

Assessment Report

Proposal to amend planning controls for
36-50 Cumberland Street, The Rocks (Sirius Site)



July 2018

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Department of Planning and Environment

Printed July 2018

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Glossary

Council	City of Sydney
Department	Department of Planning and Environment
DP&E	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
Sydney LEP	Sydney Local Environmental Plan 2012
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SSD	State significant development

Executive summary

Background

This report has been prepared to assess the proposed planning controls for land at 36 – 50 Cumberland Street, The Rocks, known as the Sirius Site. The site contains the Sirius Building, which is a residential flat building comprising of 79 vacant social housing units with approximately 70 basement car parking spaces. The land has a total area of 3,640 m² and is located on the western edge of The Rocks.

The Sirius Site is State significant as it is the largest single parcel of land within the Rocks Conservation Area and is located adjacent to the Sydney Harbour Bridge and in proximity to the Sydney Opera House, both significant Heritage items.

On 19 September 2017, the Minister for Planning agreed to initiate an investigation into the site by requesting that the Department of Planning and Environment (the Department) to review and determine whether the land should be rezoned and if so, appropriate planning controls for the land. The objective is to establish a contemporary environmental planning instrument that sets land use zoning, built form controls and introduces design excellence provisions for the future development of the site.

Consultation

A proposal to amend the *State Environmental Planning Policy (State Significant Precincts) 2005* (SSP SEPP) to include the site was publicly exhibited between 7 December 2017 and 16 February 2018. On 7 February 2018, the Department also held community drop in sessions to provide information to the public and understand key areas of concern.

The key components of the exhibited proposal include:

- A B4 Mixed Use zoning the site
- Maximum height of building controls to ensure that any future building is below the height of the pedestrian deck of Sydney Harbour Bridge and to protect views to and from the Sydney Harbour Bridge and Sydney Opera House. This would allow for any development of between 2 and 4 storeys.
- Maximum gross floor area (GFA) of 8,420m²
- Maximum car parking rate of 0.5 spaces per residential unit and no parking allocation for commercial premises
- A design excellence clause to deliver the highest standard of architecture, urban and landscape design
- Inclusion of a clause that allows the existing building to be retained in its current envelope over the site, with a maximum GFA of 7,010 m²
- A requirement for an active street frontage along the property's Cumberland Street boundary, which could include uses such as commercial, retail and community facilities

The key documents exhibited included:

- Explanation of Intended Effects
- Planning Report
- Urban Design Report
- Heritage Report
- Land Application Map
- Height of Building Map

The Department received 68 submissions from the public and interest groups, three from State agencies/advisory bodies and a submission from the City of Sydney Council (Council).

The key issues raised in submissions included:

- Heritage and cultural significance of the site
- Urban design, built form, car parking and land use

- Affordable housing
- Government processes

Department's assessment and proposed changes

The Department has carefully considered the proposed planning controls for the Sirius Site and the issues raised in submissions together with the recommendations in the GBA Heritage report. The Department recommends the following key changes to the Amending SEPP:

- Change the land use zone from B4 Mixed Use to B8 Metropolitan Centre consistent with the Sydney LEP 2012. This has the effect of creating consistency with zoning to adjacent sites whilst still allowing for residential and mixed use developments.
- Allow for variation to development controls where the building is retained. These changes will be limited so that the height of any new element must be below the pedestrian deck of the Sydney Harbour Bridge and any additional GFA is limited to a maximum of 1,410 m². The effect of this proposed change is to provide greater flexibility.
- Amend the definition for 'height of building' to be consistent with the Standard Instrument – Local Environmental Plan. This ensures that built elements including plant and lift overruns of any new development will be below the pedestrian deck of the Sydney Harbour bridge, in accordance with stated urban design objectives.
- Amend the design excellence provisions to strengthen provisions addressing the bulk and scale of any future development and its relationship to the heritage values and urban scale of The Rocks.
- Extend the active street frontage clause to also apply to Gloucester Walk.
- Adopt similar car parking provisions to Sydney LEP 2012 to ensure that parking rates reflect different dwelling sizes and are applied to non-residential uses.

The amended proposal has a number of benefits, including:

- A zoning of the site that will enable a range of compatible land uses aligned with the zoning of the adjacent Sydney CBD.
- More flexible planning controls that could encourage development that is sympathetic to the character of The Rocks Conservation Area and significant views in the locality.
- Controls which will facilitate improved design and public domain outcomes.
- Refined car parking controls which will ensure appropriate car parking rates for a range of uses on the site and that are consistent with car parking controls already applying to the Central Sydney area.

Conclusion

Following detailed assessment of the issues raised in the submissions, the Department considers that *State Environment Planning Policy (36-50 Cumberland Street, The Rocks – Sirius Site) 2018 (Amending SEPP)* which will amend Schedule 3 of the *State Environment Planning Policy (State Significant Precincts)* should proceed, subject to the post-exhibition changes described above.

The Department therefore recommends that the Minister for Planning refers the Amending SEPP instrument to the Governor to be made.

1 Introduction

This report has been prepared to assess the planning controls for land located at 36-50 Cumberland Street, The Rocks (known as the Sirius Site – see Figure 1). The current planning controls for the site are set out in the Sydney Cove Redevelopment Authority (SCRA) Scheme, which were developed following the construction of the Sirius building and apply a building envelop which roughly follows the existing built form.

On 19 September 2017, the Minister for Planning agreed to initiate an investigation into the site by requesting that the Department of Planning and Environment (the Department) to review and determine whether the land should be rezoned and if so, recommend appropriate planning controls for the land. The objective is to establish a contemporary environmental planning instrument that sets land use zoning, built form controls and introduces design excellence provisions for the future development of the site.

A *State Environment Planning Policy (36-50 Cumberland Street, The Rocks – Sirius Site) 2018 (Amending SEPP)* which will amend Schedule 3 of the *State Environment Planning Policy (State Significant Precincts)* was prepared and an explanation of intended effect (EIE) was exhibited from 7 December 2017 to 16 February 2018. The Amending SEPP sets out development standards and design principals for the site.

This report assesses the submissions received following exhibition of the proposal. The assessment is supported by a supplementary Heritage Assessment (GBA Heritage) commissioned to peer review the Heritage Impact Assessment and consider issues raised in submissions. The assessment confirms the strategic planning context and responds to issues raised in submissions and makes recommendations for any changes.



Figure 1 The Sirius Building (the site)

2 Site overview

2.1 Location and site description

The Sirius Site is located on land at 36 – 50 Cumberland Street, The Rocks. The legal description of the site is Lot 100 DP 264104. The site has a total area of 3,640 m².

The site is entirely occupied by a long rectangular residential flat building with a maximum height of RL 62 m, stepping down to an RL 40 m to the south and RL 35 m in the north. The residential flat building comprises 79 vacant social housing units, and approximately 70 basement car parking spaces.

The Sirius Site is well located, close to public transport and the CBD and is well serviced by open space (see Figure 2). It sits on the western fringe of The Rocks, west of Circular Quay, Campbell's Cove and the Sydney Opera House, north of the Sydney CBD and directly adjacent to the Sydney Harbour Bridge. It has a dual pedestrian frontage to Gloucester Walk (eastern boundary) and Cumberland Street (western boundary).



Figure 2 Location of the Sirius Building (the site)

2.2 Surrounding area

The Sirius site is located within The Rocks Conservation Area. The Rocks Conservation Area is located between the Sydney Harbour Bridge and the Overseas Passenger Terminal, on the western side of Circular Quay, and directly opposite the Sydney Opera House.

The suburb of Millers Point is connected to the Rocks and on the western side of the Harbour Bridge and is characterised by low density residential terraces and dwellings. The Rocks contains a mix of more vibrant land uses along the foreshore including hotel accommodation, restaurants and bars. The Rocks has a population of approximately 2,500 people and 2,100 dwellings.

The site is approximately 750 m south-east of Circular Quay offering excellent access to rail, ferry, bus and future light rail services. It is also within easy walking distance of key destinations including tourist and cultural venues and facilities within The Rocks, Campbell's Stores and Campbell's Cove, Circular Quay, Sydney Harbour Bridge, the Sydney Opera House and the Sydney CBD.



Figure 3 Map of the surrounding area



Figure 4 Surrounding land use

The Rocks Conservation Area is considered to contain a rich accumulation of features that demonstrate layers of Australian history from 1788 to today. The area displays diversity in streetscape and building style, form and texture with distinctive low-rise development and fine grained textures. The Rocks contains authentic early convict evidence that is accessible to the public.

There are several Heritage Items within the vicinity of the site (see Figure 5), including the:

- Sydney Opera House (World Heritage List, National Heritage List and State Heritage Register and Sydney LEP 2012)
- Sydney Harbour Bridge (National Heritage List and State Heritage Register, Sydney LEP 2012 and North Sydney LEP 2012)
- ASN Co building (State Heritage Register)
- Campbell's Store (State Heritage Register)
- Metcalfe Bond Stores (State Heritage Register)

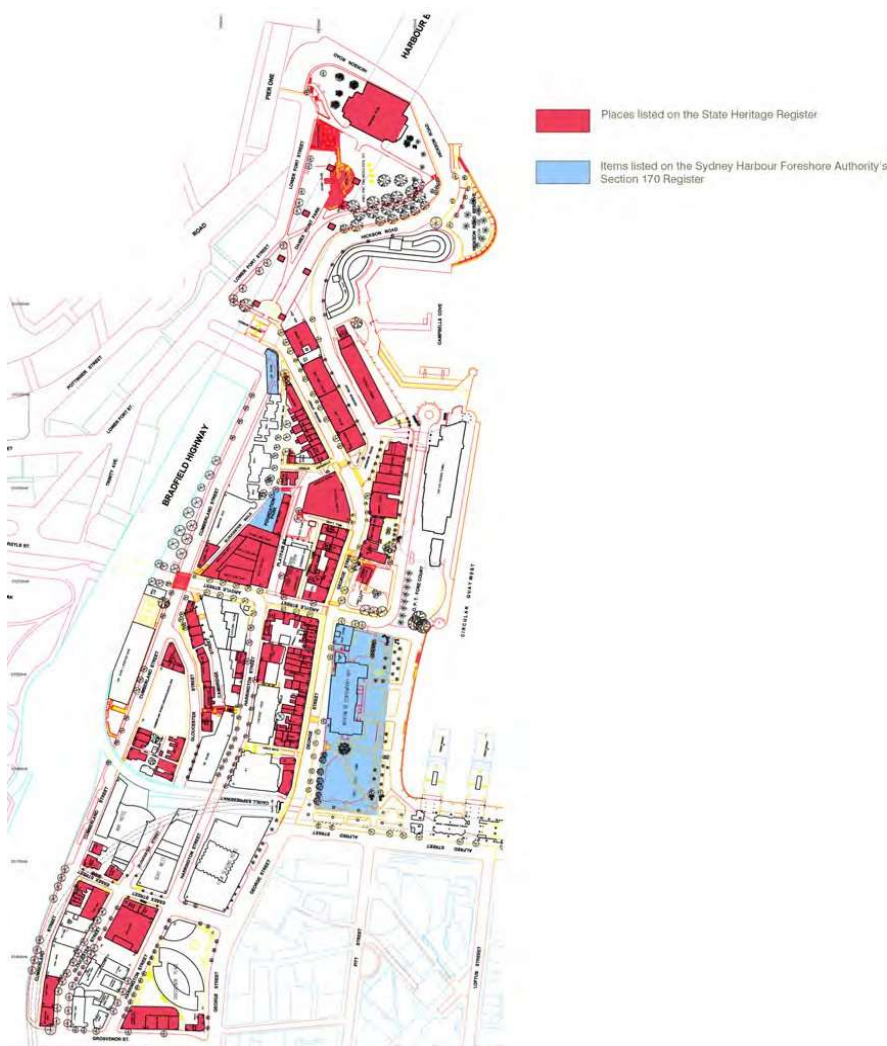


Figure 5 Heritage Items Surrounding the Sirius Site within The Rocks Conservation Area
(Source: The Rocks Conservation Management Plan)

3 Planning context

3.1 Background

The NSW Government is divesting the site to fund new social housing as part of its *Future Direction in Social Housing Strategy*. The Department of Planning and Environment's role has been to review the existing planning controls and make recommendations for the adoption of new controls, to facilitate the divestment process.

3.2 Sydney Cove Redevelopment Authority (SCRA) Scheme 1984

The Sirius Site is currently regulated under the Sydney Cove Redevelopment Authority (SCRA) Scheme 1984. The Scheme sets out the planning controls for development over the site, including maximum building heights, envelopes, permissible uses and pedestrian access (Figure 2).

The SCRA Scheme sets a building envelope which loosely follows the extent of the existing building. This allows for a building up to the height of the existing building (up to 11 storeys), with the allowable height reduced to 3 to 4 storeys at the northern and southern ends of the site.

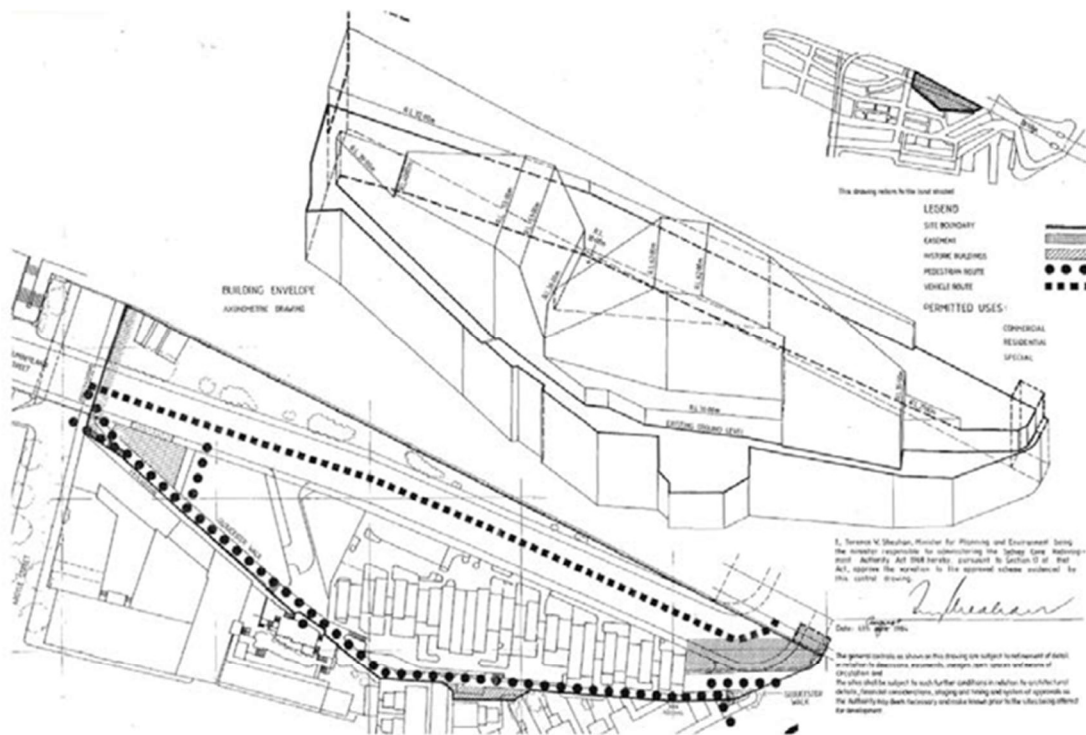
The SCRA Scheme permits commercial, retail and residential development on the site. Under the current SCRA Scheme, additional development would be permitted with consent on the site to the extent of the envelope, subject to compliance with *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* and the Apartment Design Guide.

The Amending SEPP would replace the SCRA Scheme as the relevant planning control for the site.

3.3 State Environmental Planning Policy (State and Regional Development) 2011

The Sirius Site is located within The Rocks area which is an 'Identified Site' under *Schedule 2* (Clause 6) of the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP). Under Schedule 2, development with a capital investment value of greater than \$10 million is classified as state significant development, for which the Minister for Planning is the consent authority.

The Amending SEPP does not change the Minister's role as consent authority role for development on the site.



Built Form Envelope 1984
Sydney Cove Redevelopment Authority

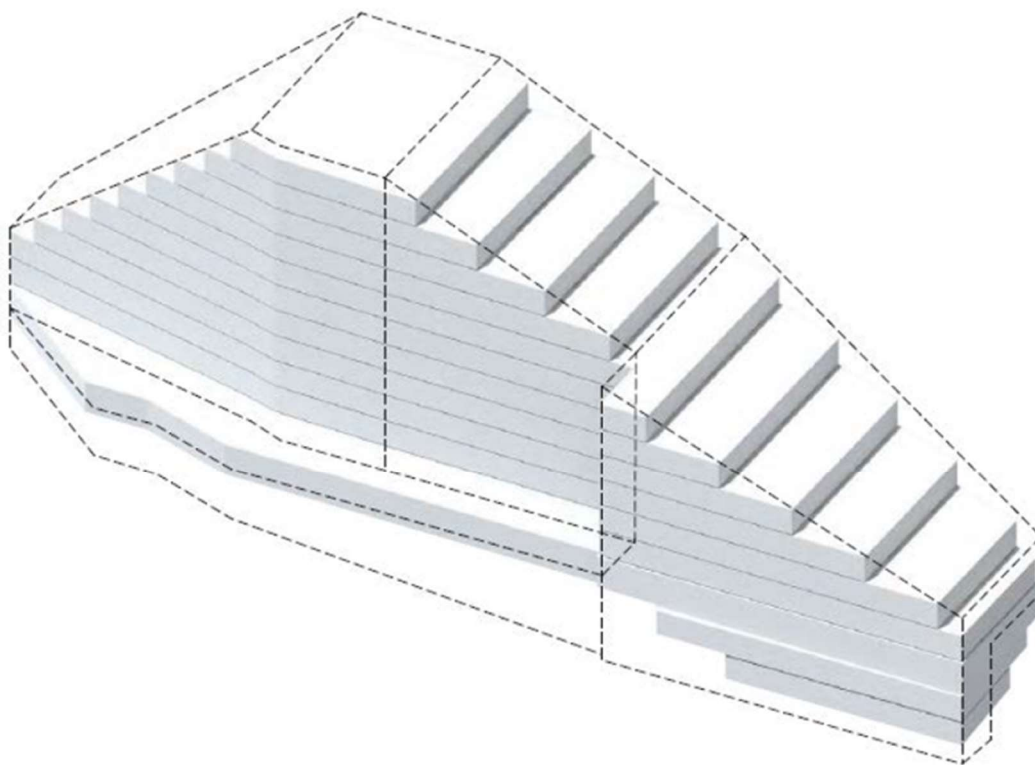


Figure 6 SCRA Scheme 1984 – maximum building envelope (Source: SCRA)

4 Statutory process

4.1 State Significant site process

On 19 September 2017, the Minister for Planning agreed to investigate the Sirius Site as a potential State Significant Precinct (SSP) to enable new planning controls to be prepared for the site. In agreeing to investigate the site as a potential SSP the Minister considered the proposal against several criteria (outlined in the exhibited Planning Report dated December 2017) to form the view that the site relates to matters of state or regional planning significance.

4.2 Statutory requirements for a SEPP

The Department has prepared a *State Environment Planning Policy (36-50 Cumberland Street, The Rocks – Sirius Site) 2018 (Amending SEPP)* which will amend Schedule 3 of the *State Environment Planning Policy (State Significant Precincts)*. The statutory requirements for making a SEPP under the *Environmental Planning and Assessment Act 1979* (EP&A Act) include:

- Section 3.20(9) - the Minister is to determine the form and subject matter of draft environmental planning instruments.
- Section 3.29 - the Governor may make a SEPP in respect of any matter in the opinion of the Minister is of State or regional environmental planning significance.
- Section 3.30 - before recommending the making of a planning instrument by the Governor, the Minister is to take appropriate or necessary steps to publicise an explanation of the intended effect of the planning instrument and seek and consider submissions.
- Section 3.25 - consultation is required if critical habitat or threatened species, populations or ecological communities, or their habitats will or may be adversely affected.

4.2.1 Form of the proposed State Environmental Planning Policy

Section 3.20(9) of the EP&A Act provides that in the absence of a standard instrument, the Minister is to determine the form and subject matter of the draft environmental planning instrument. There is no prescribed form or standard instrument for State Environmental Planning Policies.

The Parliamentary Counsel's Office has provided an opinion that the proposed State Environmental Planning Policy may be legally made.

4.2.2 State or Regional Environmental Planning Significance

Section 3.29(2) of the EP&A Act provides that the Governor may make a State Environmental Planning Policy in respect of any matter which in the opinion of the Minister is of State or regional environmental planning significance.

The Department considers the site to be of State environmental planning significance on the basis that:

- The Sirius site is a strategically important site within the context of The Rocks and its proximity to the Sydney Opera House, including its location within the Sydney Opera House buffer zone established under *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.
- The identification of the site as a State significant precinct enables the preparation of robust planning controls which account for the character and values of the site its context within The Rocks Conservation Area and nearby heritage items.

- NSW Government currently owns the site and has approved the divestment to fund new purpose built social housing properties across Sydney. The new planning controls are required to facilitate appropriate development outcomes.

4.2.3 Section 3.30 consultation requirements

Section 3.30 of the EP&A Act requires the Minister to publicise an Explanation of Intended Effect of a proposed instrument and to seek and consider submissions from the public.

An Explanation of Intended Effect (EIA), together with other supporting material was publicly exhibited between 7 December 2017 and 16 February 2018. On 7 February 2018, the Department also held community drop in sessions to provide information to the public and understand key areas of concern. The Department received 74 submissions in response to the exhibition. The issues raised in submissions have been considered in this report and are summarised within Section 6.

4.3 Description of the proposed State Environmental Planning Policy amendment

The Department proposes an amendment to Schedule 3 of *State Environmental Planning Policy (State Significant Precinct) 2005* to establish new planning controls for the site.

The Amending SEPP comprises both the written instrument and maps. The written instrument and maps are provided in Appendix 1 and 2 respectively.

5 Proposed Planning Controls

5.1 Exhibited proposal

The Department publicly exhibited the Explanation of Intended Effect (EIE) and supporting material between 7 December 2017 and 16 February 2018. The exhibition material comprised:

- Explanation of Intended Effects
- Planning Report
- Urban Design Report
- Heritage Report
- Land Application Map
- Height of Building Map

The exhibited proposal identified the following planning provisions for the site:

- A B4 Mixed Use zoning the site
- Maximum height of building controls to ensure that any future building is below the height of the pedestrian deck of Sydney Harbour Bridge and to protect views to and from the Sydney Harbour Bridge and Sydney Opera House. This would allow for any development of between 2 and 4 storeys.
- Maximum gross floor area (GFA) of 8,420m²
- Maximum car parking rate of 0.5 spaces per residential unit and no parking allocation for commercial premises
- A design excellence clause to deliver the highest standard of architecture, urban and landscape design
- Inclusion of a clause that allows the existing building to be retained in its current envelope over the site, with a maximum GFA of 7,010 m²
- A requirement for an activate street frontage along the property's Cumberland Street boundary, which could include uses such as commercial, retail and community facilities.

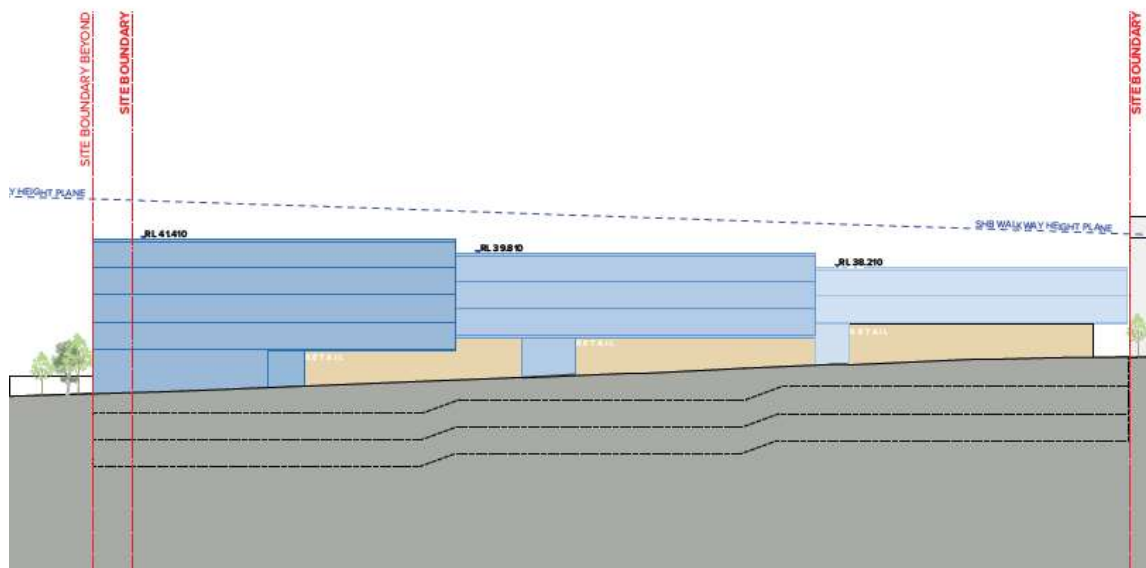


Figure 7 Proposed new height of building planning controls

5.2 Amendments to proposal

Following exhibition of the EIS and supporting documentation the Department's recommended changes to the proposal, which are outlined in Sections 5 and 6 of this report. The following key changes to the Amending SEPP are recommended:

- Change the land use zone from B4 Mixed Use to B8 Metropolitan Centre consistent with the Sydney LEP 2012.
- Include more flexible controls if the existing building is retained. The controls may be varied through an exception to development standards provision. Any such variation will be limited so that the Gross Floor Area (GFA) of any new elements must be below the height of the pedestrian deck of the Sydney Harbour Bridge. If the existing building is retained and/or reused any additional GFA is limited to a maximum of 1,410 m² (being the difference between the existing GFA of 7,010 m² and the allowable GFA of 8,420m² if the site is redeveloped).
- Amend the definition for 'height of building' to include plant and lift over runs consistent with the Standard Instrument – Local Environmental Plan.
- Amend the design excellence provisions to strengthen provisions addressing the bulk and scale of any future development and its relationship to the heritage values and urban scale of The Rocks.
- Extend the active street frontage clause to also apply to Gloucester Walk.
- Adopt similar car parking provisions to Sydney LEP 2012 to ensure that parking rates reflect different dwelling sizes and are applied to non-residential uses.

6 Consultation and Submissions

The Department exhibited the EIE and supporting documentation and invited submissions. This section outlines consultation undertaken by the Department and summarises the issues raised in submissions.

6.1 Exhibition

The Explanation of Intended Effect and supporting material was exhibited from 7 December 2017 to 16 February 2018. A letterbox drop was also undertaken to notify local resident in the neighbourhoods of Millers Point and The Rocks.

Exhibition documents were made available at the Department's Pitt Street Office, 320 Pitt Street, Sydney. The webpage dedicated to the project was updated with all exhibition material available to download.

The Department received 68 public submissions, including submissions from special interest groups. Submissions were also received from three State government agencies/ advisory bodies and the City of Sydney (Council).

6.2 Drop in sessions

Two community drop in sessions were held during the exhibition period:

- Wednesday 7 February 2018 (2:00 – 4:00 pm)
- Wednesday 7 February 2018 (6:00 – 8:00 pm)

There were 53 registrations for the sessions (26 afternoon, 27 evening), which included representatives from Council, industry, and community action groups including *Save our Sirius* supporters.

The sessions were attended by Departmental staff who were available to answer questions and talk about the material. Attendees were encouraged to make submissions through the Departments website.

6.3 Summary of public submissions

The key issues raised in public submissions are presented in Table 1:

Issue	Comment(s)
Heritage and cultural significance of the site	<ul style="list-style-type: none">• The heritage, cultural, social and architectural significance of the building itself has not been properly considered.• Strong support for the retention and adaptive reuse of the existing building.• The accompanying Heritage Impact Statement is inadequate, incomplete and does not consider the heritage significance of the building itself.• Request that a Conservation Management Plan is prepared for the site.• Concern that NSW Heritage Council advice, policies and guidelines have been ignored.
Affordable housing	<ul style="list-style-type: none">• Support the building being retained for social housing and affordable housing• Support for retention and adaptive reuse of the existing building

Issue	Comment(s)
Urban design and built form	<ul style="list-style-type: none"> • The accompanying Urban Design Report did not objectively assess view loss and view impacts including the cumulative effect of nearby redevelopment. • Concerns with the zoning, permissible land uses, the height of the building, GFA and car parking. • Concerns with the rationale behind the proposed height of the building and gross floor area. • Support for design excellence provisions.
Government process	<ul style="list-style-type: none"> • Opposition to the sale of the site. • Community submissions in support of heritage listing the building have been ignored.

Table 1 Concerns raised in public submissions

6.4 City of Sydney Council's submission

The City of Sydney Council prepared a detailed submission to the proposal (Appendix 3). Council's key comments and recommendations can be summarised as:

- Retention of Sirius and its continued use for social or affordable housing
- Preparation of a Conservation Management Plan
- Integration of The Rocks into the City of Sydney for strategic planning and management under Sydney LEP 2012
- The inclusion of provisions for appropriate infrastructure development and funding
- Application of a B8 Metropolitan Centre zoning
- Incorporation of sustainability requirements, including:
 - 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
- Dedication of minimum 10% of the residential floor space for affordable housing
- Implementation of the mitigation measures and recommendations outlined in Section 8.6 of the Heritage Impact Statement
- A thorough and independent review of the Heritage Impact Statement is required
- 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
- The inclusion of a reduced scale of development along Gloucester Walk
- Confirmation of the potential impact of any new development to ensure minimal impact upon the view of the Sydney Harbour Bridge along Cumberland Street
- Identification of appropriate setbacks and limits of underground parking to ensure retention of existing mature vegetation
- Clarification of car parking and building servicing provisions
- Investigation of the proposed secondary entrance to basement levels from Gloucester Walk
- The inclusion of design excellence provisions are essential
- 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
- Ensuring that any development must be the subject of a full architectural competition to facilitate design excellence
- Compliance with SEPP 65 and the Apartment Design Guide
- Minimise noise and vibration from the Sydney Harbour Bridge approaches while providing natural ventilation and air quality
- Encourage active street frontages along Cumberland Street

- Reflect the complex street pattern of The Rocks within any potential development.
- The Department also met with the Council as a key stakeholder.

6.5 State government and agency submissions

Submissions were also received from the following State Government agencies/advisory bodies:

- NSW Heritage Council
- Transport for NSW
- Roads and Maritime Services

A copy of all submissions is provided in Appendix 4.

7 Consideration of key issues

The Department's response to issues raised in submissions is provided in the following sections.

7.1 Heritage

7.1.1 Heritage, architectural and cultural values

Issues raised

NSW Heritage Council, several special interest groups and public submissions raised concern that the Amending SEPP did not acknowledge the heritage significance of the site and building and its role in The Rocks history, including:

- The heritage value of the Sirius Building and its role in urban fabric of The Rocks and the broader Heritage Conservation Area.
- The value of the Sirius Building as an iconic piece of brutalist architecture.
- The cultural value of the Sirius Building in representing the diversity and equity in the community.
- The association of the Sirius Building with social movements of its time.

Council's submission also raised issues about the heritage significance of the building, particularly due to its architectural qualities, landmark status, relationship to major changes in social policy, the Green Bans and its ongoing significance to the community of Millers Point and The Rocks. Council also requested a thorough and independent review of the accompanying Heritage Impact Statement.

A number of submissions, including Council, also raised concern with the adequacy of the Heritage Impact Statement and its ability to support a change to the existing planning controls for the Sirius site.

Department's response

The Department notes that heritage issues raised in submissions, including concerns about the extent to which heritage impacts had been addressed in the draft planning controls.

The Department notes that many submissions argued that the Sirius building should be listed on the State Heritage Register. However, the Department also notes that the listing of items on the State Heritage Register is a separate process that is beyond the scope of the Department's review of the applicable planning controls for the site.

In response to concerns raised over the adequacy of the Heritage Impact Statement, the Department commissioned GBA Heritage to undertake a peer review of the Heritage Impact Statement and to further address other heritage issues raised in submissions. A copy of the GBA report is provided in Appendix 5.

The GBA report draws the following key conclusions:

- The Sirius Building was constructed in the 1970s and remains one of the largest single sites in The Rocks Heritage Conservation Area.
- The Sirius Building was a sophisticated response to a complex social and architectural brief and was developed in a volatile environment when the community was applying pressure on the Housing Commission in the early 1970s.
- The public responses to the exhibition expressed strong concern about the potential loss of the Sirius Building as a work of Brutalist style architecture and as a social/affordable housing resource in central Sydney.

The GBA Heritage report also makes the following key recommendations:

- The exhibited planning controls for the redevelopment of the Sirius Site need further amendment to reduce potential impacts on surrounding Rocks Heritage Conservation Area.

- There should be provisions within the proposed planning controls to provide greater flexibility to retain and re-use the existing building.
- The following opportunities could be considered for a retained Sirius Building to achieve greater flexibility:
 - An ability for additional GFA to be added to the Sirius Building to achieve equality with the GFA provisions of the redevelopment scheme
 - An ability for the Design Excellence Provisions to be expanded to include specific reference to the protection and enhancement of the heritage significance of a retained Sirius Building
 - A recognition that a retained and re-used Sirius Building may not be able to meet all of the contemporary compliance objectives and requirements of the Apartment Design Guidelines and the Building Code of Australia.

The NSW Heritage Council's submission also stated that the controls should provide greater incentives to retain the building and strongly recommended that additional GFA be allowed, provided it is sympathetic to the building and The Rocks Conservation Area and do not impact on significant views in the locality.

The Department supports the opportunities to provide greater flexibility where the building is retained and that this could include additional GFA in a manner that is architecturally appropriate for the building and its setting.

The key recommended changes to the Amending SEPP to achieve this include:

- The existing GFA of the building may be varied through an exception to development standards provision. However, any such variation will be limited as follows:
 - any new elements must be below the pedestrian deck of the Sydney Harbour Bridge, consistent with the maximum heights established through the Urban Design Report and shown on the Height of Building Map.
 - any additional GFA is limited to a maximum of 1,410 m² (being the difference between the existing GFA of 7,010 m² and the allowable GFA of 8,420m² if the site is redeveloped).
- Expand on the design excellence provisions to ensure the protection of the heritage values of the surrounding locality.

These issues are also addressed in Section 7.2.1 below.

7.2 Urban design, building height and scale

7.2.1 Building height and scale if retained

Issues raised

Submissions generally supported the retention of the building and commented that the controls appeared to only apply to one development scenario to demolish and construct a new building on the site. Further, there was a lack of flexibility in the controls to encourage the retention of the existing building.

Department's response

The Department supports the opportunities to provide greater flexibility where the building is retained and that this could include additional GFA in a manner that is architecturally appropriate for the building and its setting.

The GBA Heritage report identified several specific opportunities to increase the GFA of the building as part of a retention and re-use outcome. These include:

1. The immediate proximity of Gloucester Walk and the eastern wall of the carpark provide opportunities for the introduction of commercial or retail premises within adjoining sections of the carpark, provided the ventilation provisions are reorganised
2. A carefully designed, consistent set of glazed or lightweight "conservatories" could be added to those roof tops that are below the Harbour Bridge deck level to provide additional living space for the upper level units in those locations.

3. Some of the small number of unenclosed dwellings could be enclosed and added to the useable floor space of adjacent units.
4. Redundant services rooms can be incorporated into adjacent dwellings.
5. The setbacks of the building from both Cumberland Street and Gloucester Walk suggest that some low level additional accommodation could be added as infills. This would need to be very carefully controlled and designed to minimise visual impact on the consistent presentation of the modular façade.

The Department proposes to amend the controls where the building is retained or reused. This is to be achieved through an exception to development standards provision, with appropriate limits on any additional GFA to minimise impacts on the architectural character of the building and significant views, including to and from the Sydney Opera House.

7.2.2 Height of building and density if the building is demolished

Issues raised

Several submissions, including the NSW Heritage Council, City of Sydney Council, Australian Institute of Architects, Docomomo Australia and The Millers Point Community Resident Action Group, raised concerns that the proposed height and GFA controls for any new development on the site would result in development of a bulk and scale that was incompatible with the finer grained buildings, streets and laneways and heritage values of the surrounding area of The Rocks. Council noted that the proposed building envelope shown in the Urban Design Report includes a potential four to six storey development on the Gloucester Walk boundary, which is considered excessive noting the character of the existing pedestrian thoroughfare.

Council was generally supportive of the approach to align the maximum height of building with the existing pedestrian deck of the Sydney Harbour Bridge but suggested additional controls to ensure no built elements project above an inclined plan from the edge of the Harbour Bridge walkway balustrade to the top of the Sydney Opera House podium.

Council also noted that the proposed definition for the 'maximum height of building' as outlined in the exhibited Urban Design Report would allow for lift overruns, parapets and other services to exceed the maximum height of building thereby impacting on views. Council recommended that the definition is revised to include all built elements such as lift overruns, parapets, plants and all other services.

Several submissions questioned the rationale for reducing the overall height to marginally improve the view corridor to and from the Sydney Harbour Bridge and Sydney Opera House.

Department's response

The exhibited EIE and supporting documents included proposed height and GFA controls for new development on the site that reflected the site analysis undertaken in the accompanying Urban Design Report. These controls were aimed at delivering a human scale development, sensitive to the streetscape that would promote activity at lower levels and improve view corridors to and from the Sydney Opera House and Sydney Harbour Bridge.

The GBA Heritage report acknowledges the proposed building envelope that extends to the street edge in Cumberland Street and close to the eastern frontage of Gloucester Walk, could create challenges to mitigate the bulk and scale of new development on surrounding areas of The Rocks. This outcome contrasts with the stepped massing of the Sirius Building which is confined to the central spine of the site, with public and private open space along the street edges to mitigate its scale.

The proposed maximum GFA for a new development is 8,420 m² and would be subject to the proposed design excellence provisions. This will ensure that sufficient consideration is given to the bulk and scale of future development and its relationship to surrounding development. As noted in Section 6.1 above, the Department supports refinement of the design excellence clause to ensure protection of the heritage values and character of the surrounding area.

The Department also recommends that the active street frontage clause be expanded to also include the site's boundary to Gloucester Walk (Section 6,2.4). This will facilitate an appropriate scale of development and interface with Gloucester Walk.

The Department considers that the retention and enhancement of views to the Opera House is an important driver of future building height and scale. It is proposed that the heights included in the SEPP Amendment (ie, RL 38.2 at southern end of site, RL 39.8 in central part of site and RL 41.4 at northern end of the site) are retained. However, the Department agrees that the definition of 'maximum height of building' should be amended to include all built elements consistent with *the Standard Instrument – Local Environmental Plan*, as follows:

building height (or height of building) means:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

7.2.3 Design excellence

Issues raised

Submissions received generally supported the inclusion of design excellence provisions. This included the submissions from NSW Heritage Council, the Australian Institute of Architects, the Millers Point Community Residents Group and Architectus.

The main issues raised related to the application of the clause and confusion whether the clause would apply to both retention and development of the Sirius Site.

A number of submissions did not support the requirement for an architectural design process (competition) for minor alterations if the building was retained. Other comments raised included strengthening the clause to specifically consider the potential impacts to the streetscape and heritage values of the surrounding area.

Council was also supportive of design excellence, subject to any architectural design process not resulting in an increase in the maximum height or GFA.

Department's response

The Department notes the general support for design excellence and considers that they are important to ensure the highest standard of architectural, urban and landscape design on the site is achieved. The GBA heritage review also acknowledged that design excellence is an important mechanism to achieve a sensitive design approach regarding urban scale and surrounding heritage value. The GBA Report also recommended that the provisions be expanded to included specific reference to the protection and enhancement of the heritage significance of the Sirius Site if retained.

It is recommended that the design excellence clause be amended to clarify its application to both a new building or any alterations or additions to the existing building. The design excellence provisions should also be strengthened to address the bulk and scale of any future development and its relationship to the heritage values and urban scale of The Rocks.

7.2.4 Active street frontage

Issues raised

Submissions generally supported active street frontage provisions. Council's submission noted that the active street frontage provision would promote uses that would attract pedestrian traffic along frontages in particularly Cumberland Street.

As noted in Section 6.2.2, Council also raised concerns about the relationship of future development along the site's boundary with Gloucester Walk.

Department's response

The Department supports the active street frontage clause as a means of promoting uses that attract street level activity, as well as an appropriate design interface between the site and its adjoining streets.

The Department has further considered the issues raised by Council in relation to the interface of future development along Gloucester Walk. The Department considers that activation of Gloucester Walk is also a desirable outcome and therefore recommends expansion of the active street frontage clause to both Cumberland Street and Gloucester Walk

7.3 Car parking and servicing

Issues raised

A number of submissions raised issues with the proposed car parking rates. RMS advised that it is supportive of maximum car parking controls or any other travel demand management measure that would promote the use of public and active transport.

Transport for NSW expressed support for the adoption of Council's car parking rates as detailed in the Sydney LEP 2012. Council requested clarification on parking rates as identified in the EIE document. Specifically, that the application of a rate of 0.5 spaces per residential unit does not equate to the current parking availability in the existing building which provides 70 spaces to 79 dwellings (an actual rate of 0.9 spaced per unit).

However, the EIE also notes that the proposed GFA of 8,420 m² would allow for approximately 85 dwellings. Consequently, the resultant parking allocation would vary between 42 spaces (at 0.5 spaces per unit) and 77 spaces (at 0.9 spaces per unit).

Council also stated that if car parking rates from the Sydney LEP 2012 were adopted, the maximum car provision would be:

- 51 spaces (if considered Category A, similar to Circular Quay and the Sydney CBD)
- 74 spaces (if considered Category B, similar to Millers Point)

Issues were also raised in submissions about site access and servicing. Transport for NSW advised that any future servicing and loading requirements should not rely on on-street loading zones. Council also expressed concern that any secondary entrance to basement levels from Gloucester Walk could result in conflicts with pedestrians, weekend markets and additional traffic impacting George Street.

Department's response

The Department has considered the car parking rates and has identified the following issues with the draft rate of 0.5 spaces per unit in the draft SEPP Amendment:

- It does not account for non-residential uses such as a hotel
- It applies a flat rate that does not account for different dwelling sizes

The Department agrees that the Sydney LEP 2012 parking rates would address these issues and recommends that they be applied to the site as follows:

1. Adopt the same parking rates that apply to land in Category A, consistent with the Sydney CBD and majority of land zoned B8 Metropolitan Centre (see recommendation that the site be zoned B8 in Section 6.5), ie:
 - a. The maximum number of car parking spaces for **residential flat buildings and multi-dwelling housing** is as follows:
 - i. For each studio dwelling – 0.1 spaces, and
 - ii. For each 1 bedroom dwelling – 0.3 spaces, and
 - iii. For each 2 bedroom dwelling – 0.7 spaces, and

- iv. For each 3 bedroom dwelling – 1 space
- b. The maximum number of car parking space for **serviced apartments or hotel or motel accommodation** is as follows:
 - i. 1 space for every 4 bedrooms up to 100 bedrooms, and
 - ii. 1 space for every 5 bedrooms more than 100 bedrooms.
- 2. Car parking rates for development other than residential flat buildings, multi-dwelling housing, serviced apartments, or hotel and motel accommodation would need to be justified in a Parking and Access Report submitted with the relevant DA. Such a provision is consistent with the provisions of the Sydney Development Control Plan 2012.

The Department notes that site access and servicing will be included in the matters for consideration in the design excellence clause, ensuring that they are properly addressed at DA stage. As a result no further provisions are considered necessary in relation to these issues.

7.4 Affordable housing

Issues raised

A number of submissions, including from Council, Alex Greenwich MP, Save Our Sirius Foundation, Friends of Millers Point, The Millers Point Community Resident Action Group, Historic Houses Association of Australia, as well as private submissions, raised concern that the proposal did not make provision for affordable housing.

Council and Save our Sirius Foundation sought a target of minimum 10% of the residential floor space for affordable housing as a requirement of the Amending SEPP.

Department's response

Strategy 11.2 of the *Greater Sydney Region Plan 2018* states, 'State agencies when disposing or developing surplus land for residential or mixed-use include where viable a range of initiatives to address housing diversity and rental affordability'.

The Department notes that the divestment of the site is being undertaken to raise funds for new social housing across Sydney. Accordingly, the sale and redevelopment of the site will have a benefit in terms of its contribution to affordable housing provision. However, the Department also notes that in line with the Greater Sydney Region Plan and its supporting District Plans, there are clear metropolitan planning objectives seeking to increase affordable housing opportunities in areas that are well located with good to access to employment, transport and services.

In responding to the issues raised in the submissions the Department has investigated the options to include an affordable housing provision in the Amending SEPP, however any provision must meet the requirements of the EP&A Act and a detailed assessment and evaluation of a proposed scheme, based on need and merit, would be required to develop an appropriate allocation of Floor Space under a scheme.

Given this policy context and the site's location and its historic use for social housing, it is considered appropriate that any redevelopment of the site consider an affordable housing contribution. The Department would consider the merits for any affordable housing contribution during the development assessment (DA) for the redevelopment of the Sirius Site.

7.5 Zoning

Issues raised

A number of submissions raised issues with the proposed B4 Mixed Use Zone for the site. The main issue related to concern over the wide range of permitted uses available under the proposed zone and therefore departure from a zoning that may not be compatible with the original function of the building to provide social housing. Docomo Australia also expressed concern that the B4 zoning does not permit residential flat buildings, consistent with its current use.

Council recommended that the proposed land use zone for the site be amended to a B8 Metropolitan Centre, as The Rocks precinct adjoins the existing Central Sydney B8 Metropolitan Centre zone and is a natural extension of the B8 Metropolitan Centre zone under the Sydney LEP 2012 which applies to the CBD.

Department's response

The Land Use Zone for the site requires flexibility in types of permitted uses to support the existing character and development within The Rocks and surrounding area including residential, commercial, retail, entertainment and tourist accommodation. The proposed B4 zoning was selected for this reason. The Department also notes that residential flat buildings are a permissible use in the B4 zone.

The Department however has further considered Council's position that a B8 zoning is more appropriate for the site given its location relative to the Central Sydney B8 Metropolitan Centre zone (Figure 3). The Department notes that the B8 zone's objectives are more appropriate than the B4 zone objectives for a site in this location and of such significance, whilst allowing for a diverse mix of land use types, including residential flat buildings, that are compatible with the surrounding areas of The Rocks and Sydney CBD. Table 2 provides a comparison of the provisions of the B4 Mixed Use and B8 Metropolitan zones in Sydney LEP 2012.

On this basis, the Department recommends that the site be zoned B8 Metropolitan Centre as there is no material difference between the two zoning objectives.

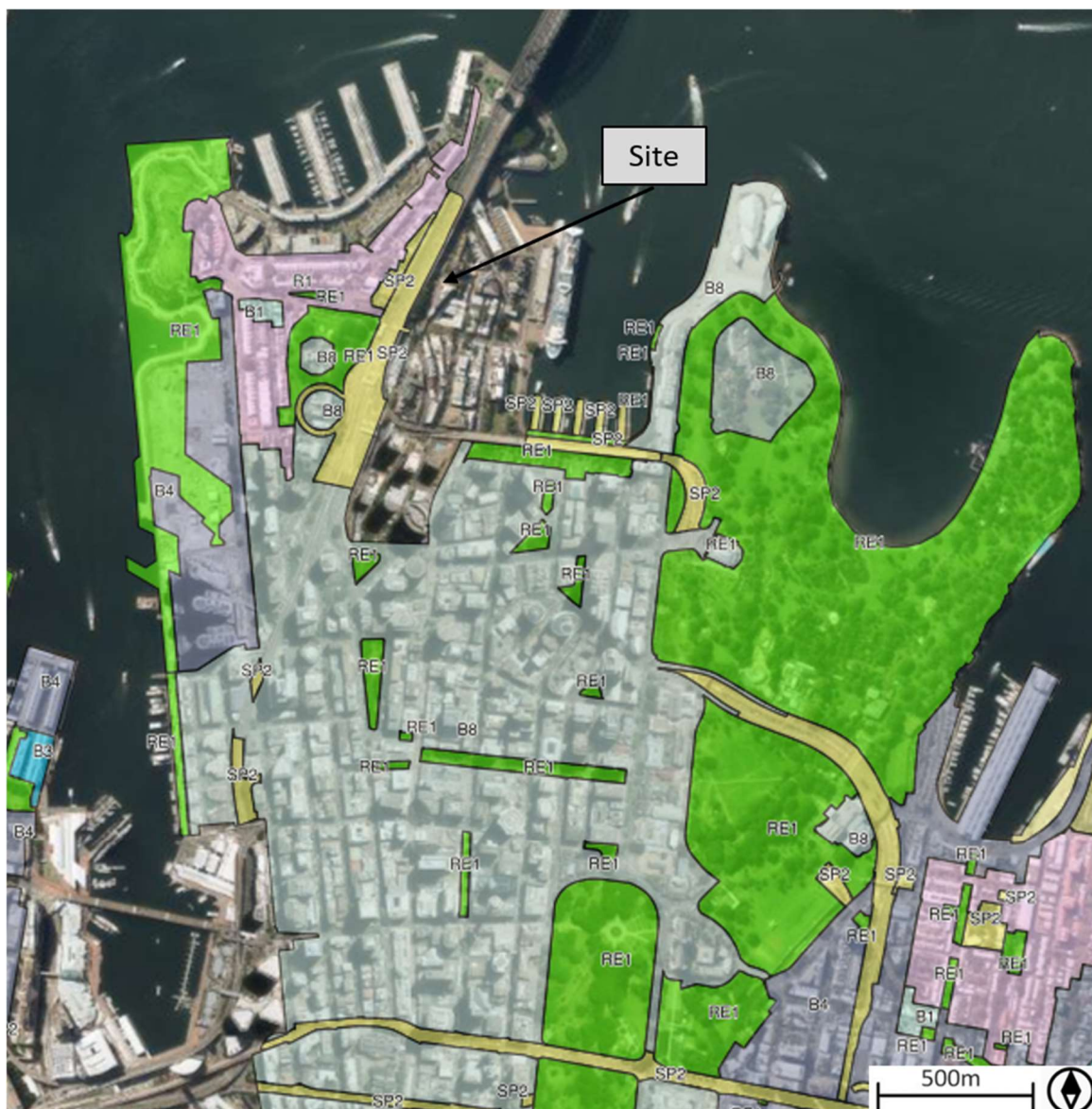


Figure 8 Surrounding Land Use Zones (Base source: Departments Planning Portal)

Zone B4 Mixed Use (as per draft SEPP amendment)	Zone B8 Metropolitan Centre (Sydney LEP 2012)
Objectives	Objectives
a) To provide a mixture of compatible land uses. 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.	a) 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. b) To provide opportunities for an intensity of land uses commensurate with Sydney's global status. c) To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community. d) To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling. e) 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.
Permitted without consent	Permitted without consent
Nil	Nil
Permitted with consent	Permitted with consent
Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing	Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Tourist and visitor accommodation; Any other development not specified in item 2 or 4
Prohibited	Prohibited
Any other development not identified as permitted without consent or permitted with consent	Nil

Table 2 Comparison of B4 and B8 Land Use Zones

8 Conclusion

The Department has carefully considered the proposed planning controls for the Sirius Site and the issues raised in submissions together with the recommendations in the GBA Heritage report. The Department recommends the following key changes to the Amending SEPP:

- Change the land use zone from B4 Mixed Use to B8 Metropolitan Centre consistent with the Sydney LEP 2012. This has the effect of creating consistency with zoning to adjacent sites whilst still allowing for residential and mixed use developments.
- Allow for variation to development controls where the building is retained. These changes will be limited so that the height of any new element must be below the pedestrian deck of the Sydney Harbour Bridge and any additional GFA is limited to a maximum of 1,410 m². The effect of this proposed change is to provide greater flexibility.
- Amend the definition for 'height of building' to include all built elements consistent with the Standard Instrument – Local Environmental Plan. This clarifies that any new development will be below the pedestrian deck of the Sydney Harbour bridge, in accordance with stated urban design objectives
- Amend the design excellence provisions to strengthen provisions addressing the bulk and scale of any future development and its relationship to the heritage values and urban scale of The Rocks.
- Extend the active street frontage clause to also apply to Gloucester Walk.
- Adopt similar car parking provisions to Sydney LEP 2012 to ensure that parking rates reflect different dwelling sizes and are applied to non-residential uses.

The amended proposal has a number of benefits, including:

- A zoning of the site that will enable a range of compatible land uses aligned with the zoning of the adjacent Sydney CBD.
- More flexible planning controls that could encourage development that is sympathetic to the character of The Rocks Conservation Area and significant views in the locality.
- Controls which will facilitate improved design and public domain outcomes.
- Refined car parking controls which will ensure appropriate car parking rates for a range of uses on the site and that are consistent with car parking controls already applying to the Central Sydney area.

Following detailed assessment of the issues raised in the submissions, the Department considers that *State Environment Planning Policy (36-50 Cumberland Street, The Rocks – Sirius Site) 2018 (Amending SEPP)* which will amend Schedule 3 of the *State Environment Planning Policy (State Significant Precincts)* should proceed, subject to the post-exhibition changes described above.

The Department therefore recommends that the Minister for Planning refers the Amending SEPP instrument to the Governor to be made.

9 Supporting Studies and Material

Appendix 1 Amending SEPP – written instrument

Appendix 2 Amending SEPP – Maps

Appendix 3 City of Sydney submission

Appendix 4 State Agency submissions

Appendix 5 GBA Heritage Report