Department of Planning (the Department) for Gateway Determination and public exhibition.

## Recommendation

It is resolved that:

- (A) Council approve Planning Proposal - Stables Theatre 10 and 12 Nimrod Street, Darlinghurst as shown as Attachment A to the subject report, for submission to the Department of Planning and Environment with a request for a Gateway Determination;
- (B) Council approve the Planning Proposal - Stables Theatre 10 and 12 Nimrod Street, Darlinghurst as shown at Attachment A to the subject report for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect the Planning Proposal - Stables Theatre 10 and 12 Nimrod Street, Darlinghurst; and
- (D) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - Stables Theatre 10 and 12 Nimrod Street, Darlinghurst to ensure consistency with the Gateway Determination.

## Attachments

<b>Attachment A.</b>	Planning Proposal - Stables Theatre 10 and 12 Nimrod Street, Darlinghurst
<b>Attachment A1:</b>	Proponent's Planning Proposal Request
<b>Attachment A2:</b>	Urban Context Report
<b>Attachment A3:</b>	Reference Scheme
<b>Attachment A4:</b>	Solar Access Study
<b>Attachment A5:</b>	Heritage Impact Statement
<b>Attachment A6:</b>	Traffic and Parking Report
<b>Attachment A7:</b>	Acoustic Report

## Background

1. The Stables Theatre, located at 10 Nimrod Street, Darlinghurst, is home to the Griffin Theatre Company and has operated as a theatre since 1970. The Griffin Theatre Company plays a significant role in the Australian performing arts scene, being the only theatre company in Australia exclusively devoted to the development and staging of new Australian writing. Many films, television shows, and larger stage productions began as plays produced by the Griffin Theatre Company.
2. Notwithstanding the achievements made by Griffin, the operational conditions within the building are challenging. In particular:
  - (a) The dressing room is also used as a costume storage space.
  - (b) Access to the stage from the dressing room is through a toilet.
  - (c) The control booth is extremely cramped and is unable to accommodate all the necessary equipment.
  - (d) The height of the auditorium results in many views to the stage being impeded by stage lighting.
  - (e) The auditorium is not accessible to every person with a disability.
  - (f) There is no separate rehearsal space.
  - (g) The theatre is not adequately acoustically attenuated.
3. The objective of the planning proposal is to amend Sydney LEP 2012 to allow for a continuation of the theatre use at 10 Nimrod Street, its expansion into the adjoining site at 12 Nimrod Street, and for the theatre's redevelopment to allow a moderate expansion and an update to its facilities and services. This will help secure the ongoing viability of the theatre and its continued contribution to Sydney's cultural life.
4. The City's Floorspace and Employment Survey has measured a decline of 117,000 square metres of floor space used by cultural and creative industries in the Local Government Area in the decade up to 2017. This includes a significant reduction in performance spaces and the facilities used by the theatre industry. Moreover, the number of people working in cultural and creative jobs in the city rose by only 1.84 per cent, well behind overall jobs growth of 29.19 per cent.
5. The theatre is located within the City Fringe area in City Plan 2036. The City Fringe area is identified for future growth in innovation and creative sectors and as a home for cultural activity. This proposal will allow for important cultural activity at the Stables Theatre to be maintained and eventually increased as the theatre expands.
6. City Plan 2036 identifies Kings Cross as an area where increased performing arts facilities should be prioritised. Extensive advocacy from the Night-time Industries Association and the Committee for Sydney recommends a live performance led revitalisation of the Kings Cross night-time economy. This proposal is consistent with such a vision for Kings Cross and will support a diverse night-time economy.

### Site details and context

- 10 and 12 Nimrod Street Darlinghurst (the site) are located on the fringe of the Kings Cross late night entertainment precinct and within the City's Oxford Street village. The site is within the City Fringe area identified in the City's Local Strategic Planning Statement City Plan 2036, adjacent to the Eastern Creative Precinct. The wider context for the site is shown in Figure 1.

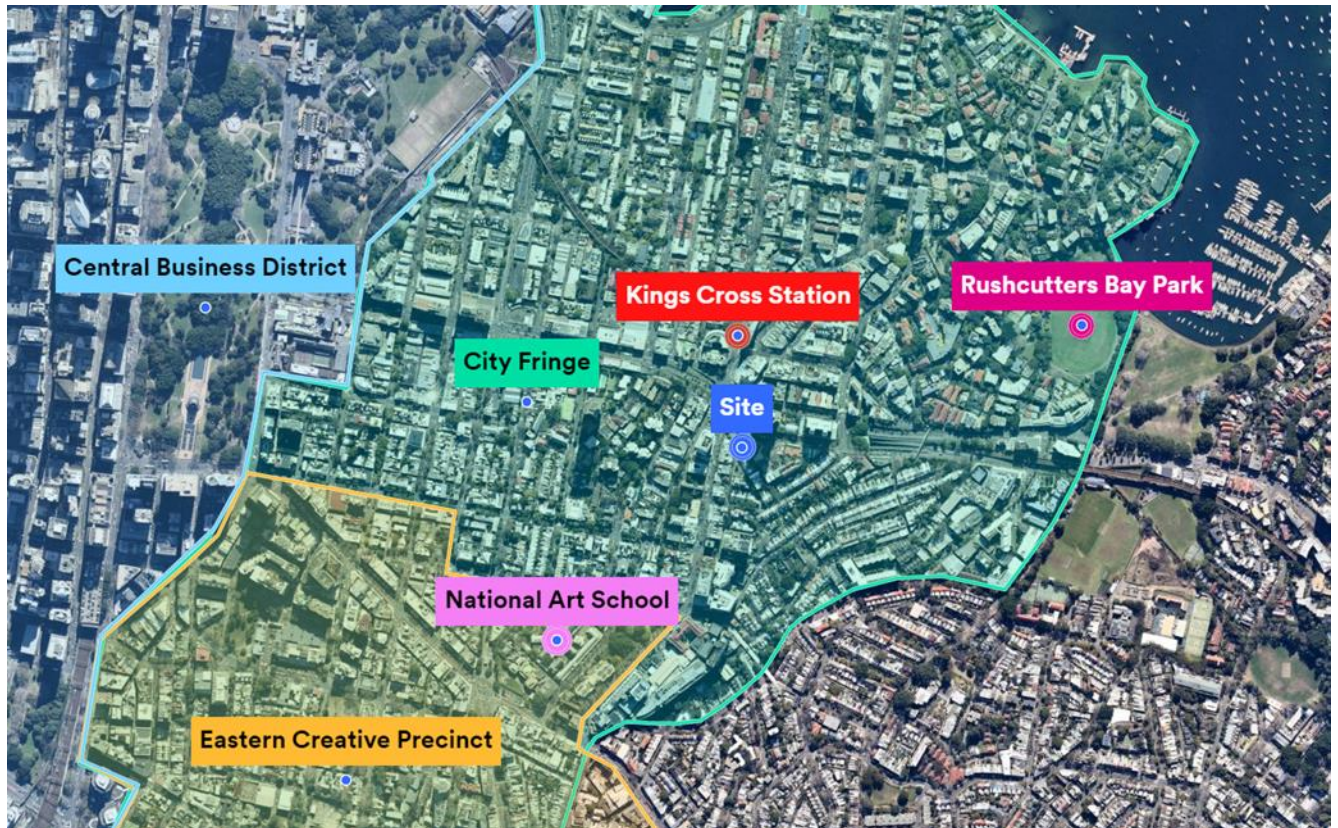


Figure 1: The site within its wider context

- The site is in a neighbourhood characterised by a mix of two storey Victorian, Federation and Inter-War residential development. Immediately surrounding land uses are primarily small scale residential on Nimrod Street and Caldwell Street to the south, and Craighend street to the north-east. There is medium scale, predominantly mixed-use development to the west and north, fronting Victoria Street and Craighend Streets respectively. There is an unnamed lane along the eastern boundary of the site, held in the private ownership of a deceased estate. The location of the site is shown in Figure 2.

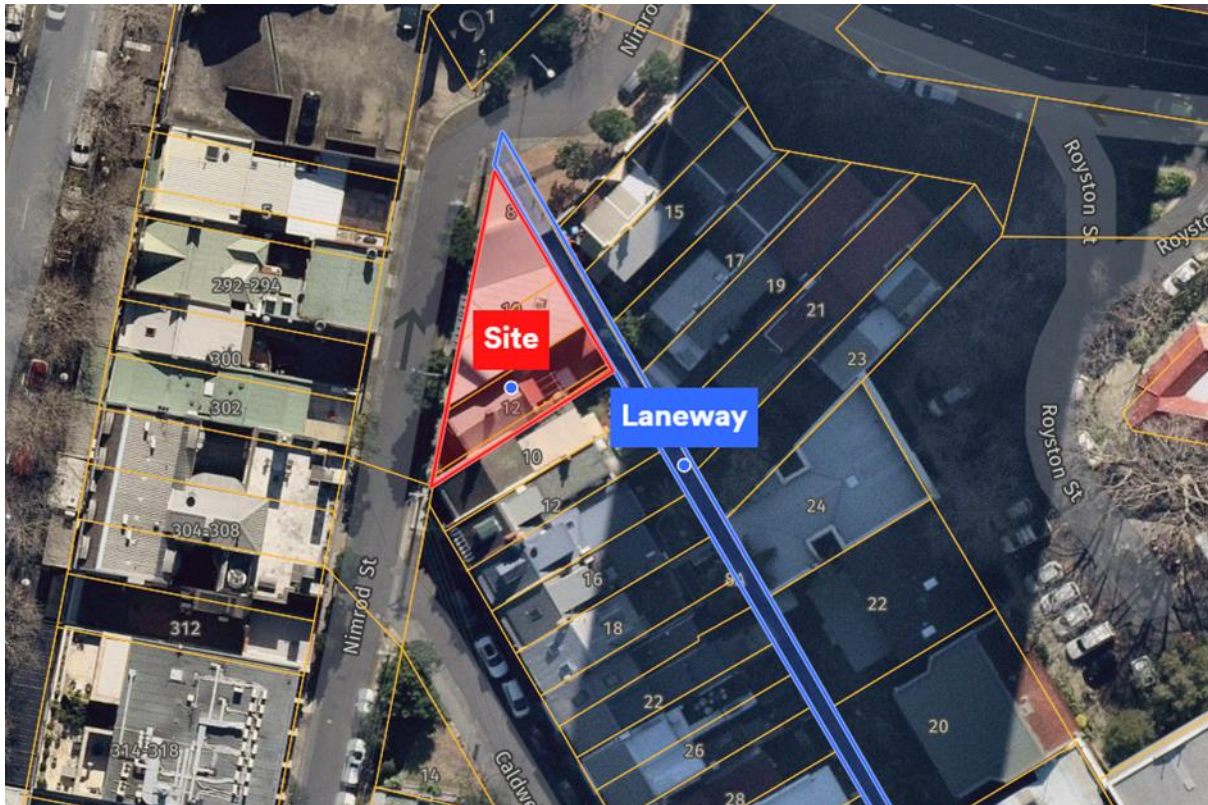


Figure 2: the location of the site

9. Number 10 Nimrod Street was developed around 1891 as a brick and iron stables. The first official record describing the site as a two-storey triangular building similar to the footprint of the existing theatre building is dated 1948. Records show the building has been used as a stable, Sunday school, gymnasium, the headquarters of a cab company, and a silk screen printing studio. In 1968, while remaining in use primarily as a printing studio, the building also began to be used as a theatre and children's theatre workshop. The building came into full time use as a theatre in 1970, first known as the Nimrod Theatre, and becoming the Stables Theatre in 1975.
10. Number 12 Nimrod Street is a three-bedroom attached dwelling house, directly adjoining the Stables Theatre to the south-east. The building was constructed around 1880 as a two-storey weatherboard house. In 1979-1980 the weatherboard frontage was removed and replaced with the brick facade that exists today. The interior of the building has also been substantially altered. Images of the site are shown in Figures 3 to 6.



Figure 3: 10 Nimrod Street, viewed from the north-west



Figure 4: 10 Nimrod Street, viewed from the west



Figure 5: 10 and 12 Nimrod Street viewed from the south-west



Figure 6: 12 Nimrod Street and adjoining development to the south-east, viewed from the south-west

**Current planning controls**

11. The site is located within the R1 'General Residential' zone of Sydney LEP 2012. An entertainment facility is prohibited development within the R1 zone. Previously the site was zoned 2 b 'Residential (Medium Density)' under South Sydney LEP 1998, and the theatre was permissible as a 'place of assembly'. The Stables Theatre relies upon existing use rights to continue operating.
12. The site does not contain any heritage items; however, the buildings are located within the Barcom Avenue Heritage Conservation Area (HCA) (C11). Sydney Development Control Plan (DCP) 2012 identifies both 10 and 12 Nimrod Street as 'neutral' buildings in the conservation area. The surrounding area has a mix of contributing, neutral and detracting buildings.
13. The site is subject to a maximum Height of Buildings development standard of nine metres in Sydney LEP 2012. This is the same for the neighbouring terrace houses on Caldwell and Craigend Streets and is lower than the 18 metre limit across Nimrod Street.

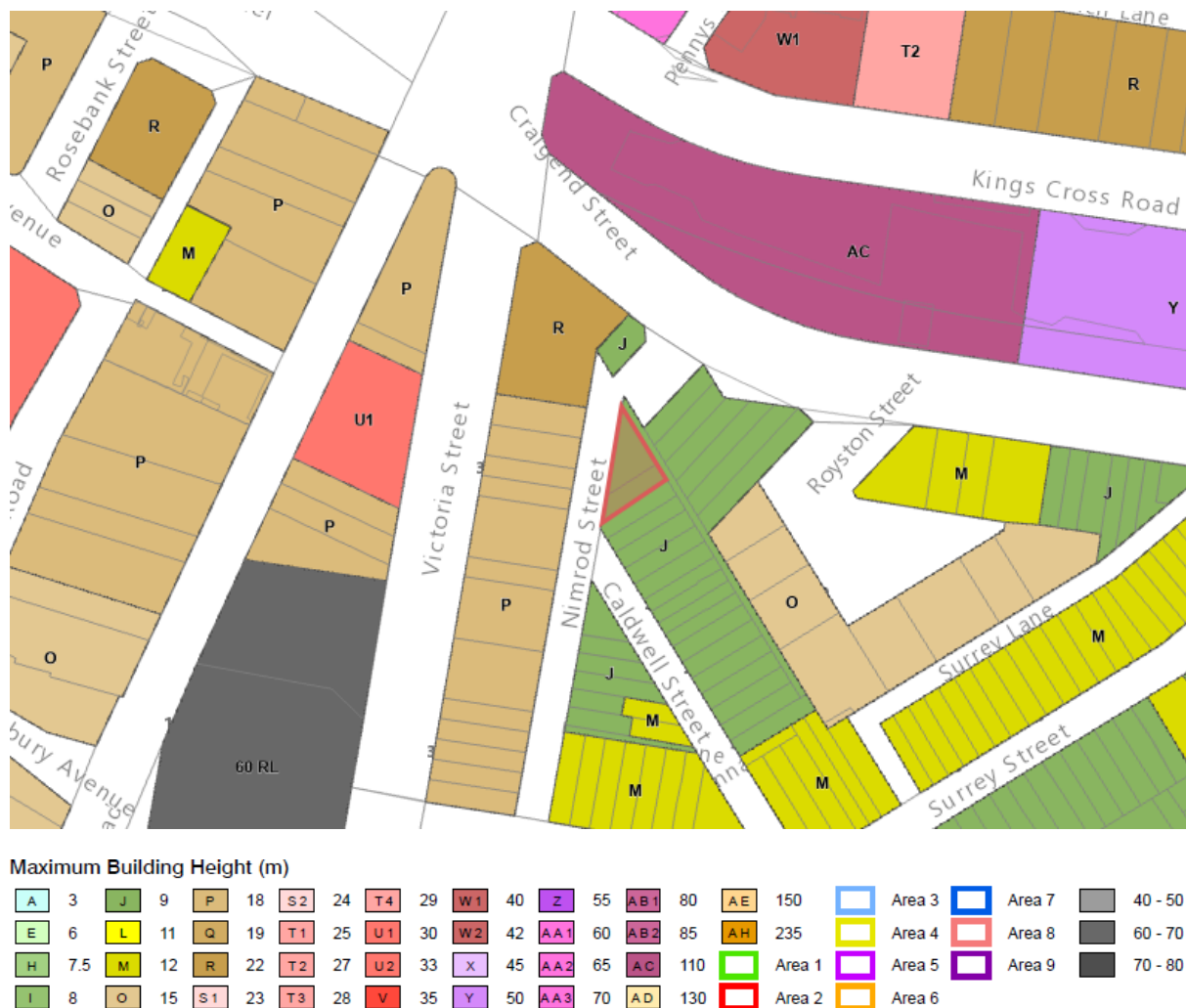
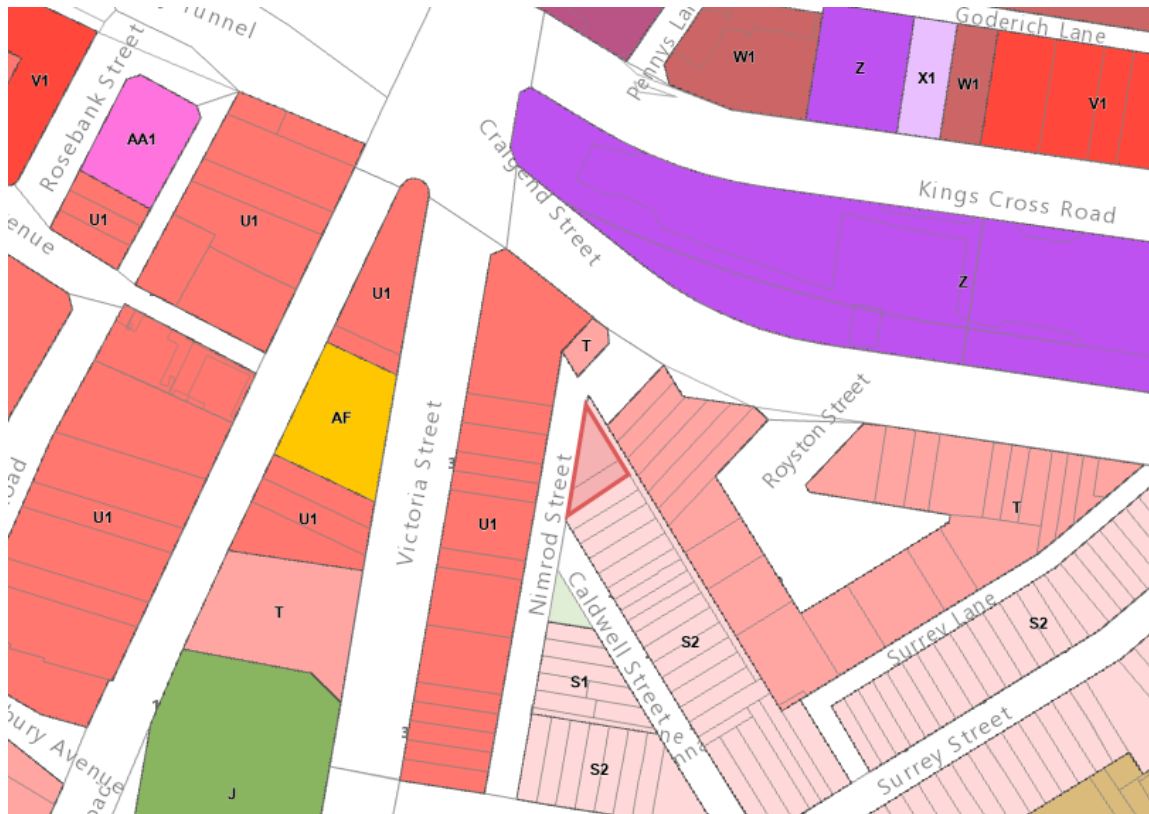


Figure 7: Extract from the Sydney LEP 2012 Height of Buildings map



14. The site is subject to a maximum FSR of 1.75:1 in Sydney LEP 2012. This is the same as for the neighbouring terraces on Caldwell Street, and lower than the 2:1 permissible for neighbouring properties on Craigend Street and 2.5:1 across Nimrod Street.



Maximum Floor Space Ratio (n:1)

A	0.35	L	0.9	S2	1.75	V1	3	X	4	AA2	6.5	AD	9
F	0.6	N	1	T	2	V2	3.25	Y	4.5	AB1	7	AE	10
H	0.7	P	1.25	U1	2.5	W1	3.5	Z	5	AB2	7.5	AF	11
J	0.8	S1	1.5	U2	2.75	W2	3.75	AA1	6	AC	8		

Figure 8: Extract from the Sydney LEP 2012 FSR map

### Planning Proposal - Amendments to Sydney LEP 2012

15. The City has prepared the planning proposal at Attachment A to support the ongoing use of the site as a theatre by amending Sydney LEP 2012 to:
- permit the use of the site as an entertainment facility,
  - to increase the maximum FSR from 1.75:1 to 2:1, and
  - to increase the maximum height of building from 9 metres to 11 metres.
16. The planning proposal is based on the request submitted in September 2022 by Hamptons Property Services on behalf of the site owner the Seaborn Broughton and Walford Foundation. The planning proposal request is included as Attachment A1 to this report.

17. The proposal would allow for Griffin Theatre Company to continue the longstanding use of 10 Nimrod Street as a theatre, and also facilitate its future expansion into 12 Nimrod Street to allow the theatre to upgrade and expand. Improvements to the theatre following redevelopment could include:
  - (a) Increased space to allow for improved accessibility including the installation of a lift.
  - (b) An increase in audience capacity from 115 to 165.
  - (c) An integrated rehearsal space.
  - (d) Additional capacity for storage, lighting and other technology for the production of plays.
  - (e) Improved sightlines from audience seats to the stage.
  - (f) Larger areas for food and beverage service.

### Land use

18. The site is located within the R1 'General Residential' zone in Sydney LEP 2012. Theatres are a type of entertainment facility, which are prohibited development within that zone.
19. The use of the site as a theatre was permissible prior to the adoption of the Sydney LEP 2012, however the use at that time was defined as a 'place of assembly'. This was the case under the South Sydney LEP 1998 and the City of Sydney Planning Scheme Ordinance 1971. The South Sydney LEP 1998 contained few land use prohibitions, and none within Zone (2) (b) the Residential (Medium Density) Zone. Rather, development consent could not be granted unless the consent authority was satisfied that the proposal was consistent with the objectives of the zone.
20. The reclassification of a theatre from a 'place of assembly' to an 'entertainment facility' was a result of the introduction of the Standard Instrument LEP 2006, which defines an entertainment facility as follows:

**entertainment facility** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.
21. When the site was rezoned R1 'General Residential' in Sydney LEP 2012, the prohibition of entertainment facilities protected the amenity of the adjoining predominantly residential area by prohibiting intense forms of entertainment facility, such as a dance hall. However, as a result, the existing theatre use on the site also became a prohibited use.
22. The theatre relies on existing use rights to continue operating. The planning controls need to be amended to facilitate the ongoing historic use as a theatre, and its expansion into 12 Nimrod Street.

### Height and built form

23. The Planning Proposal request is supported by an Urban Context Report which is included as Attachment A2 to this report, and a Reference Scheme included as Attachment A3, which indicate the likely scale that would arise from future redevelopment of the theatre. The reference scheme demonstrates that much of the additional floor space will be accommodated within the basement rather than above ground and have no direct impacts on the neighbourhood.
24. As illustrated in Figure 9 below, the request for additional height will primarily allow for a higher ceiling within the auditorium space. This will provide room for upgraded lighting and production services, while improving audience sightlines and patron experience. A third floor is not proposed, and it is not proposed to amend the Sydney DCP 2012 height in storeys provision that restricts height on the site to two storeys.

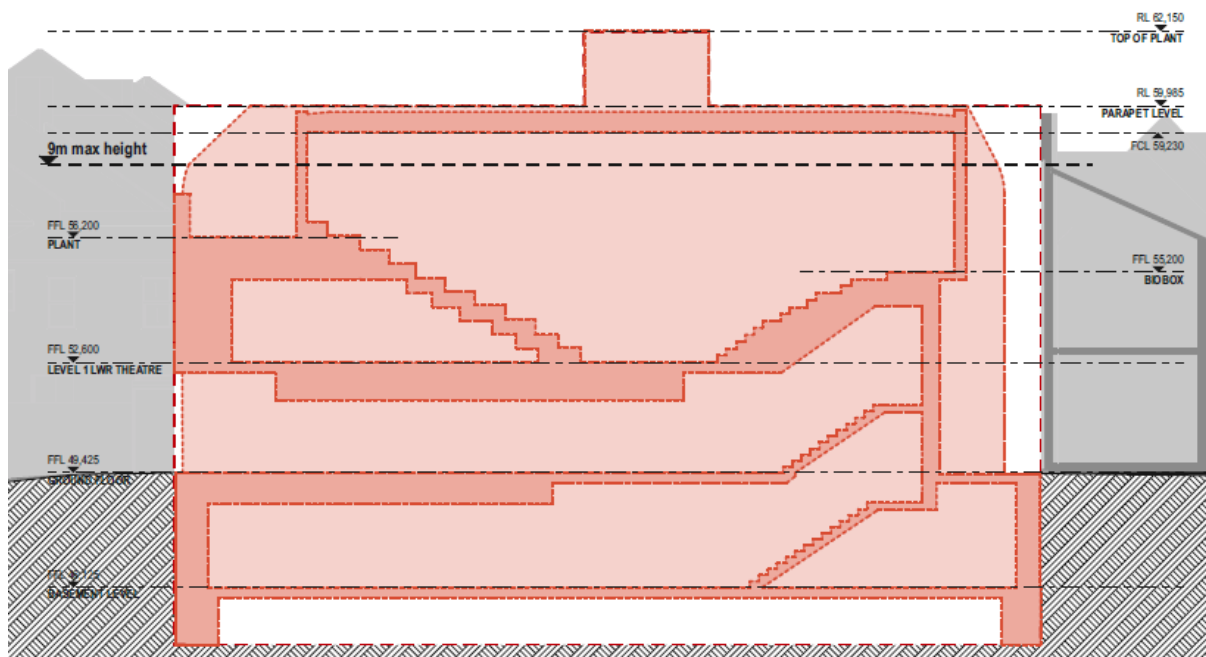


Figure 9: Reference scheme in section

25. The requested increase in the building height from nine metres to 11 metres is supported given the site context. Development on the opposite side of Nimrod Street is subject to a height control of 18 metres, therefore allowing the proposed 11 metre height on the subject site provides a transition to the lower scale residential areas. The corner location allows for the design of a landmark building without unreasonably affecting the existing neighbourhood character on Nimrod Street. Figures 10 and 11 show the proposed 11 metre height in its context.
26. The proponent had requested a further height allowance of 12.75 metres for a small part of the site to allow for plant. This request has not been supported as part of this planning proposal for the following reasons:
- (a) Additional height across the entirety of the site may result in unacceptable outcomes in terms of the streetscape, character of the conservation area, and residential amenity.

- (b) An additional 1.75 metre height for plant is considered excessive in this instance, and the design could be amended prior to the development application stage to accommodate the plant within the overall maximum height of buildings development standard of 11 metres.

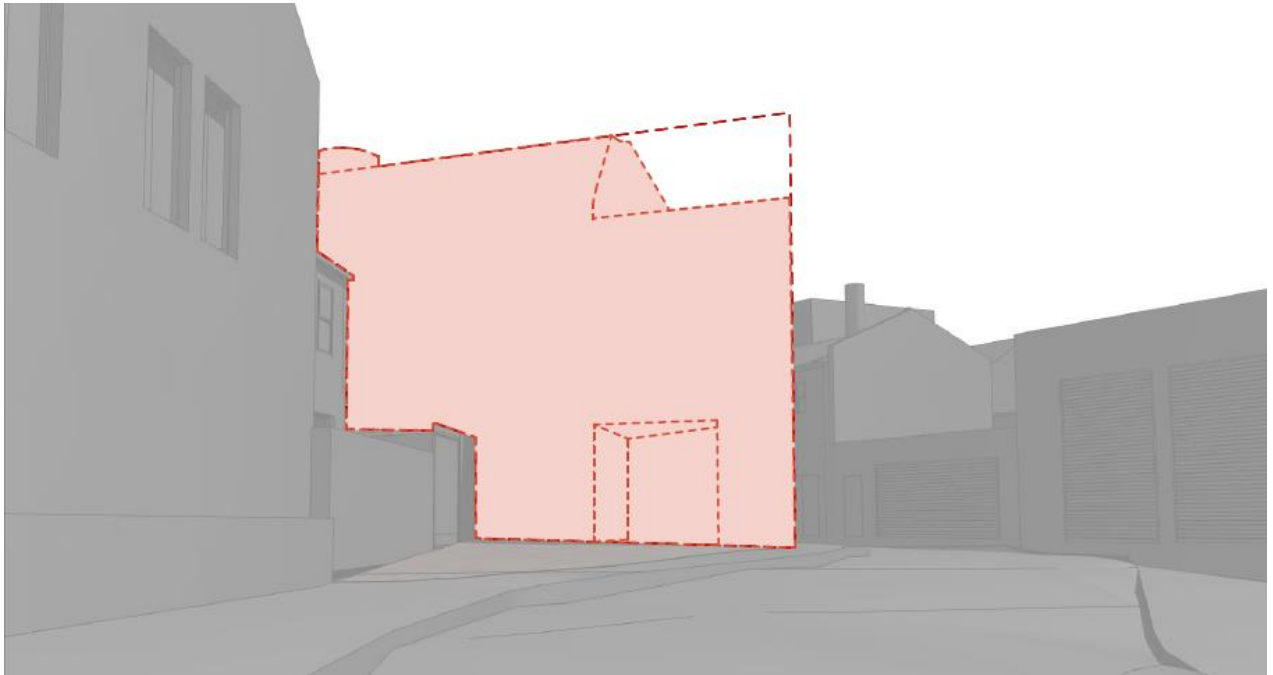


Figure 10: Reference scheme perspective as viewed from Craigend Street looking south

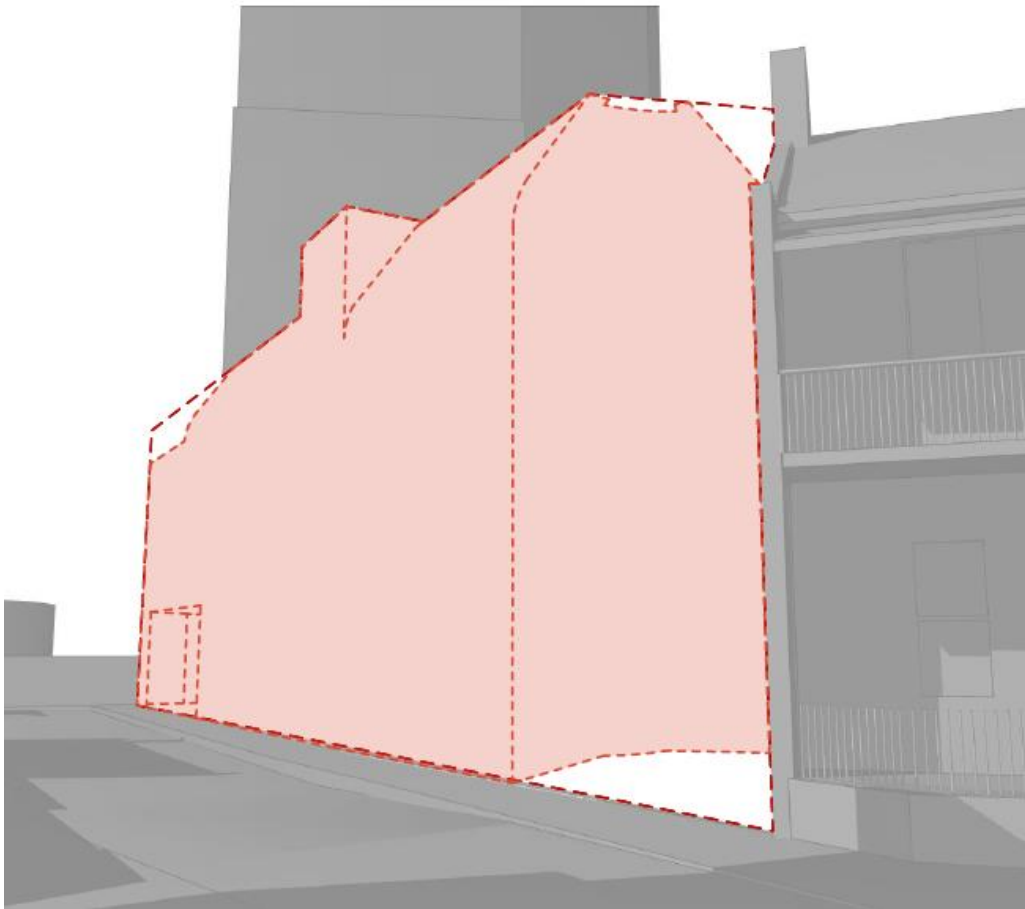


Figure 11: Reference scheme perspective, as viewed from Nimrod Street looking north-east

### Solar access

27. The proponent has submitted a Solar Access Study with the request, included as Attachment A4 to this report. The report demonstrates that additional overshadowing from the reference scheme would not impact any living room windows or areas of private open space. Detailed design at the development application stage will allow for moderation of the building envelope to ensure overshadowing is minimised.
28. The analysis at Figure 12 taken from the Urban Context Report, shows potential additional overshadowing at midwinter would impact:
  - (a) 10 Caldwell Street to the upper-level rear bedroom window between 12 noon and 3pm, and the ground floor kitchen around 12 noon; and
  - (b) 12 Caldwell Street to the upper-level rear bedroom window around 1pm.
29. There is no additional overshadowing of concern prior to 12 noon.

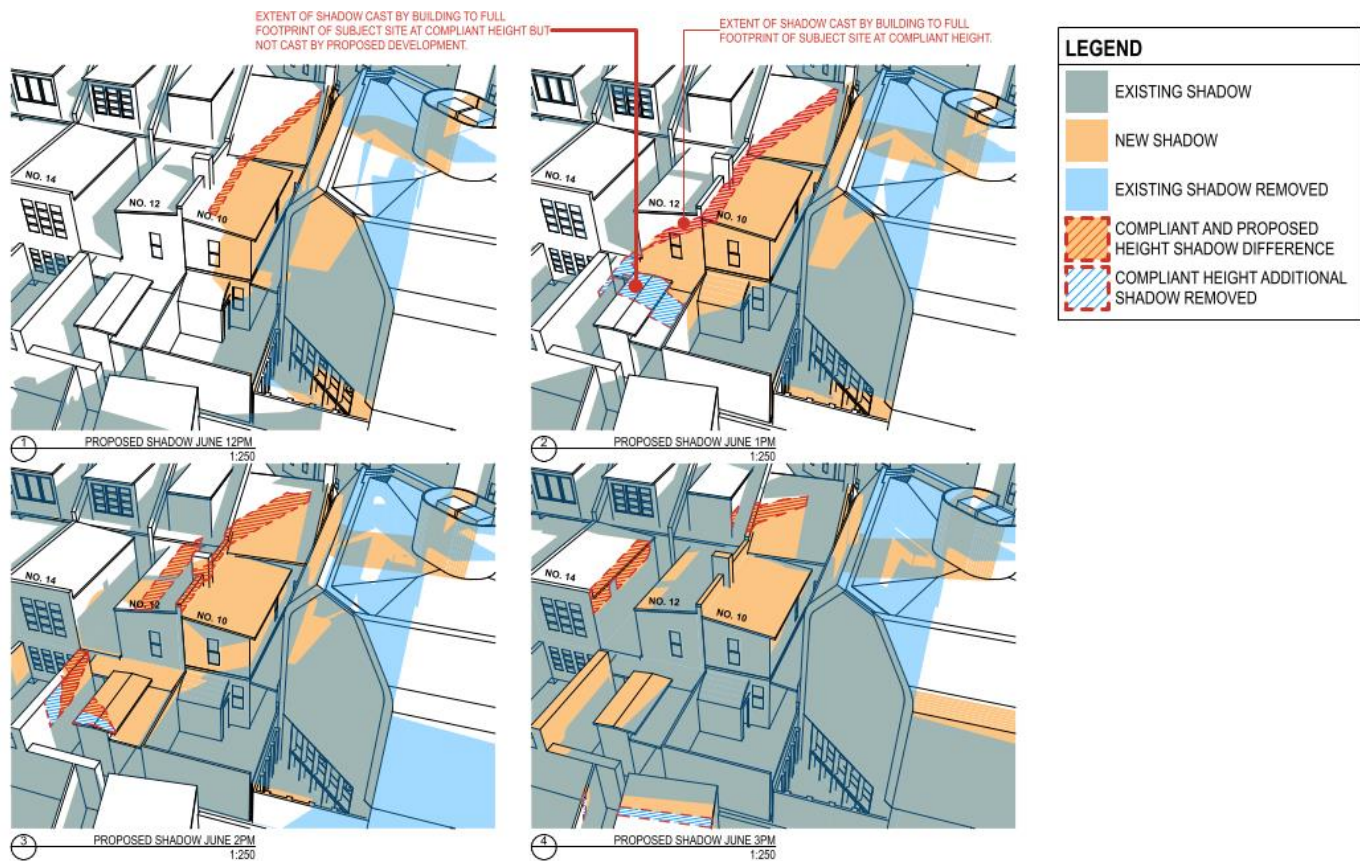


Figure 12: Overshadowing analysis of the reference scheme, 12 noon to 3pm

### Heritage

30. The site does not contain any heritage items, however the existing buildings are both neutral in the Barcom Avenue Heritage Conservation Area (C11). The proponent has submitted a Heritage Impact Assessment which is included at Attachment A5.
31. The Sydney DCP 2012 defines neutral buildings as those that do not contribute nor detract from the significant character of the Heritage Conservation Area. The buildings are neutral as they are from a significant historical period but altered in form and unlikely to be reversed.
32. Both buildings at 10 and 12 Nimrod Street have been subject to change that has affected the contribution the buildings make to the heritage significance of the conservation area. Furthermore, the presence of the theatre in this location for over 50 years is a very important aspect of the building’s significance, and changes to the building to accommodate that ongoing use may be acceptable.
33. It is noted that the reference scheme suggests the full demolition of the buildings. However opportunities to expand the theatre may be possible while retaining more of the original fabric of the stables building. Further assessment of impacts on any heritage fabric of the buildings or significance of the conservation area will be required at the development application stage.

### Site access

34. The laneway to the immediate north of the site, known as 8A Nimrod Street and shown in Figure 13, is in the private ownership of a deceased estate. The Stables Theatre does not benefit from an easement for a right of way that would permit access from the northern boundary. At the time of writing this report it would not be possible to issue development consent that required the Stables Theatre to be accessed across the private laneway. If the proponent wishes to gain access across the laneway, they will need to formalise arrangements for access prior to a development application being determined.



Figure 13: Site and adjacent laneway

### Traffic and transport

35. The proponent has submitted a Traffic and Parking Report which is included at Attachment A6 to this proposal. It shows that the site is well served by public and active transport. Kings Cross Railway Station is located approximately 200 metres to the north and there are bus services available from Craighend Street, William Street, Darlinghurst Road and Victoria Street. There is a cycleway on Craighend Street which connects to the wider network. In addition, there is a taxi rank 200 metres to the north of the site on Baywater Road. It is expected that there would be no on-site parking in future, consistent with the existing situation.
36. The availability of a range of public and active transport and the established travel patterns for patrons of the theatre means that the proposal is unlikely to result in any additional local traffic or significant parking demand.

### **Servicing and loading**

37. The constrained nature of the site requires servicing and loading to take place on the street, and this is anticipated to continue. Productions at the theatre typically involve minimal sets due to the size of the stage, and it is noted that the stage is not anticipated to significantly increase. Any future development application will be required to address servicing and loading through a Plan of Management.

### **Noise**

38. The existing theatre use pre-dates the Environmental Planning and Assessment Act 1979, and its operations are not regulated through modern conditions of consent. Theatre uses can result in noise impacts from:
- (a) operational noise, particularly when performances involve amplified music or sound effects;
  - (b) noise from mechanical plant; and
  - (c) noise from patrons and operation of the foyer / bar area.
39. The proponent has submitted an Acoustic Report which is included at Attachment A7 to this report. The report demonstrates that redevelopment of the site would result in a building that is appropriately acoustically treated, with a reduction in noise impacts in the neighbourhood.
40. Any future development application will be required to address this issue through a Noise Impact Assessment. Future use as a theatre will be subject to a contemporary Plan of Management that will be enforceable through updated conditions of consent.

### **Key Implications**

#### **Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision**

41. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the City to 2050. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This planning proposal is consistent with the following strategic directions and objectives:
- (a) Direction 1 - A Globally Competitive and Innovative City - The proposed amendments to planning controls for the site will facilitate cultural and creative uses and preserve and expand an existing entertainment facility. This will support Sydney's tourist, leisure and cultural sector, which are sectors of critical importance to Sydney's economy and contribute to making Sydney attractive to global investors.
  - (b) Direction 3 - Integrated Transport for a Connected City - The future expanded Stables Theatre will take advantage of future cycleway proposals and good proximity to public transport links, on high-capacity bus routes connecting the area to Central Sydney, Bondi Junction and beyond.
  - (c) Direction 5 - A Lively and Engaging City Centre - Redevelopment in the precinct will provide entertainment uses in a city fringe location, accessible from the Central Business District.



- (d) Direction 6 - Vibrant Local Communities and Economies - The planning proposal facilitates redevelopment in the precinct, which will provide more floor space for cultural and creative purposes and entertainment. This will continue long-term activation of the site, contributing to the day and night-time economies.
- (e) Direction 7 - A Cultural and Creative City - The planning proposal will strengthen the economic and cultural role and character of the Eastern Creative Precinct, enhancing the entertainment, arts, performance and cultural role of areas and helping to meet the identified shortage of small to medium sized performance and rehearsal space venues.
- (f) Direction 9 - Sustainable Development, Renewal and Design - The planning proposal is consistent with the principle of transit-oriented development by co-locating employment opportunities in an accessible location.

### **Social / Cultural / Community**

- 42. The planning proposal contributes to City Plan 2036 Liveability Action L1.4 “Prioritise the preservation of and investigate approaches for no net loss of creative, arts and cultural floor space, including production and performance spaces”. It supports Productivity Action P2.6, which focuses on performance spaces in the Eastern Creative Precinct.
- 43. The proposal will maintain and increase the capacity and increase the long-term viability of an existing theatre, encouraging a creative, culturally rich, and socially connected city.
- 44. Moreover, the Griffin Theatre Company is the only theatre company in the Australia exclusively devoted to the development and staging of new Australian writing. Several Australian actors of national or international repute began their careers at the Stables Theatre, and many films, television shows, and larger stage productions began as plays produced by the Griffin Theatre Company. Therefore, this planning proposal not only supports a specific cultural space within the City of Sydney, but also a wider creative industry of national importance.
- 45. In addition to ensuring the Stables Theatre continues its important contribution to Australian dramatic arts, the redevelopment of the site will facilitate greater access to the site for people with a disability, and provide opportunities for daytime visitation, including a significantly increased public and community program.

### **Economic**

- 46. The theatre is located within the City Fringe area in City Plan 2036. The City Fringe area is identified for future growth in industries which support Sydney’s global function, including creative industries. This proposal will allow for current employment at the Stables Theatre to be maintained and eventually increased as the theatre expands. While the site is located outside the Eastern Creative Precinct and Oxford Street Cultural and Creative Precinct, it is an integral part of the local creative industry ecosystem, and its long-term viability will strengthen both the Oxford Street Precinct and the Eastern Creative Precinct in general.

### Relevant Legislation

47. Environmental Planning and Assessment Act 1979
48. Environmental Planning and Assessment Regulation 2021.

### Critical Dates / Time Frames

49. A proponent may request a review of their planning proposal by the Independent Planning Commission if a Council has failed to indicate its support within 90 days of its submission to Council. This planning proposal was submitted to Council on 16 September 2022. The 90-day deadline is 15 December 2022.

### Options

50. There are three options in terms of a response to the planning proposal request, which are as follows:

#### Do nothing

51. This option involves withholding support for planning proposal request, which would result in the Stables Theatre remaining as it is. The operational conditions within the building are challenging, in particular:

- (a) The dressing room is also used as a costume storage space.
- (b) Access to the stage from the dressing room is through a toilet.
- (c) The control booth is extremely cramped and is unable to accommodate all the necessary equipment.
- (d) The height of the auditorium results in many views to the stage being impeded by stage lighting.
- (e) The auditorium is not accessible to every person with a disability.
- (f) There is no separate rehearsal space.
- (g) The theatre is not adequately acoustically treated.

52. To withhold support for the planning proposal would not facilitate the remedy of these longstanding issues and may also result in the Griffin Theatre Company choosing to relocate to another site, which would be a detriment to the locality.

#### Permit changes within the existing framework

53. Any changes within the existing framework would be minor and would not fully address all of the operational conditions, in particular:
  - (a) The zoning restriction would not allow the theatre to expand into 12 Nimrod Street, preventing the provision of improved access, dressing room facilities and expanded control room.

- (b) The 9m maximum height of buildings development standard would prevent the improvements to the auditorium.
  - (c) The 1.75:1 FSR control would allow for only 10sqm of additional floor space beyond that which is existing, preventing the provision of the basement rehearsal space.
54. Permitting changes only within the existing framework would not facilitate the remedy of these longstanding issues and may also result in the Griffin Theatre Company choosing to relocate to another site, which would be a detriment to the locality.

### **The Planning Proposal**

55. The reference scheme submitted with the planning proposal request demonstrates that the long-standing operational issues at the Stables Theatre can be remedied through the proposed amendments to the planning controls. The Planning Proposal at Attachment A demonstrates that any neighbourhood impacts can be managed at the detailed design stage, and that it is consistent with the objectives and actions of the Greater Sydney Region Plan, The Eastern City District Plan, and Sustainable Sydney 2030, and is worthy of progression.

### **Public Consultation**

56. If approved, the planning proposal will go on public exhibition subject to Gateway Determination from the Department of Planning and Environment. The minimum public exhibition process for the planning proposal will be determined by the Department and is likely to be for at least 20 working days, in accordance with the Local Environmental Plan Making Guideline. The consultation will be in accordance with the requirements of:
- (a) Any future Gateway Determination issued by the Department under Section 3.34 of the Environmental Planning and Assessment Act 1979.
  - (b) The Environmental Planning and Assessment Regulation 2021.
  - (c) The City of Sydney Community Participation Plan 2022.
57. The planning proposal will be publicly exhibited online on the City of Sydney website.

### **GRAHAM JAHN AM**

Director City Planning, Development and Transport

Christopher Ashworth, Senior Specialist Planner