

Post Exhibition - Planning Proposal - 90 and 100-104 Brougham Street, Potts Point - Sydney Local Environmental Plan 2012 Amendment

File No: X096329.002

Summary

Planning for a diverse visitor accommodation offering that does not rely on a dwelling rental platform in the City of Sydney is an important part of supporting the local, regional and national economies. New hotels create jobs, benefit Sydney's tourism economy, host major events visitors and support local economies.

Prior to Covid-19 Sydney hotels were running at over 80 per cent occupancy per year. This declined to as low as 25 per cent during 2019 and 2020 but saw a revival to around 65 per cent through 2022. In 2023 occupancy rates have edged up towards 80 per cent, with events such as World Pride and the FIFA Women's World Cup seeing peaks of 95 per cent.

The City's Sustainable Sydney 2030-2050 Continuing the Vision and Visitor Accommodation Action Plan (2015) support development of additional visitor accommodation. This planning proposal allows for additional hotel accommodation in a highly accessible location. It will assist in the conservation and activation of the vacant and heritage listed Piccadilly Hotel.

This report follows the public exhibition of a planning proposal to amend Sydney Local Environmental Plan 2012 (the LEP) as it applies to the properties at 90 and 100-104 Brougham Street Potts Point. The amendment will allow for the properties to be used as 'hotel and motel accommodation' subject to a future development application. The Planning Proposal is shown at Attachment B.

The Planning Proposal was approved by Council on 15 May 2023 and the Central Sydney Planning Committee (CSPC) on 11 May 2023 to be submitted for Gateway Determination and for public exhibition. The Council and Central Sydney Planning Committee resolutions are shown at Attachment C.

Exhibition occurred from 12 July to 9 August 2023, during which time the City received 19 submissions. Matters raised in submissions include concerns about a loss of dwelling stock, housing affordability, increased noise and traffic and the effects of construction. A summary of submissions and the City's responses are provided below. A detailed account of and responses to matters raised in submissions is provided at Attachment A.

This report recommends Council and the Central Sydney Planning Committee approve the planning proposal. If approved, then the City will request that Parliamentary Counsel draft the amendment to the Local Environmental Plan.

Recommendation

It is resolved that:

- (A) Council note matters raised in response to the public exhibition of the Planning Proposal, detailed in the Summary of Submissions at Attachment A to the subject report;
- (B) Council approve the Planning Proposal - 90 and 100-104 Brougham Street, Potts Point at Attachment B to the subject report to be made as a local environmental plan under s.3.36 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 - 90 and 100-104 Brougham Street, Potts Point to correct any minor errors prior to finalisation.

Attachments

- Attachment A.** Summary of Submissions
- Attachment B.** Planning Proposal - 90 and 100-104 Brougham Street, Potts Point
- Attachment C.** Resolutions of Council and Central Sydney Planning Committee
- Attachment D.** Gateway Determination

Background

1. This report follows the public exhibition of a planning proposal to amend Sydney Local Environmental Plan 2012 (Sydney LEP) as it applies to the properties at 90 and 100-104 Brougham Street. 90 Brougham Street is a three-storey modern dwelling, with a rear single car garage and two-storey secondary dwelling above. 100-104 Brougham Street is a four-storey apartment building with 24 studio apartments. The location of the properties is shown in Figure 1. Photographs of 90 and 100-104 Brougham Street are at Figures 2 and 3 respectively.
2. The Piccadilly Hotel at 171-173 Victoria Street, shown in red outline in Figure 1, is a local heritage item which has been vacant since 2015 and is in poor condition. The Hotel, along with 92-98 Brougham Street and 169 Victoria Street, received development consent for use as a hotel in December 2022. The area to which the development consent applies is shown in Figure 1 as orange.

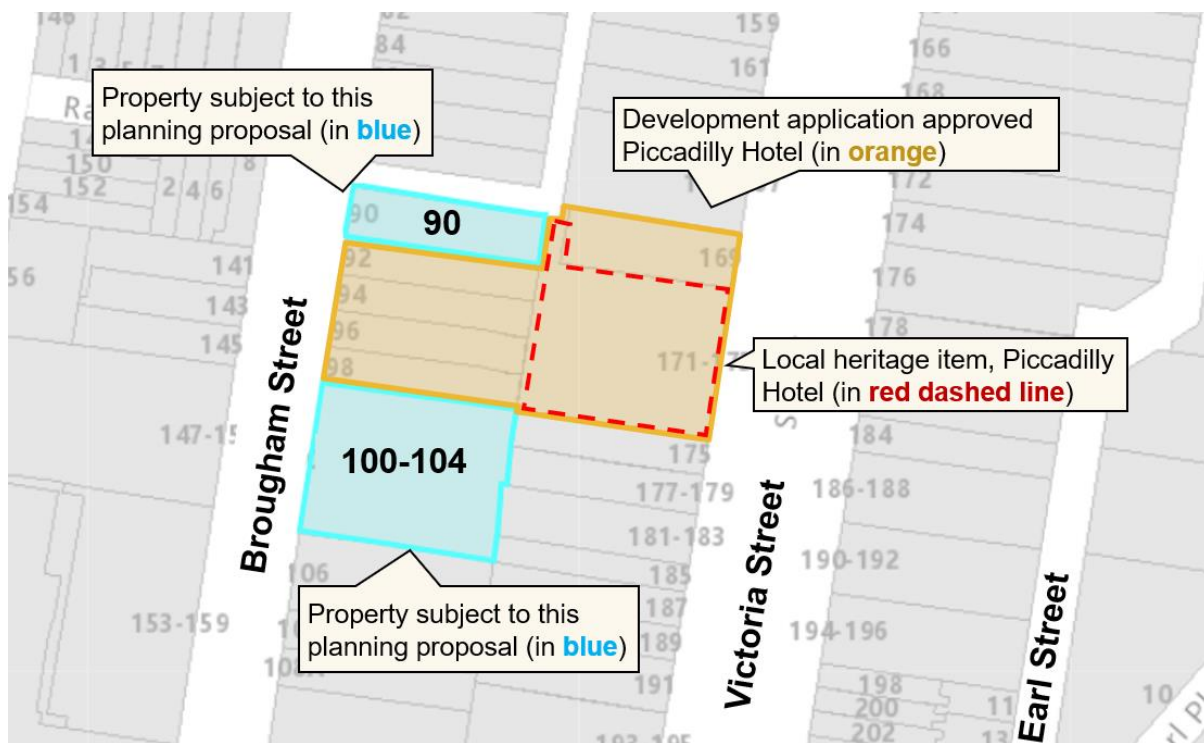


Figure 1. A location plan showing the properties affected by this planning proposal outlined in blue, and the approved Piccadilly Hotel outlined in orange



Figure 2. 90 Brougham Street looking east from Brougham Street



Figure 3. 100-104 Brougham Street looking east from Brougham Street

Planning proposal

3. This planning proposal would enable expansion of the future hotel to the adjacent sites at 90 Brougham Street and 100-104 Brougham Street, which are shown blue in Figure 1 and in the images in Figures 2 and 3.
4. The exhibited planning proposal is to amend Sydney Local Environmental Plan to include 'hotel and motel accommodation' as a permissible use of the properties. The properties are in the R1General Residential zone where hotel and motel accommodation is not permitted. The proposal will enable 26 additional accommodation rooms to the Piccadilly Hotel development.
5. The planning proposal supports the City's strategic planning objectives for a tourist economy, local employment and the efficient and adaptive reuse of buildings. It will contribute to expanded employment opportunities within the City Fringe area identified as an important focus for jobs in City Plan 2036.
6. The hotel use of the larger consolidated site and its design and operation will be subject to a future development application and detailed assessment, including public consultation.
7. Further details regarding the site, its current planning controls, and the proposal's strategic merit are in the pre-exhibition report to the Transport, Heritage, Environment and Planning Committee and the Central Sydney Planning Committee, available at: <https://city.sydney/brougham-preexreport>.
8. Council on 15 May 2023 and the Central Sydney Planning Committee (CSPC) on 11 May 2023 resolved to approve the planning proposal for public exhibition in accordance with any conditions imposed under the Gateway Determination. Council and the CSPC's resolutions are shown at Attachment C.
9. On 23 June 2023, the Department of Planning and Environment (Department) issued a Gateway Determination for the planning proposal. The Gateway Determination is shown at Attachment D. The Gateway Determination authorises Council to exercise its delegation and liaise directly with Parliamentary Counsel to draft and make the new Local Environmental Plan should the proposed planning controls be approved by Council and the Central Sydney Planning Committee.
10. This report recommends that Council and Central Sydney Planning Committee approve the planning proposal to amend Sydney Local Environmental Plan.

Public Exhibition

11. The planning proposal was exhibited between 12 July and 9 August 2023, in accordance with the Gateway Determination and the City of Sydney Community and Engagement Strategy and Community Participation Plan. The City sent 1,196 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.

12. In response to exhibition, 19 submissions were received including one from the 2011 Residents' Association. Seven submissions expressed support for the planning proposal, 11 raised matters for further consideration, and one requested information about the approved development application for the hotel. Concerns raised in the submissions mainly related to a loss of dwelling stock and affordable housing, the effects of construction, and amenity impacts such as noise and traffic during operation. A detailed account of and responses to matters raised in submissions is shown at Attachment A.

Support

13. Eight submissions supported the planning proposal. Supporting points stated that the planning proposal will:
 - (a) add to the area's liveability, amenity and culture;
 - (b) create jobs and boost tourism in the area;
 - (c) improve the area's character; and
 - (d) help conserve the heritage-listed Piccadilly Hotel.

Housing loss and housing affordability

14. Seven submissions raised concerns that the planning proposal will cause a loss of rental housing stock and lead to a rise in rents and cause significant social impacts. The City's housing audit records 13,064 dwellings in the Macleay Street and Woolloomooloo village area in June 2022. The 24 apartments at 100-104 Brougham Street comprise just 0.18 per cent of the area's dwelling stock. The loss of such a small proportion of the area's housing is not likely to have a noticeable impact on rents and the intended use makes up for the significant loss of hotels converted to residential use over the years..
15. The City's population and housing forecasts expect net growth in the number of dwellings in Macleay Street and Woolloomooloo of 1,035 dwellings to 14,099 in 2041. The City's Housing Monitor notes that 423 private dwellings are in the development pipeline for the area as at June 2022, with the remainder to be completed over the subsequent period.
16. The planning proposal does not prevent the buildings from being used as housing. The land will continue to be zoned R1 General Residential and residential flat buildings and other dwellings will continue to be a permissible use of the land. The planning proposal will allow a hotel use on the land but does not prohibit residential uses.
17. Four submissions expressed concern that the planning proposal would result in a loss of 'affordable housing'. The apartments at 100-104 Brougham Street are not classed as affordable housing. They are not owned or managed by a community housing provider but are privately owned and leased at market rates.
18. Rental rates are considered 'affordable' when they are less than 30 per cent of a household's income. The market rent for the apartments is expected to be above \$650 per week, which is more than 30 per cent of Potts Point's median weekly household income of \$2,041.

19. In this instance, where there is a long-standing hotel use adjacent, the conversion of apartments to additional hotel rooms benefits the local economic development of Kings Cross by providing visitor accommodation that attracts people to the area and its other businesses. The Potts Point area has seen the loss of at least 750 hotel rooms to residential accommodation since 2000. This loss of hotel rooms also impacts supporting businesses such as restaurants, cafes and entertainment and provides characterful diversity.

Landowner consent

20. The proponent owns 23 of the 24 units at 100-104 Brougham Street. The outstanding owner has indicated they do not support the proposal to include 100-104 Brougham Street within the future Piccadilly Hotel.
21. Under the Environmental Planning and Assessment Act 1979 there is no requirement for landowners' consent to be given for a planning proposal. The planning proposal will not allow any construction nor operation of the hotel – a development application is required for that. Landowners' consent is a requirement for development applications. The City has provided this advice to the outstanding owner and is a matter for any future DA.
22. Local governments do not have a role in the process of terminating a strata scheme, which is outside of the planning system. The application to restructure the strata is a private matter separate to the planning proposal process. Subject to process work by the strata committee and owners corporation, a strata scheme may be terminated where the owner(s) of 75 per cent of the lots agree. The termination of a strata plan is also subject to further consideration from the Land and Environment Court. Strata schemes are administered by the Strata Schemes Development Act 2015.

Residential and neighbourhood character

23. Five submissions raised concerns about the impacts of a hotel use or development with Brougham Street's predominantly residential character.
24. The planning proposal will not result in any significant change to the character of Brougham Street. It does not allow any additional building height or development for any of the affected properties on Brougham Street. Any future development will be subject to detailed assessment as part of a future development application. Impacts on the character of Brougham Street from the proposed hotel will be considered as part of that assessment.

Traffic, parking and servicing

25. Six submissions raised concerns about potential traffic impacts to Brougham Street, particularly additional vehicle congestion on Brougham Street, increased competition for car parking spaces and the future hotel's access and servicing.
26. The planning proposal is not expected to generate significant traffic impacts to Brougham Street. The subject properties are 150 metres northeast of Kings Cross Station and in a restricted parking area with limited on-site parking available for the hotel. The approved DA requires the hotel's servicing, including deliveries, waste collection and guest pick up and drop off to occur from Victoria Street rather than Brougham Street. The same arrangement is expected to be part of the future DA.

27. Traffic, parking and servicing will be considered in detail as part of any future development application for operation of the hotel. The proponent will be required to supply a transport impact study as part of that subsequent development application.

Noise

28. Three submissions raised concerns about adverse noise impacts from operation of the hotel. The inclusion of 90 and 100-104 Brougham Street as part of the future hotel will enclose the hotel's central courtyard, allowing for an effective buffer between the hotel use and surrounding residential properties. The subject properties will be used for accommodation rooms and are unlikely to expand the use of the courtyard or food and beverage activities.
29. Noise from the hotel use will be considered as part of any future development application. The future hotel operations will be subject to a Plan of Management and Noise Management Plan which will include noise minimisation strategies for the hotel. An onsite manager will also be available at all times that guests are on the premises, to respond to noise complaints. The development consent for the Piccadilly Hotel, including 92-98 Brougham Street, requires separate approvals to be sought for food and drink premises uses on the site, which will involve the assessment and management of noise. The operator will need to manage this noise for the benefit of their own guests as well as neighbours.

Hotel demand

30. Three submissions said there was no demand for hotel accommodation in the area. The City of Sydney is an important visitor destination and tourism key industry sector contributing to the City's economy. City Plan 2036, the City's Local Strategic Planning Statement notes a need for a variety of visitor accommodation options in the City, including areas outside Central Sydney. The Potts Point area in particular has seen a loss of hotel rooms to residential apartments, with at least 750 rooms lost since 2000.

Other submissions

31. Other issues addressed in the Response to Submissions at Attachment A include:
 - (a) construction impacts;
 - (b) the impact of building demolitions;
 - (c) consistency with State Environmental Planning Policy (Housing) 2021, as well as Ministerial Direction 6.1 Residential Zones;
 - (d) the creation of a 'third place';
 - (e) tree poisoning on Brougham Street; and
 - (f) links between the proponent and the Queensland State Government.
32. No changes are recommended to the planning proposal on the basis of submissions.

Key Implications

Strategic Alignment

33. Sustainable Sydney 2030-2050 Continuing the Vision renews the community's 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.
 - (a) Direction 4 - Design excellence and sustainable development - the planning proposal facilitates the sustainable renewal and reuse of existing buildings for employment purposes.
 - (b) Direction 9 - A transformed and innovative economy - the planning proposal supports the City's objectives to grow the City's tourist and visitor economy and to support employment in the City Fringe area.
34. The proposed planning controls give effect to priorities within the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan, as well as the City's Local Strategic Planning Statement.

Relevant Legislation

35. Environmental Planning and Assessment Act 1979.
36. Environmental Planning and Assessment Regulation 2021.
37. Strata Schemes Development Act 2015.

Critical Dates / Time Frames

38. The Gateway Determination requires the planning proposal to be made by 23 December 2023.
39. The amendment to the Local Environmental Plan 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