

Item 15.1

Notices of Motion

Reforming the Non-Rateable Heritage Floor Space (HFS) Scheme

By Councillor Jarrett

It is resolved that:

(A) Council note:

- (i) the Heritage Floor Space (HFS) scheme is currently governed by the Sydney Local Environment Plan 2012 (LEP) and the Sydney Development Control Plan 2012 (DCP);
- (ii) both the LEP and the DCP were constructed to achieve the objects of the *Environmental Planning and Assessment Act 1979* which include:
 - (a) promoting the orderly and economic use and development of land;
 - (b) promoting the sustainable management of built and cultural heritage; and
 - (c) promoting the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants;
- (iii) the objective of the HFS scheme governed by clause 6.10 of the Sydney LEP is 'to provide an incentive for the conservation and on-going maintenance of heritage buildings within Central Sydney';
- (iv) within the LEP, there is no distinction drawn regarding the formula and amount of HFS to be awarded to rateable and non-rateable buildings;
- (v) clause 5.1.6.3 of the DCP provides the current working formula for HFS whereby the maximum HFS awarded to rateable and non-rateable buildings is governed by two separate and distinct formulas;
- (vi) the formulas for HFS set out in the DCP are discriminatory towards the private owners of non-rateable buildings conferred to the owners of rateable buildings;
- (vii) the intention of clause 5.1.6.3 of the DCP is to prevent an advantage to landowners who do not have to pay Council rates over landowners who do, which is not a relevant planning objective within the *Environmental Planning and Assessment Act 1979* and does not give effect to, and is inconsistent with, the aims of the HFS provisions of the LEP;
- (viii) the majority of landowners of non-rateable buildings are charitable and not-for-profit organisations such as synagogues and churches whose financial resources are already strained;

- (ix) the current DCP formulas provide a disincentive for these not-for-profit organisations from seeking an award under the HFS scheme, however it is these not-for-profits that need the most assistance with the upkeep of their buildings which are often highly significant and more costly to maintain because of their unique construction and rarity; and
 - (x) due to the lack of applications for HFS awards over the past 25 years made by non-rateable buildings, it is clear that the HFS formula is discriminatory against non-rateable buildings, which demonstrates that the current regime does not give effect to the central objective of the HFS scheme under the LEP as provided above;
- (B) the Chief Executive Officer be requested to:
- (i) explain to Council why the current HFS system, as administered, significantly penalises non-rateable heritage buildings by applying two different formulas to calculate the HFS award, with non-rateable heritage buildings only being able to receive a portion of the allowable HFS that rateable buildings are entitled to, and how this outcome can be consistent with the objects of the *Environmental Planning and Assessment Act 1979*; and
 - (ii) on the basis of the above, provide options for reform to the Council regarding the HFS formula for non-rateable buildings in the DCP as a part of the review of the LEP and DCP including how the formula for HFS available to non-rateable properties can be amended to provide equal entitlement to that under the formula for HFS of rateable buildings under clause 5.1.6.3 of the DCP.

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