

Planning Proposal: Heritage Floor Space amendment

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Introduction

This Planning Proposal explains the intent of, and justification for the proposed amendment to Sydney Local Environmental Plan 2012.

The proposal has been prepared in accordance with section 3.33 of the Environmental Planning and Assessment Act 1979 (the Act) and the relevant Department of Planning Guidelines, including A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals.

Background

Heritage Floor Space (HFS) planning controls in Sydney Local Environmental Plan 2012 (Sydney LEP) are the legal framework for a scheme under which owners of heritage buildings in Central Sydney may be awarded HFS after completing conservation works to the building.

Heritage Floor Space may be sold to developers who, as a condition of using bonus or accommodation floor space, are required to allocate HFS to their development.

In July 2016, the planning controls were amended in response to the temporary shortage of available HFS in the market, and to increase long-term supply including:

- temporary alternative arrangements to allow development applications made before 1 January 2019 to defer HFS allocation requirements by entering into a planning agreement with Council
- enabling heritage buildings granted an award of HFS more than 25 years ago to be eligible for a new award of HFS
- extending the scope of the scheme to allow more government owned properties to be eligible for the award of HFS.

The alternative arrangement is a temporary scheme to address the ongoing but temporary shortage of available HFS in the market and allow additional time for an increase in long-term supply.

The alternative arrangement allows developers to enter into a planning agreement with Council to defer the allocation of HFS until after works have commenced while the developer makes ongoing attempts to purchase the HFS, allowing development to proceed. If after making ongoing and genuine attempts to purchase HFS the developer is still unable to do so, a monetary contribution to be payable to Council to be used for heritage conservation works. This is set out in the Alternative Heritage Floor Space Allocation Scheme, adopted by Council in March 2016.

The supply of HFS is improving, following the recent approvals of approximately 34,000 square metres of HFS for four City-owned buildings, further HFS award applications for City-owned buildings being prepared, potential HFS award application for State government-owned properties, and applications being prepared by private landowners for new awards of HFS 25 years after the first awards were registered.

This planning proposal proposes to extend the alternative heritage floor space allocation arrangements for a period of a further two years to 1 January 2023. This extension will allow applications for awards of HFS by private heritage building owners, State government and other public authorities, including Council, to be finalised and bring new heritage floor space to the market.

Part 1 – Objectives or Intended Outcomes

The objective of the planning proposal is to amend Sydney Local Environmental Plan 2012 to extend the temporary period for alternative arrangements in relation to allocation of HFS by 2 years.

Part 2 – Explanation of the Provisions

The proposal seeks to amend Clause 6.11A(4) of the Sydney LEP 2012 from:

- This clause applies only in relation to an application for development consent that is made before 1 January 2021; to
- This clause applies only in relation to an application for development consent that is made before 1 January 2023.

Part 3 – Justification

This section of the planning proposal provides the rationale for the amendments and responds to questions set out in the document entitled 'A guide to preparing planning proposals', published by the Department of Planning and Environment in August 2016.

Section A – Need for the planning proposal

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

The planning proposal is the result of monitoring of the supply and demand of HFS through Council's register. The supply of HFS is improving as more applications are being prepared and lodged, however extending the period for the temporary arrangement will allow for the additional supply of HFS to be delivered to the market.

The alternative arrangement is in place to overcome an identified temporary shortage of Heritage Floor Space in the market, while not hindering the delivery of development projects.

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

The planning proposal is the best, most efficient and most time effective approach to delivering the desired outcome. Without an extension of time, proponents may not be able to use the alternative arrangement and development in Central Sydney may be delayed.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including any exhibited draft plans or strategies)?

The Greater Sydney Region Plan is the State government's strategic document that outlines a vision for Greater Sydney over the next 40 years. The Plan outlines how Greater Sydney will manage growth and change and guide infrastructure delivery, and is to be implemented at a local level by District Plans.

It identifies key challenges facing Greater Sydney, which is forecast to grow from 4.7 million people to 8 million people by 2056. Greater Sydney must provide for an additional 817,000 jobs by 2036 and will need to provide 725,000 more homes over the next 20 years.

The planning proposal is consistent with the following relevant objectives and planning priorities of the Greater Sydney Region Plan:

- Objective 13: Environmental heritage is identified conserved and enhanced
- Objective 18: Harbour CBD is stronger and more competitive
- Objective 22: Investment and business activities in centres

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.

The planning proposal is consistent with the following relevant planning priorities and actions of the Eastern City District Plan:

- Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage
- Planning Priority E7: Growing a stronger and more competitive Harbour CBD
- Planning Priority E11: Growing investment, business opportunities and jobs in strategic centres

This planning proposal supports the above key objectives and priorities as it will enable conservation of heritage buildings and remove a potential barrier to efficient delivery of new development.

Is the planning proposal consistent with a council's local strategy or other local strategic plan?

City Plan 2036 is the City of Sydney's local strategic planning statement, and sets out the 20-year land-use planning vision balancing the need for housing and jobs while protecting and enhancing local character, heritage, and public places and spaces. City Plan 2036 contains 13 priorities and a series of actions to achieve the vision and guide changes to the City's planning controls.

The planning proposal is consistent with City Plan 2036, particularly:

- Priority P1 - Growing a stronger, more competitive Central Sydney - the proposal will remove any barriers to timely development in the City.

Sustainable Sydney 2030 is the vision for sustainable development of the city of Sydney to 2030 and beyond. It includes 10 strategic directions to guide the future of the City of Sydney. Sustainable Sydney 2030 outlines the City's vision for a 'green', 'global' and 'connected' City of Sydney and sets targets, objectives and actions to achieve that vision.

As such, the planning proposal is consistent with sustainable Sydney 2030, particularly:

- Direction 1 – A globally competitive and innovative City – the proposal will remove any barriers to timely development in the City.

Is the planning proposal consistent with applicable state environmental planning policies?

This planning proposal is consistent and does not contradict or hinder the application of the following SEPPs:

- SEPP 19—Bushland in Urban Areas; SEPP 21—Caravan Parks; SEPP 33—Hazardous and Offensive Development; SEPP 50—Canal Estate Development; SEPP 55—Remediation of Land; SEPP 70—Affordable Housing (Revised Schemes); SEPP (Affordable Rental Housing) 2009; SEPP (Coastal Management) 2018; SEPP (Concurrences and Consents) 2018; SEPP (Educational Establishments and Child Care Facilities) 2017; SEPP (Exempt and Complying Development Codes) 2008; SEPP (Infrastructure) 2007; SEPP (Major Infrastructure Corridors) 2020; SEPP (Mining, Petroleum Production and Extractive Industries) 2007; SEPP (State and Regional Development) 2011; SEPP (State Significant Precincts) 2005; SEPP (Vegetation in Non-Rural Areas) 2017.

The following SEPPs are not applicable to this planning proposal:

- SEPP 36—Manufactured Home Estates; SEPP 47—Moore Park Showground; SEPP 52—Farm Dams and Other Works in Land and Water Management Plan Areas; SEPP 64—Advertising and Signage; SEPP 65—Design Quality of Residential Apartment Development; SEPP (Aboriginal Land) 2019; SEPP (Activation Precincts) 2020; SEPP (Building Sustainability Index: BASIX) 2004; SEPP (Gosford City Centre) 2018; SEPP (Housing for Seniors or People with a Disability) 2004; SEPP (Koala Habitat Protection) 2019; SEPP (Kosciuszko National Park—Alpine Resorts) 2007; SEPP (Kurnell Peninsula) 1989; SEPP (Penrith Lakes Scheme) 1989; SEPP (Primary Production and Rural Development) 2019; SEPP (Sydney Drinking Water Catchment) 2011; SEPP (Sydney Region Growth Centres) 2006; SEPP (Three Ports) 2013; SEPP (Urban Renewal) 2010; SEPP (Western Sydney Employment Area) 2009; SEPP (Western Sydney Parklands) 2009.

This planning proposal is consistent and does not contradict or hinder the application of the deemed SEPPs (formerly known as Regional Environmental Plans (REPs)):

- Sydney REP (Sydney Harbour Catchment) 2005

The following deemed SEPPs are not applicable to this planning proposal:

- Sydney REP 8—(Central Coast Plateau Areas); Sydney REP 9—Extractive Industry (No 2—1995); Sydney REP 16—Walsh Bay; Sydney REP 20—Hawkesbury- Nepean River (No 2—1997); Sydney REP 24—Homebush Bay Area; Sydney REP 26—City West; Sydney REP 30—St Marys; Sydney REP 33—Cooks Cove; Greater Metropolitan REP No 2—Georges River Catchment; Darling Harbour Development Plan No. 1; Sydney Cove Redevelopment Authority Scheme.

Is the planning proposal consistent with applicable Ministerial Directions (s.117, now section 9.1, directions)?

This proposal is consistent with, and does not contradict or hinder Ministerial Direction 2.3 Heritage Conservation, which requires provisions to facilitate the conservation of items, areas, objects and places of environmental significance. The proposal supports the ongoing operation of the HFS scheme, allowing applications for awards of HFS by private heritage owners, State government and other public authorities, including the City, to be finalised and bring new HFS to the market. The sale of HFS provides funding for the ongoing conservation of these heritage-listed buildings. The proposal will also ensure that projects required to purchase HFS will be able to progress, and not be hindered by a shortage of HFS in the current market.

This planning proposal is consistent with and does not contradict or hinder application of the Ministerial Directions:

- 1.1 Business and Industrial Zones; ~~2.3 Heritage Conservation~~; 3.1 Residential Zones; 3.2 Caravan Parks and Manufactured Home Estates; 3.3 Home occupations; 3.4 Integrating Land use and Transport; 3.5 Development Near Licensed Aerodromes; 4.3 Flood Prone Land; 5.10 Implementation of Regional Plans; 6.1 Approval and Referral Requirements; 6.2 Reserving Land for Public Purposes; 7.1 Implementation of A Plan for Growing Sydney.

The following Ministerial Directions are not applicable to this planning proposal:

- 1.2 Rural Zones; 1.3 Mining, Petroleum Production and Extractive Industries; 1.4 Oyster Aquaculture; 1.5 Rural Lands; 2.1 Environmental Protection Zones; 2.2 Coastal Protection; 2.4 Recreation Vehicle Areas; 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs; 4.1 Acid Sulfate Soils; 4.2 Mine subsidence and Unstable land; 4.4 Planning for Bushfire Protection; 5.2 Sydney Drinking Water Catchments; 5.3 Farmland of State and Regional Significance on the NSW Far North Coast; 5.4 Commercial and Retail Development along the Pacific Highway, North Coast; 5.8 Second Sydney Airport, Badgerys Creek; 5.9 North West Rail Link Corridor Strategy; 6.3 Site Specific Provisions; 7.2 Implementation of Greater Macarthur Land Release Investigation; 7.3 Parramatta Road Corridor Urban Transformation Strategy; 7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan; 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan; 7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan; 7.7 Implementation of Glenfield to Macarthur Urban Renal Corridor.

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The Planning Proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No. The planning proposal relates to the extension of time for an existing alternative arrangement and does not relate to physical works.

Has the planning proposal adequately addressed any social and economic effects?

Yes. While any change to the Heritage Floor Space planning controls will have an effect on the Heritage Floor Space market, the proposed change is likely to have a minor impact only. More significantly, it will remove a potential barrier to timely property development in Central Sydney by assisting to ease a temporary shortage of available stock in the Heritage Floor Space market.

Section D – State and Commonwealth interest

Is there adequate public infrastructure for the planning proposal?

Yes. The proposed amendment does not increase the need for infrastructure.

What are the views of State and Commonwealth public authorities consulted in the gateway determination?

Appropriate consultation will be conducted when the gateway determination is issued. Formal consultation has not yet been undertaken.

Part 4 – Mapping

This Planning Proposal does not amend any maps.

Part 5 – Community Consultation

This Planning Proposal is to be exhibited in accordance with the Gateway Determination once it is issued by the Department of Planning, Infrastructure and Environment. It is anticipated the Gateway Determination will require a public exhibition for a period of not less than 14 days in accordance with Schedule 1 item 4 of the Environmental Planning and Assessment Act 1979 section 4.5 of *A Guide to preparing Local Environmental Plans* and the City of Sydney's Community Participation Plan.

Notification of the public exhibition will be via:

- the City of Sydney website;
- directly inviting comments from owners of Heritage Floor Space and owners of heritage buildings in Central Sydney, and
- key state agencies (Heritage NSW, Property NSW) industry bodies (including Property Council Australia NSW) and relevant community groups

Part 6 – Project Timeline

The anticipated timeframe for the completion of the planning proposal is as follows:

Action	Anticipated Date
Commencement / Gateway determination	September 2020
Pre-exhibition government agency consultation	September 2020
Public Exhibition	September- October 2020
Consideration of submissions	October 2018
Post exhibition consideration of proposal	November 2020 (CSPC) November 2020 (Council)
Draft and finalise LEP	November 2020
LEP made (if delegated)	December 2020
Plan forwarded to DPE for notification	December 2020