

7 Award and allocation of Heritage Floor Space

The built heritage of Central Sydney contributes significantly to the unique character and diversity of the public domain. The award and allocation of heritage floor space will assist in maintaining the buildings which contribute to this character.

Strategy

The Central Sydney LEP 1992 - Conservation of Heritage Items (Heritage LEP) identifies heritage items within Central Sydney.

An incentive for the conservation of heritage buildings is provided by the consent authority through the award and allocation of Heritage Floor Space (HFS).

Within the City Centre zone, HFS may be both awarded and allocated. In the City Edge zone, HFS may be awarded but it can only be allocated to sites in the City Centre zone (refer to the Zoning Map in the LEP).

HFS may be awarded to a building in conjunction with the approval of a development application for conservation of such a building (see Figure 7.1).

Relevant LEP clauses: 12(n), 18(i), 20(h), 34(c), 35, 36, 37, 38, 39, 42, 44, 45.
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Objective

To provide a system to assist the conservation of heritage buildings by:

- reducing the pressure for development on sites occupied by heritage buildings;
- providing an incentive for the conservation and ongoing maintenance of the heritage building.

Provisions

For the purposes of these provisions:

Award means the entry of an amount of HFS onto Council's HFS Register in accordance with the consent authority's resolution and the completion of all relevant requirements.

Allocate means that HFS, on Council's HFS Register, can be sold or assigned for use within a development site. Allocation of HFS to a development site will automatically delete that HFS from Council's HFS Register.

FSR_H is used to calculate the amount of HFS that can be awarded to a heritage building. It means the maximum FSR for the site of a heritage building for commercial and other development (not being hotels, serviced apartments or residential buildings) without the allocation of HFS as shown on the Central Sydney Local Environmental Plan 1996 Floor Space Ratio Map

FSR_D is used to calculate the amount of HFS to be allocated to a development site. It means the maximum FSR for the development site without the allocation of HFS (for any use except residential buildings) as shown on the Central Sydney Local Environment Plan 1996, Floor Space Ratio Map.

Heritage building means a building with floor space area that is listed on Schedule 1 of the Central Sydney Local Environmental Plan 1992 - Conservation of Heritage Items.

Owner means a person awarded HFS or another person who has acquired the HFS.

7.1 Eligibility of heritage buildings to be awarded HFS

7.1.1 To be eligible to be awarded HFS, a heritage building is:

- (i) (a) to be listed on Schedule I of the *Central Sydney Sydney Heritage Local Environmental Plan 2000 - Conservation of Heritage Items*, be located within the City Centre or City Edge zones of the *Local Environmental Plan*;

or
- (b) to be a heritage building not listed on Schedule I of the *Central Sydney LEP 1992 - Conservation of Heritage Items* but be located within the City Centre or City Edge zones of the LEP and be subject to a Permanent Conservation Order or an Interim Conservation Order made under the *Heritage Act 1977*, and/or be a building which the consent authority has resolved is of heritage significance and should be added to Schedule I of the Heritage LEP.
- (ii) to involve conservation of a heritage building in (i) in accordance with a Conservation Plan approved by the consent authority. The Conservation Plan would generally involve:
 - (a) works to conserve the existing significant fabric of the building;
 - (b) removal of elements that detract from the significance of the building;
 - (c) where appropriate, reinstatement of original fabric based on documentary evidence;
 - (d) other works which may be compatible with the significance of the building.
- (iii) to involve works which would not increase or result in only a minor increase in the external envelope and FSA of the heritage building as provided for by clause 7.3.2.
- (iv) in the case of heritage buildings owned by the Federal, State or Local Government, buildings which are sold or leased by the Government for a minimum of 50 years to the private sector after commencement of the *Central Sydney Local Environmental Plan 1996* and which meet the eligibility provisions of (i), (ii) and (iii).
- (v) In the case of heritage buildings and sites owned by the Federal, State or Local Government, those that provide emergency and safety services considered essential to the public welfare of the City of Sydney, where the continuation of this essential service is dependent upon such an award, being the Metropolitan Fire Brigade Headquarters at 211 - 217 Castlereagh Street, and meet the eligibility provisions of (i), (ii) and (iii).

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Figure 7.1

The conservation of the Trust Building on the corner of King and Castlereagh Streets has been assisted by the award of Heritage Floor Space.



7.2 Award of Heritage Floor Space

7.2.1 Prior to registration of HFS, the applicant must complete conservation works required in accordance with an approved Conservation Plan and enter into legal agreements and grant covenants on the land which:

- (i) limit any future redevelopment of the site to the total FSA and height of the conserved heritage item;
- (ii) ensure the ongoing conservation of the building by regular maintenance, including the provision of adequate insurance and a maintenance fund.

Relevant LEP clause: 45

7.3 Calculating the amount of HFS

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7.3.1 The maximum amount of HFS (measured in square metres) that may be awarded to a heritage building is to be calculated using either formula (i) or (ii) as appropriate:

Formula (i): Government buildings (as provided for under Clauses 7.1.1 (iv) and 7.1.1 (v)) and rateable buildings in private ownership:

$$\mathbf{HFS_H = 0.5A_s \times FSR_H}$$

where: **HFS_H** is the maximum amount of heritage floor space which may be awarded (in square metres)

AS is the site area (in square metres) occupied by the heritage building.

FSR_H is the FSR for the site of the heritage building as defined at the beginning of this section.

Formula (ii) Non-rateable buildings in private ownership:

$$\mathbf{HFS_H = 0.5 \times FSA_H}$$

where: **FSA_H** is the floor space area (in square metres) of the heritage building(s).

7.3.2 The consent authority may reduce the maximum amount of HFSH by an amount up to a floorspace area equivalent to:

- (i) any existing additions or alterations to the building which the consent authority does not consider feasible to be demolished or altered; and
 - are of little or no significance to the heritage significance of the building; or
 - are intrusive to the building; and
- (ii) any proposed addition which increases the floor space area of the existing heritage building; and
- (iii) any areas where elements of heritage significance are proposed to be demolished, in order to facilitate the adaptive re-use of the heritage building.

7.3.3 The consent authority may approve a staged award of HFS to facilitate the carrying out of the full extent of work necessary for the conservation of the heritage building.

7.4 Requirement to allocate heritage floor space

- 7.4.1 The allocation of HFS is required if a proposed development:
- (i) is within the City Centre zone of *Central Sydney Local Environmental Plan 1996*, and
 - (ii) has a proposed FSR that exceeds the FSR_D for development in the City Centre zone.

7.5 Calculating the amount of HFS to be allocated

- 7.5.1 The amount of HFS which the consent authority may require to be allocated as a condition of development consent in the City Centre zone is the difference between the FSR of the proposed development (the subject of the consent) and the relevant FSRD for the area, as calculated in accordance with the following formula:

$$HFS_D = (FSR - FSR_D) \times A_S$$

where: **HFS_D** is the amount of heritage floor space to be allocated (in square metres) by the proposed development.

FSR is the floor space ratio of the proposed development.

FSR_D is the FSR for the development site as defined at the beginning of this section.

A_S is the site area of the proposed development.

Note - For mixed use developments, the amount of HFS required to be allocated is to be calculated using the formula set out in Schedule 6 of the LEP.

- 7.5.2 Where an increase in floor space area is proposed for existing development in the City Centre zone, the applicant must allocate HFS (calculated in accordance with the above formula) for all additional floor space area in excess of the FSR for development (FSR_D).

- 7.5.3 If the consent authority approves a change in the use or function of an element of a building for which a bonus was given under the *1971 Floor Space Ratio Code* (or any other policy), the applicant is required to allocate HFS for all floor space area in excess of the FSR for development (FSR_D), or the amount of floor space area granted as a bonus, whichever is the lesser.

7.6 Allocation or change of ownership of HFS

- 7.6.1 HFS can only be allocated or the ownership of it change if it is registered on Council's HFS register.
- 7.6.2 Any HFS which is registered on the Council register may be allocated to a development in the City Centre zone whether part of or separate from a heritage site, providing the development has received consent.
- 7.6.3 HFS may not be allocated to a site where the erection of a proposed building would involve demolition or destruction of a heritage item.
- 7.6.4 Council is to be notified of each allocation and/or change of ownership and the HFS Register will be updated accordingly.

7.7 Damage or destruction to a heritage building that has been awarded HFS

- 7.7.1 In the event that a heritage building for which HFS has been awarded is destroyed or substantially damaged, the total FSA of any subsequent development on the subject site shall be equivalent to that of the conserved building or the permissible FSR, whichever is the lesser.

7.8 Procedures and administration

- 7.8.1 An application for the award of HFS is to be made concurrently with a development application for works to conserve a heritage building. In addition to the information required in a development application (see Plan Note 1), any application for HFS is to include a Conservation Plan for conservation works and ongoing maintenance of the building.
- 7.8.2 Council is to keep a register of all relevant information relating to HFS awarded for the works to conserve a heritage building. The HFS register is to be available for public inspection. Council is to register each award of HFS only after conservation works included in the development consent have been completed and the relevant legal agreements have been executed.
- 7.8.3 HFS may be allocated to a development site, as required by a condition of development consent, from any HFS award listed in Council's HFS Register.
- 7.8.4 Any purchase price of HFS is to be determined between the respective owner of the HFS and the prospective purchaser.
- 7.8.5 Legal documentation must be provided that the HFS required by the development consent has been allocated from Council's register prior to the building application for the development requiring the allocation of HFS being approved.
- 7.8.7 HFS may only be allocated and used once in a development. If a proposed development which has received an allocation of HFS does not proceed, the HFS may be re-entered onto the register and be available for re-allocation.
- 7.8.8 The cost of any legal agreements, transactions, and other documentation required in connection with the award and allocation or change of ownership of HFS is to be met by the respective owner of the HFS and the proposed purchaser.
- 7.8.9 Council is to charge a fee for an award of HFS and for the administration of the register in accordance with Sections 608 to 610 of the *Local Government Act 1993*.