

Attachment D

**Planning Report Capitol Theatre 3-21
Campbell Street Haymarket – Urbis Pty Ltd**

**PLANNING REPORT
CAPITOL THEATRE
3-21 CAMPBELL STREET
HAYMARKET**

23 JULY 2019
SH1372
FINAL
PREPARED FOR CITY OF SYDNEY

URBIS

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EXECUTIVE SUMMARY

This Planning Report supports an application seeking endorsement of the Conservation Management Plan (CMP) –Capitol Theatre and the re-award of Heritage Floor Space (HFS) by the City of Sydney to the Capitol Theatre at 3-21 Campbell Street, Haymarket.

The subject site is listed on the State Heritage Register and is also an item of state heritage significance listed in Schedule 5 of the *Sydney Local Environment Plan 2012* (SLEP 2012). The significance of the site has been assessed in the CMP, which concludes that building has significance at state level for its historic, associative, aesthetic and representative values, and for its rarity. It has significance at a local level for its social values, and potentially at a state level.

The building was the subject of extensive restoration works in the 1990s, including the restoration of the exterior and interior including an extended stage, new stalls and fly tower, and back of house facilities to accommodate modern theatre requirements.

In accordance with the relevant controls outlined in the SLEP 2012 and *Sydney Development Control Plan 2012*, the application seeks an HFS award of 10,871.25sqm for the Capitol Theatre.

The application also details the total gross floor area (GFA) and height of the conserved heritage building on the site to enable the placing of a restrictive covenant on the Certificate of Title to limit future development in accordance with Council's HFS planning controls. The GFA of the heritage buildings has been calculated in consultation with Council staff.

The Heritage GFA of the Capitol Theatre, as conserved, is 6,358sqm. The ridge height of the Capitol Theatre, as conserved, is RL36.27m.

Approval of this application and the award of HFS to the Capitol Theatre will contribute to the supply of HFS needed by new development in Central Sydney. It will also provide the City of Sydney with a new opportunity to access additional funding to continue its core conservation and heritage interpretation works, which are in the public interest.

1. INTRODUCTION

1.1. PURPOSE

This Planning Report has been prepared on behalf of the City of Sydney in conjunction with the Conservation Management Plan – Capitol Theatre (CMP), also prepared by Urbis Pty Ltd (refer **Appendix A**), for 3-21 Campbell Street, Haymarket (site). These documents support an application seeking:

- Approval of the CMP dated 12 July 2019; and
- The re-award of heritage floor space (HFS) for the Capitol Theatre on the basis of conservation works completed since 1993 as outlined in the CMP.

In accordance with Clause 6.10(2) 'Creation of heritage floor space' of the *Sydney Local Environmental Plan 2012* (SLEP 2012), Council may award heritage floor space in respect of a person if the following provisions are met:

- (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 been recorded in the previous 25 years (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.*

The Capitol Theatre is listed in Schedule 5 of the SLEP 2012 (item no. I826) and is also located in the B8 Metropolitan Centre Zone. The Capitol Theatre was previously awarded HFS in 1992 following the restoration of the building. The relevant planning instruments and policies, including the SLEP 2012, are addressed in more detail in **Section 4**, however, in summary, the Capitol Theatre satisfies the requirements and is eligible for the re-award of HFS.

1.2. REPORT STRUCTURE

The details of the application are set out in this Planning Report:

- **Section 1** sets out the purpose of the report.
- **Section 2** provides an overview of the site, including the location, existing development, land ownership and an overview of previous development consents.
- **Section 3** summarises the conservation practice at the Capitol Theatre, including a summary of the Conservation Management Plan, conservation works completed, and ongoing conservation, maintenance and interpretation works.
- **Section 4** summarises the statutory planning context applying to the application.
- **Section 5** details the HSF award being sought.
- **Section 6** includes an assessment of the application.
- **Section 7** provides a conclusion to the application.

This Planning Report forms part of a suite of documents that are submitted in support of the application and which have been prepared by specialist technical consultants. This report should be read in conjunction with the documentation listed in **Table 1**.

Table 1 – DA Documentation

Report	Consultant	Appendix
Conservation Management Plan	Urbis	Appendix A
Survey Plan	Craig & Rhodes	Appendix B
Schedule of Maintenance and Capital Works	City of Sydney	Appendix C
Heritage Asset Interpretation Plan	Urbis	Appendix D
Certification of Conservation Works	Urbis	Appendix E
Gross Floor Area Plans	Craig & Rhodes	Appendix F
Certificate of Currency	Gallagher	Appendix G
Conditions Assessment	Mott Macdonald	Appendix H

2. SUBJECT SITE

2.1. SITE LOCATION AND SETTING

The subject site, known as Capitol Theatre, is located at 3-21 Campbell Street, Haymarket and is legally described as Lot 20 of Deposited Plan (DP) 1014952. The site has a northern frontage to Campbell Street of 45.03m and a southern frontage to Hay Street of 51.76m (refer to survey plan at **Appendix B**).

The Capitol Theatre is situated in the centre of the block bound by Campbell Street to the north, Pitt Street to the east, Hay Street to the south and George Street to the west. The building has two frontages, to the north on Campbell Street and to the south on Hay Street (refer **Figure 1**).

The building directly abuts the Manning Building to the east and Capitol Square to the west. In proximity to the site is the Corporation Building (to the south), the Palace Hotel (to the west) and three storey terrace buildings and commercial towers on the north side of Campbell Street. The light rail line runs directly to the south of the Capitol Theatre along Hay Street. The City Circle railway line runs directly underneath the site.

Figure 1 – Location Plan



Source: Urbis

2.2. EXISTING DEVELOPMENT

The Capitol Theatre is constructed to the lot boundaries. It is a three storey building of Federation Free Classical style elevations, with additions dating to the late twentieth century. The elevations indicate phases of adaptation, reconstruction and restoration to accommodate its changing use since 1893.

Fabric from each phase of its development, from the New Belmore Markets (1893), to Hippodrome (1914-1915), to theatre (1927-1928) and theatre redevelopment (1992-1995), exist within the exterior elements of the building.

Due to the location of the Capitol Theatre in the middle of a block, and bound by the Manning Building to the east and Capitol Square to the west, the primary elevations visible from the public domain include the north elevation on Campbell Street, the south elevation on Hay Street, and a portions of the east and west elevations of the fly tower. The remaining west elevation is visible from within Capitol Square, which is located on the former north portion of Parker Street. The exterior of the Capitol Theatre is constructed using

red face brick and rendered brickwork, sandstone, terracotta and trachyte detailing. The building has a load bearing brick structure on concrete foundations with an internal structure of cast iron posts and steel beams.

The public entries into the Capitol Theatre are located on Campbell Street and provide entrance into the Box Office, within the north-east portion of the building and also into the theatre foyers. At the corner of Hay and Pitt Street is the loading dock and stage door. No public access is provided from Hay Street.



Figure 2 – Looking south-east from corner of Hay and George Street, with Haymarket Library and the Corporation Building (right of centre)



Figure 3 – Manning Building adjoining the site, viewed from the corner of Pitt and Campbell Streets



Figure 4 – Looking west along Campbell Street, with terrace buildings located on the right



Figure 5 – View of Hay Street elevation with Capitol Square (centre) and Capitol Theatre (right)

2.3. LAND OWNERSHIP

The site is owned by the City of Sydney.

2.4. PREVIOUS DEVELOPMENT CONSENTS

A review of the City of Sydney's records has identified the following development consents and construction certificates listed in **Table 2**. Of particular relevance to this application is D/92/00157 which relates to the reconstruction and restoration works undertaken in 1992-1995.

Table 2 – Summary of Development Consents and Construction Certificates

Application No.	Date	Description	Status
D/92/00157	14 May 1992	Restoration of theatre including extension of stage, foyers & backstage \$40 million Ipoh Garden Developments (Aust) Pty Ltd	Approved
708/92	21 Dec 1992	IF/W "Capitol" & 1 advert. Panel: Parker St; illuminated /UA & 1 illuminated. vert/prov on both Campbell & Hay Streets Ipoh Garden Developments (Aust) Pty Ltd	Approved
1065/92	26 Oct 1992	Reconstruction, extensions theatre \$23 million Ipoh Gardens	Approved
1164/92	16 Nov 1992	Temporary amenities, hoardings \$200,000	Approved

2.5. PREVIOUS HERITAGE FLOOR SPACE AWARD

The restoration and conservation works approved under D/92/00157 provided for the award of HFS to the City of Sydney. At the time of the award, the terminology used was 'transferable floor space (TFS). The amount of TFS awarded was calculated in accordance with the City of Sydney's Transferable Floor Space policy and the 1971 Floor Space Ratio Code.

The formula at the time of the original HFS award was as follows:

Area of the site covered by the 'historic theatre' – 1,745 sqm

1971 Floor Space Ratio Code - 12.8:1

Maximum Floor Space achievable on the site covered by the historic theatres = 12.8 x 1,745

This resulted in an award of an amount of 22,336sqm of HFS on 26 March 1992.

A review of the City of Sydney heritage floor space register has found that the entirety of the HFS award has been transferred. On 17 June 2015, the final amount of HFS associated with the Capitol Theatre HFS was transferred, and the balance is nil.

Associated with the award of TFS was the requirement for the Capitol Theatre to be maintained and conserved. This requirement is reflected in a positive covenant made over the site (Lot 20 DP 1014952) The Section 88b instrument associated with Lot 20 DP 1014952 requires, among other things, that the owners and lessees of the lots burdened must maintain and conserve the facades of the building. There is also a requirement to prepare a management plan in relation to the conservation and maintenance of the facades, submit that to the City of Sydney for approval, and carry out works in accordance with the management plan. The City of Sydney has also provided certification valid until 30 January 2020 that the heritage sandstone, terracotta and brickwork façades have been inspected and all loose or potentially loose masonry removed to prevent potential harm to people in the public domain.

The lessees have provided a list of maintenance and capital works undertaken to the building (refer **Appendix C**).

3. CONSERVATION MANAGEMENT PLAN

3.1. OVERVIEW AND STRUCTURE

A CMP for the Capitol Theatre has been prepared by Urbis and is provided at **Appendix A**. The purpose of the CMP is to guide the conservation and management of the significant elements of the site. It is also intended to assist the property owners to manage maintenance and new works to the site. The CMP includes a careful analysis of the site in terms of heritage significance and context, and based on the analysis, conservation policies appropriate to the subject site are provided.

The CMP has been prepared in accordance with the *NSW Heritage Manual* (1996), the *Australia ICOMOS Burra Charter* (2013) and *The Conservation Plan* by James Semple Kerr (2000).

The CMP is submitted for the approval of Council as part of this application for an award of HFS.

3.2. STATEMENT OF SIGNIFICANCE

The following Statement of Significance is taken from the CMP prepared by Urbis dated 12 July 2019:

The Capitol Theatre is of state significance for its historic, associative, aesthetic and representative values, and for its rarity.

The Capitol Theatre has a faceted history of adaptation, reconstruction and restoration. The building was originally constructed as the New Belmore Markets in 1893 designed by George McRae. The building was dismantled and reconstructed as Wirths Hippodrome alongside the redevelopment of the Manning Building in 1914-1915 following the cessation of market-uses. In 1916, the Hippodrome was redeveloped as an atmospheric theatre for the silver screen by Henry Eli White. The Capitol Theatre opened in 1927, one of only five within Australia. Despite the downturn in the theatre following the depression, the Capitol Theatre was redeveloped as a first-class lyric theatre from 1993 to 1995. This reinvigorated the theatre as a place to show world class productions within the conserved atmospheric theatre. The site and Capitol Theatre building demonstrates the continuous use of the site as a place of public entertainment and further reflects the development of public entertainment from the 1860s through to the present day.

Capitol Theatre is associated with the work of three prominent architects of the late nineteenth and early-twentieth centuries in Sydney and New South Wales. First designed by George McRae as the New Belmore Markets (1891-1893), redeveloped by Robert Brodrick as Wirths Hippodrome (1914-1916) and again as the Capitol Theatre by Henry Eli White in 1927, the building remains as an example of their works. The most recent redevelopment of the site as a lyric theatre was the work of award winning Peddle Thorp and Walker Architects (1993-1995).

The site has associations with the Wirth Brothers Circus, Australia's largest and most prestigious circus company. The Wirth Brothers first established themselves as small circus at the Haymarket Reserve in 1882. Their association with the site continued through the redevelopment of the site as Wirths Hippodrome (1914-1916) until the site's redevelopment as the Capitol Theatre in 1927.

The Capitol Theatre, internally, is a rare and exceptional example within New South Wales and Australia of an atmospheric theatre designed by Henry Eli White under the influence of John Eberson. The atmospheric foyer, gallery and auditorium, were carefully restored between 1993 and 1995 recreating the Venetian style of the theatre designed to represent a public square in an old Italian town. The combination of electric blue ceilings, representing the night's sky, side walls penetrated by gates, arches, temples, balconies and gables, along with reproduction statuary and friezes and other decorative elements such as lights, banners, mirrors and artificial foliage, collectively create the atmospheric theatre experience.

Externally, the Capitol Theatre is representative of a Federation Free Style building, designed by George McRae and adapted by Robert Brodrick, Henry Eli White and Peddle, Thorp and Walker Architects. Together with the Manning Building and the collection of largely nineteenth century surrounding buildings, including the Corporation Building and Haymarket Library, makes a precinct of considerable townscape quality.

The Capitol Theatre is socially significant as a public entertainment venue in Sydney which, in its various incarnations, illustrates the changing nature of public entertainment from the nineteenth to twenty-first centuries. The theatre is of social significance to special interest groups.

The Capitol Theatre is rare as one of five atmospheric theatres constructed in Australia, only three of which remain. It is the only atmospheric theatre to survive in New South Wales and is the only example of an atmospheric theatre designed by Henry Eli White

3.3. CONSERVATION WORKS COMPLETED

Section 3.2.5 of the CMP highlights the following conservations works undertaken at the site, which form the basis for the award of HFS:

Following its closure in 1983, the theatre remained boarded up and gradually deteriorated. The Minister granted a new IHO on the building in 1985, followed in 1987 with a Permanent Conservation Order (PCO). Despite heritage protection, the Capitol's future was still in doubt, as there were competing factions in the City Council for and against the retention of the Capitol, and the feasibility of restoring the building as a lyric theatre.

Eventually, in March 1989, the Council called for Expressions of Interest for the conservation of the Capitol Theatre. Developers were asked to conserve the atmospheric auditorium and also update the Capitol into a first class lyric theatre. In return, Council was offering a 99-year lease on the development site bounded by George, Haymarket, Pitt and Campbell Streets.

Ipoh Gardens (Aust) Ltd signed a contract with the City of Sydney in March 1992 to redevelop the site. Soon after, the development application (DA) was lodged with both the Heritage Council and Sydney City Council. The DA was awarded conditional approval in May that year, however, a series of design amendments were made to the plans throughout the rest of the year. Tenders for construction were called in October 1992. Ipoh appointed Fletchers (Aust) Ltd as the preferred tender. Council assented to the building contract in June 1993.

A number of significant changes were made to make the theatre functional for the twenty-first century. The reconstruction of the interior incorporated the construction of new back of house technical and support areas. Works in the auditorium included the demolition and reconstruction of the new stalls floor; construction of balcony boxes, ceiling hatches and roof. The floor was raked to improve sight lines. The stage was extended, and the fly tower rebuilt. A new expanded foyer was built to provide additional circulation space for patrons.

An important consideration was to retain as much of the original fabric of the building as possible while meeting the commercial requirements of modern theatres. The total cost of the works was \$35 million. Fletcher Construction finished the restoration of the Capitol five months ahead of schedule, and it opened on 24 January 1995.

Photographs of the restoration works undertaken are provided in **Figure 4**.

Figure 6 – Restoration works



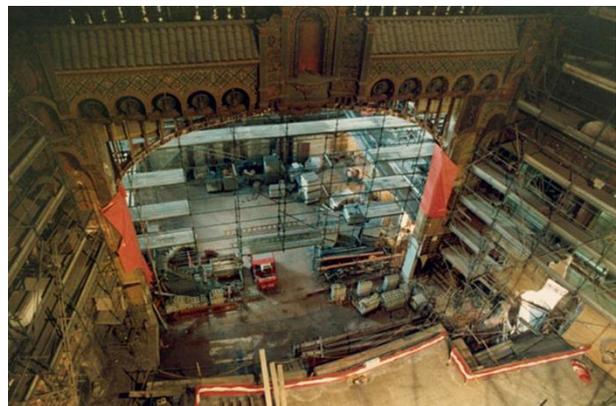
Picture 1 - Elevated view of Manning Building demolition during restoration of theatre.

Source: City of Sydney Archives SRC 18245



Picture 2 – Restoration works underway in foyer

Source: www.capitoltheatre.com.au/about/history.aspx, viewed 3 December 2018



Picture 3 – Modern theatre facilities were introduced during restoration, 1994

Source: : www.capitoltheatre.com.au/about/history.aspx, viewed 3 December 2018

3.4. ONGOING CONSERVATION AND MAINTENANCE

Regular maintenance and scheduled conservation works are required to continue to be implemented to conserve the heritage significance and identified significant fabric of the place. The City of Sydney has provided a schedule of major maintenance and capital works undertaken since 2009, this is included at **Appendix C**. The City of Sydney has also provided certification valid until 30 January 2020 that the heritage

sandstone, terracotta and brickwork façades have been inspected and all loose or potentially loose masonry removed to prevent potential harm to people in the public domain.

A conditions assessment of the Capitol Theatre has been prepared by Mott Macdonald (refer **Appendix H**). This assessment found that at the time of inspection, the building was overall in very good condition with some minor cracking, minor steel beam corrosion, and truss member buckling. The public areas, including the foyer and auditorium, were well maintained. Ongoing maintenance should be undertaken in accordance with the Cyclical Maintenance Plan provided in Section 9 of the CMP.

3.5. HERITAGE INTERPRETATION

The heritage values of the building should be interpreted for public education and understanding. The history and the significant features, as identified in CMP, should form the basis of this interpretation. The Capitol Theatre should continue to be used in a manner that allows for the continued interpretation of the history of the site as theatre and public entertainment facility.

Limited low-key, robust and largely self-guided interpretation would be most appropriate and may include (but is not limited to) signage. There is a plaque commemorating the restoration and reopening of the Capitol Theatre in 1994, however currently there is limited heritage interpretation at the site which conveys the history and evolution of the site.

A Heritage Asset Interpretation Plan has been prepared and is provided at **Appendix D**.

4. STATUTORY PLANNING FRAMEWORK

4.1. HERITAGE ACT 1977

The *NSW Heritage Act 1977* (Heritage Act) is administered by the NSW Office of Environment and Heritage. The purpose of the Heritage Act is to ensure cultural heritage in NSW is adequately identified and conserved. Items of significance to the State of NSW are listed on the NSW State Heritage Register (SHR) under the Act. The Capitol Theatre is listed as a heritage item of State significance on the SHR (Listing No. 00391, gazette date 29 May 1987). The State Heritage Register (SHR) curtilage is shown in **Figure 7** below. The extent of the existing SHR curtilage is limited to the footprint of the Capitol Theatre prior to its redevelopment in the mid-1990s. The curtilage of the SHR listing does not include the extensions to the fly tower toward Hay Street and the new foyer and gallery in a former portion of the Manning Building.

Minimum Standards of Maintenance and Repair

Under section 118 of the Heritage Act, the agency has the power to impose minimum standards with respect to the maintenance and repair of buildings, works and relics that are listed on the State Heritage Register (SHR) or within a precinct that is listed on that Register. The minimum standards include:

- Yearly Inspections by a suitably qualified person;
- Provision of Weather Protection;
- Fire Protection (and additional fire protection for unoccupied buildings);
- Security (and additional security for unoccupied buildings);
- Essential maintenance and repair; and
- The preparation of a Conservation Management Plan.

An endorsed CMP can impose additional standards of maintenance and repair.

Figure 7- Existing State Heritage Register NSW Curtilage for the Capitol Theatre.

Heritage Council of New South Wales

PLAN

Under the Heritage Act, 1977

Description *Part of land in Plan S6-2269R*
(Capitol Theatre)

~~Mun. Shire~~ *City of Sydney* Locality *Sydney (Haymarket)*
 Parish of *St. Lawrence* County of *Cumberland*

Scale 1:500



COMPILED FROM INFORMATION IN	FILE REFERENCE	PLAN APPROVED	PLAN NUMBER
<i>Search 78/590</i> <i>Sydney City Council Plan S4-7/7</i> <small>BY M. B. DATE 25-9-78</small>	<i>78/1057</i> H.C. 32157	<i>Alan Paltman</i> for SECRETARY, HERITAGE COUNCIL	H.C. 955

THIS IS THE PLAN REFERRED TO IN **INTERIM**/PERMANENT CONSERVATION ORDER No. 39/
 N. S. W. GOVERNMENT GAZETTE No. 89 OF 29 MAY 1987

SUBJECT LAND SHOWN THUS:

Source: State Heritage Register Inventory form for 'Municipal Building',
<https://www.environment.nsw.gov.au/heritageapp/HeritageItemImage.aspx?ID=5045280#ad-image-7>

4.2. SYDNEY LOCAL ENVIRONMENTAL PLAN 2012

The SLEP 2012 is the principal environmental planning instrument applying to the site and provides the relevant controls for the award of HFS.

Clause 6.10(2) 'Creation of heritage floor space' of the SLEP 2012 outlines the provisions that must be met for Council to award heritage floor space in respect of a heritage item. A response to each of the provisions is provided below.

- (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),*

The site is shown as a heritage item in the SLEP 2012 Heritage Map (refer **Figure 8**) and listed in Schedule 5 Environmental Heritage. Clause 6.10(2)(a) requires that the heritage building that is the subject of the award is shown "*" in Schedule 5. **Table 3** details the entry for the site in Schedule 5 of the SLEP 2012, which is an item marked with "*".

Table 3 – SLEP 2012 Schedule 5 Heritage Listing

Locality	Item Name	Address	Property Description	Significance	Item No.
Haymarket	Capitol Theatre including interior		Lot 20, DP 1014952	State	Item No I826*

Figure 8 – SLEP 2012 Heritage Map



Source: SLEP 2012 and Urbis

(b) the heritage building is on land in Zone B8 Metropolitan Centre,

As illustrated in **Figure 9**, the site is located in the B8 Metropolitan Centre Zone under the SLEP 2012.

Figure 9 – SLEP 2012 Zoning Map



Source: SLEP 2012 and Urbis

(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,

A CMP is submitted with this application for endorsement (refer **Appendix A**) and outlines the conservation works that have been completed. Certification of the conservation works completed in accordance with development consents has been provided by Urbis (refer **Appendix E**).

(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,

A restrictive covenant will be registered on the title for the land that will limit any future redevelopment of the site to the total GFA and height of the conserved heritage building. It is anticipated that Council as the consent authority will place a condition on any approval requiring such a covenant to be in place prior to the registration of the award of HFS.

(e) an amount of heritage floor space has not been recorded in the previous 25 years (under this clause or under a similar scheme in force before the commencement of this Plan) in respect of the heritage building,

On 23 March 1992 a HFS award was made in respect of the Capitol Theatre, for conservation works undertaken under D/92/00157.

The award was for 22,336sqm of HFS. Twenty-seven years have passed since this HFS award, and no award of HFS has been recorded in the interim. Therefore, the site is eligible for a re-award of HFS.

- (f) *As 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.*

There are no records to suggest that HFS has been recorded in relation to the site.

4.2.1. Other LEP Provisions

As the proposal relates only to an award of HFS no other relevant LEP matters have been identified.

4.3. DEVELOPMENT CONTROL PLAN 2012

Section 5.1.9 of the *Sydney Development Control Plan 2012* (SDCP 2012) relates to the 'Award and allocation of heritage floor space'. The award and allocation procedures include (amongst others):

“the ability for the owner of a heritage building, subject to meeting certain criteria, to be awarded development potential known as Heritage Floor Space after completing conservation works to that building;”

The award of HFS is restricted to buildings that are listed in their entirety as heritage items in Schedule 5 of the Sydney LEP 2012.

Compliance with the relevant provisions at Section 5.1.9 of the SDCP 2012 is addressed in **Table 4**.

Table 4 – SDCP 2012 Compliance Table

Provisions	Response	Compliance
<p>5.1.9.1 Eligibility</p> <p><i>(1) To be eligible for an award of HFS, a heritage building is to be:</i></p> <p><i>(a) located in the Central Sydney area;</i></p> <p><i>(b) subject to conservation works in accordance with an approved Conservation Management Plan; and</i></p> <p><i>(c) not subject to works that would increase the external envelope and floor space of the building, other than a minor increase to facilitate the adaptive re-use of the heritage building.</i></p>	<p>The site meets the eligibility criteria as follows:</p> <ul style="list-style-type: none"> The subject site is located in the Central Sydney area. Concurrent approval of the CMP is sought as part of this application. The award of HFS is on the basis of the conservation works completed since 1993 as outlined in the CMP. The major conservation works undertaken to the Capitol Theatre between 1993-1995 included a minor increase in floor space to allow for the upgrade of the theatre to modern standards and provide for its continued use. 	Yes
<p>5.1.9.2 Pre-requisites</p> <p><i>(1) Prior to registration of the HFS, the applicant must complete the conservation works in accordance with the Conservation Management Plan and enter into legal agreements and grant covenants on the land which:</i></p> <p><i>(a) limit any future redevelopment of the site to the total gross floor area and</i></p>	<p>The site meets the pre-requisites as follows:</p> <ul style="list-style-type: none"> The award of HFS is on the basis of the conservation works completed since 1993 as outlined in the CMP. A restrictive covenant will be registered on the title by way of a condition of consent. The covenant will limit any future redevelopment of the site to the total 	Yes

Provisions	Response	Compliance
<p><i>height of the conserved heritage building; and</i></p> <p><i>(b) ensure the ongoing conservation of the building by regular maintenance, including the provision of adequate insurance and a maintenance fund.</i></p>	<p>GFA and height of the conserved heritage building.</p> <ul style="list-style-type: none"> • Section 9 of the CMP outlines a 10 year maintenance plan for the site. • The City of Sydney has confirmed that there are annual budgets undertaken for each of the City’s properties which includes maintenance of the asset. The City undertakes annual inspections and continual maintenance of the building. The City has confirmed that the necessary insurance is in place- refer certificate of currency at Appendix G. 	<p>Yes</p>
<p><i>(2) A Conservation Management Plan for the heritage item is to be approved by the consent authority and is to generally include:</i></p> <p><i>(a) works to conserve the existing significant fabric of the building;</i></p> <p><i>(b) removal of elements that detract from the significance of the building;</i></p> <p><i>(c) the schedule of maintenance works;</i></p> <p><i>(d) reinstatement of original fabric based on documentary evidence where appropriate; and</i></p> <p><i>(e) other works compatible with significance of the building.</i></p>	<ul style="list-style-type: none"> • Concurrent approval of the CMP is sought as part of this application. The section of the CMP where each prerequisite is addressed is identified as follows: <ul style="list-style-type: none"> - The CMP outlines obligations arising from heritage significance in Section 7 and sets down policies for the appropriate treatment of significant fabric in Section 8. - Policy 80 in Section 8.6 stipulates that materials used for repair and reconstruction should preferably be traditional materials used in the construction of the place. Missing or damaged fabric will be replaced observing the ‘like for like’ principle. elements identified as intrusive significance should be considered for removal or alteration. - Policy 12 in the CMP identifies that repair, conservation and reconstruction works to significant elements must be undertaken with appropriate supervision by a suitably qualified heritage specialist or relevant materials specialist or conservator, with reference to historical documentation, and in accordance with any relevant legislative or statutory constraints. 	

Provisions	Response	Compliance
	<ul style="list-style-type: none"> - A Cyclical Maintenance Plan is provided in Section 9. 	
<p><i>5.1.9.1 Calculating HFS to be awarded</i></p> <p><i>(1) The maximum amount of HFS, measured in sqm that may be awarded to a heritage building is to be calculated using Formula 1 – rateable buildings in private ownership and Government buildings.</i></p>	<p>Section 5 includes the calculations of HFS to be awarded. The DA seeks the award of HFS in the order of 10,871sqm.</p>	N/A
<p><i>5.1.9.7 HFS procedures and administration</i></p> <p><i>(1) An application for an award of HFS is to include a Conservation Management Plan for conservation works and ongoing maintenance of the building.</i></p>	<p>A CMP is submitted with this application for endorsement (refer Appendix A). A Cyclical Maintenance Plan has been provided in Section 9 of the CMP.</p>	Yes
<p><i>(4) HFS may only be allocated and used once in a development.</i></p>	Noted.	N/A

5. AWARD SOUGHT

5.1. OVERVIEW

The proposal is limited to a request for the award of HFS on the basis of conservation works completed at the Capitol Theatre since 1993 as outlined in the CMP.

As discussed in **Section 4**, the Capitol Theatre satisfies the requirements of the relevant planning instruments and policies, and is eligible to be awarded HFS.

Section 5.1.9.3 of the SDCP 2012 outlines the formula for calculating the amount of HSF that can be awarded to Government buildings:

Formula 1 applies to	rateable buildings in private ownership and Government buildings.
The formula is	$HFSH = 0.5AS \times FSRH$
Where	HFSH is the maximum amount of Heritage Floor Space which may be awarded in sqm;
	AS is the site area in sqm occupied by the heritage building; and
	FSRH is the maximum FSR for the site of the heritage building as shown on the LEP FSR Map.

Source: SDCP 2012

5.2. CALCULATION OF HERITAGE FLOOR SPACE

A survey plan has been prepared by Craig and Rhodes and is provided at **Appendix B**. The relevant criteria to calculate HFS is summarised in **Table 5**.

Table 5 – Relevant Criteria for Calculation of HFS

Criteria	Subject Site
Site area*	2,899sqm
Floor space ratio (pursuant to SLEP 2012)	FSR: 7.5:1
Calculation of HFS	$0.5 \times 2,899 \times 7.5 = 10,871.25\text{sqm}$

* Site Area is defined in accordance with the following definition from the SLEP 2012:

site area means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

For the purposes of calculating the HFS award, the site area adopted for the Capitol Theatre is the rectangular cadastre boundary identified on the SLEP 2012 heritage map.

In summary, the application seeks the award of 10,871.25sqm of HFS for the Capitol Theatre site.

5.2.1. Reductions to the Maximum Award of HFS

Section 5.1.9.3(2) provides for the consent authority to reduce the maximum amount of HFS that may be awarded by an amount equivalent to:

(a) any existing additions or alterations to the heritage building which the consent authority does not consider feasible to be demolished or altered even though those alterations and additions are:

- (i) of little or no significance to the heritage significance of the building; or
- (ii) intrusive to the building;

(b) any proposed addition which increases the gross floor area of the existing heritage building; and

(c) any areas where elements of heritage significance are proposed to be demolished, in order to facilitate the adaptive re-use of the heritage building

5.3. HERITAGE GROSS FLOOR AREA

Clause 5.1.9.2(1)(a) of the SDCP 2014 requires the limiting of future development of the site to the total GFA and height of the conserved heritage building.

In accordance with the SLEP 2012, GFA is defined as:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

The GFA of the Capitol Theatre is detailed in **Table 6** and illustrated in the plans at **Appendix F**.

Table 6 – Heritage Gross Floor Area Calculations

Level	GFA Area
Substage level	1,137sqm
Stage level	925sqm
Ground Level	911sqm
Lower auditorium level	775sqm
Level 1	815sqm

Level	GFA Area
Level 2	392sqm
Level 3	499sqm
Level 4	904sqm
Total	6,358sqm

The maximum ridge height of the Capitol Theatre is RL 36.27m.

The GFA and height outlined in this section will be reflected in the proposed covenant to be registered on the title by way of a condition of consent.

6. ASSESSMENT

6.1. STATUTORY POLICY AND COMPLIANCE

The following assessment has been structured in accordance with Section 4.15(1)(a) of the *Environmental Planning & Assessment Act 1979 (EP&A Act)*.

The proposal has been assessed under the relevant provisions of the SLEP 2012, and is considered to be consistent with the requirements relating to the award of HFS. The proposal does not raise any issues in relation to the other SLEP 2012 provisions. No draft environmental planning instruments have been identified in relation to the site or the proposal.

The proposal has been assessed under the relevant provisions of the SDCP 2012 and is considered to be consistent with the provisions relating to the award of HFS. The proposal does not raise any issues in relation to the other SDCP provisions.

No planning agreements relevant to the proposal have been identified.

6.2. LIKELY IMPACTS OF THE DEVELOPMENT

Not applicable. The proposal does not involve any physical works that will result in impacts to the natural and built environmental, and social and economic impacts in the locality.

6.3. SUITABILITY OF THE SITE FOR DEVELOPMENT

As outlined in **Section 4**, the Capitol Theatre is consistent with the requirements relating to the award of HFS under the SLEP 2012 and SDCP 2012 and is therefore eligible for a re- award of HFS.

6.4. THE PUBLIC INTEREST

The proposal is in accordance with the requirements relating to the award of HFS and will provide for the ongoing conservation of the building for the benefit of the public while at the same time contributing to the provision of HFS for allocation to new development in Central Sydney in accordance with Council's policy.

7. CONCLUSION

This Planning Report supports an application seeking endorsement of the CMP and the award of HFS by the City of Sydney to the Capitol Theatre at 3-21 Campbell Street, Haymarket.

The proposal has been assessed against the requirements of SLEP 2012 and SDCP 2012.

The assessment has concluded that the proposal is:

- Eligible under the requirements for a re-ward of HFS.
- Consistent with the relevant provisions of all applicable environmental planning instruments relating to the award of HFS.
- Suitable for the site, and fully consistent with Council's HSF policies, with no significant impacts arising out of the proposal.
- In the public interest.

Approval of this application and the award of HFS to the Capitol Theatre will contribute to the supply of HFS needed by new development in Central Sydney. It will also provide the City of Sydney with a new opportunity to access additional funding to continue its core conservation and heritage interpretation works, which are in the public interest.

Accordingly, it is recommended that Council approve the application.

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Appendix A CONSERVATION MANAGEMENT PLAN

Appendix B SURVEY PLAN

Appendix C SCHEDULE OF MAINTENANCE AND CAPITAL WORKS

Appendix D

HERITAGE ASSET INTERPRETATION PLAN

Appendix E

**CERTIFICATION OF CONSERVATION
WORKS**

Appendix F GROSS FLOOR AREA PLANS

Appendix G CERTIFICATE OF CURRENCY

Appendix H CONDITIONS ASSESSMENT



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