



IRF23/1685

Gateway Determination Report – PP-2023-724

90 and 100-104 Brougham Street, Potts Point

June 2023

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway Determination Report – PP-2023-724

Subtitle: 90 and 100-104 Brougham Street, Potts Point

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning Proposal	1
1.1	Overview.....	1
1.2	Objectives of Planning Proposal	1
1.3	Explanation of Provisions.....	1
1.4	Site Description and Surrounding Area	2
1.5	Mapping.....	4
1.6	Background	4
2	Need for the Planning Proposal.....	5
3	Strategic Assessment	6
3.1	Region Plan	6
3.2	District Plan	6
3.3	Local Plans	7
3.4	Section 9.1 Ministerial Directions	8
3.5	State Environmental Planning Policies (SEPPs)	9
4	Site-Specific Assessment	9
4.1	Environmental.....	9
4.2	Social.....	11
4.3	Economic.....	11
4.4	Infrastructure	11
5	Consultation.....	12
5.1	Community	12
5.2	Agencies.....	12
6	Local Plan-Making Authority.....	12
7	Assessment Summary.....	12
8	Recommendation.....	13

Table 1 Reports and Plans Supporting the Proposal

Relevant Reports and Plans
Attachment A – Planning Proposal (June 2023)
Attachment B – Council Resolution and Report (May 2023)

1 Planning Proposal

1.1 Overview

Table 2 Planning Proposal Details

LGA	City of Sydney
PPA	City of Sydney
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 90 and 100 – 104 Brougham Street Potts Point
NUMBER	PP-2023-724
LEP TO BE AMENDED	Sydney Local Environmental Plan 2012 (Sydney LEP 2012)
ADDRESS	90 and 100 – 104 Brougham Street Potts Point
DESCRIPTION	<p>90 Brougham Street:</p> <p>Lot 15 Sec 4 DP 28</p> <p>Lot 1 DP 456813</p> <p>100 – 104 Brougham Street:</p> <p>Lots 1, 3-4, 6-12, 14-22 and 24 SP 1560</p> <p>Lots 25 – 28 SP 10531</p>
RECEIVED	19/05/2023
FILE NO.	IRF23/1685
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

1.2 Objectives of Planning Proposal

The objective of the planning proposal is to permit 'hotel and motel accommodation' uses at 90 and 100-104 Brougham Street, Potts Point. The planning proposal will allow for an expanded hotel proposal for the Piccadilly Hotel (169-173 Victoria Street and 92 – 98 Brougham Street).

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

1.3 Explanation of Provisions

The planning proposal (**Attachment A**) seeks to amend the Sydney LEP 2012 to permit 'hotel and motel accommodation' uses on the sites.

This is to be achieved by:

- Amending Schedule 1 to include ‘hotel and motel accommodation’ as an additional permitted use at 90 and 100 – 104 Brougham Street Potts Point and including a provision stating development for the purpose of hotel or motel accommodation is permitted with development consent.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site Description and Surrounding Area

The site comprises two allotments on the east side of Brougham Street, Potts Point. The land is relatively flat and the allotments have a combined site area of 746.7², consisting of 90 Brougham Street with an area of 190.3m³ and 100 – 104 Brougham Street with an area of 556.4m². Both allotments are rectangular in shape. 90 Brougham Street is currently occupied by two contemporary three storey dwellings separated by a courtyard. The existing building at 100-104 Brougham Street is four storeys and contains 24 studio apartments above a ground level carpark. The location of the properties is shown in **Figure 1**.

The allotments are highly accessible by public transport. They are 90 metres northwest of the Kings Cross train station, and close to Darlinghurst Road and William Street, which are both well serviced by bus routes.

Surrounding Development

The site is located in Potts Point approximately two kilometres east of Central Sydney. Uses along Brougham Street are predominantly residential and the most common building type is three storey terrace dwellings with dormer roofs. 92-98 Brougham Street which sits between the subject allotments has an approval for a hotel use. The surrounding site context is shown in **Figure 2**.



Figure 1 - Subject Site (Source: Council Report)



Figure 2 - Site Context (Source: Council Report)

1.5 Mapping

The planning proposal does not propose any mapping changes to the Sydney LEP.

1.6 Background

On 1 December 2020 PP-2020-1128 was determined and allowed an amendment to the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) to introduce a site-specific provision for 92-98 Brougham Street, Potts Point (land between the allotments subject of the current planning proposal), to insert 'hotel and motel accommodation' as an additional permitted use. The proposal was supported by a concept proposal which was intended to be the basis for a future Development Application. The concept proposal included:

- Consolidating 92-98 Brougham Street with the adjacent Piccadilly Hotel, a listed local heritage item at 171-173 Victoria Street, and neighbouring terrace house at 169 Victoria Street 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.

Harphill Pty Ltd has been in the process of acquiring the subject properties with a view to incorporate the sites as part of the hotel development application that was approved 14 December 2022 (D2021/927).

2 Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of a request made to Council by the landowner (Harphill Pty Ltd). The proposal will provide additional hotel accommodation rooms in a highly accessible location, contributing to the City's tourist and visitor accommodation supply. This is consistent with the City's Tourism Action Plan (2013) and Visitor Accommodation Action Plan (2015) which aim to facilitate the development of additional visitor accommodation.

This is discussed further in **Section 3.3**.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The intended outcomes of the proposal cannot be delivered under the current planning framework and a planning proposal is required to amend the Sydney LEP 2012.

The planning proposal seeks to introduce additional permitted uses into the Sydney LEP 2012 to enable an expanded hotel proposal for the Piccadilly Hotel (169-173 Victoria Street and 92 – 98 Brougham Street). The planning proposal is considered the best means of achieving the objectives and intended outcomes of the planning proposal because it ensures that the allotments can be used for hotel and motel accommodation, consistent with Council's tourism and visitor accommodation plans.

3 Strategic Assessment

3.1 Region Plan

The Greater Sydney Region Plan – A Metropolis of Three Cities (March 2018) was prepared by the Greater Sydney Commission. Key objectives of the Region Plan are Infrastructure and Collaboration, Liveability, Productivity and Sustainability. The proposal is consistent with the Region Plan as it will contribute to and support Sydney's tourist economy.

3.2 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). **Table 33** assesses the planning proposal against the relevant priorities and actions of the District Plan.

Table 3 District Plan Assessment

Planning Priority	Justification
Planning for a city supported by infrastructure (Planning Priority E1)	The proposed additional land use is consistent with this priority as it will provide for an anchor business supporting established businesses on Victoria Street and through Potts Point, an area well serviced by utilities and transport infrastructure.
Creating and renewing great places and local centres and respecting the districts heritage (Planning Priority E6)	<p>The proposal will allow for the expansion of the Piccadilly Hotel proposal contributing to activation of the local streetscape and adding to the night time economy of Victoria Street and the broader Potts Point locality.</p> <p>The proponent intends to repurpose the existing properties as hotel rooms and as such has not requested any changes to built form controls such as height or FSR. Repurposing of the existing buildings will not result in further negative impacts to local heritage.</p>
Growing a stronger and more competitive Harbour CBD (Planning Priority E7)	The subject allotments are located on the fringe of the Harbour CBD and the proposal will contribute to the role of the Harbour CBD as the major tourism hub, accommodating growing demand for hotel accommodation, particularly in the recovery period post Covid.
Growing investment, business opportunities and jobs in strategic centres (Planning Priority E11)	The provision of additional visitor accommodation on the fringe of the Harbour CBD will contribute to the creation of jobs associated with the accommodation, as well as business opportunities in the surrounding area that provide products and services for visitors.
Supporting growth of targeted industry sectors (Planning Priority E13)	The provision of additional visitor accommodation will support and enhance the growth of the visitor economy sector.

3.3 Local Plans

The planning proposal states that it is consistent with the following local plans and endorsed strategies:

- City Plan 2036 (Local Strategic Planning Statement)
- Sustainable Sydney 2030-2050 (Community Strategic Plan)

Consistency with these local plans and strategies is considered further in **Table 4** below.

Table 4 Local Strategic Planning Assessment

Plan	Justification
Local Strategic Planning Statement (City Plan 2036)	The site is located close to the Oxford Street Cultural and Creative precinct. The planning proposal is consistent with the LSPS as increasing the supply of visitor accommodation close to the Oxford Street Cultural and Creative precinct and providing new jobs will assist in growing a stronger, more competitive Central Sydney (Priority 7).
Sustainable Sydney 2030-2050	Sustainable Sydney 2030-2050 is the City of Sydney's overarching Community Strategic Plan (CSP), setting out Council's vision for the LGA. The proposal is consistent with the CSP because it would see the repurposing of existing buildings for visitor accommodation reducing environmental impacts associated with new construction (Direction 2) and providing visitor accommodation to support cultural and creative uses (Direction 8).

3.4 Section 9.1 Ministerial Directions

Table 55 provides an assessment of the planning proposal's consistency with the relevant Ministerial Directions under section 9.1 of the EP&A Act (Section 9.1 Directions).

Table 5 Section 9.1 Directions

Directions	Consistency	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The planning proposal gives effect to the objectives of the Region Plan, as discussed in Section 3.1 .
1.4 Site Specific Provisions	Inconsistent, but minor and justified.	<p>While the planning proposal will introduce site specific provisions into the Sydney LEP 2012, inconsistency with the Direction is considered minor and justified.</p> <p>This is because the site specific provisions are the most appropriate mechanism for supporting the delivery of tourist accommodation on the site. The planning proposal does not restrict any of the permissible land uses in the R1 General residential zone.</p>
3.2 Heritage Conservation	Yes	The subject sites are not identified as a heritage items. They are located within the C71 Woolloomooloo conservation area. The planning proposal is consistent with the Direction because it will not change any existing heritage controls that apply to the site. The planning proposal forms a part of a broader concept proposal for the Piccadilly Hotel, which involves the sensitive refurbishment of an existing local heritage item (see Section 4.1).
4.1 Flooding	Yes	The site is not identified as being flood affected.
4.4 Remediation of Contaminated Land	Yes	The site is currently used for residential land uses and the planning proposal does not seek to change the existing land use zoning. Rather, it seeks to extend the land uses to include tourist accommodation. Further contamination investigations will occur as part of any future DA, as required (if/where ground disturbance is proposed).
4.5 Acid Sulfate Soils	Yes	A preliminary site assessment for contamination was undertaken on the adjoining sites as part of the previous planning proposal. This assessment concluded the land was suitable for a hotel use and further assessment of Acid Sulfate Soils will not be necessary at DA stage.
5.1 Integrating Land Use and Transport	Yes	The planning proposal is consistent with the Direction because it will locate tourist accommodation close to existing public transport, including Kings Cross Station and buses on Victoria Road and William Street.
6.1 Residential Zones	Yes	The planning proposal is consistent with the Direction because it will not reduce the permissible residential density of the land.

Directions	Consistency	Reasons for Consistency or Inconsistency
7.1 Business and Industrial Zones	Yes	The planning proposal is consistent with the Direction because it will support jobs whilst accommodating the growing demand for tourist accommodation.

3.5 State Environmental Planning Policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs, as discussed in **Table 6** below.

Table 6 Consistency with relevant SEPPs

SEPP	Requirement	Consistent	Justification
SEPP (Resilience & Hazards) (2021)	A consent authority must not consent to the carrying out of any development on land unless it has considered whether the land can be made suitable for its proposed use and will be remediated before the land used for that purpose.	Yes	The site has been used predominantly for residential land uses in the past, and the Preliminary Site Investigation report prepared for on the adjoining sites as part of a previous planning proposal confirmed the sites useability for the proposed uses.
SEPP (Transport and Infrastructure) 2021	The SEPP requires consultation with public authorities for certain types of DAs.	Yes	The subject site is in an established area which is well serviced with a wide range of public transport, private transport, and infrastructure.


4 Site-Specific Assessment

4.1 Environmental

Table 7 assess the potential environmental impacts associated with the planning proposal.

Table 7 Environmental Impact Assessment

Impact	Assessment
Flood Risk	The site is not identified as flood affected.

Impact	Assessment
Heritage	 <p>Figure 3 - Extract from Heritage Map (Source: City of Sydney Council, 2023)</p> <p>The proposal to introduce 'hotel or motel accommodation' as a permissible use will not have any impact on environmental heritage. The sites do 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.</p> <p>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.</p>
Built Form	<p>The proposal to introduce 'hotel or motel accommodation' as a permissible use will not have impact on built form controls. Any proposed built form changes and redevelopment of the allotments will be subject to assessment in accordance with the provisions of Sydney DCP 2012 at DA stage.</p>
Car, building services and bicycle parking	<p>The proposal to introduce 'hotel and motel' use will not have any impact on car use. The site has good access to the metropolitan train network at Kings Cross station, multiple bus routes and 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.</p>

Impact	Assessment
Noise and Amenity	The proposal to introduce 'hotel or motel accommodation' as a permissible use will not have any impact on noise and amenity. Council has noted in their assessment of any noise and privacy impacts that is expected. Any potential noise and amenity impacts will need to be managed through design responses and will be assessed as part of any future DA.

4.2 Social

Table 8 Social Impact Assessment

Impact	Assessment
Social	<p>The proposal is not expected to impact social outcomes in the area and is intended to facilitate and support the reuse of the subject site in conjunction with the adjoining sites. Any future redevelopment will be subject to assessment in accordance with the Visitor Accommodation provisions (Part 4.4.8) of Sydney DCP 2012 at DA stage.</p> <p>It is noted the proposal does not contribute any additional housing for the area. Council's assessment has noted the conversion of dwellings into tourist accommodation is unlikely to hinder the supply of dwellings to meet demand from forecast population growth or impact affordability. The supporting Economic and Social Impact Assessment (February 2022) also identifies hotel demand is expected to have significant growth, and therefore the additional rooms will provide accommodation for the expected 100,000 overnight visitors per year forecast for the Kings Cross Precinct.</p>

4.3 Economic

Table 9 Economic Impact Assessment

Impact	Assessment
Economic	The proposal is expected to generate positive economic impacts. The planning proposal is supported by a social and economic assessment prepared by IQ which concludes 148 jobs are likely to be created by the subject development. The planning proposal will therefore support the economic role of the Eastern City in growing tourism by providing greater diversity in accommodation.

4.4 Infrastructure

The site is located in an area that is well serviced by public transport including trains and buses. The existing good amenity of the area will contribute to the use of active transport by visitors. 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.

5 Consultation

5.1 Community

Council proposes a community consultation period of no less than 20 working days.

In accordance with the *Local Environmental Plan Making Guide* (the LEP Making Guide), the proposal is considered a 'standard' planning proposal as it relates to the alteration of a principal development standard of the LEP and is consistent with the District Plan and the LSPS.

The LEP Making Guide recommends that the exhibition period for a 'standard' planning proposal is 20 working days. The proposed exhibition period is therefore considered appropriate and forms a condition of the Gateway determination.

5.2 Agencies

The planning proposal does not specifically identify the public authorities and government agencies to be consulted. However, consultation with public authorities and government agencies is not considered necessary because the planning proposal is for the expansion of a small scale and existing hotel use on an adjacent property.

Council proposes a 6 month time frame to complete the LEP.

The Department considers a time frame of 6 months to be appropriate. A condition requiring the LEP to be made within this time frame is recommended in the Gateway determination.

6 Local Plan-Making Authority

At its meeting on 15 May 2023, Council resolved to seek authority from the Department to exercise the delegation of all the functions under section 3.36 of the EP&A Act as the Local Planning-Making Authority (LPMA).

Council also resolved to provide delegated authority to Council's Chief Executive Officer to make any minor variations to the planning proposal to correct any drafting errors or to ensure consistency with the Gateway determination.

Given the nature of the planning proposal, the Department recommends that Council be authorised to be the LPMA because. This is because the planning proposal is consistent with the District Plan, the endorsed LSPS, applicable SEPPs and has minor and justifiable inconsistencies with Section 9.1 Directions.

7 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it is consistent with the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and State Environmental Planning Policies;
- it will enable additional tourist accommodation with good access to public transport;
- it will facilitate a positive social and economic impact for the region by providing much needed visitor accommodation; and
- it will enable employment opportunities to be created in an accessible location.

8 Recommendation

It is recommended that the delegate of the Secretary:

- Agree that inconsistency with the following Section 9.1 Directions is minor and justified:
 - 1.4 Site Specific Provisions

It is recommended 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 20 days.
2. Council is advised that consultation with public authorities is not required.
Should Council choose to consult with public authorities, each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to provide feedback.
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. The timeframe for completing the LEP is to 6 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the LPMA.



22/06/23

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