

Planning and Assessment

IRF20/5286

Gateway determination report

LGA	Sydney
PPA	City of Sydney Council
NAME	The Planning Proposal seeks to amend Sydney LEP 2012 by adding hotel and motel accommodation as a permitted use through a site specific clause for 92-98 Brougham Street, Potts Point.
NUMBER	PP-2020-1128
LEP TO BE AMENDED	Sydney LEP 2012
ADDRESS	92-98 Brougham Street, Potts Point
DESCRIPTION	Lot 1 DP 724376 Lot 1 DP 904094 Lot 1 DP 904214 (incorporating Lots 1-3 SP 17354) Lot 100 DP 613011
RECEIVED	3 November 2020
FILE NO.	IRF20/5286
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Sydney Local Environment Plan 2012 (Sydney LEP 2012) to introduce a site-specific provision for 92-98 Brougham Street, Potts Point, to insert 'hotel and motel accommodation' as an additional permitted use for the subject site in Sydney Local Environmental Plan 2012.

The proposed amendment is supported by a concept proposal which is intended to be the basis of a future Development Application. The concept proposal includes:

- Consolidating the subject site with the adjacent Piccadilly Hotel, a listed local heritage item at 171-173 Victoria Street, and neighbouring terrace house at 169 Victoria Street the property into a single 43 room boutique hotel;
- Restoring and adapting the row of terraces occupying the subject site for 12 hotel rooms and creating a central courtyard by amalgamating the rear yards of the terraces;
- Providing entry and exit for patrons and servicing via Victoria Street;

- Providing staff access including bicycle access via Hourigan Lane, off Brougham Street, and end of journey facilities; and
- Providing hotel lobby and food and beverage service activating the ground floor frontage to Victoria Street as well as the courtyard.

The intended development would result in the direct creation of approximately 84 ongoing jobs and additional construction jobs subject to development consent from Council.

1.2 Site description

The site comprises four allotments on the east side of Brougham Street in Potts Point, including numbers 92 to 98 Brougham Street. The allotments follow the historic subdivision pattern with a total site area of approximately 560m² side boundary length of approximately 28 metres and average frontages of 5 metres.



Figure 1: Locality (subject site shown in blue) (Source: Nearmap)

The subject site is shown in **Figure 1**. Victorian era terrace houses occupy 92, 94 and 98 Brougham Street with intact principal building forms and various secondary additions to the rear with rear courtyards. The building at 96 Brougham Street is occupied by a three unit flat building created through extensions to the original terrace house. **Figures 2 and 3** show the facades of 92 to 98 Brougham Street on the left and are characteristic views of the Heritage Conservation Area.



Figure 2: Subject site from the northwest (Source: Council Report)



Figure 3: View South along Brougham Street with the subject site on the left (Source: Council Report)

1.3 Existing planning controls

The site is subject to the planning controls in the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) and Sydney Development Control Plan 2012 (Sydney DCP 2012). Below is an overview of the controls relevant to this Planning Proposal.

Zoning

The site is zoned R1 General Residential, which permits bed and breakfast accommodation, food and drink premises, hostels and shops, but prohibits tourist and visitor accommodation (**Figure 4**).



Figure 4: Excerpt of Sydney LEP 2012 showing the subject site in blue and the R1 General Residential zone applying to the site (Source: Sydney LEP 2012)

Heritage

The site is located within the Woolloomooloo Heritage Conservation Area (HCA) (C71) under the Sydney LEP 2012 (**Figure 5**). The terraces at 92, 94 and 98 Brougham Street are identified as contributory buildings within the Woolloomooloo HCA under the Sydney Development Control Plan 2012 (Sydney DCP 2012).

Clause 5.10 of the Sydney LEP 2012 applies to the site as the building is located within an HCA. Under this clause, the relevant consent authority may require a heritage management document and/or a heritage conservation management plan to be prepared prior to development consent being granted.

The Piccadilly Hotel is situated within the Potts Point HCA (C51) adjoining the subject site and is identified as Heritage Item I1192.

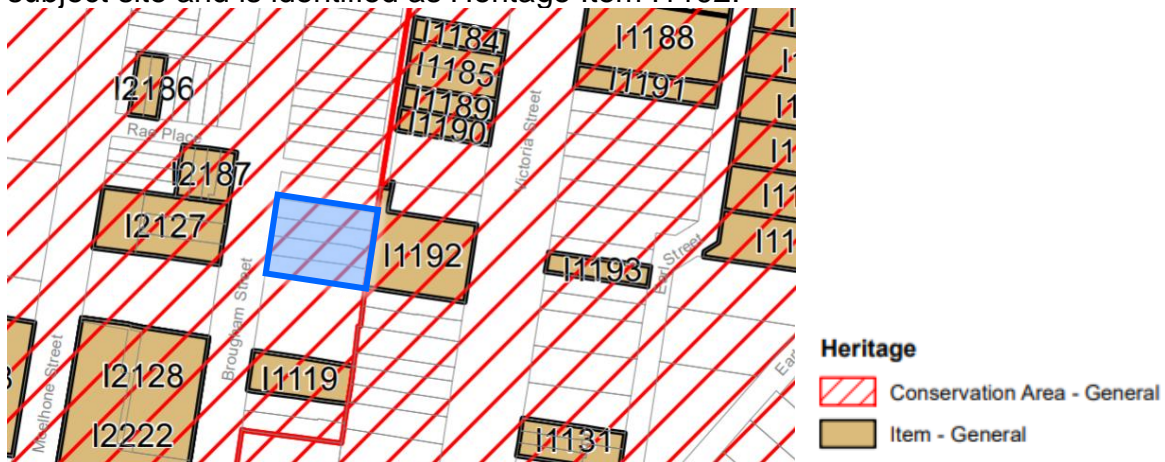


Figure 5: Excerpt of Sydney LEP 2012 showing the subject site in blue, Woolloomooloo and Potts Point Heritage Conservation areas and identifying Heritage Item I1192 the Piccadilly Hotel (Source: Sydney LEP 2012)

1.4 Surrounding area

Brougham Street is a one-way residential street characterised by terrace houses of the late 19th and early 20th centuries. The land falls away steeply to the west of Brougham Street with views from the subject site over Woolloomooloo to the city skyline.

Adjoining the site are a 5-storey residential flat building at 100 Brougham Street and a recently constructed 3 storey dwelling at 90 Brougham Street.

The four allotments are in a single contiguous landholding which also includes the Piccadilly Hotel and 169 Victoria Street, which have frontages to Victoria Street and adjoin the western (rear) boundaries of the subject site as shown in **Figure 1**.

Victoria Street is a mixed use street with fine-grain retail and commercial development interspersed with residential use.

The site is approximately 1.5 kilometres from the Sydney CBD, 240 metres from Kings Cross Train Station and well served by local buses.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is to include *'hotel or motel accommodation'* as an additional permitted use for the subject site.

2.2 Explanation of provisions

The planning proposal seeks the inclusion of a site specific clause in the Sydney LEP 2012 which would permit *'hotel or motel accommodation'* as an additional permitted use under Schedule 1.

2.3 Mapping

No amendments to the current Sydney LEP 2012 maps are proposed.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of any strategic study or report but is the result of a request by the landowner to seek additional permitted uses to facilitate redevelopment of the site as part of a larger development.

The proposal is informed by a range of studies including a land use analysis, indicative plan of management, traffic and transport study, urban design report, heritage impact statement, conservation management plan, acid sulphate soil and contamination assessment, economic and social impact assessment, and stakeholder engagement report.

A planning proposal is the only mechanism to permit an additional use on the site which would support the proposed future development.

4. STRATEGIC ASSESSMENT

4.1 Regional / District

The Eastern City District Plan, released in March 2018, identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth. This planning proposal is consistent with the key planning priorities in the District Plan as demonstrated in **Table 1**.

Table 1: Consistency with Eastern City District Plan

Planning Priority	Consistent	Comment
Planning Priority E1: Planning for a city supported by infrastructure	Yes	The proposed additional land use is consistent with this priority as it provides the potential for an anchor business supporting the cluster of businesses on Victoria Street and

Planning Priority	Consistent	Comment
		throughout Potts Point more broadly in an area well serviced by utilities and transport infrastructure.
Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport	Yes	The proposed additional land use is consistent with this priority as it supports new jobs close to existing housing and within easy access of public transport including trains and buses while maintaining the residential character of Brougham Street.
Planning Priority E6: Creating and renewing great places and local centres and respecting the district's heritage	Yes	<p>The proposed use supports the unique characteristics of Potts Point reactivating the streetscape and adding to the night-time economy of Victoria Street. Accordingly, it is considered consistent with this priority.</p> <p>The reuse and adaptation of existing fine-grain, human-scale built form respects the objectives of the heritage conservation area and retains the unique place character both of Brougham Street, with the intended restoration of the row of terraces, and Victoria Street, through the intended reopening of the Piccadilly Hotel.</p>
Planning Priority E7: Growing a stronger and more competitive Harbour City	Yes	The proposal is consistent with this priority as it is located on the fringe of the Harbour CBD and will strengthen the role of the Harbour CBD as a major tourism hub and accommodate growing demand for hotel accommodation. The proposed amendment will facilitate accommodation options to support tourism and also business travellers who contribute to knowledge industries in the CBD.
Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city	Yes	The proposed additional use is consistent with this priority as it is located in Potts Point on the fringe of the Harbour CBD. The use of the site for visitor accommodation will leverage proximity to existing public transport including the T4 Eastern Suburbs train line and a range of bus services.
Planning Priority E13: Supporting growth of targeted industry sectors	Yes	The proposed additional use demonstrates consistency with this priority by protecting heritage items and streetscapes to encourage cultural tourism. The intended proposal will also provide an accommodation option that builds on the diversity of experiences offered in the Harbour CBD to enable growth of the district's established visitor economy.
Planning Priority E19: Reducing carbon emissions and managing energy, water and waste efficiently	Yes	The proposal is considered to be consistent with this priority as the intended development will accommodate bicycle parking for staff and will not provide on-site parking. The lack of on-site parking will encourage the use of public and active transport.

4.3 Local Sustainable Sydney 2030

Council's Sustainable Sydney 2030 Community Strategic Plan is the vision for the sustainable development of the City of Sydney to 2030-and beyond. It includes 10 strategic directions to guide the future of the City and 10 targets against which to

measure progress. This planning proposal is consistent with key directions of the strategic plan as demonstrated in **Table 2**.

Table 2: Consistency with Sustainable Sydney 2030

Direction	Consistent	Comment
Direction 1: A globally competitive and innovative city	Yes	The proposed use will facilitate development of a unique accommodation offering leveraging the character and heritage of the local area is consistent with this direction as it supports the role of the city as a centre of business and tourism.
Direction 3: Integrated transport for a connected city	Yes	The proposed use is consistent with this direction given the proximity of the site to Kings Cross train station as well as buses on Victoria Road and William Street.
Direction 6: Vibrant local communities and economies	Yes	The proposal is consistent with this direction as it facilitates the activation of Victoria Street and will provide new jobs.
Direction 9: Sustainable development, renewal	Yes	The proposed use will facilitate greater activity in Victoria Street in close proximity to public transport and is consistent with this direction.

Local Strategic Planning Statement: City Plan 2036

The City of Sydney's Local Strategic Planning Statement sets out planning priorities to achieve the City's vision for a green, global and connected city. This planning proposal is consistent with key directions of the planning statement as demonstrated in **Table 3**.

Table 3: Consistency with City Plan 2036

Priority	Consistent	Comment
Priority I1: Movement for walkable neighbourhoods and a connected city	Yes	The proposal is consistent with this priority as it will facilitate redevelopment providing for active and public transport and minimises reliance on cars.
Priority L1: A creative and socially connected city	Yes	The proposal is consistent with this priority as it will facilitate the reestablishment of the Piccadilly Hotel, providing a focal point of activity in Victoria Street and opportunities for social contact for the community.
Priority P2: Developing innovative and diverse business clusters in the City Fringe	Yes	The proposal is consistent with this priority as it will facilitate redevelopment of the site for a unique accommodation offering supporting the activation of Victoria Street.
Priority S2: Creating better buildings and places to reduce emissions and waste and use water efficiently	Yes	The proposal is consistent with this priority as it will facilitate adaptive reuse of heritage and contributory items allowing them to be upgraded to contemporary sustainability standards.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with the following applicable section 9.1 Ministerial Directions as identified in **Table 4**.

Table 4: Consistency with Ministerial Directions

Direction	Consistent	Comment
2. Environment and Heritage		
Direction 2.3: Heritage Conservation	Yes	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal is supported by a Heritage Impact Statement prepared by Urbis and an Urban Design Study prepared by Woods Bagot, and a Conservation Management Plan for the adjacent Piccadilly Hotel prepared by Urbis demonstrating potential for restoration of the heritage building fabric.</p> <p>The planning proposal does not alter the existing heritage provisions, including identifying the sites within a Heritage Conservation Area and will apply to any future development proposed for the site. Heritage impact is discussed further in section 5.2 of this report.</p>
Direction 2.6: Remediation of Contaminated Land	Yes	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>Council has submitted a Report on Preliminary Site Investigation (Contamination) prepared by Douglas Partners which concludes that the risk of contamination on the site is low. It is noted that contamination and remediation will be subject to assessment at DA stage.</p>
3. Housing, Infrastructure and Urban Development		
Direction 3.4: Integrating Land Use and Transport	Yes	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. <p>The proposal is consistent with this direction as the additional use is proposed on a site well served by public and active transport networks, proposes to include end of journey facilities for staff commuting by bike and does not include car parking which will minimise generation of car trips better leveraging proximity to public transport.</p>
4. Hazard and Risk		
Direction 4.1: Acid Sulfate Soils	Yes	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>

Direction	Consistent	Comment
		Council has submitted a Report on Preliminary Site Investigation (Contamination) prepared by Douglas Partners which concludes that based on the concept proposal, assessment of Acid Sulfate Soils will not be necessary at DA stage.
Direction 4.3: Flood Prone Land	Yes	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005; and ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. <p>Council's report notes that Brougham Street is not affected by flooding however Victoria Street is within the 1% Probable Maximum Flood (PMF) and Annual Exceedance Event (AEP). It is noted that flood planning will be subject to assessment at DA stage.</p>
7. Metropolitan Planning		
Direction 7.1: Implementation of a Plan for Growing Sydney	Yes	Refer to Section 4.1 of this report.

4.5 State environmental planning policies (SEPPs)

The consistency of the planning proposal with the relevant State Environmental Planning Policies (SEPPs) is outlined in **Table 5**.

Table 5: Assessment of proposal against relevant SEPPs and deemed SEPPs

SEPP	Consistent	Comment
State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)	Yes	<p>The ISEPP provides permissibility and development assessment provisions which apply across the State for each infrastructure sector.</p> <p>The subject site is in an established area which is well serviced with a full range of infrastructure.</p>
State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017	Yes	<p>The Vegetation SEPP works in Non-Rural Areas together with the <i>Biodiversity Conservation Act 2016</i> and the <i>Local Land Services Amendment Act 2016</i> to create a framework for the regulation of clearing of native vegetation in NSW.</p> <p>The site is in an established and intensely developed urban area and no significant native vegetation will be affected.</p>

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposed amendment to introduce '*hotel or motel accommodation*' as a permissible use will not impact on social outcomes in the area but is intended to facilitate a future redevelopment of the subject site in conjunction with the Piccadilly Hotel and 169 Victoria Street.

The proposal is supported by an Economic and Social Impact Assessment prepared by IQ. The report concludes that the concept redevelopment facilitated by the proposed amendment would have economic and social benefits by providing jobs and economic activity, activating the public domain supporting neighbouring businesses, and creating a gathering place for the community. It is acknowledged that there may be some amenity impacts including noise and alcohol related incidents.

Redevelopment will be subject to assessment in accordance with the Visitor Accommodation provisions (Part 4.4.8) of Sydney DCP 2012 at DA stage.

5.2 Environmental

Heritage

The proposal to introduce '*hotel or motel accommodation*' as a permissible use will not have any impact on environmental heritage. The site does not contain any listed heritage item but is located within the Woolloomooloo Heritage Conservation Area (HCA) as defined in the Sydney LEP 2012, and is noted as including contributory buildings at 92, 94 and 98 Brougham Street on the Sydney DCP 2012 Building Contributions Map. These sites are contiguous with the Piccadilly Hotel, heritage item no. 1192, located at 171-173 Victoria Street.

A HIS prepared by Urbis accompanied the planning proposal, and concludes that the concept redevelopment facilitated by this planning proposal will contribute to the Woolloomooloo HCA and the Potts Point HCA in the following ways:

- Restoration of the terrace houses at 92, 94 and 98 Brougham Street will remove uncharacteristic additions and front fences, reinforcing the heritage architecture and the character of the conservation area;
- Restoration of the terrace house at 96 Brougham Street will remove significant later additions which converted the underlying terrace house into a three unit flat building and will significantly contribute to the conservation area; and
- Restoration of the Piccadilly Hotel and 169 Victoria Street.

The Department notes that the site is located within an HCA, as such Clause 5.10 of the Sydney LEP 2012 will apply to future DAs requiring heritage impacts to be assessed prior to development consent being issued.

Built Form

The proposal to introduce '*hotel or motel accommodation*' as a permissible use will not have any impact on built form. However the planning proposal supports the intended development of a boutique hotel incorporating the terrace at 169 Victoria Street, the Piccadilly Hotel at 171-173 Victoria Street, and the subject properties at 92-98 Brougham Street. The intended development includes restoration of original built form which will result in decreased height and bulk of 96 Brougham Street

where a three unit flat building has been constructed by means of additions to the original terrace. Additions to the upper levels of the Piccadilly Hotel are also proposed.

Redevelopment will be subject to assessment in accordance with the provisions of Sydney DCP 2012 at DA stage.

Car, building services and bicycle parking

The proposal to introduce 'hotel and motel' use will not have any impact on car use. The site is located in an area with good access to the metropolitan train network at Kings Cross station, multiple bus routes and with good amenity for active transport. Future redevelopment will be subject to assessment in accordance with maximum car parking rates established under Clause 7.6 of the Sydney LEP 2012 and the Transport and Parking provisions of Sydney DCP 2012 at DA stage.

Noise and Amenity

The proposal to introduce '*hotel or motel accommodation*' as a permissible use will not have any impact on built form however the intended development shown in **Figure 6**, below, would restore the four buildings on Brougham Street and create a consolidated courtyard area at the rear. All access for patrons and servicing would be provided via Victoria Street resulting in improved amenity on Brougham Street however the new open courtyard, proposed as food and beverage floor space, may result in local noise impacts to the adjoining residents at 90 and 100 Brougham Street.

A noise impact assessment and noise management plan will need to be submitted with the DA. The Council Planning Proposal report notes that noise will be assessed against the noise controls in the DCP as part of the DA. The Department is satisfied that there will be no undue amenity impacts as a result of the additional use subject to detailed DA assessment.

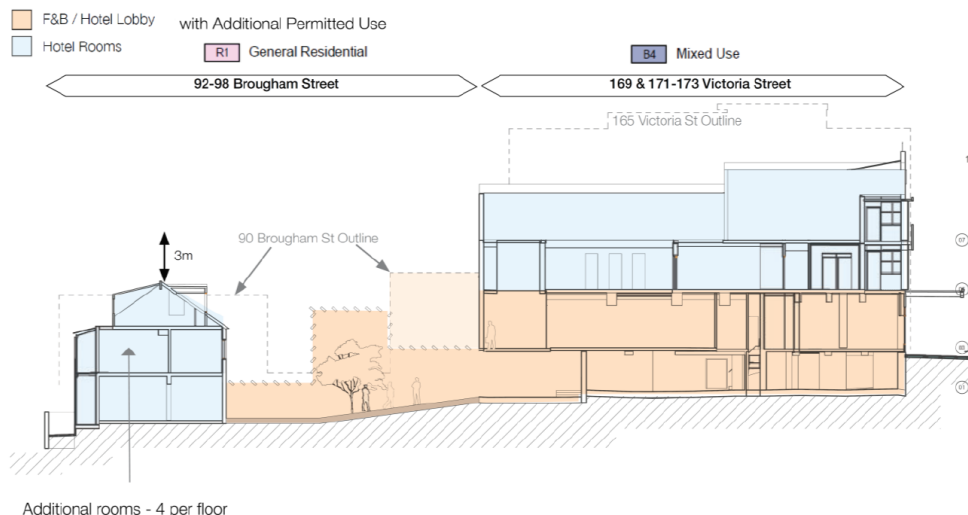


Figure 6: Concept east-west section looking north (Source: Council Report)

5.3 Economic

The proposal to introduce '*hotel or motel accommodation*' as a permissible use on the subject site will not have any negative economic impact. The planning proposal is supported by a social and economic assessment prepared by IQ which concludes that the future redevelopment of the Piccadilly Hotel in conjunction with the subject site is expected to generate approximately 84 hotel, food and beverage jobs on site

and contribute to the revitalisation of Victoria Street. The planning proposal will therefore support the economic role of the Eastern City in growing tourism by providing greater diversity in accommodation.

5.4 Infrastructure

The site is located in an area that is well serviced by public transport including trains and buses. The Traffic and Transport Study states that the proposal will not result in significant traffic and transport issues and will not have an adverse impact on the surrounding pedestrian and public networks.

The site is well serviced by a range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded where required by the developer based on further assessment undertaken at the DA stage.

6. CONSULTATION

6.1 Community

Council has proposed a public exhibition period of 28 days. The Department considers this to be appropriate.

Council, as the planning proposal authority, will be responsible for public consultation. Council has advised that this will include newspaper notification, displays at Council customer service centres and on Council's webpage.

6.2 Agencies

The proposal does not specify any agencies that are to be notified of the planning proposal. As the proposal is near several local heritage items and in a HCA, it is recommended that the Heritage NSW be consulted during exhibition of the planning proposal.

In addition, it is recommended that Transport for NSW be consulted during the exhibition of the planning proposal, as no car parking provisions are proposed.

7. TIME FRAME

Council has included a project timeline of six months. However, a time frame of 12 months is considered appropriate. This does not preclude the planning proposal from being finalised sooner.

The Gateway determination will be conditioned to update the project timeline to reflect the anticipated time frames for the plan-making process.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested delegation to make the plan. The Department recommends that an authorisation be issued for Council to exercise delegation to make this plan.

9. CONCLUSION

The Department recommends that the planning proposal proceed subject to conditions for the following reasons:

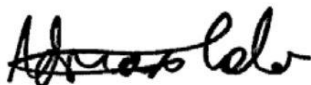
- it is generally consistent with the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and State Environmental Planning Policies;
- it will facilitate a mix of land uses with good access to public transport;

- it will facilitate a positive social impact for the region by providing much needed visitor accommodation;
- it will facilitate the delivery of a proposal which will enable a range of uses for the community, such as an entertainment venue, hotel, restaurant and cafe; and
- it will enable employment opportunities to be created in an accessible location.

10. RECOMMENDATION

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - Heritage NSW, and
 - Transport for NSW.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



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