

Attachment A

**Planning Proposal
Heritage Floor Space Amendment**

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 the Sydney Local Environmental Plan 2012 (Sydney LEP).

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 the Local Environmental Plan Making Guideline.

Background

Heritage Floor Space (HFS) planning controls in the 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 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 can be made payable to Council which is 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 are forthcoming for City-owned buildings, potential HFS award applications 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 three years to 1 January 2026. 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.

1. Objectives or Intended Outcomes

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

2. Explanation of the Provisions

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

- This clause applies only in relation to an application for development consent that is made before 1 January 2023; to
- This clause applies only in relation to an application for development consent that is made before 1 January 2026.

3. Justification

This section of the planning proposal provides the rationale for the amendments and responds to questions set out in the Department's 'Local Environmental Plan Making Guideline', published by the Department of Planning and Environment in September 2022.

Section A: Need for the planning proposal

Is the planning proposal a result of an endorsed LSPS, 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 the strategic planning framework

Will the planning proposal give effect to the objectives and actions of the applicable regional 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 LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or 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 2030-2050 Continuing the Vision is the blueprint for sustainable development of the city of Sydney to 2050 and beyond. It includes 10 strategic directions to guide the future of the City of Sydney. Sustainable Sydney 2030-2050 Continuing the Vision 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 2030-2050 Continuing the Vision, particularly:

- Direction 4 – Design excellence and sustainable development – by supporting the operation of the heritage floor space scheme to conserve important heritage buildings, contribution to celebrate the character of Central Sydney

Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable state or regional strategies.

Is the planning proposal consistent with applicable SEPPs?

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

- SEPP (Biodiversity and Conservation) 2021, SEPP (Exempt and Complying Development Codes) 2008, SEPP (Housing) 2021, SEPP (Planning Systems) 2021, SEPP (Precincts – Eastern Harbour City) 2021, SEPP (Resilience and Hazards) 2021, SEPP (Resources and Energy) 2021, SEPP (Transport and Infrastructure) 2021.

The following SEPPs are not applicable to this planning proposal:

- SEPP (Building Sustainability Index: BASIX) 2004, SEPP (Industry and Employment) 2021, SEPP 65-Design Quality of Residential Apartment Development, SEPP (Precincts – Central River City) 2021, SEPP (Precincts – Regional) 2021, SEPP (Precincts – Western Parkland City) 2021, SEPP (Primary Production) 2021.

Is the planning proposal consistent with applicable Ministerial Directions?

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

- 1.1 Implementation of Regional Plans; 1.3 Approval and Referral Requirements; 3.2 Heritage Conservation (refer to detailed discussion below); 4.1 Flooding; 5.1 Integrating Land Use and Transport; 5.2 Reserving Land for Public Purposes; 5.3 Development Near Regulated Airports and Defence Airfields; 6.1 Residential Zones; 6.2 Caravan Parks and Manufactured Home Estates; and 7.1 Business and Industrial Zones.

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

- 1.2 Development of Aboriginal Land Council land; 1.4 Site-specific provisions; 1.5 Parramatta Road Corridor Urban Transformation Strategy; 1.6 Implementation of North West Priority Grown Area Land Use and Infrastructure Implementation Plan; 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan; 1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan; 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor; 1.10 Implementation of the Western Sydney Aerotropolis Plan; 1.11 Implementation of Bayside West Precincts 2036 Plan; 1.12 Implementation of Planning Principles for the Cooks Cove Precinct; 1.13 Implementation of St Leonards and Crows Nest 2036 Plan; 1.14 Implementation of Greater Macarthur 2040; 1.15 Implementation of the Pyrmont Peninsula Place Strategy; 1.16 North West Rail Link Corridor Strategy; 1.17 Implementation of the Bays West Place Strategy; 3.1 Conservation Zones; 3.3 Sydney Drinking Water Catchments; 3.4 Application of C2 and C3 Zones and Environmental Outlays in Far North Coast LEPs; 3.5 Recreation Vehicle Areas; 3.6 Strategic Conservation Planning; 4.2 Coastal Management; 4.3 Planning for Bushfire Protection; 4.4 Remediation of Contaminated Land; 4.5 Acid Sulfate Soils; 4.6 Mine Subsidence and Unstable Land; 5.4 Shooting Ranges; 7.2 Reduction in non-hosted short-term rental accommodation period; 7.3 Commercial and Retail Development along the Pacific Highway, North Coast; 8.1 Mining, Petroleum Production and Extractive Industries; 9.1 Rural Zones, 9.2 Rural Lands, 9.3 Oyster Aquaculture; 9.4 Farmland of State and Regional Significance on the NSW Far North Coast.

3.2 Heritage Conservation

The Heritage Conservation Direction is to conserve items, areas, objects and place of environmental heritage significance and indigenous heritage significance. The proposal to extend the existing alternative arrangements for the allocation of heritage floor space for a further period of three years supports the continued operation of the heritage floor space scheme to continue to incentivise the conservation of important heritage buildings in Central Sydney. It does this by allowing development needing to allocate heritage floor space to proceed in the event that the expected improvement in the supply of heritage floor space does not match demand within that time. This includes time for the preparation of conservation management plans, and assessment of applications for new awards of heritage floor space.

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 because of the proposal?

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

Are there any other likely environmental effects 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: Infrastructure (Local, State and Commonwealth)

Is there adequate public infrastructure for the planning proposal?

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

Section E: State and Commonwealth interests

What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

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

4. Mapping

This Planning Proposal does not amend any maps.

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 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, Local Environmental Plan Making Guideline, 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.

6. Project Timeline

The anticipated timeline for the completion of the Planning Proposal is as follows:

Action	Anticipated Date
Commencement / Gateway determination	September 2022
Pre-exhibition government agency consultation	September 2022
Public exhibition	September-October 2022
Consideration of submissions	October 2022
Post-exhibition consideration of proposal	November 2022
Draft and finalise LEP	December 2022
LEP made (if delegated)	December 2022
Plan forwarded to DPE for notification	December 2022

