

Public Exhibition: Planning Proposal - Heritage Floor Space Amendment

File No: X020078

Summary

Starting in 2014 several changes to the Heritage Floor Space scheme were introduced due to unprecedented levels of demand for the purchase of Heritage Floor Space and inadequate supply. Several changes targeted increasing the supply of heritage floor space, while other mechanisms looked to demand. The key to the demand changes was the introduction of the Alternative Heritage Floor Space Allocation Scheme, enabling developers to defer the purchase of heritage floor space until a later stage in the development process, enabling them to proceed with development.

As the Heritage Floor Space market is continuing to experience an imbalance between supply and demand, the Planning Proposal at Attachment A is to extend the application of the Alternative Heritage Floor Space Allocation Scheme for a further two years, by amending the Sydney Local Environmental Plan 2012 (SLEP 2012).

The Sydney Local Environmental Plan 2012 sets the legal framework for a scheme under which owners of heritage buildings in Central Sydney may be awarded Heritage Floor Space after completing conservation works on the building. The Heritage Floor Space can then be sold to developers who, as a condition of using additional floor space, are required to allocate Heritage Floor Space to their development site.

This Planning Proposal is a response to an ongoing but temporary shortage of available Heritage Floor Space in the market and the need to allow additional time for an increase in long-term supply to become available. The increase in long-term supply is anticipated following recent changes extending the scope of the scheme to encourage the conservation of publicly-owned heritage buildings and to allow buildings to apply for a re-award of Heritage Floor Space after 25 years from the initial award has elapsed.

The Planning Proposal seeks to extend the existing alternative arrangements for the allocation of Heritage Floor Space to development sites in Central Sydney for a period of two years, allowing development to proceed ahead of the long-term increase in supply of Heritage Floor Space. The alternative arrangements allow the developer to enter into a planning agreement with Council which can lead to the allocation of Heritage Floor Space being deferred or, in the event that Heritage Floor space cannot be obtained, replaced with a monetary amount to be payable to Council to be used for heritage conservation that has a clear public benefit.

The corresponding change is also proposed to Council's adopted Alternative Heritage Floor Space Allocation Scheme.

This report recommends Council approve the Planning Proposal for Gateway Determination from the Minister for Planning and subsequent public exhibition.

Recommendation

It is resolved that:

- (A) Council approve the Planning Proposal - Heritage Floor Space amendment, shown at Attachment A to the subject report, for submission to the Greater Sydney Commission with a request for a Gateway Determination;
- (B) Council approve the Planning Proposal - Heritage Floor Space amendment for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council seek confirmation from the Minister or the Greater Sydney Commission whether it has the authority to exercise the plan-making functions of the Minister under section 3.36 of the Environmental Planning and Assessment Act 1979;
- (D) authority be delegated to the Chief Executive Officer to make any minor variations to the Planning Proposal - Heritage Floor Space amendment following receipt of the Gateway Determination; and
- (E) Council approve the amendment to the Alternative Heritage Floor Space Allocation Scheme, shown at Attachment B to the subject report, for public exhibition to be undertaken concurrently with the Planning Proposal - Heritage Floor Space amendment.

Attachments

Attachment A. Planning Proposal - Heritage Floor Space Amendment

Attachment B. Alternative Heritage Floor Space Allocation Scheme, as Amended

Background

1. A transferrable heritage floor space scheme has existed in Central Sydney for more than 40 years, and has supported the on-going conservation of more than 75 heritage buildings. The current scheme is established under clauses 6.10 and 6.11 of Sydney Local Environmental Plan 2012. Clause 6.10 offers an incentive for owners of heritage buildings to conserve and maintain their property by enabling them to receive an award of heritage floor space after conservation works on the building are undertaken and relevant covenants apply to the site. Clause 6.11 stipulates that a developer may only utilise certain types of additional floor space if it allocates an amount of heritage floor space to its development site. Together these provisions establish a framework for a heritage floor space market in which vendors and purchasers negotiate directly with one another and the City maintains the heritage floor space register.
2. From 2014, unprecedented levels of development activity in Central Sydney have absorbed a large amount of the available heritage floor space. Much of the remaining heritage floor space is being held as a long-term asset or by developers for future projects, and is not genuinely available for purchase. Council has responded with amendments which have extended the scope of the scheme to encourage the conservation of government buildings, and have allowed buildings to apply for a re-award of heritage floor space 25 years after the original award was registered. Through extending the scope and application of the scheme, additional supply of heritage floor space will be created.
3. To allow time for that additional supply of heritage floor space to be delivered to market, at its meeting in March 2016 Council approved an amendment to SLEP 2012 to provide an alternative to the allocation of heritage floor space for a limited period. This is because it can take some time for a building owner to identify, plan and complete the conservation works necessary for a heritage floor space award.
4. The alternative arrangements are contained in the Alternative Heritage Floor Space Allocation Scheme, adopted by Council at its March 2016 meeting, and allow developers to enter into a planning agreement with Council to defer the timing of the allocation of heritage floor space while they continue to make genuine efforts to purchase it on the market. If despite those genuine efforts the developer is not able to purchase heritage floor space, then a monetary amount is payable to Council as an alternative to the allocation of heritage floor space.
5. Council's Alternative Heritage Floor Space Allocation scheme applies to development applications lodged prior to 1 January 2019. It restricts how Council can spend any money received through the alternative arrangements to the following:
 - (a) the preparation of conservation management plans for heritage buildings in Central Sydney;
 - (b) heritage conservation works undertaken by the Council in Central Sydney including, but not limited to:
 - (i) maintenance of heritage buildings in accordance with a conservation management plan; and
 - (ii) works to conserve the heritage significance of heritage items that are not buildings eg open space and elements of the public domain; and

- (c) the improvement of the operation of the Heritage Floor Space scheme including any associated studies.
6. Since the alternative arrangements have come into force, sixteen developments have approached the City to enter into a planning agreement to defer their requirement to allocate heritage floor space. Of these, twelve have entered into a planning agreement with Council, and four planning agreements are under consideration. In total, the planning agreements defer the allocation of 43,876 square metres of heritage floor space. Only one development has been unable to purchase prior to the finalisation of its development and has made a monetary contribution to Council.
 7. Heritage floor space has continued to increase in value on the market since the introduction of the alternative arrangements, rising from an average transfer price of \$643 per square metre in June 2016 to \$1,343 at June 2018. This reflects the continuing effect of Sydney's commercial development boom coupled with the lag time taken to bring supply of heritage floor space to the market.
 8. 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. It is anticipated that further awards for heritage buildings owned by government and the City may take place within the next 12 months.
 9. 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 review will consider all aspects including the supply and demand of heritage floor space, the formulae used in its award and allocations, and the conditions under which awards are made.
 10. This report seeks 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 other public authorities, including 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.
 11. The SLEP 2012 refers to the consent authority having adopted and published a policy that makes alternative heritage arrangements to the allocation of heritage floor space. In accordance with this requirement, Council's position has been adopted and published through the Alternative Heritage Floor Space Allocation Scheme. To ensure the Scheme aligns with the SLEP 2012 change, it is proposed that the end date referred to in that Scheme is also updated to 1 January 2021.
 12. The date change to the Alternative Heritage Floor Space Scheme is provided in Attachment B. No other changes to the Scheme are recommended at this time.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

13. 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 policy is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - A Globally Competitive and Innovative City - the proposal is consistent with the objective of planning for growth and change in central Sydney.

Budget Implications

14. If developers who make use of the alternative allocation scheme are unable to purchase heritage floor space within the required timeframe, then this will result in a monetary contribution being paid to the City through a planning agreement. Council's Alternative Heritage Floor Space Allocation Scheme identifies that the money can only be spent on heritage works which have a public benefit. City officers will identify projects that deliver a public heritage benefit that can be suitable for funding in line with the options endorsed by Council as funds become available.

Relevant Legislation

15. Environmental Planning and Assessment Act 1979.
16. Environmental Planning and Assessment Regulation 2000.
17. City of Sydney Act 1988.

Critical Dates / Time Frames

18. The existing alternative arrangements expire on 1 January 2019 and need to be renewed prior to that time. The Planning Proposal includes a draft timetable to meet this deadline.

Options

19. There is the option of not extending the arrangements. However this is likely to impede the undertaking of development in Central Sydney and affect construction activity.

Public Consultation

20. Public exhibition and public authority consultation will be undertaken in accordance with any Gateway Determination issued by the Greater Sydney Commission. Due to the minor nature of the proposal it is proposed that public exhibition should be for a minimum of 14 days. Public exhibition will be notified:
 - (a) on the City of Sydney website;
 - (b) in newspapers that circulate widely in the City of Sydney local government area; and
 - (c) through letters to owners of heritage items in Central Sydney, and to owners of heritage floor space.

21. Following the public exhibition process, the Planning Proposal and the updated Alternative Heritage Floor Space Scheme will be reported back to Council and the Central Sydney Planning Committee for approval.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

David Fitzpatrick, Senior Planner