

Post Exhibition – Planning Proposal – 4-44 Wentworth Avenue, Surry Hills – Sydney Local Environmental Plan 2012 Amendment and Draft Sydney Development Control Plan 2012

File No: X018846

Summary

Surry Hills' character as a diverse mixed-use neighbourhood with a variety of building types and scales and its proximity to Central Sydney continues to drive demand for business and visitor accommodation floor space. Sydney's competitive position will continue to rely on sustainably and appropriately accommodating growing enterprise and tourism related businesses in highly accessible and strategic locations. This is especially the case in a post-Covid-19 environment where businesses need support to adapt to changing economic conditions.

This planning proposal will facilitate the delivery of strategically important employment and visitor accommodation floor space on the edge of Central Sydney in Surry Hills. It will encourage the growth of creative and knowledge intensive industries and strengthening the economic role of the Harbour CBD strategic centre. It encourages the suitable adaptive reuse and extension of heritage buildings in a way that provides strong definition to Wentworth Avenue, marks the eastern entry to Central Sydney whilst transitioning and maintaining appropriate solar access to lower scale residential properties to the sites east.

The planning proposal for 4-22 Wentworth Avenue was endorsed by Council and the Central Sydney Planning Committee in December 2019 to include the southern half of the block at 24-44 Wentworth Avenue as part of a revised planning proposal.

For 4-22 Wentworth Avenue, the proposal sort to increase the maximum height and FSR in the Sydney LEP 2012 for the purpose of hotel accommodation. For 24-44 Wentworth Avenue, the proposal sought to increase the maximum height in the Sydney LEP 2012 for the purpose of commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry or information and education facilities.

The proposal also included an amendment to Sydney DCP 2012 with controls relating to built form, heritage conservation, design excellence, amenity requirements and sustainability.

The proposal was granted Gateway determination on 22 June 2020. The planning proposal, draft DCP and other supporting documents were then publicly exhibited from 24 November 2020 to 29 January 2021. Ten community submissions were received in response, two from public authorities and one from the proponent.

The majority of community objections related to overshadowing, amenity, parking, traffic and noise impacts. These issues are discussed in detail in this report with a summary of and responses to all matters raised in submissions provided at Attachment C.

The proponent's submission requested a broadening of the incentivised uses for 4-22 Wentworth Avenue to match those incentivised for 24-44 Wentworth Avenue, including residential accommodation. This request was made in response to Covid-19 and its impact on the viability of a larger hotel. The City has accepted the proponent's justification and amended the planning proposal and draft DCP to broaden the business uses permitted at 4-22 Wentworth Avenue, with the exception of incentivising residential accommodation. There is not considered to be sufficient strategic merit in incentivising residential accommodation for the site in line with the City's Local Strategic Planning Statement and the Eastern City District Plan.

This report recommends approving the planning proposal as shown at Attachment A so that it may be forwarded to the Department of Planning Industry and Environment for making as a local environmental plan. It also recommends Council approve the draft DCP as amended at Attachment B. The site-specific DCP will come into effect at the same time as the LEP is published.

Recommendation

It is resolved that:

- (A) Council note matters raised in response to the public exhibition of Planning Proposal – 4-44 Wentworth Avenue, Surry Hills and draft Development Control Plan – 4-44 Wentworth Avenue, Surry Hills, as detailed in this report and as shown in Attachment C to the subject report;
- (B) Council approve Planning Proposal – 4-44 Wentworth Avenue, Surry Hills with amendments in response to submissions, as shown in Attachment A to the subject report, to be made as a local environmental plan under S3.36 of the Environmental Planning and Assessment Act 1979;
- (C) Council approve the draft Development Control Plan – 4-44 Wentworth Avenue, Surry Hills with amendments in response to submissions, as shown at Attachment B to the subject report, noting that it will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000; and
- (D) authority be delegated to the Chief Executive Officer to make minor amendments to the Planning Proposal – 4-44 Wentworth Avenue, Surry Hills and draft Development Control Plan – 4-44 Wentworth Avenue, Surry Hills to correct any minor errors or omissions prior to finalisation

Attachments

- Attachment A.** Planning Proposal – 4-44 Wentworth Avenue, Surry Hills
- Attachment B.** Draft Development Control Plan – 4-44 Wentworth Avenue, Surry Hills
- Attachment C.** Summary of and Responses to Matters Raised in Submissions
- Attachment D.** Resolution of Council and Central Sydney Planning Committee
- Attachment E.** Gateway Determination

Background

1. This report seeks Council's approval of the amended planning proposal at Attachment A. The planning proposal is to amend the Sydney Local Environmental Plan 2012 (LEP) as it relates to 4-44 Wentworth Avenue, Surry Hills (the site).
2. The report also seeks Council's approval of the amended draft Development Control Plan (DCP) at Attachment B for 4-44 Wentworth Avenue, Surry Hills.
3. In July 2018, the landowner submitted a planning proposal request to the City of Sydney for 4-22 Wentworth Avenue, Surry Hills. The request sought to amend the Sydney LEP 2012 to increase the maximum building height control from the current 18 metres and 22 metres to a height of RL 100.57, or around 70m, and to increase the maximum floor space ratio to 6.3:1 for the site for the purpose of hotel or motel accommodation only.
4. In August 2019, Council deferred the determination of the planning proposal to investigate an amended planning proposal and draft development control plan for the whole street block of 4-44 Wentworth Avenue.
5. In response to an urban design analysis conducted by the City, in December 2019 Council and the Central Sydney Planning Committee (CSPC) approved an amended planning proposal for 4-44 Wentworth Avenue for submission to the Department of Planning, Infrastructure and Environment (DPIE) with a request for Gateway determination, and for public exhibition.
6. For 4-22 Wentworth Avenue, the proposal sought to increase the maximum height and FSR in the Sydney LEP 2012 for the purpose of hotel accommodation only. For 24-44 Wentworth Avenue, the proposal sought to increase the maximum height in the Sydney LEP 2012 for the purpose of commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry or information and education facilities.
7. The DPIE granted Gateway determination on 22 June 2020. The Gateway determination is shown at Attachment E. The planning proposal and draft DCP were then publicly exhibited from 24 November 2020 to 29 January 2021. Ten community submissions were received in response, two from public authorities and one from the proponent.
8. This report describes the outcomes of public exhibition, and the changes made to the planning proposal and DCP in response to submissions.

Site Details and Context

9. The site is in Surry Hills on the City fringe, just outside the boundary for Central Sydney. It consists of 11 lots with frontages to Wentworth Avenue to the west, Wemyss Lane to the east and Goulburn street to the west. The site is located within 200m to Museum station and under 650m to Central. It also is within 100m proximity to Hyde Park to the north and under 100m to Harmony Park to the south.
10. Existing development consists of heritage buildings constructed between 1915 and 1921 most of which are local group heritage items. These buildings range up to 11 storeys in height and used for a range of uses including hotel, offices, business, entertainment and retail premises. Neighbouring sites include a diverse range of residential and commercial uses, including the Belvedere and Meta apartments on Goulburn street.

Current planning controls

11. The current planning controls applying to the site under the LEP are:
 - (a) Land zoning: B4 Mixed Use Zone, which permits the proposed uses
 - (b) Height of Buildings:
22m at 4-6 Wentworth Avenue
18m at 8-44 Wentworth Avenue
 - (c) Floor Space Ratio (FSR):
6:1 at 4-6 Wentworth Avenue
5:1 at 8-44 Wentworth Avenue.
12. The site is a listed local heritage item (I2271).

Exhibited LEP controls

13. The exhibited planning proposal sort to amend the LEP for 4-22 Wentworth Avenue to:
 - (a) Insert provisions in Division 5 Site Specific Provisions to increase the maximum building height controls from 22m at 4-6 Wentworth Avenue to a maximum RL 92.59 (or around 62m) and from 18m at 8-22 Wentworth Avenue to RL 50.00 (or around 24m) if the entire site was developed for 'hotel or motel accommodation';
 - (b) Insert provisions in Division 5 Site Specific Provisions to increase the maximum FSR control from 6:1 and 5:1 (5.22:1 average) to 5.7:1 across 4-22 Wentworth Avenue for 'hotel or motel accommodation' only, in spite of Clause 4.4 of the LEP. The proposal may be eligible for up to 10% additional floor space subject to achieving design excellence. This represents a maximum FSR of 6.3:1;
 - (c) Insert a new site-specific subclause in clause 6.21 specifying that development on the site demonstrating design excellence cannot obtain additional height; and
 - (d) Insert a new site-specific subclause in clause 4.6 specifying that the clause does not allow development on the site to contravene the maximum building height development standard.
14. The exhibited planning proposal sort to amend the LEP for 24-44 Wentworth Avenue to:
 - (a) Insert provisions in Division 5 Site Specific Provisions to increase the maximum building height controls from 18m at 24, 26-28, 30-32, 34 and 36-38 Wentworth Avenue to RL 50 (between 24.5m and 28m as the site slopes down from north to south) and from 18m at 40 Wentworth Avenue (part of 40-44 Wentworth Avenue) to RL 44.26 (around 22m) if the sites are developed for commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry or information and education facilities in spite of Clause 4.3 of the LEP; and
 - (b) Insert a new site-specific subclause in clause 4.6 specifying that the clause does not allow development on the site to contravene the maximum building height development standard.

Exhibited DCP controls

15. The exhibited material also included an amendment to the Sydney Development Control Plan 2012 to include site-specific controls to guide design of the entire block at 4-44 Wentworth Avenue, Surry Hills. The controls address built form, heritage conservation, site servicing, sustainability and a design excellence strategy. These controls will help to ensure the benefits of the increased maximum building height and FSR are realised and impacts are appropriately managed.

Outcomes of public exhibition and public authority consultation

16. The planning proposal, draft DCP and other supporting documents were publicly exhibited from 24 November 2020 to 29 January 2021.
17. Letters were sent to owners and occupiers within approximately a 100 metre radius of the subject site. Two public agencies were also consulted as required by the Gateway determination. Notification of the public exhibition was advertised on the Sydney Your Say website.
18. The City received a total of 13 written submissions. These included ten from residents, two public authority responses from Transport for NSW and Heritage Council of NSW and one submission from the proponent.
19. The submissions raised issues concerning amenity as a result of the increase in height. There was also a submission in support of the strategic intent of the proposal. Further, the proponent's submission seeks to resolve a minor administrative error to the FSR and broaden the range of uses for 4-22 Wentworth Avenue to be consistent with 24-44 Wentworth Avenue.
20. Transport for NSW expressed servicing suggestions for any future development application and Heritage Council supported the proposal with respect to the site's historical context.
21. A detailed summary of and responses to matters raised in submissions is provided at Attachment C and the key public issues raised in objection to the proposal are also addressed below.

Proponent submission

22. As a result of the pandemic, the landowner, Pongrass Properties Pty Ltd, has noted a reduced demand in large hotel accommodation and therefore reduced viability of large format hotels. This impacts their proposal as the current proposal seeks to incentivise only hotel or motel accommodation of 4-22 Wentworth Avenue.
23. They seek to expand the range of employment generating land uses permitted at 4-22 Wentworth Avenue in line with those sort for 24-44 Wentworth Avenue. They have stated that incorporating a diversity of uses in the building will improve the viability of the project. The proponent has also sort to introduce residential as an incentivised use.

24. The City has considered this request based on the strategic intent and land use outcomes of this proposal. It is considered that incentivising residential misaligns from the original strategic intent of this proposal and the broader visions, priorities and actions of the City and Greater Sydney Commission to incentivise development in the Harbour CBD for the purpose of employment, entertainment and business uses. The City's Local Strategic Planning Statement found that there is sufficient capacity to deliver the City's residential targets to 2036. However, to meet employment targets the planning statement has priorities to encourage employment and economic activity generating development, particularly in the Harbour CBD. The request to encourage residential development through additional FSR and height is not supported. Residential uses may be developed under the current controls.
25. Broadening the uses at 4-22 Wentworth Avenue for business related uses is consistent with 24-44 Wentworth Avenue aligns with the stated intended outcomes of the proposal and the priorities actions of the City's Local Strategic Planning Statement and the Greater Sydney Commission's Eastern City District Plan. The planning proposal has been amended to enable the additional FSR to be awarded for a range of strategic business uses.
26. The landowner has also noted a minor drafting error with the exhibited materials, where a suggested a maximum FSR of 5.6:1 at 4-22 Wentworth Avenue was included in the planning proposal. A maximum FSR of 5.7:1 was supported by Council in December 2019 and as such this drafting error has been corrected.

Overshadowing and amenity

27. Seven submissions, including three of which are from residents living at the nearby Meta Apartments raised concern over the proposed height increase, creating a shadow and loss of sunlight to the subject apartments.
28. Some submissions also questioned the impact of solar access on other times of the year. This is as the exhibited material primarily referenced solar testing for the site conducted on 21 June winter solstice.
29. Extensive overshadowing analysis has been completed by the City as shown in the City's reports to Council in August and December 2019 and in the draft DCP.
30. The maximum building envelope for the block has been determined by overshadowing requirements. The proposed building envelope will cause minor additional overshadowing to residential apartment buildings located to the east of the site. The proposal has been extensively reviewed and revised considerably to ensure the additional overshadowing is acceptable and complies with the design criteria of the Apartment Design Guide (ADG).
31. The exhibited material references 21 June winter solstice to meet industry standards to determine the minimum duration of sun a residential development can receive over the course of the year. Testing at 21 June winter solstice ensures the worst case overshadowing scenario is tested.

32. The revisions to the proposed maximum building envelope minimise overshadowing to neighbouring properties. Specifically, the envelope ensures that, in accordance with Objective 3B-2 of the ADG, neighbouring properties that do not currently receive the required hours of solar access do not have their solar access reduced by more than 20 per cent. The impact of the proposed maximum building envelope on surrounding properties' solar access is therefore considered to be within acceptable limits and the Department of Planning, Industry and Environment's standards for residential development. To ensure the proposal does not result in adverse overshadowing impacts, a provision has been included in the site-specific DCP to ensure that the development achieves compliance with the solar access design criteria stipulated in the ADG.
33. Overshadowing will also be considered under future development applications where proposed buildings can be further shaped to reduce overshadowing impacts, where reasonable.

Parking and traffic

34. Seven submissions raised concern over the traffic implications of loading, delivery and car parking to be accessed through the adjacent, narrow Wemyss Lane.
35. With an increase in proposed rooms for the site, the submissions argue that the traffic assessment is presumptive if it deems the increase in traffic minor.
36. Additionally, they stated that the report lacks a plan to mitigate traffic impacts.
37. A traffic, transport and parking study prepared by ARUP was submitted in support of the proposal and placed on public exhibition. The study concluded that the traffic generated by the proposed development to the surrounding road network would have a negligible impact on road network operation. This view was supported by the City's Transport Planner who identified broad support for the proposal in relation to potential traffic, transport and parking impacts when considering the block as a whole.
38. Whilst there may be need of additional bicycle parking, end of trip facilities and loading and servicing vehicle spaces, these can be assessed and determined in the detailed design and development applications.
39. Further it is noted that the draft DCP for this proposal, has site specific controls to manage any associated traffic impacts, including the location of vehicle entries and servicing at Wemyss Lane. This includes a 'transport management plan' to be submitted for any hotel development, which sets out management strategies for pick up and drop off, bus/coach parking and pedestrian safety.

Noise

40. Four submissions noted a significant increase in noise due to associated rubbish collection, service delivery and guest parking inclusions as part of the proposal. This includes an impact to residents in Meta B or Meta G apartments facing Wemyss Lane with possibility for a reverberation of sound. It was noted that a noise assessment wasn't conducted as part of the proposal.

41. The City notes the proposal for 4-44 Wentworth Avenue is within a dense and highly urbanised precinct that has several residential and mixed-use developments in its vicinity. The area has and will continue to evolve to be subject to associated acceptable noise impacts that are permissible for commercial, entertainment, and residential uses under a B4 Mixed Use Zone. Detailed plans to manage servicing and waste will be considered in the development applications.

Heritage and local character

42. One submission raised that an increase in height controls to historic buildings such as Hotel Harry's will detract from the area.
43. The aim of the proposal at 4-44 Wentworth Avenue is to encourage development that revitalises the area and provides social and economic benefits. By encouraging a mix of active and economic generating uses and allowing architectural flexibility and the adaptive reuse of heritage items, the proposal will contribute to the strategic priorities for the Harbour CBD as an attractive place for business, enterprise and visitors.

Planning controls and business case

44. Two submissions raised that if current businesses can't operate within existing planning controls, then a problem may be in the business case. One of them also questioned the justification for including 24-44 Wentworth Avenue as the proposed changes will impact amenity, reduce appeal and value of nearby residential properties. It was also stated that despite the DCP objective being to activate Wentworth Avenue, no building use or design will activate this environment due to increased roadways in the city.
45. The proposal will facilitate the delivery of strategically important employment and visitor accommodation floor space in Surry Hills, encouraging the growth of creative and knowledge intensive industries and strengthening the economic role of the Harbour CBD strategic centre. It encourages the suitable adaptive reuse and extension of heritage buildings in a way that provides strong definition and activation to Wentworth Avenue, marks the eastern entry to Central Sydney whilst transitioning and maintaining appropriate solar access to lower scale residential properties to the east.
46. Sydney's competitiveness will continue to rely on sustainably and appropriately accommodating growing enterprise and tourism related businesses in highly accessible and strategic locations. This is especially the case in a post-Covid-19 environment where businesses need support to adapt to changing economic conditions.

Economic viability

47. One submission was provided in support of the proposal as an opportunity to make a hotel more commercially viable, whilst being essential to the revitalisation of an area which currently has little activity. The submission also expressed the proposal is consistent to surrounding uses and hotels.

Transport for NSW

48. Transport for NSW noted recommendations to minimise constraints on Wemyss Lane. These included minimising vehicular conflict points, locating vehicular movements wholly within the subject site and providing onsite coach parking to reduce reliance on bays in the nearby area.

49. The recommendations can be incorporated within a 'transport management plan', which is required for any hotel development on the site as per the proposed DCP amendment. This is sufficient in order to mitigate any adverse traffic or parking constraints within the area.

Heritage NSW

50. Heritage NSW expressed support for the proposal and affirmed the DCP provides a strong approach to the adaptive reuse of the site with respect to its local context and history.

Post exhibition changes

51. Following consideration of submissions by the community, landowner and public authorities, the City has amended the Planning Proposal to account for a minor error to the exhibited FSR and broaden the land uses that can be awarded additional height and FSR at 4-22 Wentworth Avenue.
52. The City has amended the minor error to the approved FSR for 4-22 Wentworth Avenue. It will now read 5.7:1 instead of 5.6:1 in the Planning Proposal.
53. Further the City has amended LEP and DCP clauses and objectives as part of this proposal to broaden the uses permitted at 4-22 Wentworth Avenue to be consistent with 24-44 Wentworth Avenue, Surry Hills.
54. The clauses and objectives will now read to enable development to exceed height and floor space ratios on 4-22 Wentworth Avenue provided the entire site is developed for 'commercial premises, health services facilities, educational establishments, entertainment premises, light industry, hotel accommodation or information and education facilities'. This will replace its proposed use for hotel or motel accommodation only.
55. These changes are shown in detail in underline or strike through at Attachment A and B of this report.

Key Implications

Strategic Alignment - Eastern City District Plan

56. The Eastern City District Plan sets out the NSW Government's vision, priorities and actions for the Eastern District, including the City of Sydney. It establishes a 40 year vision for the Eastern District to be a global sustainability leader, managing growth while maintaining and enhancing liveability, productivity and attractiveness for residents and visitors. Priorities and associated actions for productivity, liveability and sustainability seek to deliver this vision.
57. The Planning Proposal is consistent with the following priorities of the Plan:
 - (a) Productivity Priority E7 – Growing a stronger and more competitive Harbour CBD
 - (b) Productivity Priority E13 – Supporting growth of targeted industry sectors

- (c) Sustainability Priority E19 – Reducing carbon emissions and managing energy, water and waste efficiently

Strategic Alignment - Sustainable Sydney 2030

58. 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 proposal is aligned with the following strategic directions and objectives:

- (a) Direction 1 - A Globally Competitive and Innovative City - The planning proposal is consistent with the City's adopted Tourism Action Plan (2013) and Visitor Accommodation Action Plan (2015). This planning proposal will facilitate redevelopment of the site for a future mixed-use hotel, delivering needed mid-range visitor accommodation and supporting Sydney's visitor economy. It will also offer employment opportunities.
- (b) Direction 2 provides a road map for the City to become A Leading Environmental Performer - Redevelopment of the site, facilitated by this Planning Proposal and through the design excellence process, will deliver new building stock with significantly better environmental performance than the current development through extensive sustainability provisions detailed in the Draft DCP.
- (c) Direction 3 - Integrated Transport for a Connected City - The site is close to bus services providing connections to Central Sydney and other areas in the Sydney metropolitan area. It is also close to the future South East Light Rail Line, expected to be completed in 2019. A new light rail stop will be located about 500 metres to the north of the site. This new light rail line will connect Circular Quay to Randwick and Kingsford.

Strategic Alignment - Local Strategic Planning Statement

59. The City of Sydney's Local Strategic Planning Statement sets out the land use planning context, 20 year vision and planning priorities to positively guide change towards the City's vision for a green, global and connected city.
60. This planning proposal gives effect to the following planning priorities of the Statement:
- (a) Productivity
 - P2 – Developing innovative and diverse business clusters in the City Fringe
 - (b) Sustainability
 - S2 – Creating better buildings and places to reduce emissions and waste and use water efficiently

Relevant Legislation

- 61. Environmental Planning and Assessment Act 1979
- 62. Environmental Planning and Assessment Regulation 2000.

Critical Dates / Time Frames

63. The Gateway determination requires the amendment to Sydney LEP 2012 to be completed by 22 June 2021.
64. If approved by Council and the CSPC, the City will submit the planning proposal to DPIE to commence the drafting and plan making process. Once completed, the amendment to Sydney LEP 2012 will come into effect when published on the NSW legislation website.
65. If approved by Council the amendment to Sydney DCP 2012 will come into effect on the same day as the LEP.

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