

ATTACHMENT B

ATTACHMENT B

PLANNING PROPOSAL

Planning Proposal

Heritage Floor Space amendments to Sydney Local Environmental Plan 2012

November 2015



Sydney 2015
Green/Global/Connected

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Introduction

The *Planning Proposal: Heritage Floor Space amendments to Sydney Local Environmental Plan 2012* (planning proposal) explains the intent of, and justification for, the amendment of *Sydney Local Environmental Plan 2012* (the LEP).

The purpose of the planning proposal is to implement amendments to Sydney LEP 2012 that will improve the operation of the Heritage Floor Space (HFS) scheme in Central Sydney. The proposed amendments are to:

- correct an error in *clause 6.11 Utilisation of certain additional floor space requires allocation of heritage floor space*;
- allow Council to enter into agreements which may lead to the allocation HFS being deferred or, in the event that HFS cannot be obtained, replaced with an alternative arrangement to the satisfaction of Council;
- increase the long-term supply of HFS; and
- exclude buildings that are not more than 55m in height from the requirement to allocate HFS when accommodation floor space is used.

The planning proposal has been prepared in accordance with Section 55 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 Scheme

A transferable Heritage Floor Space scheme to encourage heritage conservation in Central Sydney has been in existence in one form or another since 1971. It was originally conceived to enable the unrealised development potential of a heritage-listed building to be sold and used elsewhere in Central Sydney where a floor space bonus was available. The transfer is dependent on agreed conservation works being completed and a covenant or similar instrument being placed on the land title of the heritage building extinguishing its development potential. The scheme has contributed to the conservation of 76 heritage-listed buildings, including one nationally significant and 34 State-significant items. Examples include the Strand Arcade, the Burns Philp Building, and the Great Synagogue.

The current scheme is established in *Sydney Local Environmental Plan 2012* (the LEP) and *Sydney Development Control Plan 2012* (the DCP). The objectives of the scheme are included in Part 6 of the LEP, namely:

- (a) to establish a framework for the transfer of development potential from the site of a heritage building to another site in Central Sydney (clause 6.1); and
- (b) to provide an incentive for the conservation and ongoing maintenance of heritage buildings in Central Sydney (clause 6.10).

The supply side of the Heritage Floor Space scheme arises from planning controls which enable the land owner of a heritage-listed building in Central Sydney to be awarded Heritage Floor Space provided they undertake conservation works in accordance with an approved conservation management plan. Following satisfactory completion of the works and registration of relevant covenants, the award is entered in the City's Heritage Floor Space register. The awarded Heritage Floor Space can then be sold to offset the cost of conserving the heritage building.

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The demand side of the Heritage Floor Space scheme arises from provisions in the LEP which generally require Heritage Floor Space to be allocated to a development that exceeds a floor space ratio of 8:1. To maximise the development potential of a site in Central Sydney a developer generally needs to purchase Heritage Floor Space for allocation to their site. The planning controls set up a framework for a Heritage Floor Space market in which buyers and sellers negotiate the purchase price of Heritage Floor Space between themselves and the City acts as the scheme administrator.

Translation of the Heritage Floor Space controls that previously existed in Sydney LEP 2005 into the Standard Instrument approach in Sydney LEP 2012 has had some unintended consequences. The recently exhibited planning proposal *Sydney LEP 2012 – Minor Policy & Housekeeping Amendments 2014* is proposing to clarify the applicable discount on Heritage Floor Space allocation for existing buildings. A further change to Sydney LEP 2012 is required to reflect the City's long-standing practice of only requiring Heritage Floor Space allocation after development consent has been issued but prior to construction.

Sydney DCP 2012 – Award of HFS to government buildings

Sydney Development Control Plan 2012 – Award of Heritage Floor Space to Government Buildings was adopted by Council on 29 June 2015 and came into effect on 14 July 2015. It has amended Sydney DCP 2012 by expanding the eligibility criteria for an award of Heritage Floor Space to apply to all publicly-owned buildings. Previously government-owned heritage buildings were only eligible for an HFS award if they were leased to the private sector for 50 years or more. The intent of this amendment was to encourage the conservation of government buildings and provide an additional source of Heritage Floor Space in the future. There will, however, be a time lag before newly eligible buildings obtain a Heritage Floor Space award.

Part 1: Objectives and intended outcomes

The objectives of this planning proposal are to:

- (a) clarify that the allocation of Heritage Floor Space to a development site is only required after development consent has been issued but prior to construction unless an alternative arrangement is entered into via the City's proposed *Alternative Heritage Floor Space Allocation Scheme*;
- (b) allow Council, for a temporary period, to enter into agreements which may lead to the allocation of Heritage Floor Space being deferred or, in the event that Heritage Floor Space cannot be obtained, replaced with an alternative arrangement to the satisfaction of Council;
- (c) increase the long-term supply of Heritage Floor Space by enabling heritage buildings that received an award of Heritage Floor Space more than 25 years ago to receive a further award of Heritage Floor Space;
- (d) re-instate a 55m building height threshold for requiring allocation of Heritage Floor Space.

Part 2: Explanation of provisions

To achieve the proposed objectives, the planning proposal provides for the changes to the LEP detailed in Attachment 1 and discussed below.

Timing of HFS allocation

Clause 6.11(1) of Sydney LEP 2012 provides that consent must not be granted to development in Central Sydney that utilises certain additional floor space "unless an amount of heritage floor space is allocated to the building".

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Rather than requiring the HFS to be allocated before consent is issued, the clause is proposed to be amended to provide that consent must not be granted unless the consent authority is satisfied that adequate arrangements have been made for the allocation of HFS to the building. This will allow for Council's usual practice of conditioning consents to require HFS to be allocated prior to the issue of a construction certificate.

Alternative to HFS allocation for a limited time

In its current form, or in the amended form proposed above, clause 6.11(1) requires allocation of HFS when a development utilises certain additional floor space and specifies the amount of HFS to be allocated. Under clause 4.6 *Exceptions to development standards* the amount of the required HFS allocation cannot be varied. In combination, this means that the consent authority cannot approve development that does not or will not allocate the requisite amount of HFS.

To overcome an identified temporary shortage of HFS it is proposed to amend the LEP so that, in the event that a developer is unable to secure the amount of HFS required to be allocated within the specified timeframe, they have the option to enter into an alternative arrangement to the satisfaction of Council. This would be a temporary measure applying only to development applications lodged before 31 December 2018.

The justification in Part 3 of this report sets out a proposed *Alternative Heritage Floor Space Allocation Scheme* that would sit outside the LEP and allow a developer to enter into a voluntary planning agreement providing for Heritage Floor Space allocation to occur at a specified date after works have commenced or, alternatively, a monetary amount to be payable to Council to be used for heritage conservation. As a planning agreement cannot be inconsistent with the relevant LEP, a new or revised clause is required to allow for no HFS or less than the required amount of HFS to be allocated if a developer opts for this alternative arrangement within the temporary timeframe noted above.

Building height threshold for HFS allocation

Clauses 6.11(1)(a) and (b) provide that an HFS allocation is generally required if a development in Central Sydney uses accommodation floor space to exceed a floor space ratio of 8:1. It is now proposed that the requirement to allocate HFS when using accommodation floor space only apply to developments that have a building height greater than 55m.

HFS awards for heritage buildings previously awarded HFS

Clause 6.10(2)(e) of SLEP 2012 prevents HFS being awarded to a building that has previously been awarded HFS under the LEP or under a similar scheme applying before the LEP took effect. It reflects a policy of only allowing HFS to be awarded once.

It is now proposed to enable HFS to be awarded to heritage buildings that received an award of HFS more than 25 years ago. As with the granting of an initial award, the granting of a further award will be subject to the completion of conservation works or maintenance plan in accordance with an approved conservation management plan and relevant covenants on the land title of the heritage building.

Part 3: Justification

Section A – Need for this planning proposal

Timing of HFS allocation

As currently framed, clause 6.11(1) is onerous. It is unreasonable to require the allocation of Heritage Floor Space before consent as the allocation will not be necessary if the development is not approved or the consent is not acted upon. In any case, the precise amount of Heritage Floor Space required to be allocated can't be ascertained until the consent authority has determined the proposal because it depends on the amount of floor space ultimately approved. As there can be significant costs and time implications of purchasing HFS and registering the allocation, the appropriate time to require HFS allocation is after the proponent has the certainty of a development consent.

The current drafting of Clause 6.11(1) does not reflect the City's long-standing practice of conditioning development consents to require the relevant amount of HFS to be allocated before a construction certificate is issued or prior to another specified milestone. Further, the clause refers to the allocation of HFS to a building that clearly won't exist until the development is completed. The proposed amendment of clause 6.11(1) is required to align the clause with the City's long-standing practice and to ensure that HFS allocation is not unnecessarily onerous.

Alternative to HFS allocation for a limited time

There is currently a shortage of HFS on the market. At the end of 2014 there was a total stock of 50,008m² of HFS remaining from awards and allocations. However, the City estimated that only 36% (18,000m²) of this amount was actually available for sale. At the end of June 2015 the total stock of HFS had increased to 52,354m² but advice from potential purchasers indicates that the actual amount of HFS available for sale is significantly less than previously estimated. A number of owners are 'banking' HFS for use in their own future developments. Others appear to have no interest in liquidating this asset.

Awards approved, but not yet registered, accounted for another 16,501m² of Heritage Floor Space at the end of June 2015. It is difficult to predict when or how much of this pipeline Heritage Floor Space supply will come onto the market because the timeframes for completion of conservation works and the timing of Heritage Floor Space registration is largely at the discretion of the building owner. Some of this pipeline supply may never be registered and therefore not come onto the HFS market.

With increased development activity in Central Sydney under positive economic conditions, there is a high demand for HFS from developments already approved and in the pipeline. At the end of 2014 the total amount of HFS required to be allocated under current development consents was 34,546m². Six months later this figure had increased to 43,391m².

The recent amendment to Sydney DCP 2012 has paved the way for the creation of an additional supply of Heritage Floor Space from government buildings in the next few years. Conservation projects by private developers may also bring additional HFS on stream. In the interim, it is proposed to allow HFS allocation to occur at a specified date after works have commenced or, alternatively, a monetary contribution to be payable to Council to be used for heritage conservation works. This would be a temporary measure applying only to development applications lodged before 31 December 2018. The timeframe is intended to overcome the identified temporary shortage of Heritage Floor Space at this current stage of the development cycle.

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It is proposed that the Council will develop and adopt an *Alternative Heritage Floor Space Allocation Scheme* to set out the circumstances in which it will accept a monetary amount instead of allocation of HFS. It is important that the alternative scheme does not undermine the operation of the existing HFS market. Hence the scheme is likely to be framed around the following principles which are recommended for adoption by Council and the Central Sydney Planning Committee:

- the developer is to demonstrate that they have made genuine efforts to obtain Heritage Floor Space and have been unable to do so;
- the developer agrees to obtain the Heritage Floor Space by a specified date following the commencement of construction or, alternatively, pay a monetary amount equal to the market value of the Heritage Floor Space plus an uplift amount towards a heritage conservation fund to be established by Council;
- the developer is to provide a bank guarantee to Council for an amount equal to the current market value of the Heritage Floor Space required plus an uplift amount ;
- the amount of the payment required if the Heritage Floor Space has not been allocated by the specified date will be set at a level intended to discourage the use of this option rather than allocation of Heritage Floor Space;
- any funds obtained under the scheme will be directed towards heritage conservation works.

Reinstatement of building height threshold for HFS allocation

Between 2000 and 2012 the City's planning controls required the allocation of HFS for development in Central Sydney that had a FSR greater than 8:1 and a building height greater than 55m. This meant that HFS allocation primarily applied to tower buildings. The height condition was removed in *Sydney Local Environmental Plan 2012* in an attempt to bring about a modest increase in demand for HFS and, in turn, correct an imbalance in the operation of the HFS market in the preceding years.

Requiring all development over 8:1 FSR to allocate HFS had the desired effect. At the end of July 2015, 23 development consents had been issued under SLEP 2012 with a requirement to purchase HFS. The total amount of HFS required to be allocated under these consents was 42,378m². Four of the 23 approved developments (17%) had a building height less than 55m. Had they not been required to allocate HFS, the total amount of HFS required would have been 41,039m² or about 3% less than under the current controls.

Given that the market conditions for HFS have changed and there is now a shortage of available stock, it is no longer necessary to stimulate demand. It is therefore proposed to reinstate the 55m height threshold that applied to HFS allocation under *Sydney Local Environmental Plan 2005*. This is likely to have minimal impact on overall demand for HFS but will reduce the number of developments requiring HFS.

HFS awards for heritage buildings previously awarded HFS

Over time the potential sources of HFS supply have declined. Schedule 5 of Sydney LEP 2012 identifies about 300 heritage buildings in Central Sydney. Of these, 77 have been awarded Heritage Floor Space and cannot receive a further award under the current controls.

Many other heritage buildings have been included in consolidated developments sites. Under the existing controls a consolidated development site that includes a heritage building generally results in a higher yield than if each of the parcels of land were developed separately. So, increasingly, developers are consolidating sites that include heritage buildings in order to harvest the development potential of the heritage building and use it on another portion of the site. Once this occurs, the heritage building is no longer eligible for a HFS award.

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The amount of future HFS supply will reduce as more heritage buildings become ineligible for an award. In submissions to the exhibition of *Sydney Development Control Plan 2012 – Award of Heritage Floor Space to Government Buildings* the Property Council of Australia and others raised concerns about the long-term supply of HFS.

Under the City's existing planning controls the maximum amount of HFS that could be generated from all existing heritage-listed buildings is between 420,000m² and 570,000m². The lower figure is based on privately-owned buildings alone while the higher figure includes government-owned buildings. Buildings currently under consideration for heritage listing would increase this potential HFS supply by about 10,000m².

Allowing for a further award of HFS after 25 years would initially add about 50,000m² of potential HFS supply from heritage buildings that received HFS awards before 1990 if they receive the same amount of HFS that they were previously awarded. It would also allow for incremental replenishment of the long-term HFS supply over time when buildings previously awarded HFS become eligible for a further award and undertake further conservation works.

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

No. The planning proposal is a response to ongoing monitoring of the operation of the Heritage Floor Space Scheme and associated land use and planning controls.

The planning proposal is also a response to submissions received in the preparation of *Sydney Development Control Plan 2012 – Award of Heritage Floor Space to Government Buildings*.

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

Yes. The planning policy is the best means of achieving the objectives and intended outcomes in Part 1.

Given that the LEP currently provides that the consent authority cannot approve certain development unless a specified amount of HFS is allocated, the planning policy is the only way of allowing for deferral of HFS allocation or an alternative to HFS allocation. Similarly, as it is the LEP that sets out the pre-requisites for an award or allocation of HFS, these can only be changed via the preparation of a planning proposal.

3. Is there a net community benefit?

Yes. It is considered that the planning proposal will provide a net community benefit in that:

- it will remove a planning barrier that threatens to stall or delay the delivery of new commercial and residential buildings in Central Sydney;
- it will improve the operation of the Heritage Floor Space scheme which, in turn, promotes the conservation and maintenance of heritage buildings in Central Sydney; and
- it will improve the clarity of the LEP and, in turn, provide increased certainty for proponents.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including A Plan for Growing Sydney and the exhibited draft strategies)?

A Plan for Growing Sydney

In December 2014 the NSW Government published *A Plan for Growing Sydney*. A Plan for Growing Sydney is a State Government strategic document that outlines a vision for Sydney over the next 20 years. It identifies key challenges facing Sydney including a population increase of 1.6 million by 2034, 689,000 new jobs by 2031 and a requirement for 664,000 new homes.

In responding to these and other challenges, *A Plan for Growing Sydney* sets out four goals:

1. A competitive economy with world-class services and transport;
2. A city of housing choice with homes that meet our needs and lifestyles;
3. A great place to live with communities that are strong, healthy and well connected; and
4. A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

To achieve these goals, the plan proposes 22 directions and associated actions. The Planning Proposal is consistent with the goals, directions and actions of the plan, in particular:

- Direction 1.1 Grow a more internationally competitive Sydney CBD;
- Direction 2.1 Accelerate housing supply across Sydney;
- Direction 3.4 Promote Sydney’s heritage, arts and culture; and
- Relevant priorities for Central sub-region, Global Sydney and Sydney CBD

Draft Sydney City Subregional Strategy

The NSW Government’s draft *Sydney City Subregional Strategy* sets directions and actions for the implementation of the previous metropolitan strategy at a more detailed local level. Subregional planning provides a framework for coordinating planning, development, infrastructure, transport, open space networks and environmental actions across local and state government agencies.

The planning proposal is consistent with the draft *Sydney City Subregional Strategy* as discussed within Table 2 below.

Table 2 – Consistency with draft Sydney City Subregional Strategy Key Directions

| Key Direction | Statement of Consistency |
|--|---|
| Reinforce global competitiveness and strengthen links to the regional economy. | Not inconsistent. The planning proposal will have negligible impact on the regional economy. |
| Ensure adequate capacity for new office and hotel developments. | Consistent. The planning proposal will remove a barrier to the delivery of new office and hotel developments in Central Sydney. |
| Plan for sustainable development of major urban renewal projects. | Not inconsistent. The planning proposal will have negligible impact on major urban renewal projects. |

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| Key Direction | Statement of Consistency |
|--|--|
| Plan for housing choice | Consistent. The planning proposal will remove a barrier to the delivery of new residential development in Central Sydney. |
| Develop an improved and increasingly integrated transport system that meets the City's multiple transport needs. | Not inconsistent. The planning proposal will have negligible impact on the City's transport system. |
| Improve the quality of the built environment and aim to decrease the subregion's ecological footprint. | Not inconsistent. The planning proposal will have negligible impact on the subregion's ecological footprint. |
| Enhance the City's prominence as a diverse global & cultural centre. | Consistent. The planning proposal will remove a barrier to the delivery of new developments that will enhance the City's entertainment and cultural offering |

5. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Sustainable Sydney 2030 (SS2030) outlines the City's vision for a 'green', 'global' and 'connected' City of Sydney and sets targets, objectives and actions to achieve that vision. The vision was adopted by Council in 2008.

The planning proposal relates primarily to Direction 9 - Sustainable Development, Renewal and Design. It reflects the objective of continually improving development controls and approval processes to minimise compliance and supply side costs. The draft controls arise from regular monitoring and review of the Heritage Floor Space scheme, including the associated land use planning controls and conditions of consent.

The planning proposal also relates to the following SS2030 directions:

- Direction 1 – A globally competitive and innovative City – the proposed controls are consistent with the objective of planning for growth and change in the city centre
- Direction 8 – Housing for a diverse population – the proposed controls are consistent with the objective of addressing unnecessary barriers to residential development by the private market

6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The planning proposal is consistent with applicable SEPPs and deemed State Environmental Planning Policies (formerly known as Regional Environmental Plans (REPs)) as shown in Table 3. In this section, 'consistent' means that the planning proposal does not contradict or hinder application of the relevant SEPP.

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Table 3 – Consistency with SEPPs and REPs

| |
|--|
| <i>SEPPs with which the planning proposal is consistent</i> |
| SEPP 32—Urban Consolidation (Redevelopment of Urban Land); SEPP 33—Hazardous and Offensive Development; SEPP 55—Remediation of Land; SEPP 64—Advertising and Signage; SEPP 65—Design Quality of Residential Flat Development; SEPP 70—Affordable Housing (Revised Schemes); SEPP (Building Sustainability Index: BASIX) 2004; SEPP (Housing for Seniors or People with a Disability) 2004; SEPP (Major Development) 2005; SEPP (Infrastructure) 2007; SEPP (Exempt and Complying Development Codes) 2008;-SEPP (Affordable Rental Housing) 2009 |
| <i>SEPPs that are not applicable to the planning proposal</i> |
| SEPP 1 – Development Standards; SEPP 14—Coastal Wetlands; SEPP 15—Rural Landsharing Communities; SEPP 19—Bushland in Urban Areas; SEPP 21—Caravan Parks; SEPP 26—Littoral Rainforests; SEPP 29—Western Sydney Recreation Area; SEPP 30—Intensive Agriculture; SEPP 33—Hazardous and Offensive Development; SEPP 36—Manufactured Home Estates; SEPP 39—Spit Island Bird Habitat; SEPP 44—Koala Habitat Protection; SEPP 47—Moore Park Showground; SEPP 50—Canal Estate Development; SEPP 52—Farm Dams and Other Works in Land and Water Management Plan Areas; SEPP 59—Central Western Sydney Regional Open Space and Residential; SEPP 62—Sustainable Aquaculture; SEPP 71—Coastal Protection; SEPP (Kurnell Peninsula) 1989; SEPP (Penrith Lakes Scheme) 1989; SEPP (Sydney Region Growth Centres) 2006; SEPP (Kosciuszko National Park— Alpine Resorts) 2007; SEPP (Mining, Petroleum Production and Extractive Industries) 2007; SEPP (Miscellaneous Consent Provision) 2007; SEPP (Rural Lands) 2008; SEPP (Western Sydney Employment Area) 2009; SEPP (Western Sydney Parklands) 2009; SEPP (Urban Renewal) 2010; SEPP (SEPP 53 Transitional Provisions) 2011; SEPP (State and Regional Development) 2011; SEPP (Sydney Drinking Water Catchment) 2011; SEPP (Three Ports) 2013 |
| <i>REPs with which the planning proposal is consistent</i> |
| Sydney REP (Sydney Harbour Catchment) 2005 |
| <i>REPs that are not applicable to the planning proposal</i> |
| Sydney REP 8—(Central Coast Plateau Areas); Sydney REP 9—Extractive Industry (No 2—1995); Sydney REP 16—Walsh Bay; Sydney REP 18—Public Transport Corridors; Sydney REP 19—Rouse Hill Development Area; 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. |

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with applicable Ministerial Directions as shown in Table 4. In this section, ‘consistent’ means that the planning proposal does not contradict or hinder application of the relevant SEPP.

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Table 4 – Consistency with Ministerial Directions under section 117

| <i>Ministerial Directions with which this planning proposal is consistent</i> |
|---|
| 1.1 Business and Industrial Zones; 2.3 Heritage Conservation;-3.1 Residential Zones; 3.3 Home occupations;-3.4 Integrating Land use and Transport; 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land; 6.1 Approval and Referral Requirements; 6.2 Reserving Land for Public Purposes; 6.3 Site Specific Provisions; 7.1 Implementation of the Metropolitan Plan for Sydney 2036 |
| <i>Ministerial Directions that are not applicable to the planning proposal</i> |
| 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; 3.2 Caravan Parks and Manufactured Home Estates; 3.5 Development Near Licensed Aerodromes; 3.6 Shooting Ranges; 4.2 Mine subsidence and Unstable land; 4.4 Planning for Bushfire Protection; 5.1 Implementation of Regional Strategies; 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 |

Section C – Environmental, social and economic impact

8. 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?

The planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The proposed amendments will not result in environmental impacts that cannot be controlled through development assessment processes.

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

Yes. While any change to the Heritage Floor Space planning controls impacts on the Heritage Floor Space market, the proposed changes are likely to have minimal impacts. More significantly, they will remove a potential barrier to 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 interests

11. Is there adequate public infrastructure for the planning proposal?

Yes. The proposed amendments do not increase the need for infrastructure.

12. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Appropriate consultation will be conducted when the Gateway determination is issued. Formal consultation has not yet been undertaken. The Department of Planning and Environment shall

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inform Council which State and Commonwealth authorities must be consulted during the public exhibition period.

Part 4: Mapping

This planning proposal does not require any maps.

Part 5: Community consultation

It is proposed that the planning proposal will be exhibited together with the *Draft Alternative Heritage Floor Space Allocation Scheme* for a period of not less than 28 days, in accordance with section 4.5 of *A Guide to preparing LEPs*, to allow for proper consultation with the community and affected landowners.

Public exhibition is proposed to be notified by:

- advertisement on the City of Sydney website
- advertisement 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

Exhibition material is proposed to be on display at the following City of Sydney venues:

CBD One Stop Shop

Level 2, Town Hall House
456 Kent Street
Sydney NSW 2000

Customs House Library

31 Alfred Street
Circular Quay NSW 2001

The exact requirements for community consultation are to be set out in the Gateway Determination issued by the Minister for Planning.

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Part 6: Project Timeline

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

| | Sep-15 | Oct-15 | Nov-15 | Dec-15 | Jan-16 | Feb-16 | Mar-16 | Apr-16 | May-16 | Jun-16 | Jul-16 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Commencement/ submit to DP&E for Gateway determination | | | | | | | | | | | |
| Gateway Panel consider Planning Proposal | | | | | | | | | | | |
| Receive Gateway determination | | | | | | | | | | | |
| Public Exhibition of Planning Proposal | | | | | | | | | | | |
| Consideration of submissions | | | | | | | | | | | |
| Post Exhibition report to Council and CSPC | | | | | | | | | | | |
| Planning proposal forwarded to DP&E | | | | | | | | | | | |
| Legal drafting of LEP | | | | | | | | | | | |
| Finalisation of LEP | | | | | | | | | | | |

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ATTACHMENT 1

INTENDED EFFECT OF PROPOSED CHANGES TO SYDNEY LOCAL ENVIRONMENTAL PLAN 2012

| EXISTING CLAUSES | PROPOSED AMENDMENTS |
|--|---|
| <p>6.10 Heritage Floor Space</p> <p>(1) Objective The objective of this clause is to provide an incentive for the conservation and on-going maintenance of heritage buildings within Central Sydney.</p> <p>(2) Creation of heritage floor space The Council may record in the register an amount of heritage floor space in respect of a person if:</p> <ul style="list-style-type: none"> (a) the person is the owner or the nominee of the owner of a building that is a heritage item shown marked “*” in Schedule 5 (a heritage building), and (b) the heritage building is on land in Zone B8 Metropolitan Centre, and (c) conservation works have been carried out on the heritage building and have been completed in accordance with a heritage conservation management plan approved for the building by the consent authority, and (d) a covenant is registered that prevents development that increases the total gross floor area of all buildings on the site on which the heritage building is located or that increases the height of the heritage building, and (e) an amount of heritage floor space has not previously been recorded (under this clause or under a similar scheme in force before the commencement of this Plan) in respect of the heritage building, and (f) no other building has utilised floor space that was available to it only because, at the time the floor space was utilised, the building was on a site that included the heritage building or that included part of the site occupied by the heritage building. <p>(3) ...</p> <p>(4) ...</p> <p>(5) ...</p> <p>(6) ...</p> <p>(7) In this clause: the register means the register maintained by the Council for the purposes of this clause.</p> | <p>Sub-clause 2(e) is to apply only to heritage buildings for which an award of HFS has been registered in the preceding 25 years. This is intended to enable heritage buildings that received an award of HFS more than 25 years ago to be eligible for another award of HFS, subject to also meeting the other eligibility criteria listed in sub-clause (2).</p> |

6.11 Utilisation of certain additional floor space requires allocation of Heritage floor space

(1) Despite any other provision of this Part, development consent must not be granted to development in respect of a building on land in Central Sydney that utilises any amount of additional floor space specified in paragraph (a), (b) (c), (d) or (e) unless an amount of heritage floor space is allocated to the building in accordance with the following relevant paragraphs:

- (a) accommodation floor space in respect of a building on land in Area 1, 2 or 3— unless an amount of heritage floor space is allocated to the building that is equal to 50% of the accommodation floor space to be utilized.
- (b) accommodation floor space in respect of a building on land in Area 4 (but only if the accommodation floor space causes the floor space ratio of the building to be greater than 8:1)— unless an amount of heritage floor space is allocated to the building that is equal to 50% of any accommodation floor space to be utilized.
- (c) ...
- (d) ...
- (e) ...

(2) The consent authority may reduce the amount of heritage floor space that is required to be allocated to a building under subclause (1) as follows (and in such a case that reduced amount is the amount of heritage floor space that is required to be allocated):

- (a) ...
- (b) ...
- (c) ...

Sub-clause (1) is to provide that consent must not be granted unless the consent authority is satisfied that adequate arrangements have been made for allocation of the relevant amount of HFS to the development. The reference to allocation of HFS to the building will also be removed. These changes are intended to enable HFS allocation to occur after a consent has been issued setting out the precise amount of HFS required to be allocated to a particular development.

Sub-clause 1(a) is to apply only to accommodation floor space in respect of development that results in a building that exceeds 55m in height on land in Area 1, 2 or 3. The intent is to only require HFS allocation when accommodation floor space is utilised for the development of tower buildings.

Sub-clause 1(b) is to apply only to accommodation floor space in respect of development that results in a building that exceeds 55m in height on land in Area 4 (if the accommodation floor space causes the floor space ratio of the building to be greater than 8:1). The intent is to only require HFS allocation when accommodation floor space is utilised for the development of tower buildings.

The above changes to sub-clause 1(a) and 1(b) are intended to remove the requirement for HFS allocation in respect of minor developments.

After sub-clause (2) a new sub-clause is to be inserted that applies only to development applications lodged before 31 December 2018. It will provide that the requirement to allocate the relevant amount of HFS to a development site can be satisfied by arrangements consistent with the City’s Alternative Heritage Floor Space Allocation scheme. The draft scheme exhibited with this planning proposal provides a mechanism under which the Council may agree to HFS allocation being deferred to a specified date or, in the event that a developer is unable to secure the total amount of HFS required to be allocated to their development, replaced by a monetary contribution that Council will put towards heritage conservation. This is a temporary measure intended to overcome an identified shortage of HFS supply until more HFS becomes available.