

Item 7.

Post 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 nearly 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. Growth and change in the City of Sydney area has impacted 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 is owned by the Griffin Theatre Company, known for its unique role in developing Australian drama. The proposal will allow for a modest expansion to the theatre and for upgrades to facilities and services, securing the on-going viability of the theatre and its contribution to Sydney's cultural life. It will deliver improved facilities and expand the amount of creative floor space on the fringe of the City's Eastern Creative Precinct, contributing to actions in the City's Local Strategic Planning Statement.

This report follows the public exhibition of a planning proposal to amend the Sydney Local Environmental Plan 2012 (the LEP) as it applies to 10 and 12 Nimrod Street, Darlinghurst.

The amendment will allow for the continued use as an entertainment facility and development of an upgraded theatre across the property. Specifically, the amendment would allow:

- the use of the property as an entertainment facility despite the property's zoning as R1 'General Residential' Zone;
- an increase in the maximum floor space ratio (FSR) from 1.75:1 to 2:1; and
- an increase in the maximum height of buildings from 9 metres to 11 metres.

The proposed additional building height and FSR would be subject to the consent authority being satisfied that:

- any new building constructed on the site will be used for the purpose of a theatre; and
- the design and use of the new building would not result in unacceptable impacts to residential amenity.

The planning proposal was exhibited between 17 March and 18 April 2023. Twelve submissions were received during this period, two of which raised concerns about potential impacts on residential amenity and character. The submissions are summarised in Attachment A of this report. Following consideration of submissions, the planning proposal has been amended to include a requirement for the consent authority to consider the impacts of development on the site on residential amenity. The amended planning proposal is at Attachment B, with additions shown in **bold**.

It is recommended that the planning proposal be approved as amended. If the planning proposal is approved, then a request will be made to Parliamentary Counsel to draft the amendment to the LEP. The amendment would come into effect when published on the NSW Legislation website.

Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note the issues raised in the Summary of Submissions as shown at Attachment A to the subject report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal - Stables Theatre, 10 and 12 Nimrod Street, Darlinghurst (as amended) at Attachment B to the subject report to be made as a local environmental plan under s3.36 of the Environmental Planning and Assessment Act 1979; and
- (C) authority be delegated to the Chief Executive Officer to make minor variations to the Planning Proposal - Stables Theatre, 10 and 12 Nimrod Street, Darlinghurst (as amended) to correct any minor errors prior to finalisation.

Attachments

- Attachment A.** Summary of Submissions
- Attachment B.** Planning Proposal - Stables Theatre 10 and 12 Nimrod Street, Darlinghurst (as Amended)
- Attachment C.** Resolutions of Council and the Central Sydney Planning Committee
- Attachment D.** Gateway Determination

Background

1. This report follows the public exhibition of a planning proposal to amend the Sydney Local Environmental Plan LEP 2012 (the LEP) as it applies to the properties at 10 and 12 Nimrod Street, Darlinghurst. Number 10 Nimrod Street is the location of the Stables Street is the location of the Griffin Theatre which houses the Griffin Theatre Company. Griffin has a significant and longstanding role as a launching pad for Australian actors, producers and playwrights. Number 12 Nimrod Street, which abuts the theatre's southern boundary, comprises a two-storey terrace house with a single-storey rear wing. Both 10 and 12 Nimrod Street are owned by Griffin. The site is shown below in Figure 1.



Figure 1: An aerial image of the subject site and immediate vicinity

2. The exhibited amendments facilitate the expansion and upgrade of the theatre over both properties. The upgrades would deliver performance and rehearsal spaces on the fringe of the Eastern Creative precinct, and foster a healthy, creative, culturally rich and socially connected network that provides services and social infrastructure to meet the changing needs of the community. Specifically, the planning proposal is to:
 - amend the maximum building height control to 11 metres from 9 metres;
 - amend the maximum FSR control to 2:1 from 1.75:1; and
 - allow the property to continue to host an entertainment facility use despite the prohibition on such uses in R1 zones.

3. To ensure other entertainment uses that are less compatible with the surrounding residential character and amenity cannot be permitted, the proposed additional building height and FSR would be subject to the consent authority being satisfied that:
 - any new building constructed on the site will be used for the purpose of a theatre; and
 - the design and use of the new building would not result in unacceptable impacts to residential amenity.
4. Figures 2 and 3 below show the proposed height of 11 metres within the street context.

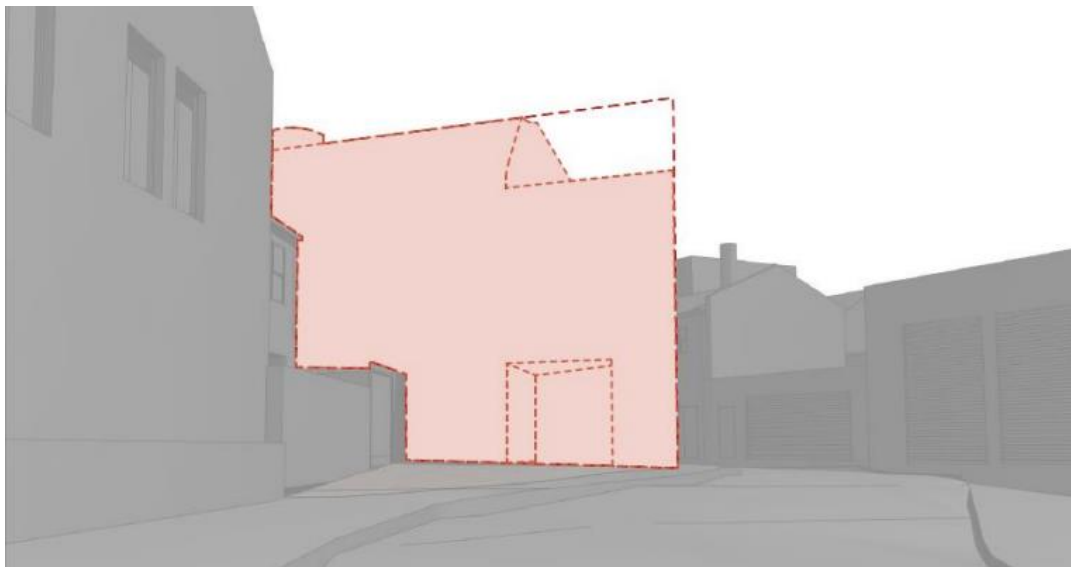


Figure 2: Reference scheme perspective as viewed from Craigend Street looking south

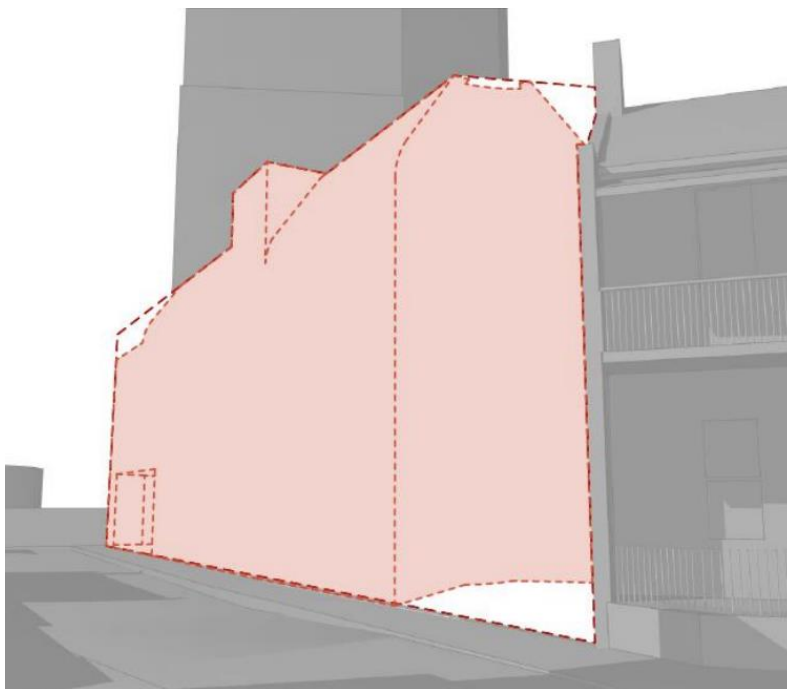


Figure 3: Reference scheme perspective as viewed from Nimrod Street looking northeast

5. The building at 12 Nimrod Street dates from at least 1891 and began as theatre use in 1970, with Griffin's tenancy starting in 1979. The previous owners, the Seaborn, Broughton and Walford Foundation (SBW) purchased the theatre in 1986 and leased it to Griffin rent-free. SBW also purchased the adjacent 12 Nimrod Street in 2020. Griffin purchased both properties from SBW more recently, in 2023.
6. The proposal demonstrates strategic merit by aligning with City and State Strategies to support the provision of cultural space. In particular, the proposed upgrades to the theatre would support objectives of the City's Local Strategic Planning Statement (LSPS), and Creative City Cultural Policy and Action Plan, as well as Create NSW's Arts and Cultural Strategic Framework.
7. Further details regarding the site, its current planning controls, the proposed planning controls and the proposal's strategic merit are described in detail in the pre-exhibition report to the Transport, Heritage, Environment and Planning Committee and the Central Sydney Planning Committee, available at: <https://city.sydney/nm> (item 11).
8. Council on 12 December 2022 and the Central Sydney Planning Committee (CSPC) on 8 December 2022 resolved to approve the planning proposal for public exhibition in accordance with any conditions imposed under the Gateway Determination. Council and CSPC's resolutions are at Attachment C.
9. On 1 March 2023, the Department of Planning and Environment issued a Gateway Determination for the planning proposal and delegated plan-making authority to Council. The Gateway Determination is at Attachment D. The Gateway Determination authorises Council to exercise its delegation and liaise directly with Parliamentary Counsel to draft and make the new LEP should the proposed planning controls be approved by Council and the CSPC.
10. The City added further information to the planning proposal in accordance with the Gateway Determination, to clarify how future applications for the additional maximum building height and floor space would be limited to the use of the site as a theatre.
11. This report recommends that the CSPC approve the planning proposal to amend the Sydney LEP 2012.

Public Exhibition

12. The planning proposal was exhibited between 17 March and 18 April 2023, in accordance with the Gateway Determination and the City of Sydney Community Engagement Strategy and Community Participation Plan 2022.
13. The City sent 1,250 letters to landowners and occupants of neighbouring properties within 75 metres of the site, notifying recipients of the planning proposal's exhibition. The exhibition was also advertised on the City's Sydney Your Say webpage. Public authorities were not notified because this was not required by the Gateway Determination.
14. Twelve submissions were received during the exhibition period and are summarised in Attachment A to this report. Nine of the submissions expressed support for the planning proposal, two submissions raised some matters for further consideration, and one submission raised matters unrelated to the proposal. Issues raised included amenity impacts such as overshadowing and sky view loss for adjacent residents, potential construction impacts including noise and possible structural impacts on adjacent buildings due to basement excavation and managing additional crowds from an expanded theatre.

15. The planning proposal does not give permission for the construction of the theatre, which would be subject to a future development application. As part of the assessment of any development application there would be a detailed assessment of impacts including overshadowing to neighbouring dwellings. Analysis undertaken as part of the planning proposal prior to public exhibition indicated that while there could be some additional overshadowing at 10 Caldwell Street it would be restricted to bedroom and kitchen windows and would not impact any living rooms windows or areas of private open space. There will be opportunities to further refine the building and minimise overshadowing during the detailed design stage.
16. Construction noise impacts and the potential for structural impacts on adjacent dwellings due to basement construction would also be assessed as part of a future development application and would be subject to detailed technical reports and a Construction Management Plan.
17. While this planning proposal will allow the theatre to increase in capacity, it will also permit a better-designed theatre with greater capacity for queuing and patron management within the theatre building. This will reduce any impacts on nearby residents. Any development consent for a theatre would include a requirement for a Plan of Management, which will detail how impacts from crowds will be managed and minimised.
18. The planning proposal at Attachment B has been updated to include a requirement that the consent authority be satisfied that the design and use of the new building will not result in unacceptable impacts to residential amenity. This will allow further consideration of amenity impacts with a development application. The future development application will have a requirement for future consultation and consideration of submissions. The updates are shown in bold on pages 19 and 20 of the planning proposal.

Key Implications

Strategic Alignment

19. 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. The proposed planning controls are aligned with the strategic directions and objectives.
20. The proposed planning controls give effect to the liveability and productivity priorities in the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement.

Relevant Legislation

21. Environmental Planning and Assessment Act 1979.
22. Environmental Planning and Assessment Regulation 2021.

Critical Dates / Time Frames

23. The Gateway Determination requires that the amendment to the Sydney LEP 2012 be made by 21 July 2023.
24. The amendment to the Sydney LEP 2012 will come into effect when published on the NSW Legislation website.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Ben Schneider, Cadet Planner

David Fitzpatrick, Manager Planning Policy