

Planning Proposal: Heritage Floor Space amendment

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September 2018



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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 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 Heritage Floor Space (HFS) after completing conservation works on the building.

Heritage Floor Space (HFS) may be sold to developers who, as a condition of using additional floor space, are required to allocate HFS to their development site.

In July 2016, the planning controls were amended in response to the 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 requirements through entering into a planning agreement with Council
- enabling heritage buildings granted an award of Heritage Floor space more than 25 years ago to be eligible for a further award
- extending the scope of the scheme to allow more government owned properties to be eligible for the award of Heritage Floor Space.

The temporary alternative arrangement allows time for the investigation, planning and implementation of the conservation works necessary for an HFS award to be finalised, and for that additional supply to come onto the market. Through the alternative arrangement developers can enter into a planning agreement with Council to defer HFS allocation 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.

Work to realise heritage floor space from the conservation of State government and Council-owned heritage buildings is progressing, although more slowly than originally anticipated. Hyde Park Barracks have been awarded 12,732.5 square metres of heritage floor space in July 2017, which is expected to come to market once registration has been completed. Further awards for heritage buildings owned by government and Council are likely to be finalised within the next 12 months. At the same time, the City is preparing for a full review of the operation of the heritage floor space scheme, timed to feed into the wider review of the City's planning controls.

This planning proposal proposes to extend the alternative heritage floor space allocation arrangements for a period of a further two years to 1 January 2021. This extension will allow private heritage owners, State government and Council to undertake conservation works, finalise the awards and bring new heritage floor

space to the market. It will also allow for the comprehensive review of the heritage floor space scheme to be completed and any findings to be implemented.

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 Heritage Floor Space by 2 years.

Part 2 – Explanation of the Provisions

~~The proposed outcome will be achieved by allowing clause 6.11A to apply to a development application that is made for a further 2 years.~~

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 2019; to***
- ***This clause applies only in relation to an application for development consent that is made before 1 January 2021.***

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 Heritage Floor Space through Council's register. It extends the period for a temporary arrangement to allow time for new supply to come to market. During that time the City will undertake a holistic review of the Heritage Floor Space Scheme.

The alternative arrangement is in place to overcome an identified temporary shortage of Heritage Floor Space in the market.

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 would 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 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?

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.
- Direction 8 – Housing for a diverse population – the proposal is consistent with the objective of addressing unnecessary barriers to residential development by the private market

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 1 – Development Standards; SEPP 19—Bushland in Urban Areas; SEPP 21—Caravan Parks; SEPP 30—Intensive Agriculture; SEPP 33—Hazardous and Offensive Development; SEPP 50—Canal Estate Development; SEPP 55—Remediation of Land; SEPP 62—Sustainable Aquaculture; SEPP 70—Affordable Housing (Revised Schemes); SEPP (Affordable Rental Housing) 2009; SEPP (Coastal Management) 2018; SEPP (Educational Establishments and Child Care Facilities) 2017; SEPP (Exempt and Complying Development Codes) 2008; SEPP (Infrastructure) 2007; SEPP (Mining, Petroleum Production and Extractive Industries) 2007; SEPP (Miscellaneous Consent Provisions) 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 44—Koala Habitat Protection; 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 (Building Sustainability Index: BASIX) 2004; SEPP (Housing for Seniors or People with a Disability) 2004; SEPP (Integration and Repeals) 2016; SEPP (Kosciuszko National Park—Alpine Resorts) 2007; SEPP (Kurnell Peninsula) 1989; SEPP (Penrith Lakes Scheme) 1989; SEPP (Rural Lands) 2008; 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 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 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 issued by the Greater Sydney Commission. 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*.

Notification of the public exhibition will be via:

- the City of Sydney website;
- in the Sydney Morning Herald;
- directly inviting comments from owners of Heritage Floor Space, owners of heritage buildings in Central Sydney, and key industry and community groups.

Information relating to the Planning Proposal will be available at the City of Sydney customer service centres.

Part 6 – Project Timeline

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

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