

Draft Sirius Site SSP SEPP, 36-50 Cumberland Street, The Rocks

Submission to the Department of Planning and Environment
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Contents

Executive Summary	4
1.0 Introduction	7
2.0 The heritage significance of the Sirius Building	8
2.1 Background	8
2.2 City of Sydney position	9
3.0 Retention of the existing built form	11
3.1 Background	11
3.2 Retention of building	11
3.2 Heritage management, including retention of significant building elements	12
4.0 Strategic planning framework	13
4.1 <i>Draft Central Sydney Planning Strategy, Regional & District Plans</i>	13
4.2 <i>Sydney Cove Redevelopment Authority Scheme</i>	13
4.3 Disposal of Sydney Harbour Foreshore Land - Auditor-General's Performance Audit	14
4.4 Local Infrastructure Contributions	16
4.5 Land Use Zoning	17
4.6 Ecologically Sustainable Development	18
4.7 Affordable Housing	18
4.8 Heritage Impact Statement (HIS)	20
5.0 Proposed built form	23
5.1 Height of buildings and views	23
5.2 Setbacks	27
5.3 Car parking & servicing the building	29
5.4 Design Excellence	30
5.5 Apartment Design Guide Compliance	32
5.6 Development near busy roads	33
5.7 Active street frontages	33
5.8 Historic pattern of streets, lanes and pathways	34

Executive Summary

This submission responds to proposed amendments to the *State Environmental Planning Policy (State Significant Precincts) 2005* to include planning controls for 36-50 Cumberland Street, The Rocks (Sirius site) released for comment between 7 December 2017 and 16 February 2018.

A draft SEPP amendment is proposed to include the site within Schedule 3 of the State Environmental Planning Policy (State Significant Precincts) 2005 (State Significant Precinct SEPP) and apply new zoning, building height, maximum gross floor area, active street frontages and design excellence controls over the site. If approved, these new controls would replace the Sydney Cove Redevelopment Authority Scheme.

The building was the product of community activism and the Green Bans in the 1970s and it continues to have significance to the present-day community of Millers Point's, The Rocks and more widely. Heritage listing will help preserve it for the benefit of current and future generations.

The building should be retained. The City of Sydney has publicly confirmed its support for retention of the Sirius building and ongoing use for social housing. The City supports the state heritage significance of the building, particularly because of its architectural qualities, landmark status, relationship to major changes social policies in the 1970s and the Green Bans and its ongoing significance to the present-day community of Millers Point, The Rocks and the wider community. The Minister's decision not to support the Heritage Council's recommendation sets a poor precedent for the State Government's protection of heritage in NSW under the Heritage Act, and undermines the purpose of this legislation.

The City supports a holistic review of the planning framework that applies to The Rocks precinct. The proposed rezoning of 36-50 Cumberland Street as a State Significant 'Precinct' is a spot rezoning of a single site in absence of any long term strategic consideration of how The Rocks precinct can contribute the Harbour CBD's role as "the engine room of Greater Sydney's economy" (*Draft Eastern City District Plan*, October 2017, page 3).

Notwithstanding this, a refined SEPP is preferable to the outdated SCRA Scheme.

We suggest the following modifications to the draft SEPP:

1. Retention of Sirius and its continued use for social or affordable housing.
2. Preparation of a Conservation Management Plan.
3. Integration of The Rocks into the City of Sydney for strategic planning and management under Sydney LEP 2012.
4. Inclusion of provisions for appropriate infrastructure development and funding.
5. Application of a B8 Metropolitan Centre zoning.
6. Incorporation, at a minimum:
 - 5.5 star NABERS Energy Commitment Agreement for any commercial office component of any future development,
 - 5 star NABERS Energy Commitment Agreement for any hotel component,
 - 5 BASIX points above the State-mandated target for water and 5 BASIX points above the State-mandated target for energy for any residential component.
7. Dedication of minimum 10% of the residential floor space for affordable housing.
8. Following the mitigation measures and recommendations as outlined in Section 8.6 of the Heritage Impact Statement.
9. A thorough and independent review of the Heritage Impact Statement.
10. Commenting on the retention of the building in the Heritage Impact Statement.
11. Introduction of a new control to ensure no built elements project above an inclined plane from the edge of the walkway balustrade to the top of the Sydney Opera House podium.
12. Inclusion of a reduced scale of development along Gloucester Walk.
13. Confirmation of the potential impact of any new development to ensure minimal impact upon the view of the Sydney Harbour Bridge along Cumberland Street.
14. Identification of appropriate setbacks and limits of underground parking to ensure retention of existing mature vegetation.
15. Clarification of car parking and building servicing provisions.
16. Investigation of the proposed secondary entrance to basement levels from Gloucester Walk.
17. Inclusion of design excellence provisions are essential.
18. Ensuring that any design excellence process must not change the recommended maximum building envelope, nor increase the recommended gross floor area or maximum building height.
19. Ensuring that any development must be the subject of a full architectural competition to facilitate design excellence.
20. Compliance with SEPP65 and the Apartment Design Guide.
21. Minimise noise and vibration from the Sydney Harbour Bridge approaches, while providing natural ventilation and air quality.
22. Encourage active street frontages along Cumberland Street.
23. Reflect the complex street pattern of The Rocks within any potential development.

The Sirius site is a major site in Sydney and the City of Sydney is keen to be involved in any future decisions regarding the site. We look forward to engaging further with the Department of Planning and Environment on this matter.

1.0 Introduction

In July 2015, the City of Sydney was notified by the Heritage Council of NSW of their intention to consider listing of the Sirius Apartment Building on the State Heritage Register, in acknowledgment of its heritage significance to the people of New South Wales. The City responded supporting the state heritage significance of the building. This submission along with many others has been dismissed by the Minister.

In December 2015, the Heritage Council resolved that the Sirius Building was of State significance, and advised the Minister. The Minister for Heritage decided not to accept this recommendation in July 2016. Following a much publicised court case over the provisions of the Heritage Act, the Minister was again required to consider listing the site on the State Heritage Register. In October 2017, the Minister remade the decision not to list the Sirius building on the State Heritage Register.

Subsequently, the Department of Planning and Environment has prepared the subject draft Sirius Site State Significant Precinct SEPP with zoning, height and gross floor area controls, in advance of a sale process by the landowner, Property NSW. This proposal aims to change the planning controls prior to the sale to ensure appropriate provisions are in place to guide any future redevelopment of the site.

This submission is in response to the request for public consultation and feedback on the draft Sirius Site State Significant Precinct SEPP (draft SEPP).

The City of Sydney has publicly confirmed its ongoing support for retention of Sirius and its continued use for social housing. Nonetheless, as redevelopment of the site may happen, the City has provided here recommendations regarding the strategic planning of the site, and the proposed built form controls.

Noting the failed State listing of the Sirius building and the NSW Government's intent to divest itself of the building, the City supports a transparent process that calls for registrations of interest for the site as part of a public sales campaign. This will be followed by a formal Expression of Interest stage leading to an Invitation to Tender, with the sale likely to be finalised in the second half of 2018. This process should ensure transparency and discourage unsolicited proposals. Furthermore, the City notes the sale of the site does not prevent retention of the building.

2.0 The heritage significance of the Sirius Building

2.1 Background

In July 2015, the Heritage Council of NSW publicly noted their intention to consider listing of the Sirius Apartment Building on the State Heritage Register, in acknowledgment of its heritage significance to the people of New South Wales. The draft State Heritage Register listing included the following Statement of Significance:

The Sirius Apartments building at 36-50 Cumberland Street, The Rocks, designed by Tao (Theodore) Gofers may be of State Heritage Significance as a rare, representative and fine example of the Brutalist architectural style, especially in its use of off-the-form concrete and the stacking of cubic components to create a harmonious whole. It is also significant as an early example of rooftop landscape gardening in NSW and Australia.

The building may have further State landmark aesthetic significance as an unusual and aesthetically distinctive treatment of high rise accommodation, bookmarking the view of Circular Quay from Sydney Harbour together with the Opera House.

The Sirius apartment building may have state heritage significance for its historical values as a major outcome of the Green Bans, a protest movement against the redevelopment of the Rocks and Millers Point area in the 1970s. The Sirius building built to provide affordable public housing in its 79 apartments, for approximately 200 people potentially displaced by other developments in the area. The historical significance of the building is further demonstrated as the socially responsible design of the Sirius Apartment was part of a world-wide movement in architecture concerned with social justice and better outcomes for those less advantaged in society.

The building may have state level significance for historic associations with the Green Bans of the 1970s, the Green Ban's leader Jack Mundey as well as for its association with its designer, Tao Gofers, a noted architect who pioneered a new modular building style in concrete with specific application to social housing in Australia.

The Sirius Apartment Building may have state level heritage significance for its long and strong association with past and present residents of the Millers Point and The Rocks community. Many of The Rocks and Millers Point residents were the descendants of maritime workers who lived and worked in the area for

generations. Sirius may also be of social significance to others in NSW who consider it an important achievement that the unique makeup of the Miller's Point and The Rocks community has been preserved for so many generations.

Annexure D Sirius Apartments draft HOD Form # 5062575

In December 2015, the Heritage Council resolved that the Sirius Building was of State significance, under two criteria for its rarity and aesthetic values, advised this to the Minister with a recommendation to list the "Sirius Apartment Building" at 36–50 Cumberland Street, The Rocks, on the State Heritage Register. The then Minister for Heritage decided not to accept this recommendation in July 2016, noting the building may meet the criteria for listing, but the building's heritage value was outweighed by financial considerations.

The decision was challenged by the Millers Point Community Association, with the argument that the "Heritage Act does not allow for the Minister to consider a potential loss of funds to the NSW government or foregone funds for social housing as justification for not listing a building on the State Heritage Register."

(http://www.edonsw.org.au/millers_point_community_association_inc_v_office_of_environment_and_heritage_sirius_building). In July 2017 the Millers Point Community Association was successful in its challenge and the Court ordered the Minister to remake the decision in accordance with the law.

In October 2017, the current Minister, remade the decision not to list the Sirius building on the State Heritage Register. Subsequently, the Department of Planning and Environment has prepared the Sirius State Significant Precinct SEPP with zoning, height and gross floor area controls, in advance of a call for Registrations of Interest for the sale of the site.

Notwithstanding the above, it should be noted that the Government has already recognised the heritage significance of the building, in 1995 Land and Housing added Sirius to their S170 heritage list for its social significance.

2.2 City of Sydney position

In July 2015, the City of Sydney was notified by the Heritage Council of NSW of their intention to consider listing the Sirius Apartment Building on the State Heritage Register. The City noted that as the building is located outside the jurisdiction of *Sydney Local Environmental Plan 2012* (LEP2012), it has not been listed as a local heritage item. Nonetheless, the City supported the state heritage significance of the building, particularly because of its architectural qualities, landmark status, relationship to major changes social policies in the 1970s and the Green Bans and its ongoing significance to the present-day community of Millers Point, The Rocks and the wider community.

A copy of the letter was sent to the Minister in April 2016 confirming the City's position.

When the Minister rejected the Heritage Council's recommendation to add Sirius to the State Heritage Register in July 2016, the City reiterated its position that the building satisfies the criteria for listing on the State Heritage Register. The City also noted that the Minister's decision sets a poor precedent for the State Government's protection of heritage in NSW under the Heritage Act, and undermines the purpose of this legislation.

Following the formation of Save Our Sirius group to campaign for the retention of Sirius and its historic use as social housing and the fund-raising campaign to challenge the legality of non-listing on the State Heritage Register, the Council of the City of Sydney at its meeting on 24 October 2016 resolved to:

- (A) support the retention of the Sirius building and its continued use for social housing;*
- (B) affirm support for proceedings taken by the 'Save Our Sirius' group appeal against the Minister's decision to not include the Sirius on the State heritage register and allow its demolition, despite the unanimous support of the NSW Heritage Council;*
- (C) support the provision of legal and communications advice to 'Save Our Sirius', subject to the approval of the CEO; and*
- (D) call on the NSW Government to disclose the planning basis upon which the valuations for the sites uplift value is based.*

This confirms the City's ongoing support for retention of the Sirius and its continued use for social housing.

3.0 Retention of the existing built form

3.1 Background

As outlined in the Explanation of Intended Effects included with the draft SEPP, despite the proposed built form controls, it is proposed to include a clause that allows the existing building to be retained in its current envelope. This clause will also note that a maximum gross floor area of 7,010m² will apply if the existing building is retained to ensure no additions are made to the existing building.

The City acknowledges that the proposed building controls in the draft SEPP amendment are intended to be activated only if the existing building is demolished and rebuilt.

As previously stated, the City supports retention of Sirius and its continued use for social housing. The City commends the current position outlined in the draft SEPP which states that if the existing building on the Sirius site is retained:

- it must be retained and/or refurbished in its current form and;
- it will be required to comply with SEPP 65 requirements.

3.2 Retention of building

The City of Sydney supports retention of the Sirius building and its ongoing use for social housing. There have been numerous investigations of options that propose retention and ongoing use for social housing, some of which are outlined below.

In 2009, Resitech (part of Housing NSW) prepared a masterplan for the Sirius building, as part of a Community Renewal Strategy program implemented across various post-war housing estates. This document titled *Sirius Building, 36-48 Cumberland Street, The Rocks: High Rise Asset Strategy Report* indicated that at the time, the building required minimal repair and proposed a number of reasonable options to upgrade the building to current standards. These options included concrete, roofing and electrical repairs, and replacement of areas of glass on the western facades for thermal and acoustic comfort. These options remain valid.

In November 2016, the Save our Sirius Foundation proposed an option for retention of the building, providing some social housing, while also generating \$100 million for the provision of additional social housing elsewhere. This option proposed the sale of 50 apartments, including all those on the fourth floor and above, with the money

generated (estimated to be over \$100 million) to be used for social housing elsewhere and upgrading the remaining 29 social housing units on the site.

The City reiterates that the existing building remains capable of reasonable and economic use as social or affordable housing, even with requirements to upgrade the existing building to comply with SEPP65.

Recommendation 1.

The City supports retention of the Sirius building and its continued use for social or affordable housing.

3.2 Heritage management, including retention of significant building elements

Though no conservation management plan has been prepared for Sirius, it is recognised a large component of its heritage significance is linked to its distinctive built form, construction and materials. While the Explanation of Intended Effect proposes a clause in the draft SEPP to allow the existing building to be retained in its current envelope without any increase in gross floor area, it does not address what changes are allowable after retention.

Any necessary changes after retention of the building should be carried out to retain and respect important building elements, finishes and form that relate to the site's heritage significance.

Furthermore, if the building is to be retained, preparation of a Conservation Management Plan is essential to ensure that ongoing management, use and changes are carried out in accordance with the site's heritage significance.

Recommendation 2.

The preparation of a Conservation Management Plan is required to ensure that if the building is to be retained ongoing management, use and changes are carried out in accordance with the heritage significance of the site.

4.0 Strategic planning framework

4.1 Draft Central Sydney Planning Strategy, Regional & District Plans

In 2016, the Council of the City of Sydney endorsed the draft *Central Sydney Planning Strategy*, which contains key moves and planning control amendments to provide certainty, consistency and continuity for planning in Central Sydney. Key Move 3 is Consolidate and simplify planning controls, specifically by integrating disconnected precincts back into the city, unifying planning functions and streamlining administrative processes.

As per Key Move 3, the City supports a holistic review of the planning framework that applies to The Rocks precinct. The proposed rezoning of 36-50 Cumberland Street as a State Significant 'Precinct' however represents spot rezoning of a single site in absence of any long term strategic consideration of how The Rocks precinct can contribute the Harbour CBD's role as "the engine room of Greater Sydney's economy" (*Draft Eastern City District Plan*, October 2017, page 3).

The proposed spot rezoning assists in promoting the orderly and economic use and development of land in line with object (c) of the amended *Environmental Planning and Assessment Act 1979* (the Act), where the existing the *Sydney Cove Redevelopment Authority Scheme 1968* (the 1968 Scheme) fails to do so.

The spot rezoning should not proceed without a commitment from the NSW Government to a holistic review of the planning framework that applies to The Rocks precinct in line with the draft *Central Sydney Planning Strategy*, the *Draft Greater Sydney Region Plan* (Regional Plan), *Revised Draft Eastern City District Plan* (District Plan) and the remaining 9 objects of the Act.

4.2 Sydney Cove Redevelopment Authority Scheme

The *Sydney Cove Redevelopment Authority Scheme 1968* (SCRA Scheme) is the principal Environmental Planning Instrument that applies to the subject site and surrounding precinct. This scheme dates from 1968, though the specific controls for the Sirius site date from 1984 (Building Site Control Drawing XXVIII). The SCRA Scheme is outdated, lacks strategic alignment with the NSW Government's Regional and District Plan, it fails to respond to or address contemporary land use and planning issues facing the Harbour CBD and fails the NSW Governments' own contemporary test for Environmental Planning Instruments, as outlined in NSW Government's Rezoning Review process.

In particular the SCRA Scheme fails to address:

- affordable housing
- competition of land uses and District Plan job targets
- car parking rates
- increasing infrastructure needs
- ecologically sustainable development principles, and
- design excellence.

The SCRA Scheme is found lacking against the NSW Governments' own contemporary test for Environmental Planning Instruments.

In August 2016, the NSW Government Department of Planning published a report describing a comprehensive review of the NSW Government's Rezoning Review process. A key finding of the review was that in determining the Strategic Merit of a rezoning the 'contemporary' nature of the relevant Environmental Planning Instrument will be considered when reviewing proposals. The review goes on to say:

The planning controls for a site will be considered contemporary if they have been in force for less than 5 years. This aligns with the requirements of the new Part 3B of the Environmental Planning and Assessment Act 1979, which requires a review of strategic plans in the Greater Sydney Region every 5 years.

The SCRA Scheme fails the contemporary test by virtue of its age, its lack of strategic alignment with the NSW Government's Regional and District Plan, and its failure to respond to or address contemporary land use and planning issues facing the Harbour CBD. **The City supports the removal of the outdated SCRA Scheme** for this site as proposed by the draft SEPP.

4.3 Disposal of Sydney Harbour Foreshore Land - Auditor-General's Performance Audit

In November 2003 the NSW Auditor General published a *Performance Audit on Sydney Harbour Foreshore Land*. The purpose of the audit was to:

examine the processes that are expected to implement the policy decisions of government...

In particular, the audit has focused on how proponents and regulators make assessments in relation to two critical areas: the provision of public open space and the retention of a working harbour.

Performance Audit on Sydney Harbour Foreshore Land

Observations and recommendations of the Audit included:

Our view is that decisions need to be made on a more strategic basis, if the Government's aspirations for Sydney Harbour's foreshores are to be met.

At present there are high-level 'aspirations', but there is no overarching strategy or plan for Sydney Harbour that can guide individual decisions. Decision-making appears to be triggered when a proposal is made to dispose of a particular property.

Decisions to dispose of, retain, or change the use of individual properties should be made in the context of a broader strategy, rather than on a case-by-case basis.

And, flowing directly from this, decision-making should not be left solely with individual agencies and local councils that have no responsibility for whole-of-harbour outcomes.

We also believe that the current governance framework will not be sufficient for the challenges ahead. For what needs now to be done, we think that existing governance arrangements are too complex and are not equipped to be decisive or to drive actions in an (sic) holistic way.

We found that the disposal of foreshore land appears to be considered largely at a project level, with inherent emphasis by the proponent on financial returns.

Performance Audit on Sydney Harbour Foreshore Land

These observations were 15 years ago and these matters remain unaddressed. Commitments to repeal and replace the 1968 Scheme with a coordinated strategic land use and development plan have not been met.

Key Move 3 of the draft *Central Sydney Planning Strategy* seeks to integrate disconnected precincts such as The Rocks back into the city under Sydney LEP 2012. A single consent authority and planning framework for central Sydney land including The Rocks will allow for the efficient and streamlined administration of planning functions under a single unified strategic plan that responds to the relevant Regional, District and Local plans.

Recommendation 3.

Integrate The Rocks into the City of Sydney for strategic planning and management under Sydney LEP2012 in accordance with the *Central Sydney Planning Strategy* and the NSW Government's District Plan.

4.4 Local Infrastructure Contributions

Greater Sydney is a successful and growing city, but, to become more liveable, productive and sustainable, it will need additional infrastructure and services in the right places and at the right time.

Infrastructure – planned to support orderly growth, change and adaptability – must be efficient.

District Plan, page 18

All development should contribute to infrastructure and maintenance.

To effectively align infrastructure with growth, and to support the orderly development of the site, infrastructure provision must be appropriately addressed by the Draft SEPP amendment and not deferred to development application stage.

The Region Plan states (page 28):

Many sources of funds are in place already, including... user charging, contributions by local development, voluntary planning agreements, council rates and private investment.

There are no forms of infrastructure funding that apply within The Rocks precinct. The precinct has no Section 94 plan, and Section 61 of the *City of Sydney Act* contributions do not apply. This is a product of having an outdated Environmental Planning Instrument that fails to respond to or address contemporary land use and planning issues.

The draft SEPP is silent on this matter and should include requirements to provide contributions prior to any construction occurring on the site. As a provider of significant infrastructure and services within this vicinity, the City of Sydney would be an appropriate entity to receive any contributions. For reference, in the CBD, the contribution would be 1% of the capital investment value, under the *City of Sydney Act 1988*.

The NSW Government “recognises that development needs to support the funding of infrastructure at an appropriate level” and the importance of “supporting infrastructure alignment with areas of growth and transformation before additional areas are rezoned and ready for development” (pages 28 and 31 of the Region Plan respectively). The proposed State Significant Precinct SEPP should include provisions for appropriate infrastructure development and funding to be consistent with the District Plan and support the appropriate provision of infrastructure.

Recommendation 4.

The Sirius State Significant Precinct SEPP should include provisions for monetary contributions for appropriate infrastructure.

4.5 Land Use Zoning

The proposed Sirius State Significant Precinct SEPP intends to apply a B4-Mixed Use zone, with the following B4 Zone Objectives applicable:

- a) to provide a mixture of compatible land uses; and
- b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling;

The City submits that The Rocks precinct may be more appropriately zoned B8 Metropolitan Centre. The City raises concerns over this spot rezoning to a B4 Mixed Use as limiting in absence of a holistic review of the planning framework that applies to The Rocks precinct.

The Rocks precinct adjoins the existing Central Sydney B8 Metropolitan Centre zone and is a natural extension of the B8 Metropolitan Centre zone. The Rocks precinct is home to some of Australia's most valuable tourist and visitor accommodation assets, growing creative, cultural and knowledge economy clusters and is a late night trading precinct. The Rocks currently plays, and has the ability to solidify, a role in promoting the objectives of the B8 Metropolitan Centre zone:

- *To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.*
- *To provide opportunities for an intensity of land uses commensurate with Sydney's global status.*
- *To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.*
- *To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.*
- *To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.*

While there are no major differences between what type of development could occur on the site under either B4 or B8 zoning, a B4 Mixed Use zoning however would preclude a unified strategic response for The Rocks precinct being promoted as recommended in the draft *Central Sydney Planning Strategy*. Also, a B8 Metropolitan Centre zoning would not preclude the current proposal for the subject site from occurring. There are a number of other disadvantages of a B4 Mixed Use zoned site, such as, in the future, being able to participate in the City of Sydney's Heritage Floor Space scheme, which only applies in B8 Metropolitan Centre zoned areas under Sydney LEP 2012.

Recommendation 5.

The City recommends the application of a B8 Metropolitan Centre zoning for the Sirius site.

4.6 Ecologically Sustainable Development

The proposed development represents a significant opportunity to aid the NSW Government in its commitment to achieve net-zero emissions by 2050, optimise water use and reduce waste in line with the District Plan.

Recommendation 6.

The City recommends the rezoning incorporate, a minimum:

- 5.5 star NABERS Energy Commitment Agreement for any commercial office component of any future development,
- 5 star NABERS Energy Commitment Agreement for any hotel component,
- 5 BASIX points above the State-mandated target for water and 5 BASIX points above the State-mandated target for energy for any residential component of any future development.

4.7 Affordable Housing

The revised Eastern District Plan contains an action for the Department of Planning and Environment to prepare affordable housing target schemes. The NSW Government's Greater Sydney Commission's research shows that it is generally feasible for up to 10% of residential floor space to be dedicated for affordable housing in new residential developments. The draft SEPP in its current form does not address affordable housing or the Commission's affordable housing targets. To be consistent with the intent of the Government's own strategic planning framework established in the Greater Sydney Commission's revised Region and Eastern District Plan a

minimum of 10% of the residential floor space should be dedicated to affordable housing.

In 2007, the City developed *Sustainable Sydney 2030* for the sustainable development of the city to 2030 and beyond, planning for a Green, Global and Connected City. *Sustainable Sydney 2030* notes that sustainable development:

is not just about the physical environment, but about the economy, society and culture as well, and how addressing each, with bold ideas and good governance, will result in better outcomes for current and future communities.

One of the ten strategic directions of the program is titled Housing for a diverse population and focuses on providing a wider range of housing so people who provide vital City services can afford to live in the City.

Sustainable Sydney 2030 has identified four objectives to achieve this strategic direction as follows:

Objective 8.1 - Facilitate the supply of housing to cater for population growth and change.

Objective 8.2 - Ensure that housing developments provide a diversity of housing opportunities for different lifestyle choices, household types and income levels.

Objective 8.3 - Facilitate and promote growth of affordable housing supply to ensure that a substantial proportion of housing is aimed at the lower end of the market.

Objective 8.4 - Advocate and work with State Government to maintain and/or increase the supply of social housing in inner city locations to provide housing opportunities for very low to low income households.

Sustainable Sydney 2030 has also set a number of relevant targets to achieve this vision:

Target 3

There will be at least 138,000 dwellings in the City (including 48,000 additional dwellings compared to the 2006 baseline) for increased diversity of household types, including greater share for families.

Target 4

7.5 per cent of all City housing will be social housing, and 7.5 per cent will be affordable housing, delivered by not-for-profit or other providers.

In 2015, The NSW Government prepared the *Future Directions for Social Housing in NSW* strategy, with a program of change in social housing policies, resulting in the

sale of social housing in Millers Point, Dawes Point, The Rocks and the proposed sale of the Sirius site. It is noted the sale of these properties is financing the construction of more social housing in NSW, with a total of 734 units having been completed and 357 units currently under construction as of November 2017, with 20 units within the City of Sydney. (<http://www.millerspoint.facs.nsw.gov.au/new-homes-funded-by-millers-point>)

The City notes that their ability to reach the identified targets within the LGA as outlined in *Sustainable Sydney 2030* has been compromised through the *Future Directions for Social Housing in NSW* strategy.

Recommendation 7.

A minimum of 10% of the residential floor space is to be dedicated for affordable housing consistent with the revised Draft Greater Sydney Region and Eastern District Plans.

4.8 Heritage Impact Statement (HIS)

The Sirius State Significant Precinct SEPP documents include a heritage impact statement by Architectural Projects dated November 2017. This HIS was commissioned by the Department of Planning and Environment to consider the impact of the draft SEPP amendment on surrounding Heritage Items and wider area and not to address the heritage significance of the existing Sirius building.

In Section 8.6, the HIS includes several concise and clear mitigation measures and recommendations for future development to minimise impact upon the heritage significance of The Rocks. These are to be considered at detailed design and development application stages. These generally relate to specifics of built form and articulation to relate to the context of the site and suggest the following issues be considered:

- the width of terraces along Playfair Street (varying from 3.5 – 4.5 m);
- the historic pattern of streets, lanes and pathways;
- the characteristic built form, fine grain and human scale of The Rocks;
- compliance with 'infill' principles to respect the form, scale, character and texture of The Rocks;
- interpretation of the rich history of the site (in situ and elsewhere), developed through community consultation.

Recommendation 8.

The City supports the mitigation measures and recommendations for future development on the site as outlined in Section 8.6 of the Heritage Impact Statement to minimise impact upon the heritage significance of The Rocks. These should be explicitly included in the SEPP.

The City notes a number of inaccuracies in the report. Most notably these include references to the Sirius Building not being classified by the National Trust of Australia (NSW) or included on the Australian Institute of Architects (NSW Chapter) Register of Significant Buildings. Both of these statements are incorrect as both organisations listed the building on their respective registers in 2015.

Generally, there seems to be a number of other errors, inconsistencies and appropriation without referencing source material within this report, and as such an independent review is essential.

Recommendation 9.

Noting a number of inaccuracies, errors and inconsistencies in the Heritage Impact Statement, the City recommends a thorough and independent review of this document.

Numerous sources indicate the Sirius has heritage significance, with conflicting opinions as to the degree, being either local or state. Inclusion on various non-statutory registers, inclusion on the Land and Housing Commission s170 register, nomination and recommendation for inclusion on the State Heritage Register confirm acknowledgement of heritage significance by the community and parts of government.

As outlined in the Explanation of Intended Effect included with the draft SEPP, despite the proposed built form controls, there is a clause that allows the existing building to be retained in its current envelope. As the HIS was commissioned to assess the heritage impact of any potential development, it ignores the recognised heritage significance of the site. Similarly, it does not adequately address the heritage impact of retention of the building, nor any changes associated with retention.

Recommendation 10.

The Heritage Impact Statement should be revised to comment on the heritage impact of retention of the building and any changes associated with retention.

5.0 Proposed built form

5.1 Height of buildings and views

The proposed built form under the draft SEPP aims to ensure that any future building will not exceed the height of the Sydney Harbour Bridge deck and to protect views to and from the Sydney Harbour Bridge and Sydney Opera House.

While the City commends the general approach to align the maximum building heights to the existing deck of the Harbour Bridge walkway it is a concern that the Urban Design Report recommends building height be defined as follows:

Maximum building height (RL) shown is to the top of roof slab and excludes lift overruns, parapets and all other services...

This approach will have significant unplanned impacts upon views to the Sydney Opera House by allowing lift overruns, parapets and all other services to impact views to the Sydney Opera House.

The City has reviewed the proposed maximum building heights and has developed revised maximum RLs to maintain views to the Opera House. These recommended maximum building heights include all built elements such as lift overruns, parapets, plant and all other services.

To facilitate this, the City proposes controls be introduced to maintain clear views to the sails of the Opera House from the pedestrian walkway on the eastern side of the Harbour Bridge that cannot be disrupted by any built elements. These controls are based on an inclined plane from the edge of the walkway balustrade to the top of the Opera House podium. This plane defines the maximum height for future development without affecting views to the Opera House. Indicative RLs are shown in red in Figures 1, 2 and 3. The specific coordinates of the proposed inclined plane are shown in Figure 4.

VIEW CONE FROM SHB WALKWAY

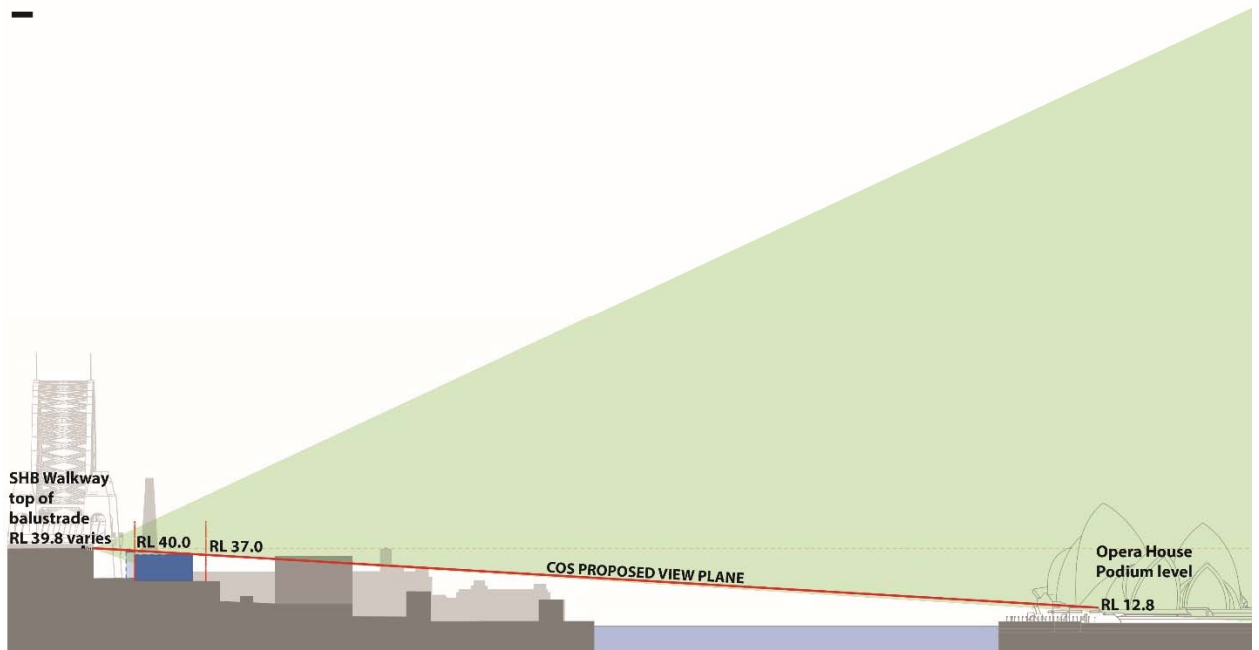


Figure 1.
Recommended revised maximum RLs protect views to the Sydney Opera House from the Sydney Harbour Bridge

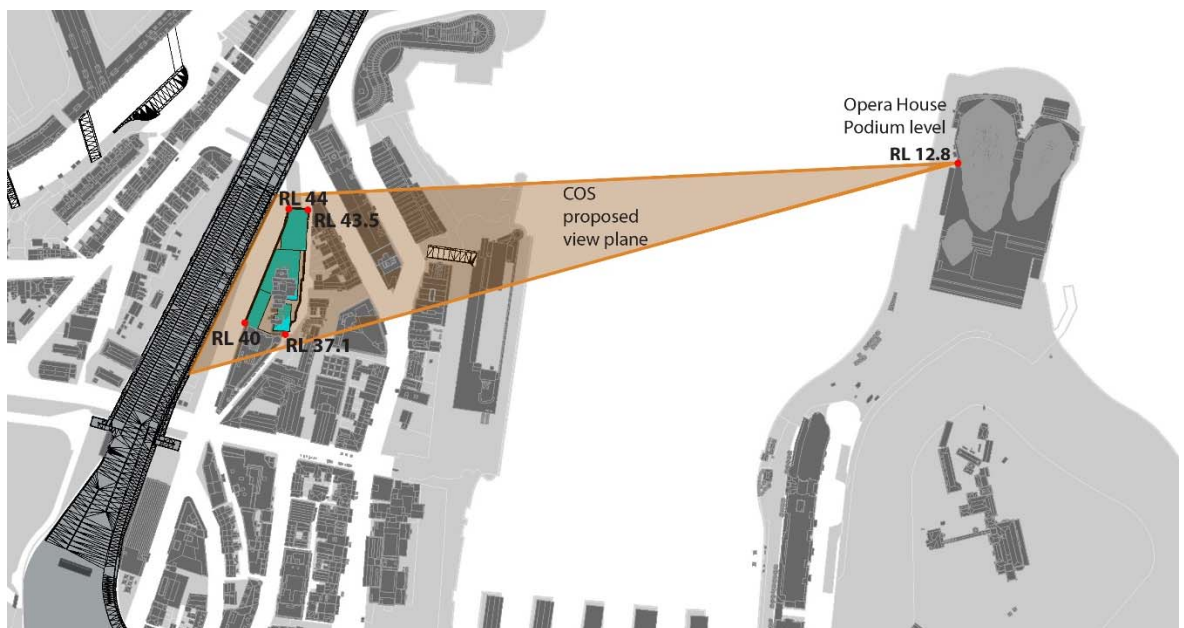


Figure 2.
Recommended revised maximum RLs protect views to the Sydney Opera House from the Sydney Harbour Bridge

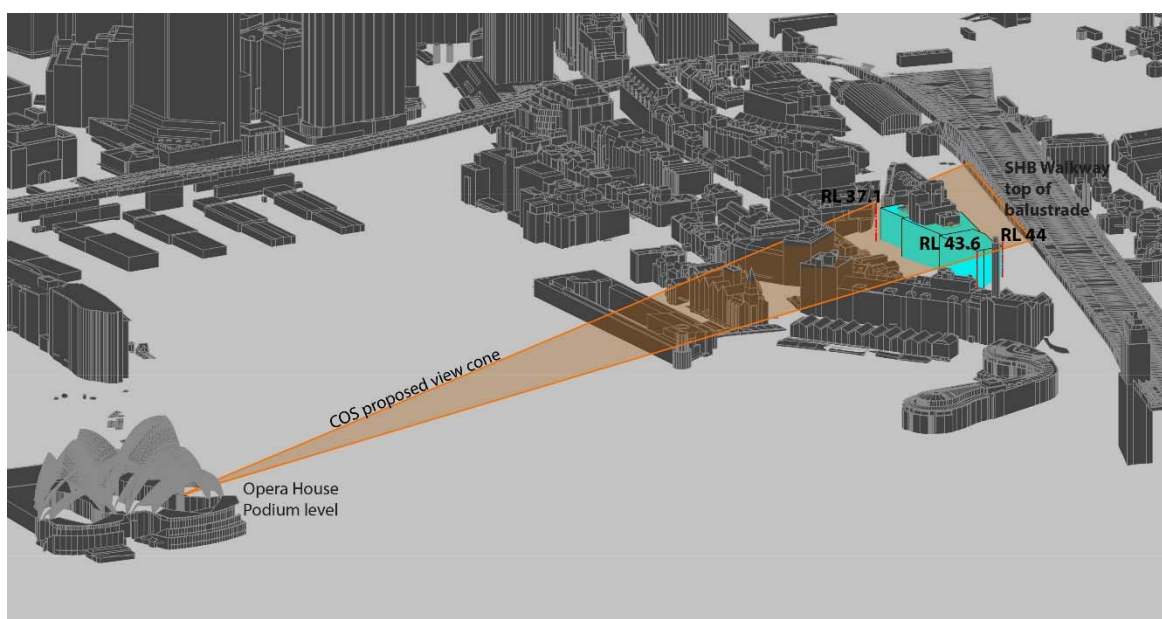


Figure 3.

Recommended revised maximum RLs protect views to the Sydney Opera House from the Sydney Harbour Bridge



Figure 4.

Proposed coordinates of an inclined plane from the podium of the Sydney Opera House to the footbridge of the Sydney Harbour Bridge.

	XE	YN	RL
A	334845.885	6252280.919	12.80
B	334219.360	6252250.840	45.70
C	334140.930	6252088.400	39.76

Recommendation 11.

Introduce a new control to ensure no built elements project above an inclined plane from the edge of the walkway balustrade to the top of the Sydney Opera House podium.

The proposed building envelope includes a potential four-six storey development on the Gloucester Walk boundary, which is considered excessive noting the character of the existing pedestrian thoroughfare. A reduction in the scale of the development towards Gloucester Walk should be considered, to achieve a transition of scale to the pedestrian walkway and the low scale of heritage buildings in The Rocks. This would also open views from the Harbour Bridge Walkway to The Rocks.

Recommendation 12.

The proposed building envelope in the Sirius State Significant Precinct SEPP should include a reduced scale of development along Gloucester Walk.

Northern views towards the Sydney Harbour Bridge are integral to the character of The Rocks, adding to a strong sense of place, including views along Cumberland Street, provided in Figure 5. The proposed building envelope on the Sirius site includes construction to the boundary of Cumberland Street impacting upon this important view. Further view analysis is needed to understand how the proposed development impacts upon the historic view northwards towards the Harbour Bridge along Cumberland Street.

Recommendation 13.

Further investigations are required to confirm the potential impact of any new development on the Sirius site to ensure minimal impact upon the important historic view of the Sydney Harbour Bridge along Cumberland Street.



Figure 5.

Views to the Harbour Bridge north along Cumberland Street provide legibility and a sense of place.

5.2 Setbacks

Currently there are a number of mature plane trees on the edge of the subject site, along Gloucester Walk, dating from the 1980s. These trees need to be retained as part of any potential development of the site, as they provide a soft edge to the walkway and their retention will help to reduce the perception of scale of any new development on the site.

In order to protect the existing vegetation, setbacks need to be identified. The location of any future underground car parking also needs to take these trees into consideration, to ensure protection of their root ball for long-term retention.



Figure 6. Mature plane trees along Gloucester Walk, from intersection of George & Playfair Streets



Figure 7. Mature plane trees along Gloucester Walk

Though the View Analyses in the Urban Design Report are indicative only, the proposed retention of both of these trees is not clear, particularly in View 5, the View from Atherden Street.

Recommendation 14.

The Sirius State Significant Precinct SEPP must identify appropriate setbacks and limits of underground parking to ensure retention of mature vegetation on Gloucester Walk.

5.3 Car parking & servicing the building

The Explanation of Intended Effect proposes 85 dwellings, with a limit of 0.5 car parking spaces per dwelling which 'will provide a car parking rate that is similar to that of the existing building which contains space for around 70 cars'. This requires clarification as:

- There are currently 79 dwellings, therefore 0.9 spaces per dwelling. At 0.9 spaces per dwelling and 85 dwellings, car parking would increase to approx. 77 spaces.
- At the proposed rate of 0.5 spaces per dwelling there would be approx. 42 spaces.
- If parking numbers follow the LEP requirements, at 85 dwellings, the maximum provision would be:
 - o 51 spaces (if the land is considered Category A, similar to Circular Quay) or
 - o 74 spaces (if the land is Category B, similar to Millers Point).Note: these figures are calculated based on 5 x studios (5%), 9 x 1bed (10%), 62 x 2 bed (75%) and 9 x 3 bed (10%).

The City also notes that SEPP65 requirements for storage space will likely be partially accommodated in the car parking area, further reducing parking spaces.

Consideration also must be given to ongoing servicing of any new development on the site, such as rubbish removal, and how this will be accommodated (such as within basement levels or from the street), which could in turn impact upon car spaces etc.

Recommendation 15.

The Sirius State Significant Precinct SEPP must clarify car parking provisions and how any proposed development will be serviced.

The Urban Design Report indicates a possible second entrance/exit to the basement car park from the northern end of Gloucester Walk, close to George Street North. This requires further analysis. The City has major concerns with this option in relation

to potential conflict with pedestrians, weekend markets and additional traffic impacting George Street.

Recommendation 16.

Further investigation of a secondary entrance to basement levels from Gloucester Walk of any proposed development of the Sirius site is essential, to minimise potential conflict with pedestrians, weekend markets and additional traffic impacting George Street.

5.4 Design Excellence

The objective of clause 6.21 of the *Sydney Local Environmental Plan 2012* (LEP2012) is to deliver the highest possible standard of architectural, urban and landscape design within the City. To facilitate this, the City acknowledges that design excellence is likely to be achieved through a competitive design process, which can be managed in accordance with the *City of Sydney Competitive Design Policy* (2013).

Under this policy, all major developments must propose a Design Excellence Strategy to direct the design process and ensure design excellence.

Section 3.0 of the *Sydney Development Control Plan 2012* (DCP2012) contains further objectives and provisions to guide design excellence, noting that “it is important that design excellence is a fundamental consideration in the assessment of development applications.” The objectives of this approach are to ensure high quality and varied design, ensure that development individually and collectively contributes to the architectural and overall urban design quality of the LGA and encourages variety in architectural design and character across large developments to enriches and enliven the City’s public realm.

Furthermore under the City’s controls, policies and guidelines, design excellence achieved through a competitive design process, may be awarded additional building height or floor space of up to 10% or one floor.

A recognition of the value of high quality design is also a major tenet of Better Placed: An integrated design policy for the built environment of New South Wales, produced by the Government Architect NSW in 2017. This document focuses on:

Enhancing the design quality of our built environment, raising expectations and raising standards, about working better and creating better environments.

The Sirius State Significant Precinct SEPP documents refer to a proposed design excellence clause in the SEPP, requiring “any development on the site to deliver the

highest standard of architectural, urban and landscape design.” This clause would also address the external appearance and articulation of the development in the context of The Rocks, the heritage significance of the surrounding area, the height, massing and modulation of any future development and improved interface with the public domain and streetscape. The City commends the inclusion of these provisions as they reflect the City’s own vision for design excellence.

Recommendation 17.

Inclusion of design excellence provisions, requiring a competitive design process and not a design review process, within the Sirius State Significant Precinct SEPP is essential to encourage any development on the site to deliver the highest standard of architectural, urban and landscape design.

The City contends that regardless of design excellence outcomes, no bonus gross floor area or height through a design excellence process are appropriate. The recommended maximum envelope is to be retained and no additional height or gross floor area should be allowed as this will result on a reduction on views.

Recommendation 18.

Any design excellence process for development on the Sirius site must not change the recommended maximum building envelope, nor increase the recommended gross floor area or maximum building height.

The Sirius State Significant Precinct SEPP documents also note that any development of the site over the value of \$10 million would require a competitive design competition to ensure the outcome is of the highest quality.

Considering the importance of this site, in terms of location, views and heritage, the City considers that a full architectural competition is considered essential, regardless of the potential development value. The *City of Sydney Competitive Design Policy* recommends the use of a competitive design process to achieve design excellence.

Recommendation 19.

Any development on the Sirius site must be the subject of a full architectural competition to facilitate design excellence, without exception.

5.5 Apartment Design Guide Compliance

All Residential apartment developments that are three or more storeys and that have four or more dwellings must comply with State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65), which aims to improve the design quality of residential apartment development in New South Wales. This applies to the erection of a new building, the substantial redevelopment or refurbishment of an existing building or the conversion of an existing building to a residential flat building. Under SEPP 65, new development or retention of the existing building must consider and address the requirements of the Apartment Design Guideline (ADG). The ADG sets out design criteria and design guidance for:

- visual privacy,
- solar and daylight access,
- common circulation and spaces,
- apartment size and layout,
- ceiling heights,
- private open space and balconies,
- natural ventilation, and
- storage.

The Urban Design Report confirms that a high-level analysis of the proposed built-form complies with the ADG controls, with particular reference to compliance of solar and daylight access (approx. 72%), natural ventilation (approx. 60%) modulated building form to ensure overshadowing to surrounding buildings and public domain is reduced and a modulated building footprint to provide adequate communal space in the form of central courtyards and provision of deep soil zones.

The City commends the current planning approach for its compliance with the SEPP 65 and the ADG and notes that any future changes to potential development on this site must continue to comply with these controls and guidelines.

Recommendation 20.

Any apartment development on the Sirius site must be compliant with SEPP65 and the associated Apartment Design Guide.

The City contends that the existing building with some modifications can comply with SEPP65.

5.6 Development near busy roads

In 2008, the Department of Planning released their *Development Near Rail Corridors and Busy Roads - Interim Guidelines*, to assist in development associated with the Infrastructure State Environment Planning Policy (SEPP) 2007. These guidelines were produced to assist in the reduction of potential health impacts of rail and road noise and adverse air quality on adjacent development.

With particular reference to the subject site, based on its location and proximity to the Harbour Bridge approaches, noise, vibration and air quality levels will need to be assessed. The future built form will subsequently need to be designed with reference to these guidelines to reduce noise and vibration impact to habitable rooms while maintaining natural ventilation and air quality. These guidelines provide various recommendations and it is likely that habitable rooms will need to face away from the bridge approaches, reducing the depth of the envelopes to accommodate single loaded apartments.

Recommendation 21.

Any development on the Sirius site must be designed to minimise noise and vibration from the Sydney Harbour Bridge approaches, while providing natural ventilation and air quality.

5.7 Active street frontages

Both the Planning Report and the Explanation of Intended Effects refer to a proposal to apply an active street frontage clause to the site promoting uses that attract pedestrian traffic along Cumberland Street. This active street frontage at ground level is likely to consist of retail and/or commercial uses or any active use that is permitted with consent under zoning. The Planning Report elaborates on this and notes that

“it is expected that an active street frontage will improve the streetscape of Cumberland Street and encourage passive and active surveillance at street level. It will also increase foot traffic along Cumberland Street and encourage more active uses, promoting a more active streetscape and opportunities for passive surveillance.”

This proposal sounds commendable.

Both the Planning Report and the Explanation of Intended Effects note that the Active Street Frontage Map as being attached, though none have been included with the planning documents.

Recommendation 22.

The City encourages active street frontages along Cumberland Street in any development on the Sirius site.

5.8 Historic pattern of streets, lanes and pathways

A key recommendation of the Heritage Impact Statement is that during the “detailed design stage for any future development on the Sirius site, consideration and respect should be given to the historic pattern of streets, lanes and pathways.” This is proposed to be addressed through a design excellence clause.

The Rocks is a fascinating area with a history of fine-grain development, resulting in a complex pattern of streets of varying widths, lanes and paths. This has resulted in a high degree of permeability within the area and high quality pedestrian connections and links.

Some of this complexity, permeability and connectivity was lost during construction for the Sydney Harbour Bridge and with mid-late 20th century development and consolidation of sites. If this character could be reinstated as part of any development on this site it would introduce a level of complexity and interest.

Also clarity between private and public space needs to be ensured, to encourage understanding and use by the general public.

Recommendation 23.

The City recommends that any development on the Sirius site reflects the complex street pattern of The Rocks to encourage permeability and connectivity with a clear definition between private and public space.