

Item 6.

Post Exhibition – Planning Proposal – 92-98 Brougham Street, Potts Point – Sydney Local Environmental Plan 2012 Amendment

File No: X037821

Summary

This report asks the Central Sydney Planning Committee to approve a planning proposal that was recently exhibited for 92-98 Brougham Street, Potts Point. This will amend Sydney LEP 2012 to add hotel and motel accommodation as an additional permitted use for the site. Doing so will enable a future development application to be lodged and assessed for a hotel connected with the existing Piccadilly Hotel at 171-173 Victoria Street, Potts Point.

Prior to Covid-19, Sydney hotels were running at over 80 per cent occupancy year on year. For 2020 and 2021, hotel occupancy rates are well down, getting to as low as 25 per cent for the June 2020 Quarter according to Destination NSW. However, post-Covid occupancy rates are expected to recover quickly and reach pre-Covid demand by 2023. Planning for a diverse visitor accommodation offering in the City of Sydney therefore remains important in terms of supporting the local, regional and national economies.

The City's Sustainable Sydney 2030 and Visitor Accommodation Action Plan (2015) aim to facilitate development of additional visitor accommodation. This planning proposal provides for potential additional hotel accommodation supply in a highly accessible location. It will assist in the conservation and activation of the vacant and heritage listed Piccadilly Hotel.

No change is proposed to the height, floor space ratio, heritage listings or other development standards in the LEP. The existing DCP controls are considered sufficient to make an appropriate assessment around the acceptability of the proposal at development application stage. Including hotel accommodation as a permitted use does not predetermine the appropriateness of any future hotel development application. Any future application will be required to be assessed its own merits and subject to public consultation.

The planning proposal was approved for public exhibition by Council and the Central Sydney Planning Committee in October 2020. Following receipt of a Gateway Determination by the Department of Planning, Industry and Environment in December 2020, the planning proposal was exhibited from 11 January to 8 February 2021. In response, 19 submissions were received, the majority from 100-104 Brougham Street, a residential building containing 24 studio apartments that have a single northern aspect across the subject site. The majority of concerns related to noise impacts and loss of amenity including privacy, overshadowing, parking and traffic impacts. These issues are discussed in detail in this report with a summary of and responses to all matters raised in submissions provided at Attachment A.

Concerns around noise, privacy, overshadowing and view loss are considered valid concerns. These concerns however can be addressed through a sensitive and responsive hotel development that improves the relationship between the sites especially in terms of acoustic and visual privacy. This will require justification by the landowner and a detailed assessment at development application stage.

This report recommends the Central Sydney Planning Committee approve the planning proposal to be made as a local environmental plan.

Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note matters raised in response to the public exhibition of the Planning Proposal – 92-98 Brougham Street, Potts Point, as detailed in this report and as shown in Attachment A to the subject report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal – 92-98 Brougham Street, Potts Point, as shown at Attachment B to the subject report, to be made as a local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979; and
- (C) authority be delegated to the Chief Executive Officer to make any minor amendments to Planning Proposal – 92-98 Brougham Street, Potts Point, as shown at Attachment B to the subject report to correct any minor errors or omissions prior to finalisation.

Attachments

- Attachment A.** Summary of and Responses to Matters Raised in Submissions
- Attachment B.** Planning Proposal – 92-98 Brougham Street, Potts Point
- Attachment C.** Resolution of Council and Central Sydney Planning Committee
- Attachment D.** Gateway Determination

Background

The owner intends to deliver a hotel connected with the existing heritage listed Piccadilly Hotel

1. In early 2020 the landowner, Harrphil Pty Ltd, sought pre-development application advice on a proposal for a boutique hotel on the subject site connected with the Piccadilly Hotel at 171-173 Victoria Street. The proponent was advised not to lodge a development application since the proposed use was prohibited for the Brougham Street properties. A hotel is defined as a tourist and visitor accommodation which is prohibited under the R1 General Residential zone.
2. A request to prepare a planning proposal was submitted to the City by the landowner June 2020. The request sought to facilitate a future hotel development application for a larger development site where hotel accommodation is already permissible for the Victoria Street properties.

The proposal has strategic merit

3. The Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement include priorities and actions to support the growth of targeted industry sectors and ensuring a genuine mix of uses to support lively and thriving village economies.
4. Sydney's tourism industry makes a significant contribution to the local and state economy. During the 2017/18 financial year, over six million international and domestic overnight visitors stayed in visitor accommodation located in the City of Sydney.
5. Prior to Covid-19, Sydney hotels were running at over 80 per cent occupancy year on year. For 2020, hotel occupancy rates are well down, getting to as low as 25 per cent for the June Quarter according to Destination NSW. However, post-Covid occupancy rates are expected to recover quickly and reach pre-Covid demand by 2023. Planning for a diverse visitor accommodation offering in the City of Sydney therefore remains important in terms of supporting the local, regional and national economies.
6. Analysis by the City of Sydney in 2013 found a sustainable supply of visitor accommodation is needed to support tourism growth. The City's Sustainable Sydney 2030 and Visitor Accommodation Action Plan (2015) aims to facilitate development of additional visitor accommodation. This planning proposal will provide for additional hotel accommodation supply in a highly accessible location. It will assist in the conservation and activation of the currently vacant and heritage listed Piccadilly Hotel.

The proposal was endorsed for public exhibition and received Gateway determination

7. The City assessed the planning proposal request and prepared a planning proposal to amend Sydney LEP 2012. The planning proposal is shown at Attachment B. The planning proposal is to insert hotel and motel accommodation as an additional permitted use for the subject site. Hotel and motel accommodation is prohibited under the current General Residential zoning. The change allows a development application to be submitted and for the impacts to be assessed against the planning controls. Amendments to Sydney Development Control Plan (DCP) 2012 are not proposed in this instance with existing DCP controls considered sufficient to make an appropriate assessment around the acceptability of the proposal at development application stage.
8. The proposed planning controls were reported to Council and the Central Sydney Planning Committee (CSPC) in October 2020 and endorsed for public exhibition. The Council and the CSPC resolutions are shown at Attachment C.

9. The Department of Planning, Industry and Environment issued a Gateway determination in December 2020 to enable public exhibition. The Gateway determination is shown at Attachment D. The Gateway determination required consultation with two NSW public authorities, being Heritage NSW and Transport for NSW. It also authorised Council as the local plan-making authority.

Public exhibition

The proposal was publicly exhibited from 11 January to 8 February 2021

10. The planning proposal was exhibited with supporting documentation on the City's website from 11 January to 8 February 2021. Public notification letters were sent to neighbouring businesses and residents, as well as the landowners of those properties. The City sent letters inviting submissions from Transport for NSW and Heritage NSW.
11. In response, 19 submissions were received including one from the Potts Point and Kings Cross Heritage and Residents' Society. A detailed summary of and responses to matters raised in submissions is provided at Attachment A. The key public issues raised in objection to the proposal are also addressed below.

The Heritage and Residents' Society has raised heritage concerns

12. The Potts Point and Kings Cross Heritage and Residents' Society are concerned that the proposal will facilitate an inappropriate heritage response to the subject and Victoria Street sites. They are concerned that the proposal will result in an amalgamation of the sites, contrary to the existing fine grain subdivision pattern, that the proposal will encourage an inappropriate heritage redevelopment and that the redevelopment will do nothing to enhance the heritage significance of the sites or area.

Heritage will be an important consideration under the future development application

13. The subject site and Victoria Street sites are within the Woolloomooloo Heritage Conservation Area (C71) and the Potts Point Heritage Conservation Area (C51) respectively. All of the buildings are contributory buildings except for 96 Brougham Street which is a neutral building. The Piccadilly Hotel is a locally listed heritage item.
14. The proposal was supported by a Heritage Impact Statement and Conservation Management Plan for the Piccadilly Hotel prepared by Urbis. The Heritage Impact Statement states that the type of development facilitated by the proposal can be reasonably implemented with no detrimental impact on the heritage significance of the sites or area.
15. Council's Heritage Specialist has reviewed the proposal and concluded that from a heritage perspective, the proposal is considered acceptable. They note that the contributory terraces are capable of sympathetic adaptive reuse and that a future development application is capable of complying with the City's existing heritage controls in the Sydney LEP 2012 and Sydney DCP 2012.
16. Including hotel accommodation as a permitted use does not predetermine the appropriateness of any future hotel development application or endorse the Heritage Impact Statement or Conservation Management Plan as they apply to a future development.

Residents have raised amenity concerns with a potential future hotel redevelopment

17. Community amenity concerns relate to noise associated with potential outdoor areas, general noise associated with a hotel use, privacy, overshadowing and view loss.
18. The majority of these concerns come from 100-104 Brougham Street. A site inspection of 100-104 Brougham Street was carried out on 19 February 2021. 100-104 Brougham Street is a post-war residential building built in the late 1960s. It has ground floor parking and 24 studio apartments over four levels that have a single northern aspect across the subject site.
19. The built arrangement of 100-104 Brougham Street means its access to sunlight, outlook, views and air is predominantly from across the subject site. This arrangement means 100-104 Brougham Street is extremely vulnerable to any use or redevelopment of the subject site, in terms of potential noise, privacy, overshadowing and view loss impact. This is confirmed by some submissions outlining existing noise and privacy concerns associated with existing neighbouring properties.

The amenity concerns are valid but not insurmountable and a sensitive and responsive hotel development could improve amenity for residents

20. The subject proposal is limited to whether or not the buildings on site, or future proposed buildings, can be used for the purposes of hotel or motel accommodation, subject to an assessment of impacts through a development application.
21. The proposal is not for building works or changes to existing built fabric, ancillary hotel uses, the arrangement of hotel and ancillary uses onsite, outdoor areas or access arrangements. These would be the subject of a future development application. A future application can also propose and have conditioned works and operational requirements to address impacts.
22. The amenity concerns raised by residents and owners are considered to be valid, but not insurmountable.



Figure 1: Aerial image of the subject site and 100-104 Brougham Street



Figure 2: View looking east on Brougham Street - subject site and 100-104 Brougham Street



Figure 3: View looking north-east from a balcony of 100-104 Brougham Street over the subject site

23. Permitting tourist and visitor as an additional permitted use in the R1 General Residential zone already occurs in the City including at 120 Victoria Street, Potts Point (Spicers Potts Point, 20 rooms), 83-105 Kent Street, Millers Point (The Langham, 96 rooms). In the last five years the City has received a total of two complaints in relation to the operation of these hotels. Both complaints related to deliveries and garbage collection before 7am disturbing the sleep of residents. Both complaints were resolved promptly by the hotels following discussions between their onsite managers and City staff. This suggests that hotel developments can operate in close proximity to residents in the R1 General Residential zone with little to no impact.
24. By permitting hotel accommodation at 92-98 Brougham Street, a larger consolidated piece of land under one ownership, including the Piccadilly Hotel, is made available. This provides for more flexibility in the arrangement of uses onsite in order to mitigate any potential acoustic impacts.
25. In relation to any future development application, the redevelopment of 92-98 Brougham Street and the Piccadilly Hotel will be required to address the issues of noise, privacy and overlooking, overshadowing and view loss in detail. Any redevelopment should seek to improve the interface with 100-104 Brougham Street rather than derogate from it. A sensitive and responsive hotel development could improve amenity for residents at 100-104 Brougham Street.

Existing DCP controls are considered sufficient to make an appropriate assessment around the acceptability of a hotel proposal at development application stage

26. The City's existing DCP controls are considered sufficient to make an appropriate assessment around the acceptability of the proposal at development application stage. Conditions can then be applied to any approval to ensure impacts are managed. For example, existing DCP controls would require:
 - a Noise Impact Assessment, Plan of Management, Waste Management Plan and Noise Management Plan to be submitted with any development application;
 - an onsite manager to be present when guests have access to any hotel premises; and
 - at least 15% canopy coverage on the site within 10 years from the completion of development.
27. If any outdoor areas associated with the hotel or ancillary food and drink premises are considered appropriate at development application stage the existing DCP controls would require these areas to be restricted in hours of operation to 8pm as base hours, or 10pm, but only on a trial basis.
28. The existing DCP is used on a daily basis by the City to assess the appropriateness of development applications and their impacts on neighbouring properties, including:
 - How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?
 - How reasonable is the proposal causing the impact?

- How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?
 - Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?
 - Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?
29. This type of assessment can only be undertaken at development application stage when the full detail of a proposal is known. Supporting this proposal now in no way indicates support for the indicative scheme or any a future hotel development application for the site.

Residents are concerned about the parking, servicing and traffic impacts associated with a hotel use

30. Residents have identified that on street parking in the area is already in high demand and at capacity. They are concerned that a hotel with food and beverage offering will increase patronage and servicing requirements, exacerbating this situation. Some think onsite parking to service the development should be compulsory.
31. They have identified that Brougham Street is a one-way, narrow, residential street and that vehicular traffic generated by the proposal will have a huge impact on traffic in the area during operation and construction. This concern is addressed further below.

The site is in a highly accessible location serviced by train and bus. It has access to an existing loading bay and the ability to be accessed and serviced entirely from Victoria Street

32. A transport impact assessment prepared by GTA Consultants was submitted in support of the proposal and placed on public exhibition. The assessment concludes that the traffic generated by the proposed development to the surrounding road network would have a negligible impact on road network operation.
33. This view was supported by the City's Transport Planner who identified broad support for the proposal in relation to potential traffic, transport and parking impacts, and that transport and parking impacts will be addressed in detail at development application stage when final parking numbers and access arrangements are known.
34. The site is well served by Kings Cross train station and frequent bus services along William Street and Darlinghurst Road. There is also a significant local catchment that would provide patronage to the hotel, who can walk and cycle and support sustainability goals.
35. A taxi rank is located is located 100 metres from the Piccadilly Hotel on Victoria Street and car share bays are located opposite the site on Brougham Street and in close proximity on Victoria Street.
36. The existing Piccadilly Hotel is serviced from Victoria Street. The transport impact assessment outlines that it is proposed for all loading activity to be accommodated in the existing Victoria Street loading zone which is expected to be more than sufficient to service forecast loading demands of the proposal.

37. The City's Transport Planner has outlined that any changes required to the loading zone will require approval from Local Pedestrian, Cycling and Traffic Calming Committee. If changes are required these can be addressed part development application stage.
38. The existing DCP and LEP are considered sufficient to manage potential future traffic generated by the proposal with controls already in place in relation to maximum car parking rates, restrictions on participation in on-street parking schemes and bike parking minimums.

Key Implications

Strategic Alignment - Planning

39. The Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan are used to shape strategic planning and infrastructure in metropolitan Sydney and align planning from the broadest regional area down to the local area. The City's Local Strategic Planning Statement sets the land use planning strategy for the city which is required to align with the Region and District Plans. The City's planning controls are then required to give effect to the strategic plans.
40. The Region Plan, District Plan and Local Strategic Planning Statement adopt planning priorities of similar themes, being infrastructure, liveability, productivity, sustainability and governance. How this proposal gives effect to these priorities is discussed in detail in the planning proposal and summarised below:
 - (a) **Productivity** – The proposal supports the growth of a targeted industry sector in a highly accessible location and ensures a genuine mix of uses to support a lively and thriving village economy. Facilitating a hotel development in the City Fringe area gives effect to productivity strategic objectives, particularly:
 - (i) Priority P2 Developing innovative and diverse business clusters in City Fringe in the Local Strategic Planning Statement; and
 - (ii) Priority E13 Supporting growth of targeted industry sectors in the Eastern City District Plan.

Strategic Alignment - Sustainable Sydney 2030

41. 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 proposal is aligned with the following strategic directions and objectives:
 - (a) Direction 1 – A Globally Competitive and Innovative City – The proposal accommodates growth in an identified key economic area, supporting more diverse economic activity in the city. This better positions Sydney locally, nationally and internationally as a destination for business, culture and tourism.
 - (b) Direction 6 – Vibrant Local Communities and Economies – The proposal supports local economies that provide a range of job opportunities for people of diverse skills, experiences and attributes.

Relevant Legislation

- 42. Environmental Planning and Assessment Act 1979
- 43. Environmental Planning and Assessment Regulation 2000

Critical Dates / Time Frames

- 44. The Gateway determination requires the planning proposal be made by 1 December 2021.

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