

Sale of Heritage Floor Space - City as Landowner

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Summary

A transferable Heritage Floor Space scheme has existed in central Sydney for more than 40 years and has supported the ongoing conservation of more than 75 heritage buildings.

The City of Sydney's Heritage Floor Space scheme provides incentive for conservation and ongoing maintenance of heritage items in central Sydney by allowing owners of heritage buildings to be awarded unused development potential from their site, known as Heritage Floor Space.

The City of Sydney is the owner of some of the most iconic and substantial heritage listed properties in Sydney, including the Sydney Town Hall, Capitol Theatre, Haymarket Library (George Street), the Corporations Building, Customs House, Queen Victoria Building and 343 George Street.

The City manages and preserves these assets in accordance with the obligations of the conservation management plans, committing significant funds annually to their maintenance and upgrade.

As an owner, the City is eligible to make an application for awards of Heritage Floor Space which, if approved, is then sold into the market.

The City as owner was successful in its application for an award and its registration of Heritage Floor Space over the Capitol Theatre on the City's Heritage Floor Space register, which is administered by City in its capacity as a regulatory authority.

The City as owner continues to progress the registration of Heritage Floor Space awarded to several other properties including the Queen Victoria Building, Haymarket Library and Corporations Building. For the balance of its heritage listed Central Business District properties the City as owner is well advanced in its applications for Heritage Floor Space.

The City has appointed an experienced transaction team to market and manage the sale of Heritage Floor Space.

This report seeks Council approval of the sale of Heritage Floor Space awarded to the City of Sydney in its capacity as a landowner for the Capitol Theatre.

Recommendation

It is resolved that:

- (A) Council endorse the sale of up to 10,871.25 square metres of Heritage Floor Space awarded to the City in its capacity as a landowner of the heritage listed Capitol Theatre;
- (B) authority be delegated to the Chief Executive Officer to manage the sale of Heritage Floor Space for Capitol Theatre, including supporting valuations, negotiations and executing all documentation to effect and complete the sale; and
- (C) Council note that it will be updated on the progress of the sale of Heritage Floor Space for Capitol Theatre through CEO Updates as and when the sale of the Heritage Floor Space is completed.

Attachments

- Attachment A.** Identification Plan - City Owned Heritage Listed Property and Potential Listings in Central Sydney
- Attachment B.** Commercial Considerations (Confidential)

Background

1. The City of Sydney's Heritage Floor Space Scheme provides incentive for conservation and ongoing maintenance of heritage items in central Sydney by allowing owners of heritage buildings to sell unused development potential from their site, known as Heritage Floor Space.
2. The Heritage Floor Space Scheme applies only in central Sydney. A heritage item owner may apply to be awarded Heritage Floor Space when seeking approval for conservation works, or as part of a development that includes the land occupied by the heritage item. The granting of such an award creates Heritage Floor Space supply.
3. Demand for heritage floor space arises because of provisions of the Sydney Local Environmental Plan 2012 (LEP 2012) which require development consents for certain developments to include a condition requiring the allocation of Heritage Floor Space.
4. Selling or transferring Heritage Floor Space is a private commercial transaction between the owner and the prospective buyer – the City in its capacity as a regulatory authority acts as the scheme administrator. The cost of legal agreements, transactions and other documentation associated with the award and allocation, or change of Heritage Floor Space ownership is met by the owner and prospective buyer.
5. When a heritage item owner completes conservation works they may be awarded Heritage Floor Space by the City of Sydney. The awarded Heritage Floor Space can then be sold to a site that requires an allocation of heritage floor space as a condition of an approved development application. The money raised offsets the cost of conserving the heritage item. The value of heritage floor space arises as a result of the demand from developers who require it to comply with the conditions of their development consent.

History and Amendments to the Scheme

6. A transferable Heritage Floor Space scheme to encourage heritage conservation in Central Sydney was proposed in 1971 and has been in existence since 1973. It was conceived to counter economic pressure for redevelopment of heritage sites by enabling the unrealised development potential of a conserved heritage-listed building to be sold and used elsewhere in Central Sydney where a heritage bonus was available. A similar scheme continues today through the provisions of the LEP 2012.
7. The planning controls set up the framework for the Heritage Floor Space market in which buyers and sellers negotiate the price of Heritage Floor Space. Any amendment to this framework may impact on the price of Heritage Floor Space, as does the level of development activity that creates the demand for Heritage Floor Space.
8. The City in its regulatory capacity as the administrator of the scheme, has applied mechanisms to promote supply and manage demand.
9. In 2014, the City identified a reduction in supply of Heritage Floor Space and a significant future demand over the next decade owing to a rise in development activity in Central Sydney, and over the following years secured amendments to the scheme.
10. On 29 June 2015, Council adopted amendments to the Sydney Development Control Plan 2012 - Award of Heritage Floor Space to Government buildings that extended the scheme to all heritage listed buildings within the Central Sydney area to offset economic pressures for redevelopment of certain government-owned buildings not in the scheme and bring forward their conservation.

11. On 21 March 2016, Council adopted amendments to the Sydney Local Environmental Plan 2012 which included:
 - (a) increasing the long-term supply of Heritage Floor Space by allowing Heritage Floor Space awards for heritage buildings previously awarded Heritage Floor Space;
 - (b) managing demand through the temporary Alternative Heritage Floor Space Allocation Scheme which allows developers to defer the purchase of Heritage Floor Space until a later stage in the development process; and
 - (c) managing demand through a building height threshold for Heritage Floor Space allocation.
12. On 10 December 2018, Council resolved to extend the Alternative Heritage Floor Space Scheme until 1 January 2021, and allow private heritage owners, State Government and other public authorities, including Council as an owner, to undertake conservation works, finalise awards and bring new Heritage Floor Space to the market.

City Owned Central Sydney Heritage Listed Properties

13. Prior to the amendments in 2014 and 2015, all private owners and government buildings leased for greater than 50 years to the private sector were eligible for the City's transferable Heritage Floor Space Scheme.
14. The City of Sydney, as an owner of heritage properties, is eligible to make an application for an award of Heritage Floor Space which, if approved, can then be sold into the market to facilitate the undertaking of development which requires an allocation of Heritage Floor Space under the LEP 2012.
15. The City of Sydney is the owner of some of the most iconic and substantial heritage listed properties, managing and preserving these assets in accordance with the obligations of the conservation management plans with significant annual funding commitments.
16. Eligible City of Sydney owned heritage properties include:
 - (a) Customs House;
 - (b) 343 George Street;
 - (c) Queen Victoria Building;
 - (d) Sydney Town Hall;
 - (e) Capitol Theatre;
 - (f) the Corporations Building, (Hay Street); and
 - (g) Haymarket Library (George Street).
17. The City in its capacity as owner has received awards of Heritage Floor Space for over 70 per cent of these properties with applications for awards on the balance well advanced.

Town Hall House - Potential Heritage Listing

18. The City recently exhibited a 'Planning Proposal – Central Sydney Modern Movement heritage items' that proposed the listing of nine properties, including the City owned Town Hall House, to recognise their significance as part of the modern movement of architecture and art in Sydney that were designed from 1945 to 1975.
19. The outcomes of the public exhibition are being considered by Council and the Central Sydney Planning Committee under a separate report this cycle. If adopted, Town Hall House will be eligible for the City's transferable Heritage Floor Space Scheme.
20. Attachment A shows the City owned heritage listed properties and the potential listing of Town Hall House. Should Town Hall House be listed, a single application for an award of Heritage Floor Space will be submitted for both the Sydney Town Hall and Town Hall House.

Heritage Floor Space Market

21. Heritage Floor Space has continued to increase in market value rising from an average transfer price of \$643 per square metre in June 2016 to \$1,575 per square metre at December 2019. .
22. In the 12 months to 31 December 2019 there were seven sales of Heritage Floor Space with an average sales price of \$1,575 per square metre.

Transaction Management - Sale of an Award of Heritage Floor Space

23. The importance of establishing a strong transaction team to manage the marketing and sale of Heritage Floor Space was highlighted with the sale of 12,743 square metres of Heritage Floor Space attached to the Hyde Parks Barrack site.
24. This sale was transacted between February and April 2019, with three buyers paying between \$1,460 and \$1,610 per square metre for a total price of \$19.7 million.
25. On 2 July 2019, the City conducted an open Expression of Interest followed by a Select Tender to identify a suitably experienced entity to manage the marketing and sale of Heritage Floor Space awarded to the City in its capacity as owner.
26. The City has appointed CBRE in this capacity, the further details of which are included at confidential Attachment B.

Key Implications**Risks**

27. There are no risks in transacting a potential award of Heritage Floor Space that are not manageable through the sale process and contract.

Budget Implications

28. Revenue from the sale of potential Heritage Floor Space awards is included in the Long Term Financial Plan.

Relevant Legislation

29. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
30. Attachment B contains confidential commercial information which, if disclosed, would confer a commercial advantage on a person with whom the City is conducting (or proposes to conduct) business.
31. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise City's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

Critical Dates / Time Frames

32. The Heritage Floor Space award for Capitol Theatre will offered to the market in Quarter 1 2020/21 through CBRE.

Options

33. There are no alternate commercial options to manage an award of Heritage Floor Space. There is no value in retaining the Heritage Floor Space.

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