

Planning Services

Gateway determination report

LGA	City of Sydney
PPA	City of Sydney Council
NAME	Amendment to heritage floor space provisions – extension of temporary alternative arrangements scheme – Clause 6.11A (0 homes, 0 jobs)
NUMBER	PP 2018 SYDNE 003 00
LEP TO BE AMENDED	Sydney Local Environmental Plan 2012
RECEIVED	24 September 2018
FILE NO.	IRF 18/5280
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this

INTRODUCTION

Description of planning proposal

The planning proposal seeks to extend the application of the temporary alternative heritage floor space (HFS) allocation scheme for Central Sydney by amending clause 6.11A of the Sydney Local Environmental Plan (LEP) 2012 to extend the time frame within which to submit a development application and seek alternative HFS arrangements from 1 January 2019 to 1 January 2021. City of Sydney Council also proposes to alter its adopted alternative heritage space allocation scheme policy to reflect the extended time frame.

The alternative arrangements will continue to allow developers to enter into planning agreements with Council that can lead to HFS allocation being deferred or, if HFS cannot be obtained, replaced with a monetary contribution to Council to be used for heritage conservation.

The alternative HFS scheme was necessitated by a shortage of HFS available for purchase, which is causing difficulty for developers in sourcing the HFS required to satisfy development consents. Delays in obtaining HFS prevent developers from starting construction of their developments. This imposes a barrier to property development in Central Sydney and threatens to delay major projects.

Background

The HFS scheme was initiated in Central Sydney in 1971 and has contributed significantly to the management and conservation of the area's heritage significance.

On 11 November 2015, the Department as the Minister's delegate issued a Gateway determination facilitating an amendment to the HFS scheme and implementing the temporary scheme contained in clause 6.11A of the Sydney LEP 2012.

Clause 6.11A was included to ensure that property development in Sydney would not be impeded by a temporary shortage of HFS available for purchase. However, it is evident that the HFS market remains in short supply and the need for alternative HFS arrangements remains.

The planning proposal seeks to extend the application of clause 6.11A for two years until 1 January 2021 to ensure HFS arrangements can be satisfied while ensuring the continued conservation of the city's heritage.

Existing planning controls

The HFS planning controls are outlined in Part 6, Subdivision 3 of the Sydney LEP 2012.

Clause 6.10 provides the framework for a scheme under which owners of heritage buildings in Central Sydney are incentivised to conserve and maintain their properties by enabling them to receive HFS after conservation works are undertaken and relevant covenants are applied to the site.

Clause 6.11 stipulates that a developer may only obtain approval for certain types of additional floor space if they allocate HFS to their development site. The clause prohibits development commencing unless the HFS requirements under the clause are fulfilled when a developer is issued additional floor space under the following circumstances:

- additional floor space permitted under Clause 6.4 Accommodation floor space on sites in areas 1, 2 and 3 when the development exceeds a height of 55m;
- additional floor space permitted under Clause 6.4 Accommodation floor space in area 4 when the development exceeds a height of 55m and an FSR of 8:1;
- additional floor space permitted under Clause 6.9 Opportunity Floor Space;
- additional floor space permitted under clauses 6.21(7)(b) or 6.26(7)(b) for design excellence; and
- additional floor space permitted under clause 4.6 that uses additional floor space mentioned above.

Clauses 6.10 and 6.11 establish a framework for a HFS market in which vendors and buyers negotiate with each other and Council maintains a register for this market.

Clause 6.11A allows for developers to make alternative arrangements with Council if obtaining HFS under clause 6.11 is difficult. It allows Council to defer HFS requirements until after works have commenced while the developer attempts to purchase the required HFS. If the developer is unable to secure the required HFS, Council can enter into a financial agreement with the developer where the developer provides a monetary contribution to a heritage conservation fund managed by Council in lieu of purchasing HFS.

Funds obtained under the scheme are used for undertaking conservation works and preparing heritage conservation management plans. This clause was temporary while there was a shortage of available HFS.

Under the alternative HFS scheme, 12 developers have entered into a planning agreement with Council to defer HFS requirements until after construction starts, deferring a total of 43,876m² of HFS. Of these developments, only one has had to provide a monetary contribution to the heritage contribution fund in lieu of obtaining HFS.

Summary of recommendation

The proposal is recommended to proceed subject to conditions as it seeks to ensure the continued management and conservation of heritage-significant buildings while ensuring development in Central Sydney will not be impeded by HFS market trends.

The proposal will be required to proceed with conditions as the explanation of provisions needs to be updated and consultation with the Office of Environment and Heritage is required.

PROPOSAL

Objectives or intended outcomes

The objective of the planning proposal is to amend the Sydney LEP 2012 by extending the application of the temporary alternative arrangements in relation to the allocation of HFS by two years.

Explanation of provisions

The planning proposal states that “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”.

This statement should be updated to clearly explain the intent of the proposal prior to community consultation.

Mapping

There are no changes to maps and no additional maps will be required as a result of the proposed amendment.

NEED FOR THE PLANNING PROPOSAL

Council states that the planning proposal is needed due to a temporary imbalance between the supply and demand of HFS on the market. However, Council’s Heritage Floor Space Update released in June 2018 (**Attachment E**) reveals ongoing issues in relation to the supply and demand imbalance and a pattern of unsustainable inflation:

- in June 2015, there was a total stock of 52,354m² of HFS registered by Council; this has since decreased to 41,754m²;
- in June 2015, 15 HFS transactions occurred; last calendar year only two transactions occurred;
- in June 2014, 15,519m² of HFS was sold or transferred; last calendar year only 1094m² was sold or transferred; and
- the average price per square metre has been subject to unsustainable levels of inflation, increasing from \$331/m² in June 2013 to \$1461/m² in June 2018. This highlights an increase of 341% over this five-year period.

Without an extension of time, proponents would not be able to make alternative arrangements with Council and development in Central Sydney could be delayed. This could impose a barrier for Council in achieving its five-year housing supply target of 18,300 dwellings under the Eastern City District Plan.

The planning proposal is needed to ensure that residential development in Sydney is not impeded. The planning proposal states that the amendment will also allow Council to review its HFS scheme alongside its strategic planning work and LEP review.

STRATEGIC ASSESSMENT

Region

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission (GSC) released the Greater Sydney Region Plan, which provides a strategic framework to coordinate and manage Sydney's growth. The plan contains objectives for the Greater Sydney region over the next 40 years and informs the actions and directions of the district plans.

The proposal is consistent with the plan, particularly the following objectives:

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

The proposal is consistent with these objectives as it continues to identify the city's heritage and seeks to ensure the ongoing conservation and enhancement of some of the region's most renowned heritage-significant buildings.

The proposal is also considered to be consistent with the plan as it continues to facilitate development incentives such as those contained in clause 6.9 of the Sydney LEP 2012 for office, business and retail premises within the Sydney CBD. The continued implementation of clause 6.11A ensures that the provision of floor space incentives that promote investment and business is not impeded by the restrictions of clause 6.11 and the imbalance between supply and demand of HFS.

District

Eastern City District Plan

The City of Sydney local government area is guided by the Eastern City District Plan, which allows for the concentrated implementation of the Greater Sydney Region Plan at the district level.

The proposal is consistent with the district plan, particularly the following priorities:

- Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport;
- Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage;
- Priority E7: Growing a stronger and more competitive Harbour CBD; and
- Priority E11: Growing investment, business opportunities and jobs in strategic centres.

The proposal is consistent with these priorities as it seeks to respect the district's heritage by facilitating heritage conservation works and funding conservation management plans.

The proposal is also considered to be consistent as it seeks to ensure that the provision of development incentives for residential and business uses is not impeded. The proposal will assist in achieving the 18,300 additional dwellings target set out in the district plan and promote a stronger and more competitive Harbour CBD by growing investment and business opportunities.

Local

Sustainable Sydney 2030 – Community Strategic Plan

Sustainable Sydney 2030 is the vision for sustainable development in the City of Sydney to 2030 and beyond. The vision includes 10 directions that seek to guide Sydney in achieving its vision of a 'green, global and connected city' and sets targets, objectives and actions to monitor Council's progress. The following objectives are relevant to the proposal:

- Direction 1: A globally competitive and innovative city; and
- Direction 8: Housing for a diverse community:

The planning proposal seeks to ensure that the provision of development incentives for residential and business purposes is not impeded by the HFS market. The provision of these incentives encourages housing and economic growth.

Section 9.1 Ministerial Directions

The proposal is consistent with all section 9.1 Ministerial Directions. Direction 2.3 Heritage Conservation is particularly relevant.

The proposal is consistent with the Direction as its primary objective is to ensure the continued application of a scheme that ensures the conservation of items and heritage-significant buildings.

State environmental planning policies (SEPPs)

The proposal is consistent with all relevant SEPPs.

SITE-SPECIFIC ASSESSMENT

Social

The planning proposal is expected to have no negative social impacts. It will encourage the ongoing conservation of heritage-significant buildings and allow residents and visitors to have a positive understanding and connection with the city's history.

Environmental

No environmental impacts are expected to occur as a result of the planning proposal because it only seeks to extend an existing clause and does not propose physical works.

Economic

There is a shortage of available HFS on the market, which imposes a potential barrier to property development in Central Sydney.

The planning proposal states that the extension of the temporary arrangements scheme will allow time for additional HFS to become available on the market and for further awards owned by government and Council to become available for purchase, removing the potential development barrier.

The proposed amendment will also ensure the ongoing facilitation of the required property development in the Sydney LGA outlined in the Eastern City District Plan.

CONSULTATION

Community

Council has stated that community consultation will occur in accordance with the Gateway determination and proposes a public exhibition period of at least 14 days. Council plans to exhibit the planning proposal via its website, an advertisement in the *Sydney Morning Herald* and by inviting comments from HFS owners and key industry and community groups.

This is considered to be appropriate and an exhibition period of 14 days is recommended as the proposal is considered to meet the criteria to be considered 'low impact' under *A guide to preparing planning proposals*.

Agencies

Council states that formal consultation will occur in accordance with the Gateway determination. It is recommended that Council be required to consult the Office of Environment and Heritage.

TIME FRAME

Council has provided a projected timeline as part of the planning proposal and projects that finalisation will occur in December 2018. This is considered to be appropriate as the clause expires on 1 January 2019.

It is recommended that the LEP is finalised by 31 December 2018 to ensure there is no period when the clause does not apply.

LOCAL PLAN-MAKING AUTHORITY

Council has requested authorisation to make this plan. The request is considered to be appropriate as the matter is of local significance and only seeks to extend an existing clause.

CONCLUSION

The proposal is supported to proceed with conditions as it:

- is consistent with the objectives and directions of applicable strategic planning frameworks;
- ensures the continued management and conservation of identified heritage in the area;
- ensures that potential residential and business developments in Central Sydney are not impeded by current market forces;
- provides the opportunity for new HFS to become available on the market; and
- provides Council with the opportunity to conduct a complete review of its HFS scheme alongside its mandatory LEP review and strategic planning work.

RECOMMENDATION

It is recommended that the delegate of the Greater Sydney Commission determine that the planning proposal should proceed subject to the following conditions:

- prior to public exhibition, the explanation of provisions should be updated to clearly explain the intent of the planning proposal;
- the planning proposal should be made available for community consultation for a minimum of 14 days;

- consultation is required with the Office of Environment and Heritage;
- the LEP is to be finalised by 31 December 2018 to ensure there is no period where the clause does not apply; and
- given the nature of the planning proposal, Council should be authorised as the local plan-making authority.



Laura Locke
Team Leader, Sydney Region East

18/10/2018



Amanda Harvey
Director Regions, Sydney East
Planning Services

18/10/2018

Contact Officer: Bailey Williams
Student Para Planner, Sydney East
Phone: 8275 1306