

## SIRIUS SEPP

### COMMENTS ON DRAFT SEPP BY ANNE WARR

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#### 1.0 Community recognition of Sirius as a Heritage item

The following community groups have listed Sirius as an item of heritage significance:

- The National Trust of Australia (NSW) listed the Sirius building in 2014.
- The Australian Institute of Architects – listed on Register of Significant buildings, no. 4703569
- Docomomo Australia – has listed Sirius on its Register of significant buildings of the modern movement.
- The Twentieth Century Society of NSW & ACT has recognised Sirius as a heritage item.
- The NSW Heritage Council recommended listing on the State Heritage Register, 2016
- In 2017, The World Monument Fund listed Sirius on their 2018 Watch List.

Of course, the first recognition of Sirius as a heritage item came from the NSW Government who listed Sirius as a heritage item on the Land and Housing Corporation Heritage and Conservation Register in 1995.

#### 2.0 The OEH Website - [environment.nsw.gov.au](http://environment.nsw.gov.au)

The OEH website repeatedly emphasizes its foundation premise that Heritage should be community driven, not Government imposed.

The first line under the heading 'What is Heritage?' on the OEH website states:

*Heritage consists of those places and objects that **we as a community** have inherited from the past and want to hand on to future generations.*

Note the crucial phrase: 'we as a community', not 'we as a government'.

The evidence that there is community support for the protection and listing of the Sirius building is overwhelming, as shown above. By the government's own definition, 'Heritage' consists of those places that 'we as a community...want to hand on to future generations'. There is very strong community support for keeping the Sirius building for future generations. Therefore, the government's role, according to its own definition, is to respect the community voice and 'assist with the listing'.

If the government continues to ignore the strong community voice advocating heritage protection for Sirius, then it has effectively undermined and wilfully ignored its own advice and official statements regarding the protection and listing of heritage as a community-based activity. As such, it should alter the statements on the OEH website and amend the Heritage Act accordingly to reflect the new view that heritage is determined on ideological and financial grounds by the government, not by the community.

### **Cultural Diversity**

The OEH website gives particular prominence to Cultural diversity:

*The Heritage Division (OEH) works with communities to help them identify their special places and objects.*

The particular community that has occupied the Sirius building since 1980 has identified Sirius as a special place that they would like to see protected and to continue as a place of low cost and affordable housing.

The OEH website gives the following undertaking, to:

- *encourage these communities to identify and celebrate places important to the history of their settlement in the state;*
- *assist with the listing of places of particular importance to ethnic communities;*

True to its word, the NSW Heritage Council sought to support the Sirius community, and the wider Sydney community, in identifying and listing the building on the State Heritage Register.

Contrary to the stated intentions of the OEH website, the NSW State Government then overturned the undertaking of the NSW Heritage Council, thus undermining its peak heritage advisory body, the statements on its own departmental website and the intentions of the NSW Heritage Act 1977 (2010).

The Australia ICOMOS Burra Charter, the core document for assessing heritage in Australia, reinforces the importance of diversity in our communities:

*Places of cultural significance reflect the diversity of our communities, telling us about who we are and the past that has formed us and the Australian landscape. They are irreplaceable and precious. These places of cultural significance must be conserved for present and future generations in accordance with the principle of inter-generational equity.*

### **3.0 Sirius was first recognized as heritage item by State Government in 1995.**

In 1995, the Land and Housing Corporation listed Sirius as a heritage item on its Heritage and Conservation Register. Under Section 170 of the NSW Heritage Act, all government departments are required to keep a Conservation and Heritage Register listing all their heritage items. In addition, the

NSW Heritage Act requires all items listed on Section 170 Registers to be 'managed and maintained with due diligence', as stated below:

*170A Heritage management by government instrumentalities*

- (2) Each government instrumentality is responsible for ensuring that the items entered on its register under section 170 and items and land to which a listing on the State Heritage Register applies that are under its care, control or management are maintained with due diligence in accordance with State Owned Heritage Management Principles approved by the Minister on the advice of the Heritage Council and notified by the Minister to government instrumentalities from time to time.*
- (3) The Heritage Council can from time to time issue heritage asset management guidelines to government instrumentalities, being guidelines with respect to the conservation of the items entered on registers under section 170 and items and land to which a listing on the State Heritage Register applies that are under the care, control or management of the government instrumentality. The guidelines can relate to (but are not limited to) such matters as maintenance, repair, alteration, transfer of ownership and demolition. A government instrumentality must comply with the guidelines.*

#### **4.0 NSW Property has failed to manage Sirius as required under Section 170 of the NSW Heritage Act.**

Since the early 1990s, the NSW Premier's Department, NSW Treasury and NSW Department of Commerce have worked together to develop Total Asset Management (TAM) Guidelines, including Heritage Asset Management Guidelines, to help NSW Government Agencies manage their asset portfolios and to fulfil their obligations under Section 170 of the Heritage Act, as stated above,

Various updates of the TAM Guidelines have occurred since the 1990s, the latest being in 2012 when then Premier Barry O'Farrell MP issued 'M2008-06 State Property Authority And Government Property Principles'<sup>1</sup>, which gave Government Property NSW the mandate to 'improve the management of the NSW Government's owned and leased real property portfolio'. The stated central premise of the new property ownership was that...

real property assets are only held by government when required, and in the form necessary, to support core government service provision (including holding and maintaining State strategic assets). It is the NSW Government's intention that leased or owned real property assets which do not meet this test should be relinquished or realised and the rental savings or unlocked capital put to better use, with a priority given to maintaining, improving and extending real property assets that are core to current or future service delivery.

Working alongside this central premise, state government agencies were required to submit Total Asset Management (TAM) Plans to Treasury and to adhere to the TAM guidelines, including the Heritage Asset Management Guidelines, developed over the past two decades

The two TAM Guidelines relevant to the discussion of the disposal of the *Sirius* building are:

- NSW Treasury, Total Asset Management Guideline, Asset Disposal and Strategic Planning, TAM06-4 June 2006

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<sup>1</sup> Document M2008-06 is due for review on 21 December 2017.

- State-owned Heritage Management Principles, issued under section 170A of the Heritage Act 1977 (NSW), endorsed for issue by the Heritage Council of NSW on the 1 December 2004, and approved by the Minister on the 16 December 2004.

### **Sirius is not a surplus asset as defined by the TAM Guidelines**

Section 1.2 of the TAM Guidelines 2006 describes the two planning elements at the basis of the disposal process; - identifying surplus assets and disposal of the assets.

*Surplus asset is identified when it:*

- *is not required for the delivery of services, either currently, or over the longer planning time frame; or*
- *becomes uneconomical to maintain and/or operate; or*
- *is not suitable for service delivery.*

The key question established by the above guideline is:

- Can Sirius be described as surplus to assets when it has been adequately delivering a key government service since it opened in 1980?

As Family and Community housing is still a much-needed service in short supply, the building cannot be described as no longer being required for the delivery of housing services. It is clearly very much needed. The building as purpose designed in 1980 is very much suitable and needed for its service delivery.

*Sirius* is a robustly built, low-maintenance structure which has not needed a major upgrade since it was constructed. Its internal fit-out remains almost exactly as built in 1980, even the lobby carpet is original. It has cost the government very little in long-term maintenance over its 40-year life.

The fact that FACS may be in urgent need of additional housing does not alter the fact that *Sirius* has more than adequately fulfilled its role for FACS in delivering its core business of family and community housing at low maintenance and operating costs. *Sirius* cannot therefore be classified as surplus to needs, or uneconomical to maintain.

### **The disposal process for *Sirius* has not followed the TAM Guidelines**

Section 1.2 of the TAM Guideline sets out the following process for disposing of a surplus asset:

*Disposal of the physical asset once an asset is identified as surplus, depend on one or more of the following:*

- *whether there are net disposal benefits, either in financial or other terms;*
- *whether there are secondary service obligations associated with the asset which dictate its retention; and/or*
- *whether a disposal can be carried out without adverse impacts on the physical environment.*

*Assets identified as surplus to core service delivery requirements, may need to be retained due to heritage, open space or other social environmental considerations, which agencies may have as secondary service obligations.*

While the government has stated that it needs to dispose of *Sirius* to achieve financial gain, it appears not to have considered its other secondary service obligations as stated above. These are:

- the likely adverse impacts on the occupants of the building; - its key clients in the delivery of its core business
- adverse impacts on the wider community,
- adverse impacts on the heritage values of the property, and
- general undermining of the NSW Heritage Council, heritage bodies generally and heritage legislation and
- loss of credibility due to non-compliance with the state's own TAM guidelines.

The NSW Minister for Heritage has argued that Sirius is not of state heritage significance, and has garnered support from various sectors and experts to justify this stance. A stand-off has ensued where the state's peak heritage body, the NSW Heritage Council, has argued that it is of state significance, and the state's peak heritage NGO, the National Trust, has listed the building on its register. The leading international organization devoted to saving important cultural sites around the world, The World Monument Fund, has listed Sirius on their 2018 Watch List. The question is not whether the building is of heritage significance or not, as the government itself listed Sirius as a heritage item on its LAHC<sup>2</sup> Conservation and Heritage Register in 1995<sup>3</sup>, but whether it is of local or state significance.

To date, neither the state government or the peak heritage bodies have done more than a quick heritage assessment of the building. The accepted practice for fully assessing significance is to undertake a Conservation Management Plan, CMP, as stated in the government's own 'State-owned Heritage Management Principles'. The responsibility for undertaking such a Plan lies with the current owner of the building, NSW Property.

NSW Property's recent sale of state owned property in Millers Point required that each property be sold with a comprehensive CMP to identify all heritage values, as well as the constraints and opportunities to the new owners. The responsible sale of Sirius would require NSW Property to similarly prepare documents to give clarity to any prospective new owners, who would wish to know:

- The heritage status of the property. Even if the CMP identifies little heritage significance for Sirius, the building lies within the Rocks Conservation Area, giving the building status within an area of state and national significance.

The state government's argument that heritage listing of Sirius would reduce the sale price is undermined by the recent sales in Millers Point which far exceeded the government's (and their Real Estate Agent's) estimates of the potential sale prices. Prospective buyers were not put off by the heritage listings and the accompanying heritage constraints.

The following sections in the TAM guidelines on **Agencies** and **Community** set out further guidelines which appear not to have been followed by NSW Property in setting out to dispose of *Sirius*.

## Agencies

Disposal may have impacts on agency clients, staff, and other key stakeholders. An agency should consult the affected groups to understand any concerns/issues and develop appropriate responses.

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<sup>2</sup> Land and Housing Corporation, the former owners of the Sirius building.

<sup>3</sup> Under section 170 of the NSW Heritage Act 1977, all government departments are required to prepare a Heritage and Conservation Register listing all assets of heritage value, and to manage them in accordance with the Government's Heritage Asset Management Guidelines.

*In the disposal of significant assets, agencies should be aware of broader community concerns other than those related to service delivery, particularly when disposal involves re-use or redevelopment of property assets.*

*It will benefit agencies to identify and to accommodate any such concerns where possible since this can avoid protracted community confrontation and consequent delays in the disposal of the asset.*

### **Community**

*Disposal of assets may cause anxiety among communities that feel their services will be compromised by such disposal.*

*To minimise this understandable concern, agencies should break the perceived nexus between the services they provide and the assets that are used to deliver them.*

*Agencies need to be sensitive to the symbolic importance that major assets play in the community. The presence of a hospital or police station in a town provides a sense of security quite apart from the service. The symbol is in part the service.*

*Agencies must consider the cultural significance of assets such as courthouses, schools and police stations to a community when planning their disposal. Failure to address such concerns may well result in community confrontation and delays in the disposal process.*

Sirius was purpose built for community housing and has more than adequately fulfilled this need since it was built. It remains suitable for delivery of low cost housing, and does not fulfil the criteria for being declared a surplus asset. Rather, it fulfils the Premier's directive of 2012 that priority be 'given to maintaining, improving and extending real property assets that are core to current or future service delivery'.

The process followed by NSW Property in preparing the building for sale has not followed the guidelines for disposal of assets. The failure of NSW Property to identify and accommodate the broader community concerns related to the relocation of tenants and the sale of the building, has resulted in the formation of the Save Our Sirius Group, public protest rallies, petitions, and an expensive and damaging legal court case for the government. This has resulted in huge embarrassment for the government and a growing loss of credibility.

The concept that it is acceptable to de-commission a public asset that is adequately fulfilling its core function, simply to capitalise on land values and allow for new construction elsewhere on cheaper land, is to trash the values of all government institutions at the heart of our communities, simply to feed the appetite of the real estate and construction industries. Such a premise would allow schools that are now located at the centre of communities to be sold for more lucrative shopping centres and the schools re-located to cheaper land.

### **A CMP is needed for the site**

The NSW State government needs to follow its own well-established guidelines and mandates in the management of the state's asset portfolio. Complying with these guidelines would require the owner of the property, NSW Property, to commission a CMP for the site.

Given that the Government has recognised Sirius on its Section 170 Register, and given that the SEPP allows for the retention of the building, then a CMP is a vital planning document to clearly state to future owners the parameters for permissible changes on the site. Just as each Government owned property in Millers Point has been sold with a CMP forming part of the sales contract, so the government owned Sirius building, a heritage item within a Heritage Conservation Area, also needs a CMP to form part of the sales contract.

By undertaking the preparation of a CMP for the site, the government would be fulfilling its own obligations under its own TAM Guidelines and regaining credibility with the community.

## **5.0 The HIS prepared for the Sirius SEPP, Nov 2017, is inadequate.**

As the proposed SEPP allows for two scenarios for the future of the Sirius site - retention of the existing building, or demolition and new construction following new planning controls – it seems inadequate that the HIS has addressed only one of these scenarios; - ‘the potential impact any new development may have on the heritage items in the vicinity’ (AP HIS Nov 2017: 5). The heritage impact of removing the Sirius building should have been addressed, as well as the heritage implications and responsibilities associated with retaining the building – such as preparing a CMP for the site.

The Statement of Significance (AP HIS Nov 2017: 7) refers to the Rocks as ‘a precinct of national cultural significance’. However, the Rocks is listed by NSW Property as of Local significance, despite plenty of evidence to the contrary.

Section 1.7 Conclusion states: ‘It is noted that the overall reduction of building height will provide a more uniform built form’ (Architectural Projects HIS Nov 2017: 7). An aspiration to make a heritage precinct uniform is contrary to all the accepted notions of cultural significance, as stated in the Australia ICOMOS Burra Charter and in documentation provided on the OEH website. Burra Charter Article 6.2 states: *Policy for managing a place must be based on an understanding of its cultural significance.* Forcing a precinct of national cultural significance into a ‘more uniform built form’ is contrary to the basic premise of heritage conservation which is to conserve significance, not force a place to fit into artificial notions of planning regularity.

Section 5.3 Summary Statement of Significance, states:

*‘The Rocks contains a rich accumulation of features that demonstrate layers of Australian history from 1788 until the present. The precinct displays diversity in townscape and building style, form and texture. Distinctive low-rise scale and fine grain textures in the Rocks contrast with, yet complement, the imposing built forms and modern architecture of the city centre beyond’* (AP HIS Nov 2017: 19).

Firstly, the original occupants of the land have been completely ignored in this summary significance. Secondly, the statement acknowledges a rich accumulation of historical layers – then blindly chooses to ignore the significance of the Sirius building as one of those important layers of history. It acknowledges a diversity in townscape and building style – but simplistically advocates ‘a more uniform built form’. It also acknowledges the complementary contrast between the historic Rocks and the city centre, but fails to give credit to a similarly complementary contrast between the Sirius building and the surrounding area.

The summary Statement of Significance continues with this acknowledgement of the residents of the Sirius building and their struggle:

*The Rocks and adjacent areas of Millers Point and Dawes Point are symbols of community survival with the associated present-day communities representing and connected to the processes of struggle, perseverance and change that have shaped these places' (AP HIS Nov 2017: 20).*

How ironic to acknowledge the struggle of the Rocks residents, then give them no voice or recognition in the Heritage Impact Statement.

Section 6.2 'State Heritage Considerations' states:

*'The Sirius building and site is not identified by statutory protection provided pursuant to the NSW Heritage Act and is not identified as an item of state heritage significance. As such no constraints apply (AP HIS Nov 2017: 21).'*

Clearly the authors of the report are not familiar with Section 170 of the NSW Heritage Act, whereby items listed on Departmental Registers are subject to the Heritage Act. However, on page 21, they list the building as being on the Land and Housing Corporation Section 170 Register!

The authors state that the building and site is not classified by the National Trust (NSW) – when it was listed by the National Trust in 2014.

The authors state that the building is not listed as significant on the AIA Register of Significant Architecture, when it is clearly listed as item no. 4703569.

The authors say that the building is not listed by the Art Deco Society of NSW – hardly surprising given it is not an Art Deco building!

Then The authors completely fail to mention the two significant and relevant registers of 20<sup>th</sup> century structures: DOCOMOMO<sup>4</sup> and The Twentieth Century Society<sup>5</sup>.

Section 7 – Statement of Conservation Policy, states:

*'Conservation can be regarded as the management of change and can be applicable whether or not the building has reached the threshold for listing as a heritage item or as a contributing component of a streetscape or Conservation Area. Any future refurbishment or development of the Sirius site should be carried out in accordance with the principles of the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter) as revised in 2013.*

This bold statement leaves open the possibilities for:

- 1) The Sirius building to be conserved, even though it hasn't officially 'reached the threshold for listing'
- 2) The site to be conserved in accordance with the Burra Charter – meaning in accordance with its significance – which has been widely acknowledged as having architectural, historic and social significance, and therefore should be retained.

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<sup>4</sup> See comprehensive listing of Sirius on the Docomomo website, [docomomoaustralia.com.au](http://docomomoaustralia.com.au)

<sup>5</sup> See recognition of Sirius under Brutalist section of [twentieth.org.au](http://twentieth.org.au)



Section 8 – Statement of Heritage Impact, states:

*'The proposed controls would allow a building of lower height and scale, being more consistent with adjoining development at 88 Cumberland Street. This would provide a more uniform view line along Gloucester Walk and Cumberland Street (AP HIS Nov 2017: 25).'*

As stated previously, heritage significance does not derive from falsely unifying areas – in fact this is an action that would actively negate the significance of an area. In the next sentence, the report states that 'The Rocks has a complex layering of significant heritage fabric' – while proposing policies that would actively work against this. The policy of falsely unifying the height of a heritage area would have a greater impact on its significance than retaining the Sirius building which is part of the 'complex layering of significant heritage fabric'.

Section 8.3. states that:

*'The Rocks is an area of national cultural significance<sup>6</sup> and as such, it is desirable that it continues with the majority of the area in public ownership'.*

So why is the government proposing to remove the Sirius building from public ownership when its own heritage policies advise against it?

*'The Rocks should be retained and conserved to ensure there is ability to reveal heritage information to current and future generations about Australia's cultural background'.*

The Sirius building is an important part of the history of the Rocks and reveals information about government policies towards the residents of the Rocks from the 1970s onwards. This is a widely acknowledged part of the significance of the Rocks. Then why is the government actively ignoring its own heritage policy and destroying a significant part of the history of the Rocks?

Section 8.4 – Policies in the Rocks Heritage Management Plan

*'Conservation Management Plans should be prepared for individual heritage items in accordance with the NSW Heritage Council policies and guidelines of the Burra Charter of Australia ICOMOS'.*

Agreed. The Sirius building is of widely acknowledged heritage significance and as such should have a CMP prepared to guide future actions on the building – and certainly before any sale of the building.

*'A proactive approach should continue to be taken to interpretation of the history and heritage values of the Rocks'.* Presumably such interpretation will include the important stories regarding the saving of the Rocks by community groups which led to the construction of Sirius, and the determined efforts that community groups put into saving the Sirius building, 38 years later.

In the 1970s, the NSW Government listened to the protests of the local community and the BLF, led by Jack Munday, and this dialogue led to the creation of the NSW Heritage Act in 1977 and the construction of the Sirius building in 1980. Now, 38 years later, the Sydney community is again entreating the NSW Government to open a dialogue that will lead to constructive actions for conserving the heritage of our community and thereby enriching our city.

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<sup>6</sup> despite the government continually refusing to recognise this and raise the listing of the Rocks from Local to State significance

Anne Warr B.Sc (Arch), B.Arch, M.A (conservation Studies, U York), PhD, M.ICOMOS, FRAIA.  
42 Kent Street  
Millers Point NSW 2000  
[Warr.anne@gmail.com](mailto:Warr.anne@gmail.com)  
Ph 0418 619 639