

## Item 4.

### **Public Exhibition – Planning Proposal and Draft Development Control Plan – Darlinghurst Road, Potts Point**

**File No: X018038**

#### **Summary**

Located within the internationally renowned precinct of Kings Cross, Darlinghurst Road has a long and rich history, and a unique cultural identity and character. The area has previously been recognised as a popular late night trading precinct, attracting people from across Sydney, and internationally. Darlinghurst Road serves both the local community and attracts visitors with a variety of retail and commercial businesses, bars, restaurants, health services, community facilities and tourist and visitor accommodation.

The area is continuing to evolve and change. Through consultation, the local community has told the City that Darlinghurst Road is highly valued for its heritage, unique diversity of buildings and places and eccentric spirit and that this treasured character should be protected. The community has a strong desire to protect the collection of heritage buildings and see new development of a human scale with variety of styles and that is unique and highly detailed.

The City commissioned an urban design study, heritage assessment and undertook community consultation in response to a development application which involved the demolition of the majority of structures at 18-32A Darlinghurst Road. The heritage assessment investigated which properties on the block bounded by Darlinghurst Road, Barnacleuth Square, Barnacleuth Lane and Roslyn Street should be considered for heritage listing.

This report seeks approval to publicly exhibit the Planning Proposal at Attachment A, which proposes to heritage list three items including Kingsley Hall at 1A Elizabeth Bay Road, the facade of The Bourbon at 22-28 Darlinghurst Road, and The Empire at 32-32A Darlinghurst Road (in recognition of its social and historical significance).

The independent heritage assessment completed by PTW Architects in August 2018 recommended the sites be heritage listed as they meet historic, aesthetic or social criteria for listing. The sites also contribute to the conservation of the distinct heritage character and main street function of Darlinghurst Road. Progressing the local listing as will ensure the significance of the items is appropriately considered and conserved as part of any future development proposal.

Council's Transport, Heritage and Planning Committee is separately considering a site-specific development control plan (DCP) in addition to the proposed heritage listings. The DCP will help manage change and ensure new development respects and builds on Darlinghurst Road's iconic, edgy and historic character whilst continuing to provide diverse activities and services for the community and visitors. The DCP sets principles for the area and guides good design, heritage and land use outcomes. It includes a detailed building envelope for the site of the development application at 18-32A Darlinghurst Road. The Kings Cross locality statement has also been updated to reinforce the vibrant, iconic, diverse and community-minded character of Darlinghurst Road that is valued by locals and visitors alike.

It is recommended the Central Sydney Planning Committee approve the planning proposal for submission to the relevant plan-making authority with a request for a Gateway Determination and public exhibition.

## Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee approve *Planning Proposal - Proposed heritage items, Potts Point*, shown at Attachment A to the subject report, for submission to the relevant plan making authority with a request for Gateway Determination;
- (B) the Central Sydney Planning Committee approve *Planning Proposal - Proposed heritage items, Potts Point*, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Development Committee on 10 September 2018 that Council approve *Sydney Development Control Plan 2012 – Darlinghurst Road, Potts Point*, shown at Attachment B to the subject report, for public authority consultation and public exhibition with the Planning Proposal and Planning Agreement;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 10 September 2018 that Council seek authority from the relevant plan making authority of all their functions under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan as amended by *Planning Proposal - Proposed heritage items, Potts Point*; and
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to *Planning Proposal - Proposed heritage items, Potts Point* as required by the relevant plan making authority's Gateway Determination or to correct minor drafting errors.

## Attachments

**Attachment A.** Planning Proposal - Proposed heritage items, Potts Point

**Attachment B.** Sydney Development Control Plan 2012 – Darlinghurst Road, Potts Point

## Background

1. This report seeks the Central Sydney Planning Committee's approval to request a Gateway Determination for and to publicly exhibit a planning proposal that proposes heritage listing three items on Darlinghurst Road, Potts Point.
2. In February 2018, Council requested a review of the planning controls for Darlinghurst Road in response to concerns and issues arising from a development application for a mixed use development of 18-32A Darlinghurst Road (D/2017/1705). The review involved an urban design study, heritage assessment, guidance from the City's Design Advisory Panel and community consultation. This work has resulted in revised planning controls to guide development along Darlinghurst Road. The proposed planning controls include a planning proposal to heritage list three items and a site specific development control plan (DCP) that will guide the built form, use mix, heritage conservation, amenity, street activation and architectural articulation of new development.
3. A report to Council's Transport, Heritage and Planning Committee on 10 September 2018 recommends the planning proposal and draft development control plan be approved for public exhibition.

## The site and context

4. The heritage assessment study area is located at the northern end of Darlinghurst Road at the junction of Macleay Street. The study area's primary frontage is to the west to Darlinghurst Road, with secondary frontages to the north to Barncleuth Square, east to Barncleuth Lane, and south to Roslyn Street. 18-32A Darlinghurst Road, which was subject to the withdrawn development application, is shown outlined in blue in Figure 1. A photo of the study area is shown at Figure 2. The proposed heritage items, Kingsley Hall, facade of The Bourbon, and The Empire, are identified in the aerial photograph below at Figure 3.



**Figure 1:** Darlinghurst Road precinct outlined in red with 18-32A Darlinghurst Road outlined in blue



**Figure 2:** Aerial image of study area, looking south-east. Image: Nearmap





**Figure 3:** Subject sites

5. Kingsley Hall is located at 1A Elizabeth Bay Road, Potts Point. The site is legally described as Lot 1 DP 191425 and has a total area of 281 square metres. Kingsley Hall is shown at Figure 4 below. It is a 10 storey inter war flat building with a ground floor food and drink premises.
6. The Bourbon is located at 22-24 Darlinghurst Road, Potts Point. The site is legally described as Lot 1 DP 1097710 and has a total area of 1,386 square metres. The facade of The Bourbon is shown at Figure 5 below. The Bourbon is formerly a group of 2 to 3 storey terraces, altered and re-purposed over the twentieth century, and currently used as The Bourbon Hotel.
7. The Empire is located at 32-32A Darlinghurst Road, Potts Point. The site is legally described as Lot 1 DP 510235 and has a total area of 443 square metres. The Empire is shown at Figure 6 below. The Empire (32-32A Darlinghurst Road) is a modernist 3 storey mixed use building with a curved corner dating to 1961. It once housed Les Girls, Carousel Lounge and the Palladium nightclubs and is currently known as The Empire Hotel.
8. Darlinghurst Road is a main road, servicing vehicular and pedestrian traffic. The precinct is characterised by mostly small scale, fine grain commercial buildings of around 3 to 4 storeys interspersed with some larger sites and taller buildings. These include The Bourbon, The Empire, Wintergarden, Kings Cross Library and most significantly, the development known as 'Omnia', located at the intersection of Darlinghurst Road, Bayswater Road and Victoria Street. Surrounding development is mixed in scale and form, varying from two storey Victorian terraces to multi-storey residential flat buildings.





**Figure 4:** Kingsley Hall at 1A Elizabeth Bay Road, Potts Point



**Figure 5:** The facade of The Bourbon at 22-24 Darlinghurst Road, Potts Point



**Figure 6: The Empire at 32-32A Darlinghurst Road, Potts Point** Planning background

9. In December 2017, a development application was lodged for the construction of a mixed use building containing 83 residential apartments at 18-32A Darlinghurst Road (D/2017/1705). The application proposed to demolish the majority of structures across these sites. The community raised very strong concerns about the proposal's scale and impacts on heritage, amenity and the cultural identity of the area. The City's planning staff advised the applicant of considerable local environmental plan (LEP) and DCP non-compliances, and of the proposal's overall inconsistency with the site's character and context. The applicant withdrew the application on the City's recommendation due to these significant issues.
10. On 18 February 2018, Council resolved to commission an urban design study of Darlinghurst Road. The resolution requested the study identify principles for the site, audit the current planning controls for improvements and consult with the community. Council also requested the City's Design Advisory Panel establish a sub-committee to guide the study's progress.
11. A heritage assessment has also been carried out by PTW Architects which analyses the pattern of development for 18-32A Darlinghurst Road and makes recommendations regarding the site's heritage significance, including the listing of the abovementioned items. This is discussed in detail further in this report.

### **Current planning controls**

12. The Darlinghurst Road precinct is zoned B2 Local Centre. The objectives of the zone are to provide a range of retail, business, entertainment and community uses, encourage employment opportunities, maximise public transport use and encourage walking and cycling. The objectives allow for appropriate residential uses to support the vitality of local centres.
13. 1A Elizabeth Bay Road has a maximum floor space ratio (FSR) of 3.5:1, and a maximum building height of 22m, which allows up to 6 storeys. 18-32A Darlinghurst



Road has a maximum FSR of 3.5:1. 18-20 Darlinghurst Road has a maximum building height of 30m, which allows up to 10 storeys. 22-28 Darlinghurst Road, 30-30B Darlinghurst Road and 32-32A Darlinghurst Road all have a maximum building height of 22m, allowing up to six storeys.

14. Darlinghurst Road is within the Potts Point Elizabeth Bay Heritage Conservation Area which extends from the Garden Island Naval Depot in the north to Kings Cross Road in the South. The western boundary roughly follows Victoria Street, with Ward Avenue forming its eastern boundary. About three quarters of buildings within the Darlinghurst Road precinct are identified as contributing to the significance of the conservation area.

### **Community consultation**

15. Community consultation has been conducted as part of Council's review of the existing planning framework. CRED Consulting, Micromex Research and People, Place and Partnership were commissioned to undertake an online survey and workshop to better understand the community's views about the character, built form and experience of Darlinghurst Road, both now and in the future. The community workshop held on 5 July 2018 was attended by 76 community members and the online survey was completed by about 250 people.
16. The workshop centred on five activities. The activities asked participants to characterise the area, reflect on recent changes in the precinct, document their experiences along the street, and identify architecture they liked in the context of Darlinghurst Road.
17. The key issues and themes identified in the consultation include:
  - (a) Change - the views of the local community towards change are mixed. The area is evolving in ways perceived to be both positive and negative.
  - (b) Local character - the local community values the unique buildings and places, heritage and eccentric spirit of Darlinghurst Road, and believe its diversity should be protected.
  - (c) Darlinghurst Road as a high street - non-residential uses along Darlinghurst Road should not be reduced as these contribute to its vibrancy. The precinct should continue to fulfil its role as a diverse, unique retail and commercial local centre.
  - (d) Vacancy rates and maintenance - there is a strong desire amongst respondents to see the number of vacant tenancies reduce along Darlinghurst Road, and for the general maintenance and care for buildings improve.
  - (e) Local architecture - there is a desire to protect and celebrate the collection of heritage, Art Deco and Victorian era buildings, as well as those with cultural and historical significance. A variety of architectural styles, scales, and materials are preferred, as are unique and detailed buildings.



18. The online survey also asked specific questions about the social, cultural and historical value of The Bourbon and The Empire. A large number of responses noted that these sites were important due to their iconic nature, historic, architectural and aesthetic significance and contribution to local character and streetscape. 50 per cent of respondents stated the Empire Hotel was significant from a social, cultural or historical perspective with 29 per cent of respondents stating it is significant to the LGBTQI+ community as the former site of Les Girls.
19. The community consultation has provided Council with insight into the values and concerns of the local community and has directly informed the planning proposal, as well as the proposed planning controls. Community feedback has affirmed Council's review and the resulting local heritage listings and approach to heritage conservation and the need to preserve the character of Darlinghurst Road.

#### **Urban Design Study and Draft Development Control Plan**

20. In February 2018, Council commissioned an Urban Design Study to provide an indicative design strategy for 18-32A Darlinghurst Road, illustrate how good design can achieve better outcomes within the current controls and establish design principles for the site. Key recommendations of the study include a building envelope for 18-32A Darlinghurst Road with a compliant solar access envelope, retention of buildings which have been identified as having heritage significance, setbacks for upper levels and retaining a fine grain character.
21. A site-specific draft DCP has been prepared to ensure development on Darlinghurst Road conserves and respects heritage, provides appropriate land uses that support the zoning objectives, and maintains and contributes to the area's distinct local character. The draft DCP has been informed by the studies and consultation. It proposes controls for a mix of land uses, built form including setbacks and shadow lines, heritage conservation, architectural articulation and urban grain. These controls reflect the community's desire for buildings with visual appeal, uniqueness and human scale, and seek to achieve a balance and diversity of uses that will continue to serve the local community and visitors from further afield.

#### **Assessment of heritage significance**

22. The Heritage Council of NSW guidelines outline seven criteria of local heritage significance to determine whether an item warrants local listing. Only one of these seven criteria needs to be satisfied at the local level for local heritage listing.
23. Kingsley Hall, the facade of The Bourbon and The Empire have been assessed against the seven Heritage Council criteria and meet the threshold for listing as heritage items of local significance. The heritage assessment was completed by PTW Architects in August 2018 and is appended to the planning proposal at Attachment A. The assessment was based on internal and external site inspections, and research and review of documentary evidence, including existing inventory sheets in the State Heritage Inventory.

24. The assessment by PTW Architects found that Kingsley Hall satisfies at least six of the Heritage Council's listing criteria at a local level for its historic evolution, historic association, social significance, aesthetic characteristics, representativeness and research value. The assessment concluded Kingsley Hall has local heritage significance for its internal and external fabric, including the information it yields on the design, construction and use of luxury flats within the City of Sydney prior to World War II. Aesthetically, its significant external features include its well-preserved form and prominent elements such as its face brick Art Deco facade. The statement of significance for Kingsley Hall reads:

Kingsley Hall is a fine example of a purpose built Inter-War Art Deco apartment building designed by the celebrated Sydney architect Emil Sodersteen. Being well sited on the corner of Darlinghurst Road and Barnacleuth Square, and now overlooking Fitzroy Gardens, it is an important urban element within Potts Potts. Tightly and efficiently planned, each apartment commands a northerly aspect with views overlooking Potts Point and Sydney Harbour.

25. The facade of The Bourbon satisfies all seven of the Heritage Council's listing criteria, including the criterion for rarity. The assessment concluded The Bourbon has high historic significance, through its long relationship with its former residential use, private hospital and nightclub uses. The facade of The Bourbon and the external space facing onto the street, which is recommended to be listed, has moderate aesthetic and high social significance. External features include its well-preserved form and prominent elements such as the Italianate facade with a later 1950s addition. Only the façade to a depth of 8 metres is proposed to be identified as significant in the listing given the extent of change that has occurred to the remainder of the building. The statement of significance for The Bourbon at 22-24 Darlinghurst Road reads:

This building is significant as it demonstrates a complex social and associated architectural form and is representative of change in Potts Point, from speculative mansion terrace built by the entrepreneur Bakewell Brothers for wealthy professionals to use as a private hospital, managed by the prominent nurse Susan Bell McGahey, to boarding house, and later a celebrated nightclub.

26. The Empire satisfies at least four of the Heritage Council's listing criteria, based largely on its social associations with its use as the former 'Les Girls' nightclub. This site has high historic and social significance due to its association with the area's nightlife and the growing acceptability of the LGBTQI community during the late 1960s to the 1980s. The proposed listing of the Empire extends only to the site's social significance as there is no physical fabric worthy of retention. The draft DCP states that the building may be demolished and its former use is to be interpreted through the new building form, signage and use of the lower levels for food and drink and entertainment uses. The statement of significance for The Empire at 32-32A Darlinghurst Road reads:

The former Les Girls Nightclub, located on the upper floor of 32 Darlinghurst Road, was a unique and long standing club/cabaret of international standing. Here the company of talented female impersonators, Les Girls, performed with Carlotta, Australia's first transgender patient. As an important part of the cosmopolitan life of 'The Cross' during the 1960s and 1970s, Les Girls performed within a low rise mixed used commercial building designed in the modernist style by the celebrated Sydney architect Neville Gruzman.

27. The full assessment against each criterion is contained in the heritage inventories appended to Attachment A.

### **Proposed amendments**

28. The planning proposal at Attachment A seeks to protect the heritage significance of Kingsley Hall at 1A Elizabeth Bay Road, the facade of The Bourbon at 22-24 Darlinghurst Road, and The Empire at 32-32A Darlinghurst Road, to provide for sympathetic redevelopment at 18-32A Darlinghurst Road. To achieve this it is proposed to amend Sydney Local Environmental Plan 2012 to:
- (a) list Kingsley Hall at 1A Elizabeth Bay Road, Potts Point, as a heritage item in Schedule 5;
  - (b) list the facade of The Bourbon (to a depth of 8 metres) at 22-24 Darlinghurst Road, Potts Point, as a heritage item in Schedule 5; and
  - (c) list The Empire at 32-32A Darlinghurst Road, Potts Point, as a heritage item in Schedule 5.
29. The listing of Kingsley Hall and the facade of The Bourbon will ensure valuable physical fabric is retained, and will allow present and future generations to understand the breadth of Australia's early 20th century and Inter-War architectural heritage. The listing of The Empire for its social significance will ensure it is recognised for its iconic nature, and its significance as a socio-cultural institution (particularly to the LGBTIQ+ community) is respected and conserved. The identification of these items will ensure any future development of 18-32A Darlinghurst Road considers the heritage value and significance of these buildings, and encourages sympathetic built form and uses. Conservation and interpretation of these items is consistent with the community's aspiration to retain the eclectic mix of heritage buildings on Darlinghurst Road. The urban design study has accommodated the retention of the Bourbon façade in the built form enabling development potential to be achieved subject to having a mix of residential and non-residential land uses consistent with the zone objectives.

### **Planning proposal process**

30. Should the Central Sydney Planning Committee (CSPC) and Council endorse the planning proposal for exhibition, it will be forwarded to the Greater Sydney Commission in accordance with section 56 of the *Environmental Planning and Assessment Act 1979*. The Greater Sydney Commission or its delegate in the Department of Planning and Environment will then provide a Gateway Determination on whether the planning proposal should proceed.

### **Delegation of Minister's plan-making functions**

31. In October 2012, the Minister for Planning and Infrastructure delegated his plan-making functions to councils to improve the local plan-making process. In December 2012, Council resolved to accept the delegation.
32. Council needs to receive an authorisation on a case by case basis to exercise the delegation. The authorisation is given through the gateway process and may be for spot re-zonings consistent with surrounding zones and matters of local significance. Exercising the delegation means a faster plan-making process.



33. The report notes the recommendation to the Council's Transport, Heritage and Planning Committee meeting on 10 September 2018 that Council seek authority to exercise the delegation of the relevant plan making authority for all functions under section 3.36 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan.

## Key Implications

### Strategic Alignment - Sustainable Sydney 2030 Vision

34. 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 planning proposal is aligned with the following strategic direction and objectives:
- (a) Direction 9 - Sustainable development, renewal and design: The conservation of heritage buildings is essential to creating great streets that reflect the unique identity of local communities and are enjoyable to visit.

### Strategic Alignment - Eastern City District Plan

35. The Eastern City District Plan sets the local planning context for the City of Sydney local government area. It provides a 20-year plan to manage growth and achieve the 40-year vision of the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning.
36. The Eastern City District Plan 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.
37. This planning proposal gives effect to Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage.

### Social / Cultural / Community

38. The Planning Proposal responds to issues and concerns raised by the local community concerning the heritage significance of buildings and sites along Darlinghurst Road. The proposed heritage listings seek to conserve the physical and social significance of sites identified as having heritage value.

## Relevant Legislation

39. The *Environmental Planning and Assessment Act 1979*.
40. The *Environmental Planning and Assessment Regulation 2000*.

**Public Consultation**

41. The public authority consultation and exhibition process for the planning proposal will be subject to the conditions on the gateway determination issued by the relevant plan making authority. The consultation will take place in accordance with the gateway determination under section 3.34 of the *Environmental Planning and Assessment Act 1979* and the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.
42. The planning proposal will be notified in the following ways:
  - (a) on the City of Sydney website;
  - (b) in newspapers that circulate widely in the City of Sydney Local Government Area; and
  - (c) in writing to the owners, the adjoining landowners, relevant community groups, and the surrounding community in the immediate vicinity of the sites.
43. The City intends to exhibit the Draft DCP as soon as possible so it can be implemented to guide any future development application. The exhibition of the planning proposal is likely to happen after the Draft DCP is exhibited as additional time is needed to receive the gateway determination.
44. Following any public authority consultation and public exhibition, the outcomes will be reported to the CSPC and Council.

**GRAHAM JAHN AM**

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