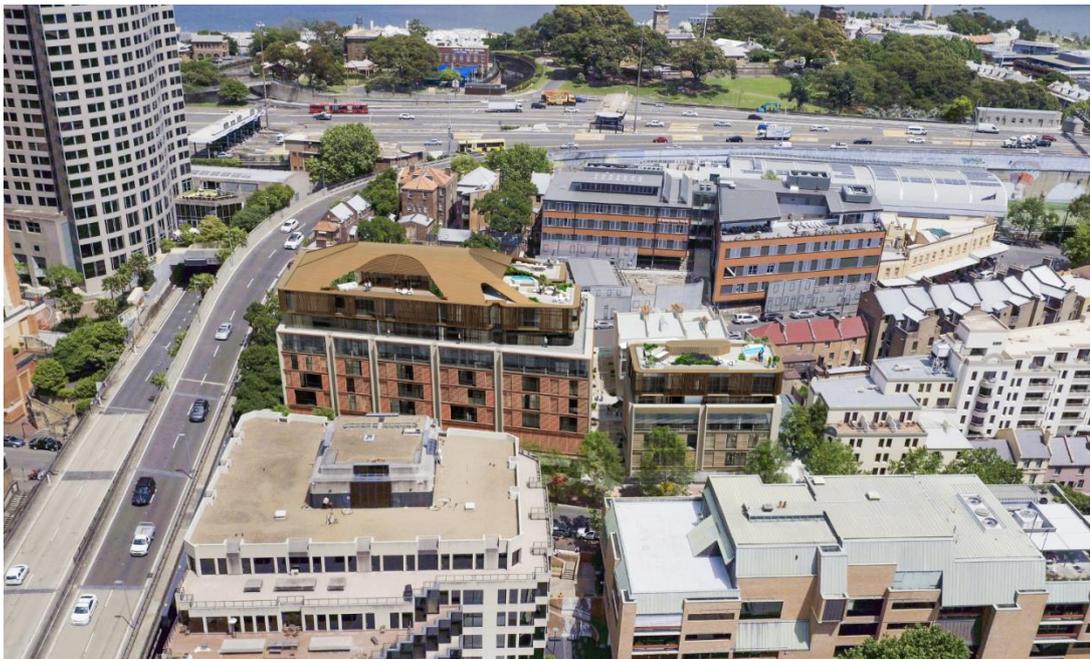




**STATE SIGNIFICANT DEVELOPMENT
ASSESSMENT REPORT:
*Mixed Use Redevelopment, 85 Harrington
Street & 68 – 72 Gloucester Street, The
Rocks and Variation to the Sydney Cove
Redevelopment Authority Scheme***

SSD 7037



Environmental Assessment Report
Section 89H of the *Environmental Planning and
Assessment Act 1979*

December 2017

ABBREVIATIONS

| | |
|-----------------|---|
| ADG | Apartment Design Guide |
| Applicant | Golden Age & Hannas The Rocks Pty Ltd, or any other person or persons who rely on this consent to carry out the development that is subject to this consent |
| BCA | Building Code of Australia |
| CIV | Capital Investment Value |
| CPTED | Crime Prevention Through Environmental Design |
| Council | City of Sydney Council |
| Commission | Planning Assessment Commission |
| Department | Department of Planning and Environment |
| EIS | Environmental Impact Statement prepared by Urbis titled <i>75-85 Harrington Street, The Rocks</i> , dated July 2016 |
| EP&A Act | <i>Environmental Planning and Assessment Act 1979</i> |
| EP&A Regulation | <i>Environmental Planning and Assessment Regulation 2000</i> |
| EPI | Environmental Planning Instrument |
| ESD | Ecologically Sustainable Development |
| GFA | Gross Floor Area |
| Minister | Minister for Planning |
| OEH | Office of Environment and Heritage |
| RMS | Roads and Maritime Services |
| RTS | Response to Submissions prepared by Urbis titled <i>85 Harrington Street, The Rocks: Response to Submissions</i> , dated 9 August 2017 |
| RRTS | Revised Response to Submissions prepared by FJMT titled <i>Response to Department of Planning and Environment</i> , dated 19 October 2017 |
| SCRA Scheme | Sydney Cove Redevelopment Authority Scheme |
| SEARs | Secretary's Environmental Assessment Requirements |
| Secretary | Secretary of the Department of Planning and Environment, or delegate |
| SEPP | State Environmental Planning Policy |
| SDCP 2012 | Sydney Development Control Plan 2012 |
| SLEP 2012 | Sydney Local Environmental Plan 2012 |
| SRD SEPP | State Environmental Planning Policy (State and Regional Development) 2011 |
| SSD | State significant development |
| TfNSW | Transport for New South Wales |

Cover Photograph: Photomontage of proposed development looking west (Source: Applicant's EIS)

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EXECUTIVE SUMMARY

This report provides an assessment of a State Significant Development application (SSD 7037) lodged by Golden Age & Hannas The Rocks Pty Ltd (the Applicant) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The application seeks approval for demolition, construction of two mixed-use buildings with basement car parking, and adaptive re-use of existing heritage buildings at 85 Harrington Street and 68-72 Gloucester Street, The Rocks.

The development is SSD under clause 6 of Schedule 2 of the State Environmental Planning Policy (State and Regional Development) 2011, as it is a development within The Rocks with a CIV of more than \$10 million and does not comply with the Sydney Cove Redevelopment Authority Scheme (SCRA Scheme). A SCRA Scheme variation is therefore concurrently sought to enable development consent for the proposed building envelopes to be granted for the development. The Minister for Planning is the consent authority for the SSD application and is responsible for the making of the SCRA Scheme variation.

The Department of Planning and Environment (the Department) exhibited the proposal and SCRA Scheme variation for 30 days from 18 August to 16 September 2016. The Department received 14 public submissions (nine of which objected to the proposal) and seven submissions from public authorities.

City of Sydney Council (Council) objected to the proposal for reasons including building height, setbacks, heritage impacts, lack of amenity for future occupants and excessive car parking. The Office of Environment and Heritage (OEH) also objected to the proposal due to adverse heritage impacts from the proposed height and setbacks to the Baker's Terrace. Key issues raised in public submissions related to building height and scale, impacts on the character of The Rocks and neighbouring heritage items, and privacy impacts.

Given the sensitivity of the site's context and issues raised in respect of visual and heritage impacts of the proposed buildings, the Department sought independent, expert heritage and design advice from Professor Peter Webber to assist in its assessment of the proposal. The independent review noted many positive attributes of the proposal but raised concerns regarding the height and built form of Building 1, the relationship of the development to the heritage context, and the residential amenity of future residents.

On 15 August 2017, the Applicant submitted a Response to Submissions report (RTS) which detailed design amendments to the proposal and provided additional information to respond to key issues raised in submissions. The RTS included a reduction in height and redesign of the upper levels and roof form of the larger building (Building 1), alterations to the proposed building heights, reconfiguration of commercial and residential floorspace and deletion of a basement car parking level. An amended SCRA Scheme variation reflecting the revised design was also provided.

The RTS and amended SCRA Scheme variation were publicly exhibited for 30 days from 17 August to 15 September 2017. In response to the RTS, the Department received eight public submissions and four submissions from public authorities.

Council maintained its objection for reasons including bulk and scale/ variation to the SCRA Scheme building envelope, heritage impacts, visual impacts, variations to ADG guidelines and excessive car parking. OEH did not object to the revised development, subject to a condition regarding further details relating to the retention of the heritage fabric of the Baker's Terrace.

Key issues raised in public submissions were consistent with submissions for the original proposal except for additional concerns raised regarding potential Sydney Opera House view impacts and construction impacts.

A Revised Response to Submissions (RRTS) was received on 24 October 2017. The RRTS included relatively minor design changes to improve the amenity of some proposed unit types. Additional information was also provided in respect of visual privacy, views, solar access, natural ventilation, overshadowing and car parking.

The Department has considered all relevant matters under section 79C of the *Environmental Planning & Assessment Act 1979* (EP&A Act), the objects of the EP&A Act and the principles of ecologically sustainable development. The key issues in the Department's assessment of the proposal are built form/consistency with the character of the area, potential amenity impacts, public domain improvements, residential amenity and car parking.

The Department considers the proposed built form of the development, as revised through the assessment process, will sit comfortably within the surrounding heritage context and will provide an attractive and visually interesting built form that is sympathetic to the overall character of The Rocks. Although the proposal will have some impacts on existing views from commercial uses and hotels, the Department considers the impacts to be acceptable.

Professor Webber's independent review of the proposal concludes the built form and architectural character of the development is of excellent quality and is fully supported.

The development incorporates significant public benefit outcomes that will contribute positively to vibrancy and vitality of The Rocks. The key benefits include a new public plaza, enlivened by adjacent retail tenancies, a significantly improved through-site link together with a public lift, and activation of the Harrington Street and Gloucester Street frontages.

The Department's review of the internal amenity of the proposed units concludes future residents will be provided with a high level of amenity through good design, consistent with the intent of the ADG.

Given the CBD location of the site and close proximity to various modes of public transport, a condition is recommended to reduce the number of car parking spaces from 63 to 53. The local road network has sufficient capacity to accommodate traffic movements generated by the development.

The Department concludes the proposal is consistent with the strategic objectives for the area, as outlined in *NSW 2012, A Plan for Growing Sydney*, the *Draft Towards our Greater Sydney 2056* and the *Draft Eastern City District Plan*. The proposal would result in a wide range of positive social and economic impacts, including a high-quality mix of uses, increased housing availability and choice near public transport, increased employment opportunities and services, and improved public domain outcomes which will benefit residents, workers and visitors. The development will also result in a desirable environmental heritage outcome due to the proposed adaptive re-use and associated conservation and maintenance works to the Baker's Terrace.

As Council has maintained its objection to the application (primarily due to bulk and scale, heritage, residential amenity and car parking), it is therefore being referred to the Planning Assessment Commission for determination. The Department concludes the development is in the public interest and is capable of being approved, subject to the SCRA Scheme variation being made and the recommended conditions.

1. BACKGROUND

1.1 Introduction

This report provides an assessment of a State Significant Development application (SSD 7037) lodged by Golden Age & Hannas The Rocks Pty Ltd (the Applicant) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The application seeks approval for a mixed-use redevelopment at 85 Harrington Street and 68-72 Gloucester Street, The Rocks (the site).

1.2 The Site

The site is known as 85 Harrington Street ('Harrington Court') and 68-72 Gloucester Street ('Baker's Terrace') and is located within The Rocks directly north of the Cahill Expressway (**Figure 1**).

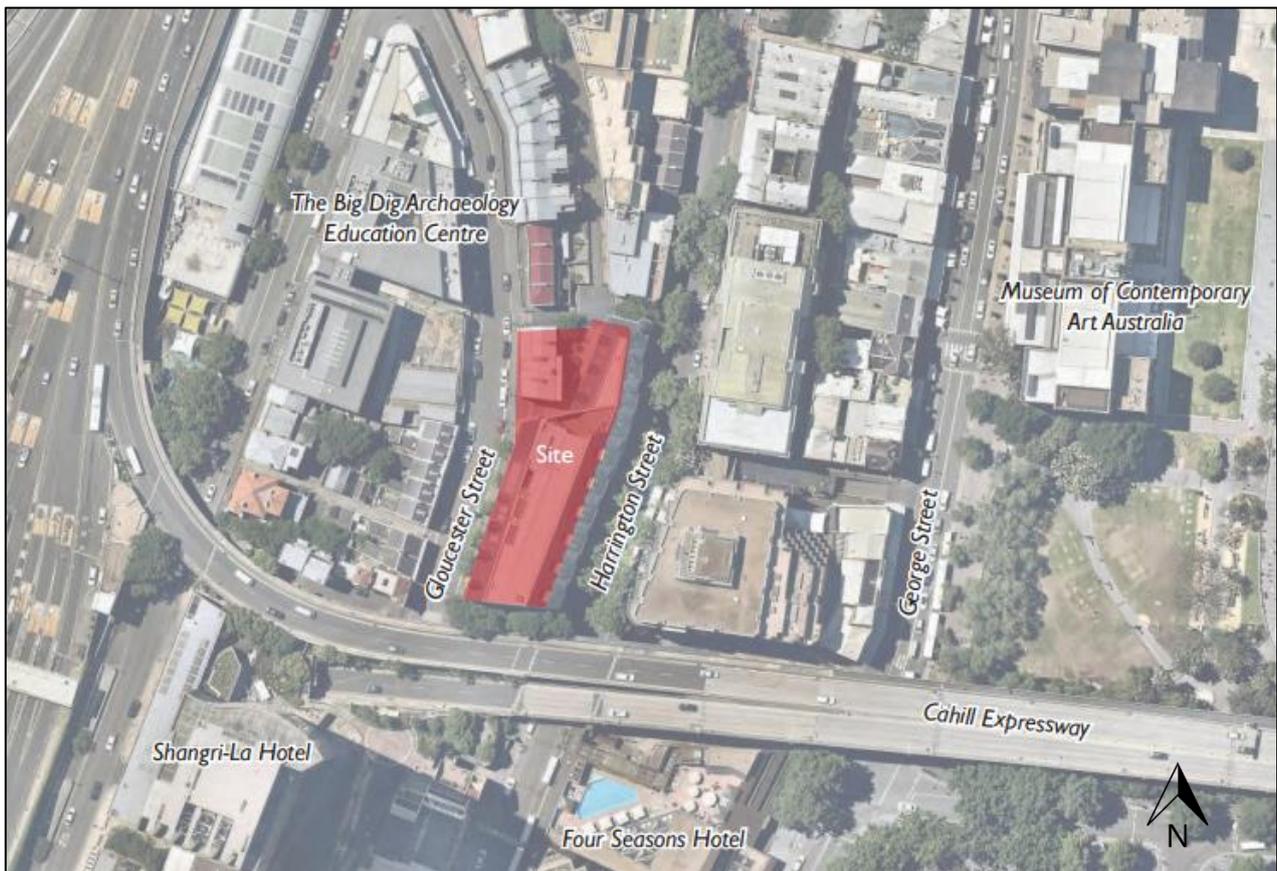


Figure 1: Site location (highlighted in red) (Source: Applicant's EIS)

The site is bound by Harrington Street to the east, Gloucester Street to the west, the Cahill Expressway to the south and the historic Cumberland Place and Steps to the north. An east-west through-site pedestrian link, partially beneath the existing Harrington Court building, currently dissects the site between Harrington Street and Gloucester Street.

The site has a total area of 2,110 m², comprising Lot 1 in DP 777033. It is generally rectangular and steps down significantly from Gloucester Street to Harrington Street, approximately 10.2 m between the north-eastern corner to the north-western corner and 9.7 m between the south-western corner to the south-eastern corner of the site.

Figure 2 identifies the existing buildings within the site.

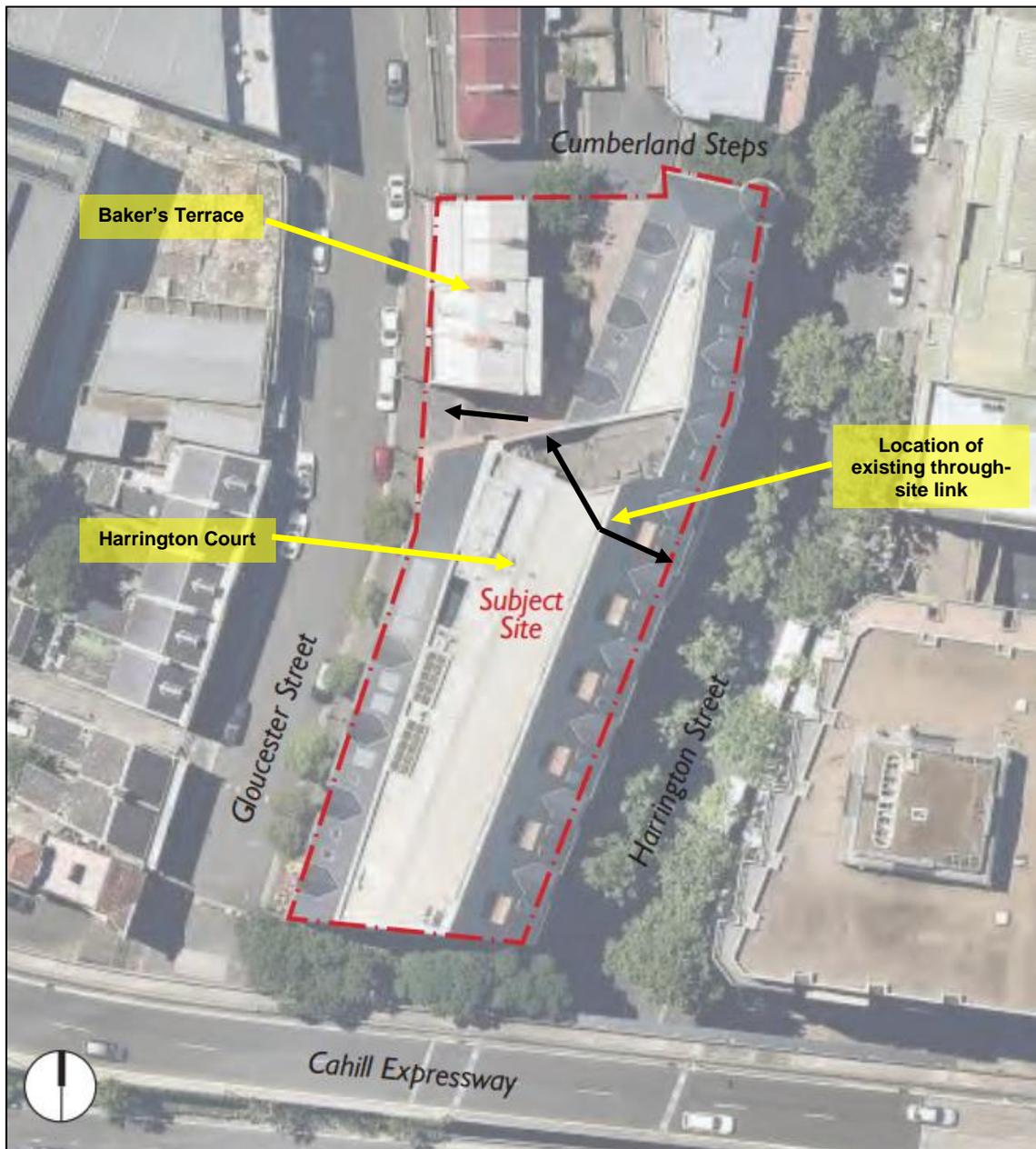


Figure 2: Site shown outlined in red (Base source: Applicant's EIS)

Harrington Court comprises a 1980s commercial building with a height of five storeys fronting Harrington Street (with two further storeys contained in the sloping roof form) and three storeys fronting Gloucester Street (with an additional storey within the sloping roof form). The building has two levels of basement car parking accessed from Harrington Street.

The Baker's Terrace comprises four attached terraces with a height of two storeys fronting Gloucester Street (plus roof level dormer windows) and three storeys at the rear courtyard. The terraces date from 1875 to 1882 and are listed on the State Heritage Register. The terraces were in continuous residential use until the late 1970s when they were altered internally and converted to commercial use.

Photographs of existing buildings on the site are provided at **Figures 3, 4 and 5**.



Figure 3: Harrington Court viewed from Harrington Street looking north (Source: Department's photograph)



Figure 4: Harrington Court viewed from Harrington Street looking south (Base source: Department's photograph)

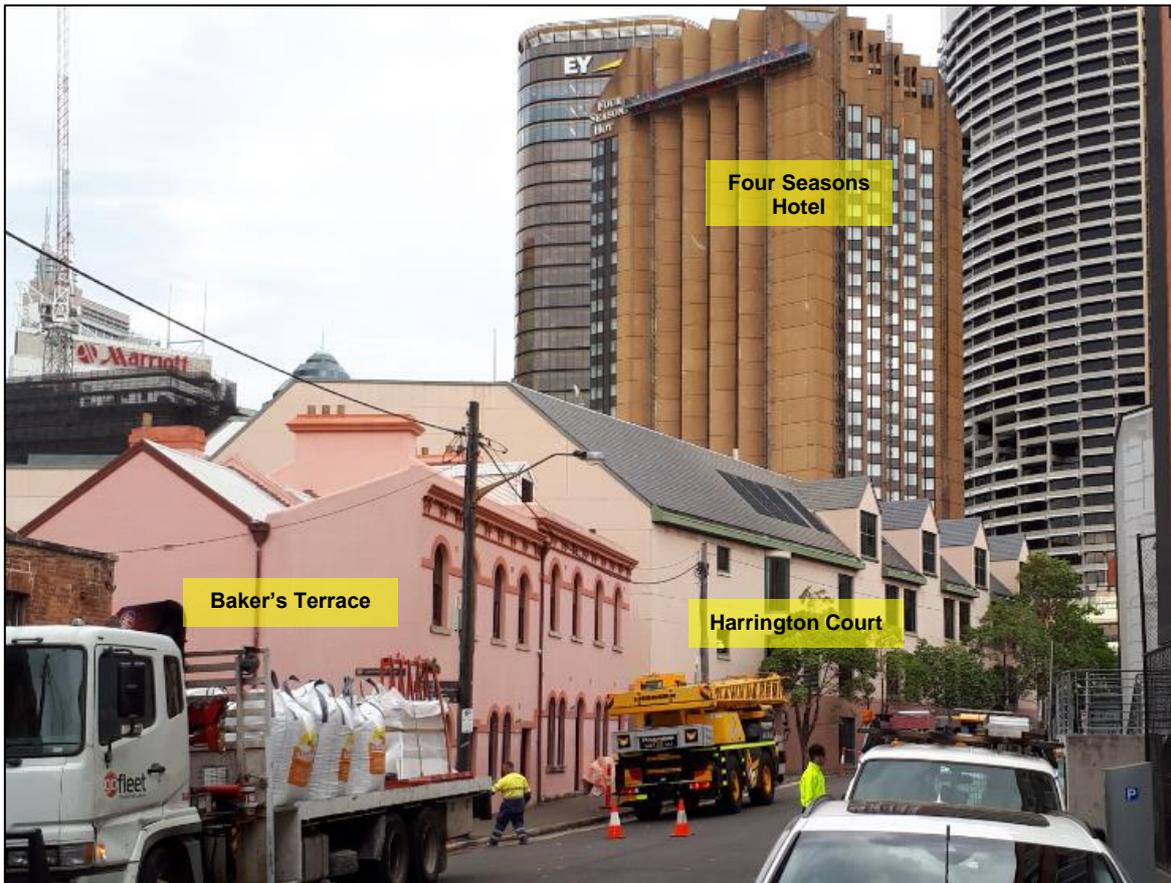


Figure 5: Baker's Terrace and Harrington Court viewed from Gloucester Street looking south (Base source: Department's photograph)

1.3 Site Surroundings

The site and surrounding area form part of The Rocks, located to the north of the Sydney Central Business District (CBD) and within the City of Sydney Council (Council) local government area. The site and its surrounds are illustrated in **Figure 6**.

The surrounding area is characterised by a mix of buildings and uses, including:

- the historic Millers Points precinct and Sydney Harbour Bridge to the north
- the Overseas Passenger Terminal and Sydney Opera House to the north-east
- Circular Quay and the Royal Botanic Gardens to the east
- large hotel and commercial towers directly to the south
- Barangaroo to the south-west
- Sydney Observatory to the west.

The site is well serviced by a range of public transport modes, including Wynyard Railway Station and bus interchange approximately 500 m to the south and the Circular Quay Railway Station and ferry terminal approximately 250 m to the east. A light rail stop is also under construction at Circular Quay with services to Central commencing in 2019.

Figure 7 provides an aerial view of the site and surrounding buildings looking south.



Figure 6: Site location plan (site outlined in red) (Base source: Nearmap)

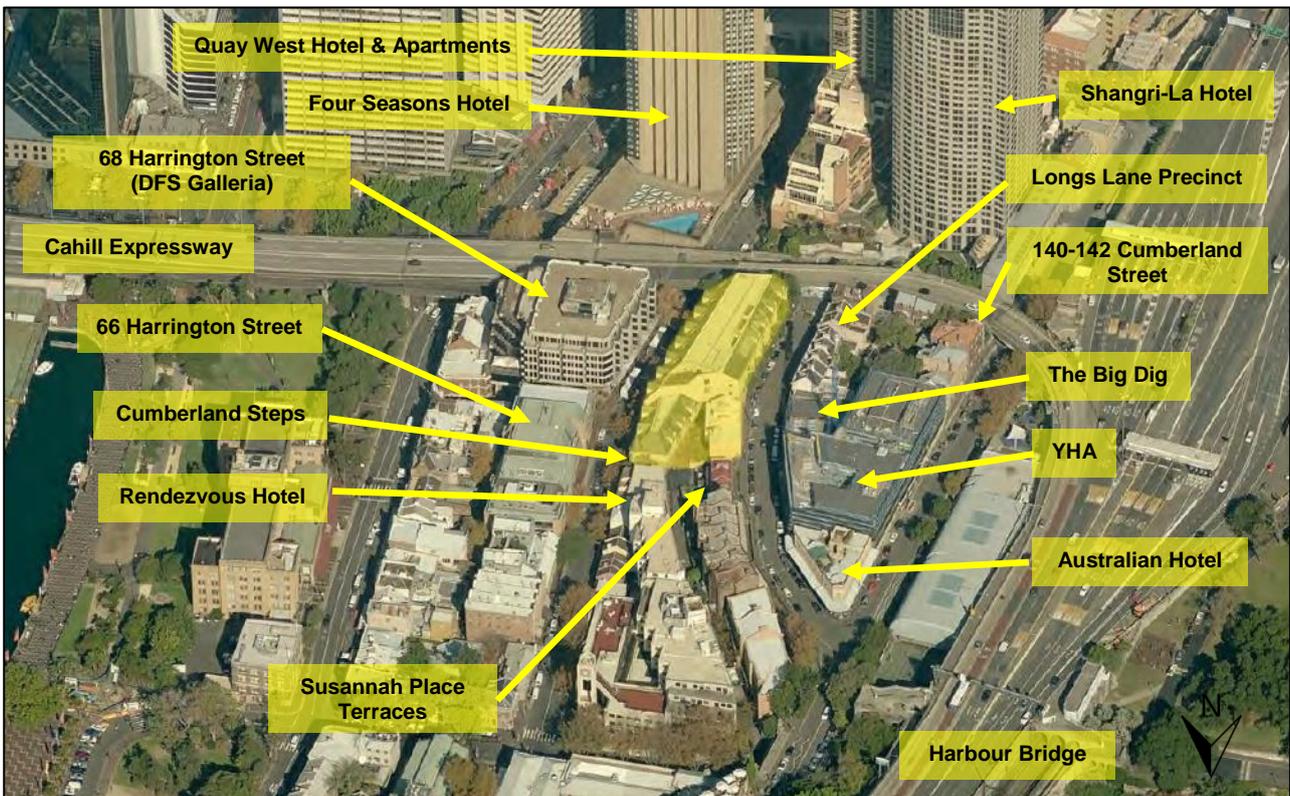


Figure 7: Aerial view of site looking south. Site shown in yellow (Base source: EIS)

The State heritage listed Cumberland Place and Steps (a circa 1808 pedestrian thoroughfare connecting Gloucester Street and Harrington Street) forms the northern boundary of the site. The State heritage listed Susannah Place Terraces are located to the northern side of the Cumberland Steps adjacent to Gloucester Street. The Rendezvous Hotel (35-55 Harrington Street) is located directly north of the Cumberland Steps.

Two to three storey buildings forming part of the historic Long's Lane Precinct are located on the western side of Gloucester Street. The Long's Lane Precinct comprises a cluster of 19th and early 20th century houses, rear yards and laneways between Gloucester Street and Cumberland Street. Jobbins Terrace (circa 1855-1857) is located at 103-111 Gloucester Street with further historic terraces located at 113-115 & 117 Gloucester Street.

Opposite the site on the western side of Gloucester Street is 'The Big Dig Archaeology Education Centre', a contemporary development constructed above a State significant archaeological site. The development also incorporates the four to five storey Youth Hostel Australia (YHA) building which infills the gap between the Education Centre and the Australian Hotel, located on the corner of Gloucester Street and Cumberland Street.

On the eastern side of Harrington Street is the rear of the DFS Galleria complex, a 1980s commercial development extending six to nine storeys. A public stairway separates the building from 66 Harrington Street to the north, a four-storey brick commercial building.

The elevated Cahill Expressway (the Expressway) and rail corridor below are located to the south, separated from the site by a narrow strip of land under the ownership of RMS and Property NSW. To the south of the Expressway are several high-rise towers including the Shangri-La and Four Seasons hotels and the Quay West hotel and apartments.

2. PROPOSED DEVELOPMENT

2.1 Development Description

The application originally proposed a part nine/ part ten-storey building (Building 1) and a six-storey building (Building 2) containing 64 residential units with three levels of basement parking (95 car parking spaces). The southern end of Building 1 included commercial floorspace extending over eight storeys.

In response to public submissions, public authority and Council comments and discussions with the Department, the application has been amended during the assessment process through the Response to Submissions (RTS) and Revised Response to Submissions (RRTS) reports.

Key amendments to the proposal as exhibited in the EIS include:

- significant redesign of the roof and podium elements of Building 1, including reduction in maximum height and maximum parapet heights fronting Harrington Street and Gloucester Street
- increased setbacks at levels 6 to 8 of Building 1 to Baker's Terrace, Gloucester Street and Harrington Street
- relocation of commercial floorspace to level 1 of Building 1
- internal revisions and introduction of two storey traditional 'stoop style' units fronting Gloucester Street
- maximum height of Building 2 increased by 1.6 m and provision of private roof top open space
- reduction in number of residential units from 64 to 58 (inclusive of the two townhouses within the Baker's Terrace)
- reduction in basement levels from three to two and associated car parking spaces reduced from 95 to 63.

The key components and features of the proposed development, as refined in the RTS and RRTS are provided in **Table 1** below and are shown in **Figures 8** and **9**.

Table 1: Key components of the development

| Aspect | Description |
|---|---|
| Demolition | <ul style="list-style-type: none"> Demolition of 85 Harrington Street ('Harrington Court') commercial building. |
| Excavation | <ul style="list-style-type: none"> Excavation for two level basement car park. |
| Adaptive re-use works to Baker's Terrace | <ul style="list-style-type: none"> Internal alterations to convert the basement/ lower ground level to a dining area/café and the ground and first floors to residential use. Minor modifications to the original fabric is also proposed. Removal of intrusive basement slab and brick skin walls. Various conservation and maintenance works. |
| Built form | <ul style="list-style-type: none"> Construction of two mixed-use buildings (Building 1 and Building 2) over a combined basement: <ul style="list-style-type: none"> Building 1: Part seven/part nine-storeys fronting Gloucester Street and Harrington Street (maximum 33 m/RL 49.43) Building 2: Six storeys fronting Harrington Street (maximum 22 m/RL 36.6 to roof/RL 38.9 to top of plant). |
| Public domain works | <ul style="list-style-type: none"> New pedestrian through-site link between Harrington Street and Gloucester Street including new public lift access. The link will replace an existing link within the site. New public plaza located between Building 1, Building 2 and the Baker's Terrace. Associated seating, planter boxes and landscape works to public domain areas. |
| Access and car parking | <ul style="list-style-type: none"> New vehicular access into the site via Harrington Street (consolidate two driveways to one) 63 car parking spaces and five motorcycle spaces. |
| Gross Floor Area (GFA)/ Floor Space Ratio (FSR) / residential mix | <ul style="list-style-type: none"> Proposed total GFA of 9,308 m², comprising: <ul style="list-style-type: none"> 1,132 m² of commercial GFA (within Building 1) 927 m² retail GFA (including 136 m² within Baker's Terrace) 7,249 m² of residential GFA comprising 58 residential units/ townhouses with the following mix: <ul style="list-style-type: none"> 18 one-bedroom units (31%) 24 two-bedroom units (41.4%) 16 three bedroom units (27.6%) The FSR is 4.41:1 (site area 2,110 m²) The breakdown of residential GFA and units between proposed buildings is: <ul style="list-style-type: none"> Building 1: 47 units (12 x 1 bedroom units, 21 x 2 bedroom units and 14 x 3 bedroom units); 5,992 m² GFA Building 2: 9 units (4 x 1 bedroom units, 2 x 2 bedroom units and 3 x 3 bedroom units); 927 m² GFA Baker's Terrace: 2 townhouses (1 x 2 bedroom and 1 x 3 bedroom); 330 m² GFA. |
| Capital Investment Value (CIV)/Jobs | <ul style="list-style-type: none"> CIV of \$77.6 million 100 construction jobs 100 operational jobs. |

Note: The plans indicate a future pedestrian ramp adjacent to the southern boundary of the site linking Gloucester Street and the Expressway. For clarity, the ramp does not form part of this SSD and will be subject to a separate future application.

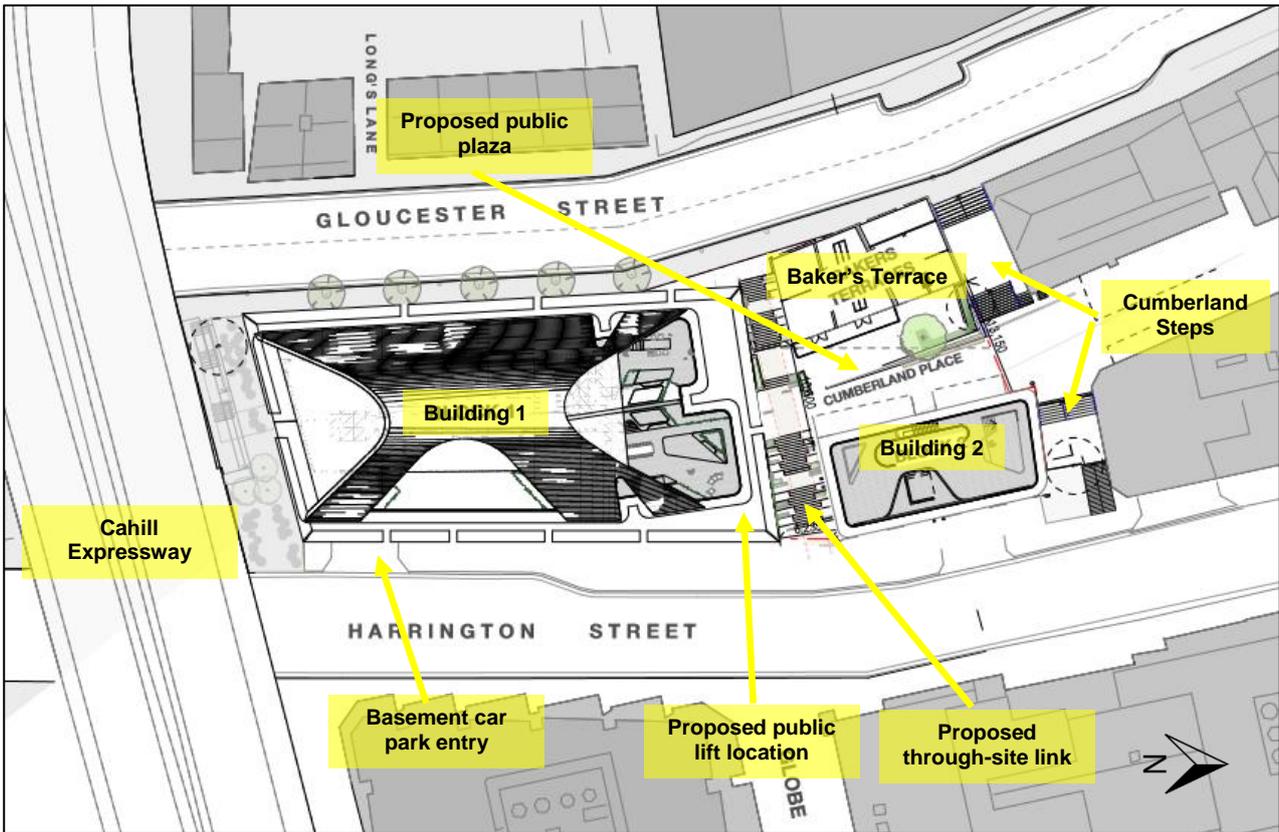


Figure 8: Proposed site layout (Base source: Architectural Plans)



Figure 9: Photomontage looking south (Base source: Applicant's RTS)

The proposal also involves a variation to the Sydney Cove Redevelopment Authority Scheme (SCRA Scheme) to amend the specified building envelope for the site to permit an increase in the maximum heights of buildings and provide a new pedestrian link.

The proposed and existing SCRA Scheme drawings are illustrated in **Figure 10** below. This issue is considered in **Sections 3.2, 5.3** and **Appendix D**.

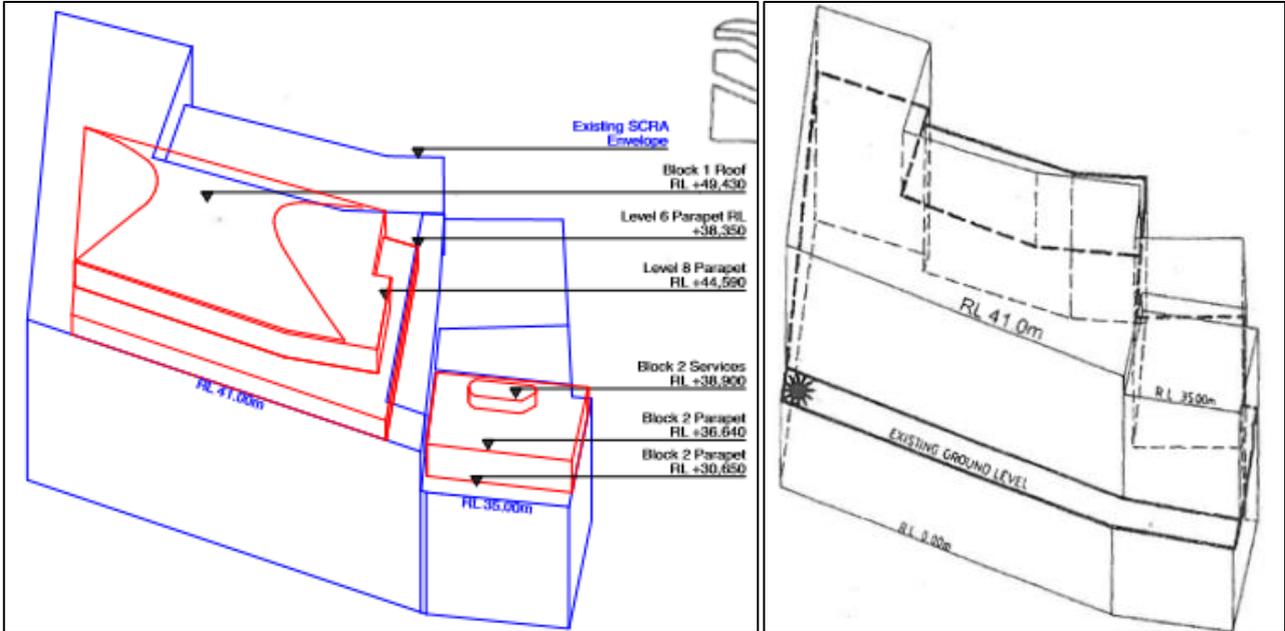


Figure 10: Proposed revised SCRA Scheme Building Site Control Drawing XXXV-A (left) and existing drawing (right). Red denotes areas outside the existing drawing envelope (Source: Applicant’s RTS)

Figure 11 illustrates the development as originally lodged and exhibited and the current proposed development.

Figures 12 and **13** provide a comparison between the upper level setbacks and roof form of the original proposal and the current proposal for Building 1.



Figure 11: Photomontage of original proposed development (left) and currently proposed development (right) viewed from the east (Base source: Applicant’s EIS and RTS)

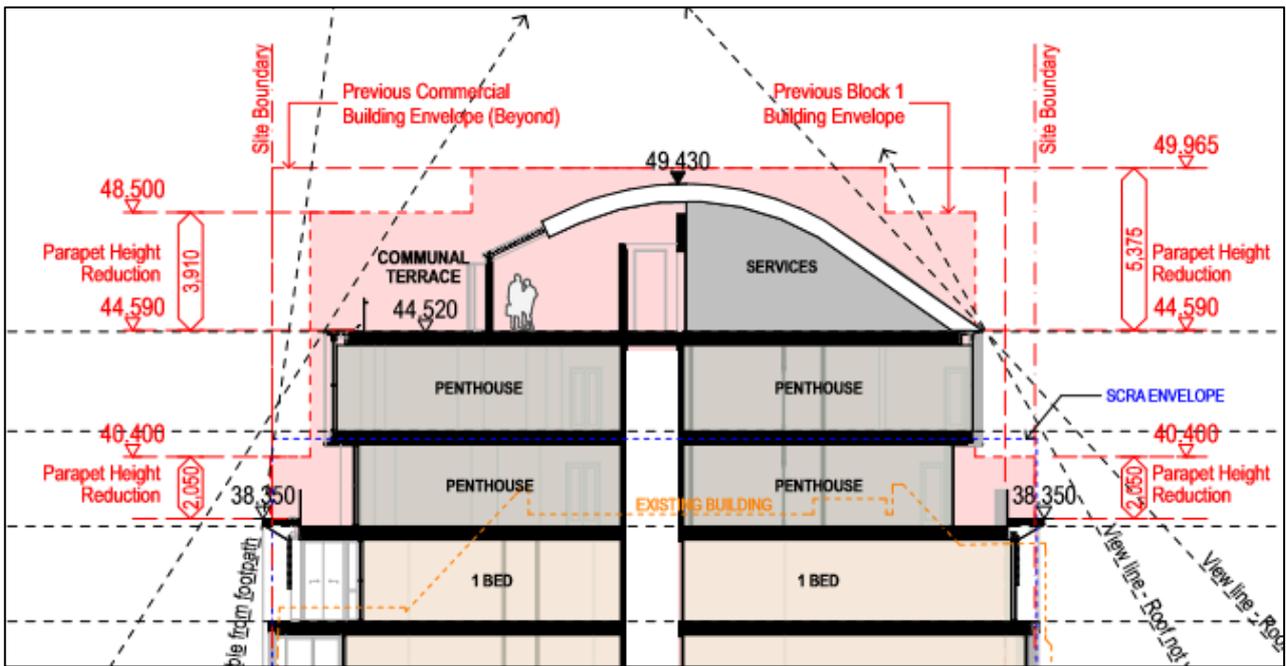


Figure 12: Section of upper levels of Building 1 comparing outline of original proposal (shown dotted red) and current proposal (Source: Applicant's RTS)



Figure 13: Building 1 viewed from Cahill Expressway as originally proposed (left) and currently proposed (right). Red line indicates reduced built form. (Source: Applicant's RTS)

3. STATUTORY CONTEXT

3.1 State Significant Development

The proposal is SSD pursuant to section 89C of the EP&A Act and under clause 6 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) as it is development on land located within The Rocks with a CIV of more than \$10 million and the development does not comply with the approved scheme (the SCRA Scheme).

A SCRA Scheme variation is therefore being concurrently sought to enable development consent to be granted for the development. The Minister for Planning is the consent authority for the SSD application and is responsible for the making of the SCRA Scheme variation.

3.2 Permissibility

Clause 29(3) of the Schedule 6 of the EP&A Act applies to the site as it is located within the Sydney Cove Development Area and is not the subject of a local environmental plan. The clause specifies that all development on the site must have development consent and must comply with the requirements of the approved scheme unless a variation to the approved scheme is first approved (see **Section 3.3**).

The SCRA Scheme is the relevant environmental planning instrument (EPI) regulating development in The Rocks and prescribes building height limits, building envelopes and permissible uses. Development in The Rocks must be consistent with the relevant controls of the SCRA Scheme.

The site is subject to the permissibility provisions contained with the SCRA Scheme. Permitted uses are listed as 'Commercial', 'Residential' and 'Special'. Commercial uses are deemed to include business, office, retail and food and beverage facilities.

The Department concludes the proposed use for residential, office and business premises, retail shops and basement parking are permitted with consent under the provisions of the SCRA Scheme.

3.3 Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999

The *Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999* (Regulation) is the regulatory mechanism that outlines the process for amending the SCRA Scheme and the mandatory matters the Minister for Planning (or delegate) must consider to make a proposed variation to the SCRA Scheme.

It provides for the Applicant to apply to the Minister for a variation to the approved scheme that the person considers necessary to be made to enable development consent to be granted to the proposed development. The application to the Minister must describe the elements of the development which do not comply with the approved scheme, set out the reasons for the variation to the scheme and address the matters that the Minister must consider.

The proposed buildings do not comply with the prescribed building envelope as established in the SCRA Scheme as follows:

- Building 1: Extend maximum building envelope RL from RL 41 m to RL 49.43 m (RL 44.59 to level 8 parapet/ RL 38.35 to level 6 parapet)
- Building 2: Extend maximum building envelope RL from RL 35 m to RL 38.9 m (RL 36.64 to roof parapet).

The Applicant has therefore concurrently applied to vary the SCRA Scheme to enable development consent to be granted to the proposed development. The proposed variation to the SCRA Scheme is considered in more detail in **Section 5.3** and **Appendix D**.

3.4 Delegations

Determination of Application

On 14 September 2011, the Minister delegated functions to determine SSD applications to the Planning Assessment Commission (Commission) in cases where an objection has been received from the relevant local council, where the Applicant has provided a political donation disclosure statement, or where there are more than 25 public submissions objecting to the proposal received during the statutory exhibition of the application.

As Council objects to the proposal, it is being referred to the Commission for determination.

SCRA Scheme Variation

On 28 February 2016, the Minister delegated the functions under clause 9 of the Regulation in relation to a draft variation to the SCRA Scheme, to the delegate also determining the development application in relation to which the variation was submitted.

As the Commission is determining the development application in relation to which the variation was submitted, the variation to the SCRA Scheme can also be made by the Commission.

3.5 Environmental Planning Instruments (EPIs)

The EPIs that apply to the site include:

- Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)
- State Environmental Planning Policy (State and Regional Development) 2011 (SRD 2011)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development) (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)
- Draft State Environmental Planning Policy (Environment).

Consistency with the EPIs is discussed in relation to key issues in **Section 5** of this report and the Department's detailed consideration of the proposal against the relevant EPIs is provided in **Appendix C**. Detailed consideration of the proposed SCRA Scheme variation is provided at **Appendix D**. In summary, the Department considers the application generally complies with the relevant provisions of the EPIs, including the proposed variation to the SCRA Scheme.

3.6 Objects of the EP&A Act

Decision-makers are required to consider the objects in Section 5 of the EP&A Act when making decisions under the Act. The Department has considered the objects of the EP&A Act in **Table 2** and is satisfied that the proposal complies with all objects.

Table 2: Consideration of the proposal against the objects of the EP&A Act

| Objects of the EP&A Act | Consideration |
|---|---|
| <i>(a) to encourage:</i> | |
| <i>(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment</i> | The proposal does not impact on natural and artificial resources, as it involves the development within an already disturbed urban area. The proposal will increase housing supply to meet a range of housing needs and provide commercial and retail opportunities and improved public domain outcomes which will enhance economic and social welfare. |
| <i>(ii) the promotion and co-ordination of the orderly and economic use and development of land</i> | The proposed land uses are permitted and the merits of the proposal are considered in Section 5 of this report. |
| <i>(iii) the protection, provision and co-ordination of communication and utility services</i> | The proposal does not impact on existing communication and utility services, but will provide suitable utilities to service the development. Sydney Water and Ausgrid have raised no concerns with the proposal. |
| <i>(iv) the provision of land for public purposes</i> | The proposal includes the provision of an improved through-site link, including lift access, between Harrington Street and Gloucester Street. A new public |

| | |
|---|--|
| | plaza is also proposed within the site activated by adjacent proposed retail tenancies. |
| (v) <i>the provision and co-ordination of community services and facilities</i> | In addition to the improved through-site link and public domain outcomes, the proposed retail floor space will provide convenience shopping opportunities for the local community. |
| (vi) <i>the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats</i> | The proposal does not impact on native animals or significant trees. |
| (vii) <i>ecologically sustainable development (ESD)</i> | Section 3.7 of this report considers the proposal against the principles of ESD. |
| (viii) <i>the provision and maintenance of affordable housing</i> | The proposal does not involve the provision/maintenance of affordable housing, although the proposed 58 new residences will improve housing supply in the area. |
| (b) <i>to promote the sharing of the responsibility for environmental planning between the different levels of government in the State</i> | The Department consulted with Council and other relevant agencies on the proposal. |
| (c) <i>to provide increased opportunity for public involvement and participation in environmental planning and assessment.</i> | Section 4 of this report sets out details of the Department's public exhibition of the proposal. |

3.7 Ecologically Sustainable Development

The Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle*
- (b) *inter-generational equity*
- (c) *conservation of biological diversity and ecological integrity*
- (d) *improved valuation, pricing and incentive mechanisms*

The Department has assessed the proposed development in relation to the ESD principles and has made the following conclusions:

- **Precautionary Principle** - the site has been appropriately planned for development and will not result in any serious or irreversible environmental damage.
- **Inter-Generational Equity** - the proposal will not have adverse impacts on the environment for future generations.
- **Biodiversity Principle** - the site is within a highly urbanised area and contains no significant flora or fauna.
- **Valuation Principle** – the proposal includes a number of energy, water and waste reducing measures to reduce the ongoing cost, resource and energy requirements of the development.

3.8 Secretary's Environmental Assessment Requirements

In accordance with section 78A (8A) of the EP&A Act, the Secretary notified the Applicant of the Secretary's Environmental Assessment Requirements (SEARs) for the SSD application. The Department considers the Applicant's EIS, RTS and RRTS adequately address compliance with the SEARs to enable the assessment of the application for determination purposes.

3.9 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) cited in this report, the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) have been complied with.

3.10 Strategic Context

The Department considers the proposal is consistent with the following State strategies:

- the objectives of *NSW 2021* (the State Plan) via the creation of approximately 100 full time equivalent jobs during construction and accommodation of approximately 100 full time jobs during operation
- the objectives of *NSW 2021* including enhancing the cultural and natural heritage in NSW through sympathetic redevelopment of Harrington Court, the restoration, conservation, revitalisation and use of the Baker's Terrace, and the proposed public plaza and through-site link in the State's most significant heritage precinct – The Rocks
- the objectives of *A Plan for Growing Sydney* including the key goal to grow a more internationally competitive CBD. The proposal is consistent with this goal as it will deliver a high-quality mix of retail and commercial tenancies within the precinct. It will also satisfy key goals of increasing housing supply and promoting housing choice. In addition, improvements to the public domain would generate tourism, social, economic and community benefits and enable The Rocks to continue to remain one of Australia's pre-eminent tourist destinations
- would enhance the Eastern City identified in *Towards our Greater Sydney 2056*, the draft *Greater Sydney Region Plan* and the *Revised Draft Eastern City District Plan* by ensuring a more productive, livable and sustainable city through:
 - the creation of more jobs in the CBD
 - improving housing choice and diversity
 - improving and diversifying lifestyle choices for people who live, work and visit The Rocks
 - improving connectivity of the site with the public domain and The Rocks area
 - the implementation of measures that would reduce water, energy and waste through a mixture of passive design and efficient systems, including water efficient fixtures and fittings.

4. CONSULTATION

4.1 Exhibition

In accordance with section 89(F) of the EP&A Act, the Department publicly exhibited the application, including the proposed SCRA Scheme variation, for 30 days from 18 August 2016 until 16 September 2016. The application was made publicly available on the Department's website and exhibited at the Department's Information Centre and at Council.

The Department placed a public exhibition notice in the *Sydney Morning Herald* and *The Daily Telegraph* on Wednesday 17 August 2016 and notified adjoining landholders and relevant State and local government authorities in writing.

The Department received a total of 21 submissions, comprising seven submissions from public authorities and 14 submissions (nine objections) from the general public. A summary of issues raised in the submissions is provided at **Tables 3** and **4** below and a link to all submissions is provided at **Appendix B**.

4.2 Public Authority Submissions

The issues raised by public authorities are summarised in **Table 3** below.

Table 3: Summary of public authority submissions

| City of Sydney Council (Council) |
|--|
| <p>Council objected to the proposal and the key issues raised were:</p> <ul style="list-style-type: none"> excessive building height insufficient setback between Building 1 and the Baker's Terrace at levels 7 and 8 ADG non-compliances regarding solar access and cross ventilation excessive car parking insufficient bicycle parking and end-of-trip facilities inadequate loading dock facility to service the site. |
| Office of Environment and Heritage (OEH) – Heritage Division |
| <p>OEH (Heritage Division) recommended deletion of level 5 of Building 1 to reduce extent of non-compliance with the SCRA Scheme and deletion of the concrete awning and side panels to the western balconies on level 5 of Building 2.</p> |
| Transport for NSW (TfNSW) |
| <p>TfNSW did not object to the proposal but requested conditions be imposed to protect the adjacent rail corridor.</p> |
| Roads and Maritime Services (RMS) |
| <p>RMS did not object and had no comments on the proposal.</p> |
| Office of Environment and Heritage (OEH) – Planning & Aboriginal Heritage |
| <p>OEH (Planning & Aboriginal Heritage) did not object and had no comments on the proposal.</p> |
| Historic Houses Trust NSW (HHTNSW) |
| <p>HHTNSW objected to the proposal and the key issues raised were:</p> <ul style="list-style-type: none"> the proposed exceedance of height and envelope provisions the height and bulk would visually dominate the southern end of the street and detract from the scale and form of adjoining terrace houses. |
| Ausgrid |
| <p>Ausgrid did not object and had no comments on the proposal.</p> |

4.3 Public Submissions

The Department received 14 public submissions during the exhibition of the EIS, with nine objecting to the development, four supporting the development and one which provided comments. The key issues raised in the nine public submission objections are summarised in **Table 4**.

Table 4: Summary of key issues raised in public submissions objecting to the proposal

| Issue | Proportion of submissions |
|--|----------------------------------|
| Height should not breach current controls/height of the existing building | 89% (8) |
| Building out of scale with neighbouring heritage buildings/adverse impact on heritage context of The Rocks | 67% (6) |
| Proposal is contrary to aims of The Rocks Conservation Area | 33% (3) |
| Building will dwarf heritage listed terraces in Gloucester Street | 22% (2) |
| Existing building is modern and could not need replacing/should be adapted | 22% (2) |
| Proposal does not satisfy the Department's requirements as did not consult with local heritage groups or affected landowners | 22% (2) |
| Proposal does not satisfy the principle of lower building heights on the northern side of the Cahill Expressway | 11% (1) |
| Residential apartments will detract from vibrancy of The Rocks | 11% (1) |
| Excavation may result in movement to the bedrock/damage the archaeology of the area | 11% (1) |
| No public benefits | 11% (1) |
| Heritage Impact Statement is not independent and does not suitably address the proposed new buildings | 11% (1) |

| | |
|--|---------|
| Proposal does not satisfy SEPP 65 building separation and privacy requirements | 11% (1) |
| Construction noise assessment does not consider impact on adjacent hotel | 11% (1) |

One public submission did not object to the proposal but commented it would be highly desirable to build an iconic building that is unique and will embrace the historic fabric of The Rocks precinct.

Four public submissions were received in support of the application. The submissions made the following comments:

- proposal will enhance the area by providing new pedestrian linkages and public domain improvements
- proposal will create job opportunities
- the high design quality of proposed apartments
- development is in keeping with the heritage setting
- merit in design of façade and materials selection
- proposed design will promote street level activation on Harrington Street.

4.4 Response to Submissions

Following exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

On 15 August 2017, the Applicant lodged a RTS on the issues raised during the exhibition of the EIS. The RTS responded to the issues raised and included the following:

- amended and supplementary architectural plans
- amended SRCA Scheme Building Site Control Drawing variation plan and updated variation report
- revised design report and ADG compliance schedule
- revised visual impact assessment
- revised Heritage Impact Statement.

The revised plans included changes to the previously exhibited proposed SCRA Scheme variation. The Department therefore publicly exhibited the RTS and revised SCRA Scheme variation, including notifying previous submitters and relevant public authorities, from 17 August 2017 until 15 September 2017 (30 days). An additional four submissions were received from public authorities, including Council and OEH, and eight submissions from the public.

A summary of issues raised in the RTS submissions is provided at **Tables 5** and **6** below and a link to all submissions is provided at **Appendix B**.

Table 5: Summary of RTS public authority submissions

| Council |
|---|
| <p>Council maintained its objection to the proposal noting the following:</p> <ul style="list-style-type: none"> • excessive bulk and scale, out of context with the surrounding area • inappropriate transition to the finer grain of adjoining heritage items including the Baker's Terrace • visual impact viewed from East Circular Quay and the Opera House is not accurately identified and will have a detrimental visual impact on the significance of The Rocks heritage conservation area. • lack of information to demonstrate ADG solar access and cross ventilation design criteria are satisfied • excessive car parking • insufficient bicycle parking and end-of-trip facilities • inadequate information provided to demonstrate Council waste vehicles will be able to service the development. |
| OEH (Heritage Division) |
| <p>OEH (Heritage Division) recommended conditions regarding further details of the retention of the heritage fabric of the Baker's Terrace and a requirement for a full archaeological assessment.</p> |

HHTNSW

HHTNSW maintained its objection to the proposal noting the following:

- Building 1 remains over scaled in relation to neighbouring sites and would destroy the unique visual character of the area
- the existing height envelope for Building 1 should continue to be applied to the site to ensure the preservation of important relationships to neighbouring 19th century terrace house forms
- the height exceedance of Building 2 should be permitted as it relates well to the Baker's Terrace and will activate the street level courtyards.

The key issues raised in the eight public submission are summarised in **Table 6**.

Table 6: Summary of key issues raised in public submissions objecting to the proposal (RTS)

| Issue | Proportion of submissions |
|--|---------------------------|
| Height should not breach current controls/height of the existing building | 62.5% (5) |
| Building out of scale with neighbouring heritage buildings/adverse impact on heritage context of The Rocks | 62.5% (5) |
| Loss of views | 12.5% (1) |
| Residential apartments will detract from vibrancy of The Rocks | 12.5% (1) |
| Excavation may result in movement to the bedrock/damage the archaeology of the area | 12.5% (1) |
| Construction impacts from dust, noise and disruption to tour bus access | 12.5% (1) |
| Increased overshadowing/loss of sunlight | 12.5% (1) |
| Increased traffic | 12.5% (1) |
| Increased demand for infrastructure services | 12.5% (1) |
| Adverse impact on driveway/parking access in Gloucester Street | 12.5% (1) |
| Adverse impact on social significance of The Rocks | 12.5% (1) |
| Everyone in Sydney should be notified, not just the neighbourhood | 12.5% (1) |

4.5 Applicant's Revised Response to Submissions

On 24 October 2017, the Applicant lodged a Revised RTS (RRTS) which sought to address remaining issues raised by the Department, key agencies/Council and nearby residents. The RRTS responded to the issues raised and included the following:

- solar access study
- natural ventilation study
- response to communal corridor ventilation in Building 1 comprising provision of plenum at its northern end
- revised view impact assessment
- revised shadow diagrams
- additional car parking analysis.

Amended architectural plans were also submitted and key amendments to the plans comprised revised internal layouts to east-facing units in Building 1 and revised balcony sizes.

The Department's assessment has considered all relevant issues and has identified the key issues as built form and character of the area, heritage, amenity impacts, future residential amenity and car parking.

5. ASSESSMENT

5.1 Section 79C Evaluation

Table 7 identifies the matters for consideration under section 79C of the EP&A Act that apply to SSD in accordance with section 89H of the EP&A Act. The table represents a summary for which additional information and consideration is provided for in **Section 5** and relevant appendices or other sections of this report referenced in the table. The EIS has been prepared by the Applicant to consider these matters and also those required to be considered in the SEARs, section 78(8A) of the EP&A Act and Schedule 2 of the EP&A Regulation.

Table 7: Section 79C(1) Matters for Consideration

| Section 79C(1) Evaluation | Consideration |
|---|---|
| (a)(i) any environmental planning instrument | Exceedances of relevant SCRA Scheme height standards are discussed in detail in Section 5 and Appendix D . The Department's consideration of other relevant EPIs is provided in Appendix C . |
| (a)(ii) any proposed instrument | Not applicable. |
| (a)(iii) any development control plan | Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to the Sydney Development Control Plan 2012 (SDCP 2012) at Appendix C . |
| (a)(iiia) any planning agreement | Not applicable. |
| (a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i> | The application satisfactorily meets the relevant requirements of the Regulation, including the procedures relating to applications (Part 6 of the EP&A Regulation), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS. |
| (a)(v) any coastal zone management plan | Not applicable. |
| (b) the likely impacts of that development | Appropriately mitigated or conditioned - refer to Section 5 of this report. |
| (c) the suitability of the site for the development | The site is suitable for the development as discussed in Sections 3 and 5 of this report. |
| (d) any submissions | Consideration has been given to the submissions received during the EIS and RTS exhibition periods. See Sections 4 and 5 of this report. |
| (e) the public interest | Refer to Section 5 of this report. |
| Biodiversity values exempt if: (a) On biodiversity certified land (b) Biobanking Statement exists | Not applicable. |

5.2 Key Assessment Issues

The Department has considered the EIS, issues raised in submissions and the Applicant's RTS and RRTS in its assessment of the proposal. The Department considers the key planning issues associated with the proposal are:

- built form, heritage impacts and streetscape
- public domain
- amenity impacts
- residential amenity of units
- traffic and car parking.

Each of the key issues is discussed in the following sections of this report. Other issues were taken into consideration during assessment of the application and are discussed in **Section 5.8**.

Noting these key assessment issues in combination with the site's location within The Rocks Conservation Area, the Department engaged Professor Peter Webber to provide independent, expert heritage and design advice to assist in its assessment of the proposal. Professor Webber is the former NSW Government Architect and a founding member of the NSW Heritage Council.

Professor Webber's review focussed on the built form and design of the proposed buildings and their potential visual impact on the heritage context of the site. Professor Webber's advice (see **Appendix E**) in respect of the initial proposal concluded:

- the development has a number of positive attributes including the provision of residential accommodation, articulated façades, activation of street frontages and a new through-site link
- the height, scale and design of Building 1 is incompatible with other buildings in Harrington Street and Gloucester Street and would result in an unacceptable visual outcome
- the height of Building 1 is excessive in relation to its heritage context and may adversely impact views from buildings to the south and increase overshadowing to properties in Gloucester Street
- inappropriate upper level setbacks are proposed between Building 1 and the Baker's Terrace resulting in an unduly assertive visual impact
- the height of Building 2 is reasonable and the built form is sensitively articulated and should fit comfortably into this section of Harrington Street
- proposed variations to ADG design criteria are not justified.

Professor Webber subsequently reviewed the revised design submitted with the RTS. Professor Webber's review of the amended proposal (**Appendix E**) concludes the design has been extensively amended, previous issues of concern, including built form, architectural character and residential amenity have been satisfactorily resolved, and the proposed variation to the SCRA Scheme building envelope is logical and supportable.

The Department has given consideration to the findings of Professor Webber's independent review as part of its assessment of the key issues below.

5.3 Built Form, Heritage Impacts and Streetscape

5.3.1 Introduction

As described in **Section 1.3**, the subject site is located within The Rocks Conservation Area and the proposed development does not comply with the SCRA Scheme building envelope for the site.

The development comprises two new buildings, Building 1 fronting Harrington Street and Gloucester Street, and Building 2 fronting Harrington Street. The built form of each proposed building is considered separately in **Sections 5.3.2** and **5.3.3** below. Proposed works to the Baker's Terrace are considered in **Section 5.3.4**. The visual impact of the proposed buildings in the broader context of The Rocks is considered in **Section 5.3.5**. Issues regarding amenity impacts are considered in **Section 5.5**.

As originally exhibited, Council, OEH, HHTNSW and public submissions, including the YHA, objected to and/ or raised concerns regarding the proposed building height, setbacks to the Baker's Terrace and adverse impacts on the character of the area.

In response to recommendations from the Department and to submissions received, the RTS included amended plans which incorporated the following key built form changes:

- significant redesign of the roof and podium elements of Building 1, including a reduction in maximum height and maximum parapet heights
- the street wall/parapet height on the northern elevation of Building 1 lowered 2 m to more closely align with the roof of the Baker's Terrace

- façade of levels 2 to 4 of Building 1 revised to be a more solid appearance to reflect the front elevation of the Baker's Terrace. Level 5 façade recessed and made more open to reflect receding/ less dominant Baker's Terrace roof form
- setbacks at levels 6 to 8 between Building 1 and the Baker's Terrace increased from 2.5 m to 5.2 m
- 1.6 m increase in height of Building 2 including provision of roof top private open space.

The Applicant contends the revised scheme responds suitably to the concerns raised with the original design and will result in a sympathetic and compatible built form within The Rocks.

OEH have not raised concerns with the revised built form. Council and HHTNSW however have reiterated concerns regarding excessive bulk and scale, adverse impacts on the character of the surrounding area and the inappropriate transition to the finer grain of adjoining heritage items including the Baker's Terrace.

The Department has considered the proposed built form and the issues raised in submissions and considers the key issue is whether the proposed building heights and design are visually compatible with the historic character of neighbouring buildings and surrounding streetscapes.

Professor Webber's review of the amended proposal concludes previous issues of concern regarding built form and architectural character have been satisfactorily resolved.

5.3.2 Building 1

Building 1 is proposed to extend to a height of nine storeys to Harrington Street and seven storeys to Gloucester Street with a maximum roof height of 33 m (RL 49.4) above the level of Harrington Street. The proposal includes a variation to the SCRA Scheme building envelope (RL 41) as detailed in **Section 2.1** and **Appendix D**.

Figures 15 to 17 provide elevations of the proposed building, including the outline of the SCRA Scheme building envelope (blue), the existing building on the site (orange) and the EIS exhibited building envelope (red).



Figure 15: Eastern (Harrington Street) elevation of Building 1 (Source: Architectural Plans)

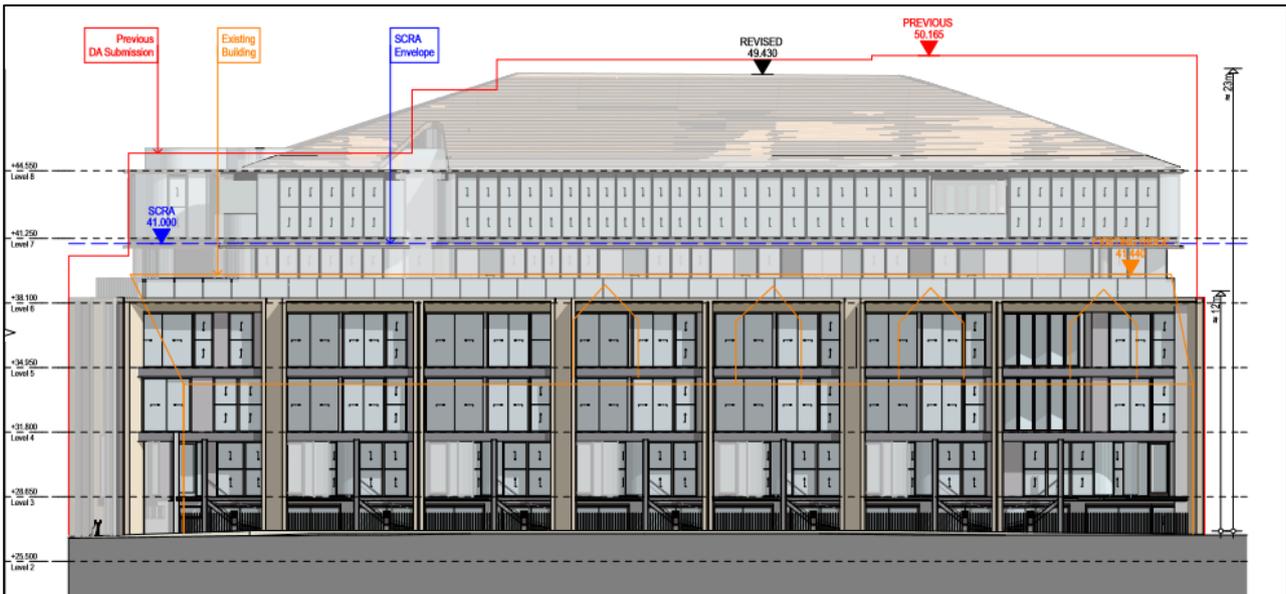


Figure 16: Western (Gloucester Street) elevation of Building 1 (Source: Architectural Plans)

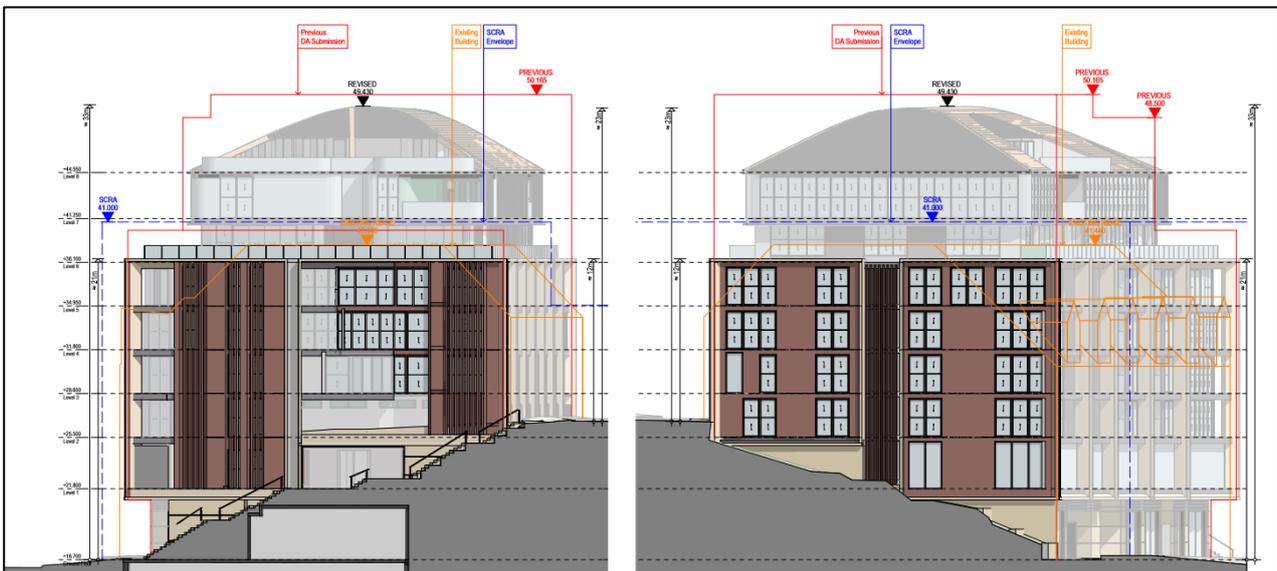


Figure 17: Left: northern elevation (Baker's Terrace & Building 2); Right: southern elevation (Cahill Expressway) of Building 1 (Source: Architectural Plans)

The proposed external materials (including Building 2) are a mixture of sandstone, terracotta and timber including:

- sandstone treatment to walls at ground level on Harrington Street façade
- terracotta sliding shutters to outer face of balcony line
- brass coloured screens to upper level
- bronze coloured/ aged copper roof (Building 1 only).

The Applicant contends there is merit in providing additional height on the site compared to the existing building/ SCRA Scheme control. This is due to the range of public benefits that are achievable and subject to the built form not creating any unreasonable heritage, design or amenity impacts on the surrounding sensitive context. The Applicant has provided the following justification for the proposed amended development:

- the curved roof form of Building 1 significantly lowers the upper parapet when viewed from street level. The roof form encapsulates communal space, lift overrun, plant areas and private terraces and would not be visible from street level

- the relocation of the commercial office element from the southern end of Building 1 to level 1 allows for a more coherent built form and has reduced the height of the building by up to 5.4 m at the southern end
- the proposed nine storey building is consistent with the neighbouring DFS Galleria building (68 Harrington Street). However, only eight storeys will be visible from Harrington Street and only five and a half storeys will be visible from Gloucester Street
- the removal of the retail mezzanine level in Building 1 has allowed the street wall height on both frontages (at level 6) to be lowered by 2 m, significantly improving the transition to the Baker's Terrace and heritage terraces in Gloucester Street and reducing the perceived scale of the building
- rectangular delineations and further articulation on the lower levels of the Gloucester Street façade of Building 1 will be more sympathetic to the heritage setting and lower scale of nearby heritage terraces
- view and overshadowing impacts will be very limited compared to a compliant SCRA Scheme development.
- a high level of residential amenity and design quality will be achieved.

The Applicant emphasises the development will achieve strong public benefit outcomes including a new public plaza and significantly improved through-site link with an associated public lift (see **Section 5.4**). The Applicant further notes a total of 1,625 m² of floor area located within the SCRA Scheme building envelope has been removed, predominantly to create a vertical opening for the new through-site link. As the proposed floor area above the SCRA Scheme building envelope is 1,610 m², the Applicant contends the development does not seek more floorspace compared to a built form contained entirely within the envelope.

The independent review undertaken by Professor Webber, supports the revised design, form and height of Building 1 citing the following points:

- the built form limits residential accommodation to one full level (level 7) in excess of the SCRA Scheme control with only communal facilities and services above which would not be visible from ground level
- following reductions in height, increased upper level setbacks, removal of the commercial component at the southern end and various detailed refinements, the building form and character would now be appropriate and should fit comfortably into its heritage context
- the overall quality of the development in relation to public open spaces and architectural character is of a high standard, and together these positive aspects justify the proposed height.

Professor Webber furthermore notes the development would not set a precedent in relation to non-compliance with the SCRA Scheme controls as the proposed height can be supported in this specific location without resulting in unacceptable environmental impacts.

The Department considers the built form of Building 1 must be considered in the visual context of the separate Harrington Street and Gloucester Street frontages and to the Baker's Terrace. These streetscape relationships are considered below.

Gloucester Street

The Expressway forms a cul-de-sac at the southern end of Gloucester Street. The street contains a diverse mix of buildings, including low scale historic terraces on both sides, the existing Harrington Court building, the Big Dig Archaeological Education Centre and the YHA building (**Figures 18 and 19**). Gloucester Street retains its historic setting and streetscape character and contributes to the heritage ambiance of The Rocks.

The Department notes the most contemporary building within Gloucester Street (excluding Harrington Court) is the YHA building (see **Figure 19**) located diagonally opposite the Baker's Terrace. The building was approved in 2008 and is three-storeys (RL 42.3) fronting Gloucester Street with a fourth level (RL 44.7) setback from the street front.



Figure 18: Left: Gloucester Street looking south. Right: Historic terraces on western side of Gloucester Street (Source: Department's photographs)

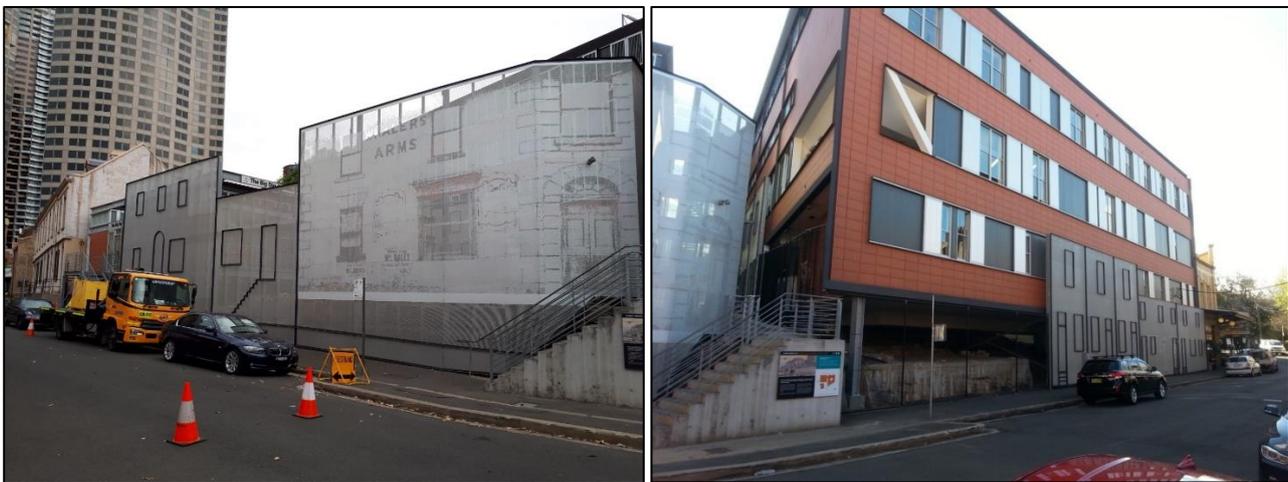


Figure 19: Left: YHA building looking north-west with Australian Hotel beyond. Right: The Big Dig Archaeological Education Centre on the western side of Gloucester Street (Source: Department's photographs)

The proposed street wall height is consistent with the roof height of the facing terraces on the opposite side of Gloucester Street. The setback at level 5 is also consistent with the parapet height of these terraces (RL 35.1). Of the three levels (6 to 8) located above the street wall setback, only level 7 (RL 41.25) is located above the SCRA Scheme envelope of RL 41 and will be visible from street level.

Although the level 8 parapet is at RL 44.55, the Department considers the respective 3 m and 2 m setbacks of levels 6 and 7 satisfactorily reduce the visual scale and bulk of the building when viewed from street level including the additional storey above SCRA Scheme envelope RL 41. The Department notes the proposed setbacks compare favourably to a compliant SCRA Scheme envelope which allows for a nil setback to RL 41.

The Department further notes the proposed Gloucester Street façade also presents a modern interpretation of the 'stoop' style heritage terraces on the opposite side of the street i.e. through use of external stairs, setbacks, articulation and greater vertical delineations (Figure 21). The Department considers the proposed design successfully achieves visual interest within the streetscape whilst retaining a design rhythm that is characteristic of The Rocks.

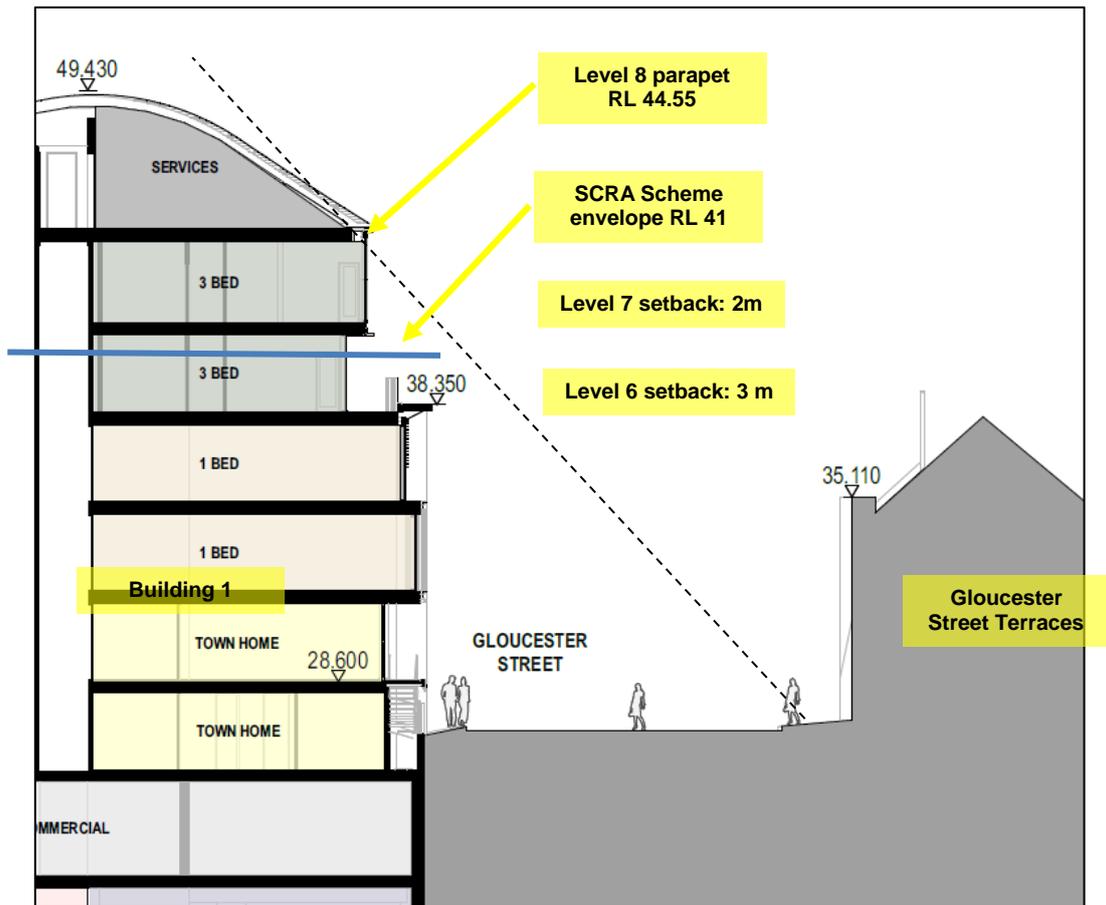


Figure 20: Cross-section of Building 1 to Gloucester Street (Source: Architectural Plans)



Figure 21: Left: Proposed Gloucester Street façade. Right: Terraces on western side of Gloucester Street. Red lines indicate vertical delineation (Base source: Applicant’s RTS)

An addendum to the Visual Impact Assessment (VIA) shows the visual impacts of the development viewed from Gloucester Street and the adjacent Expressway will be minor and acceptable. **Figure 22** illustrates the proposed development from these locations.



Figure 22: Left: Photomontage looking south-east from Gloucester Street. Right: Photomontage looking north from Cahill Expressway (Source: Applicant's RTS)

With regard to the relationship of the proposed building and the YHA building, due to the proposed upper level setbacks, Building 1 will present a streetwall height similar to the YHA. Although of a comparable scale, the Department considers the proposed building demonstrates a design that is far more sympathetic to the historic character of the streetscape due to the proposed setbacks, modulated façade and articulation. Furthermore, given the buildings are offset from each other, they will not visually dominate Gloucester Street or adversely alter its heritage context. Moreover, the other buildings in Gloucester Street are heritage listed which will ensure the overall character of the streetscape will otherwise remain.

The Department also considers the visual relationship of Building 1 to the Baker's Terrace is of significant importance, both to the preservation of the visual curtilage of the terrace and the wider Gloucester Street streetscape.

The northern elevation of Building 1 facing the Baker's Terrace extends to six storeys in height with a minimum setback of 4 m increasing to 10 m for the upper two storeys. Following exhibition of the revised proposal, OEH did not recommend any further changes regarding the relationship between Building 1 and the Baker's Terrace. Professor Webber's independent review also comments the proposed design sensitively complements its heritage context.

The Department considers the revised scheme provides an appropriate transition between Building 1 and the Baker's Terrace and will appropriately retain the curtilage and setting of the Baker's Terrace (see **Figure 23**). In particular, the close alignment of the Gloucester Street street wall height with the building height of the Baker's Terrace, upper level setbacks and more sympathetic articulation to the Baker's Terrace façade will suitably mitigate potential impacts. This results in benefits to the wider heritage streetscape.

The Department concludes the proposed built form and design presents a sympathetic visual scale and massing to Gloucester Street and responds sympathetically to the character of surrounding traditional terrace housing and the wider streetscape. The specific relationship of Building 1 to the Baker's Terrace is considered below.

Harrington Street

The area of Harrington Street close to the Expressway is characterised by contemporary, larger buildings compared to elsewhere in The Rocks, including the DFS Galleria building and 66 Harrington Street (**Figure 24**), and the existing Harrington Court building (see **Section 1.2**). The Department considers this portion of Harrington Street to be a transitional zone located between lower-scale buildings within The Rocks and high-density tower developments to the south beyond the Cahill Expressway.

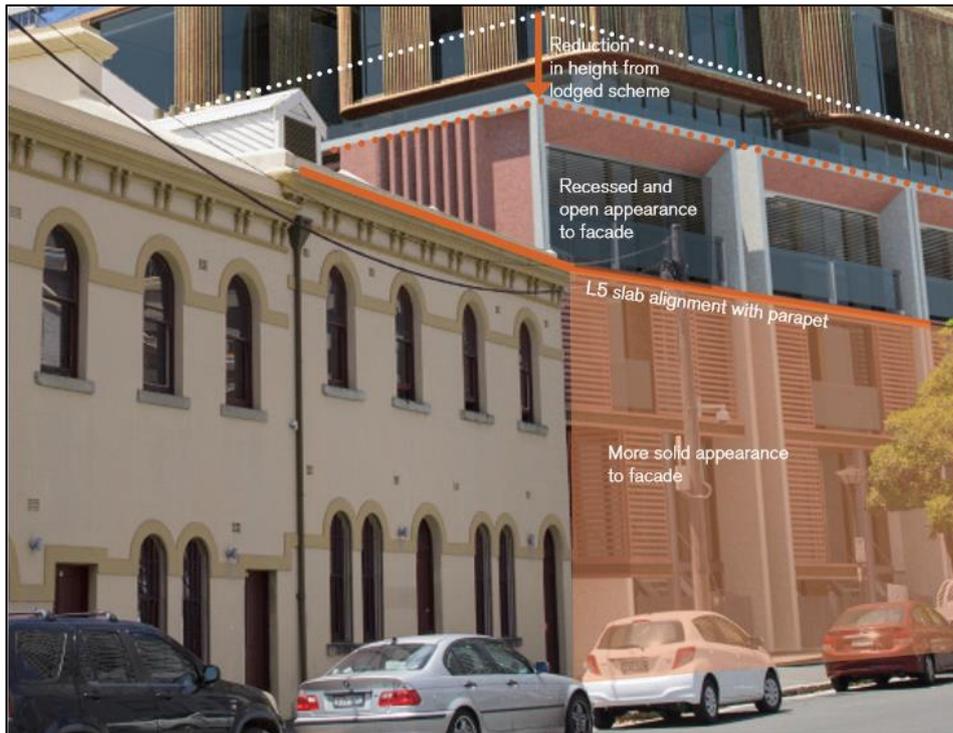


Figure 23: Photomontage illustrating relationship of Building 1 to the Baker's Terrace (Source: Applicant's RTS)

The DFS Galleria building is located opposite Building 1 (see **Section 1.3**) with a comparable street frontage width. The DFS Galleria building extends to nine storeys when viewed from the public stairs (Nurses Walk) which abut the northern elevation. From Harrington Street, the building is viewed as six storeys (RL 39.3 to parapet) with a five-storey street wall height (RL 34.4).

The proposed building extends to eight storeys on Harrington Street (ground level retail, one level commercial and six levels of residential) with a further storey contained within the curved roof form. The roof form contains a communal room/terrace, plant and minor penthouse areas opening onto private roof terraces. The maximum RL is 49.43, a total of 8.43 m above the SCRA Scheme RL 41 maximum building envelope height (**Figure 25**).



Figure 24: Left: DFS Galleria (68 Harrington Street) looking south. Right: 66 Harrington Street looking north-east (Source: Department's photograph)

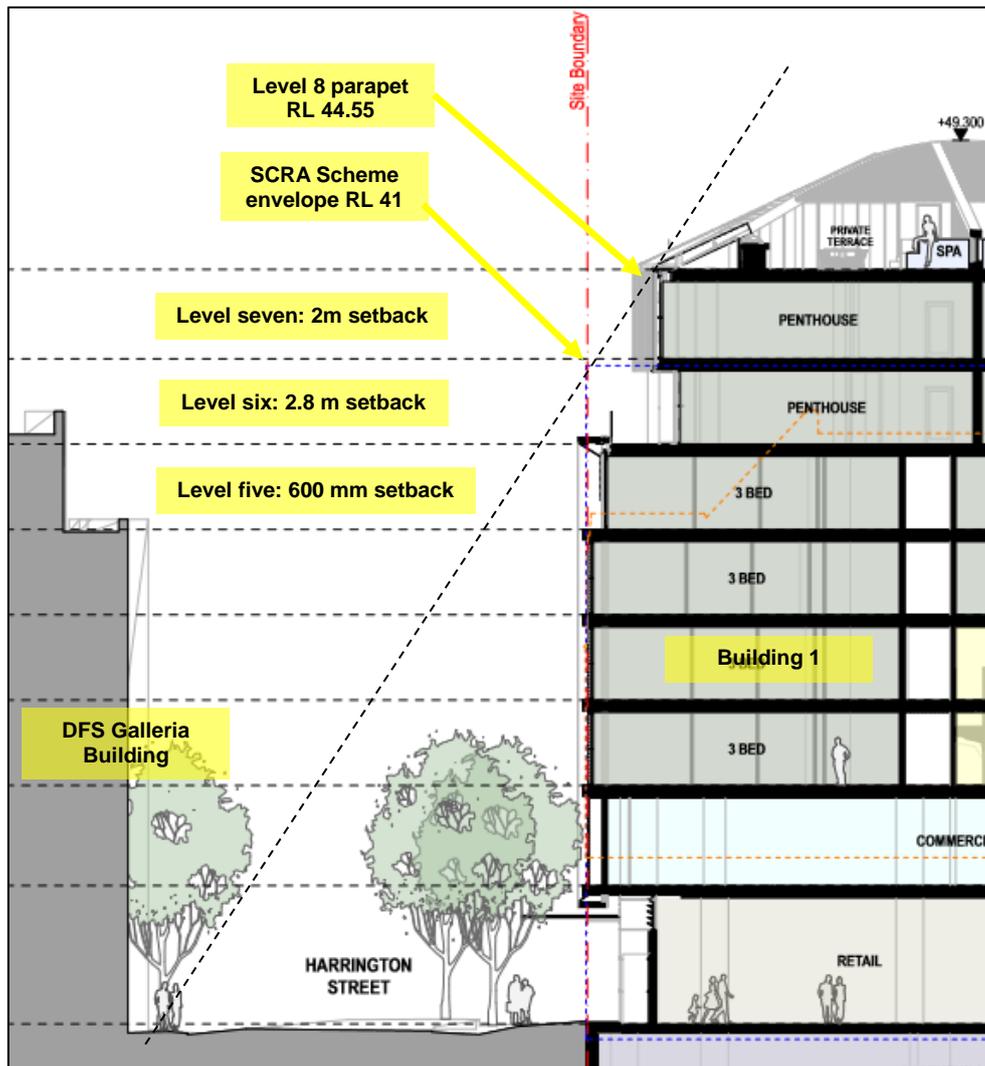


Figure 25: Cross-section of Building 1 to Harrington Street (Source: Architectural Plans)

The building is provided with setbacks to the upper three levels ranging between 600 mm and 2.8 m. The setbacks at the upper most two levels (levels 6 and 7) provide the façade with an effective six-storey street wall height with a parapet height of RL 38.4, consistent with the parapet height of the opposite DFS Galleria building (Figure 25).

Although the building will extend one storey higher than the maximum SCRA Scheme envelope height (RL 41) when viewed from street level, the Department considers the proposed setbacks to levels 6 and 7 suitably mitigate the visual bulk of the building when viewed from street level particularly given the additional height of the roof will not be visible. The proposed setbacks also compare favourably to a compliant SCRA Scheme envelope which allows for a nil setback to RL 41.

The Department concludes the proposed built form and design of Building 1 appropriately responds to the scale, proportions and character of Harrington Street and will not result in adverse heritage or visual impacts on the streetscape.

5.3.3 Building 2

Building 2 is proposed to extend to six storeys in height to Harrington Street and four storeys to the public plaza at the rear with a roof parapet height at RL 36.6. A maximum height of RL of 38.9 is proposed to the top of the lift overrun. The proposal includes a variation to the SCRA Scheme building envelope (RL 35) as detailed in Section 2.1 and Appendix D. Figures 26 and 27 provide proposed elevations, including the outline of the SCRA Scheme building envelope (blue), the existing building on the site (orange) and the EIS exhibited building (red).

No concerns were raised by Council, OEH and HHTNSW regarding the height or design of Building 2. The independent review undertaken by Professor Webber commented the height of Building 2 is reasonable in the context of the site and the SCRA Scheme height control and furthermore, the building form is sensitively articulated and should fit comfortably into this section of Harrington Street and the eastern side of the Baker's Terrace.



Figure 26: Western (public plaza) elevation of Building 2 (Source: Architectural Plans)

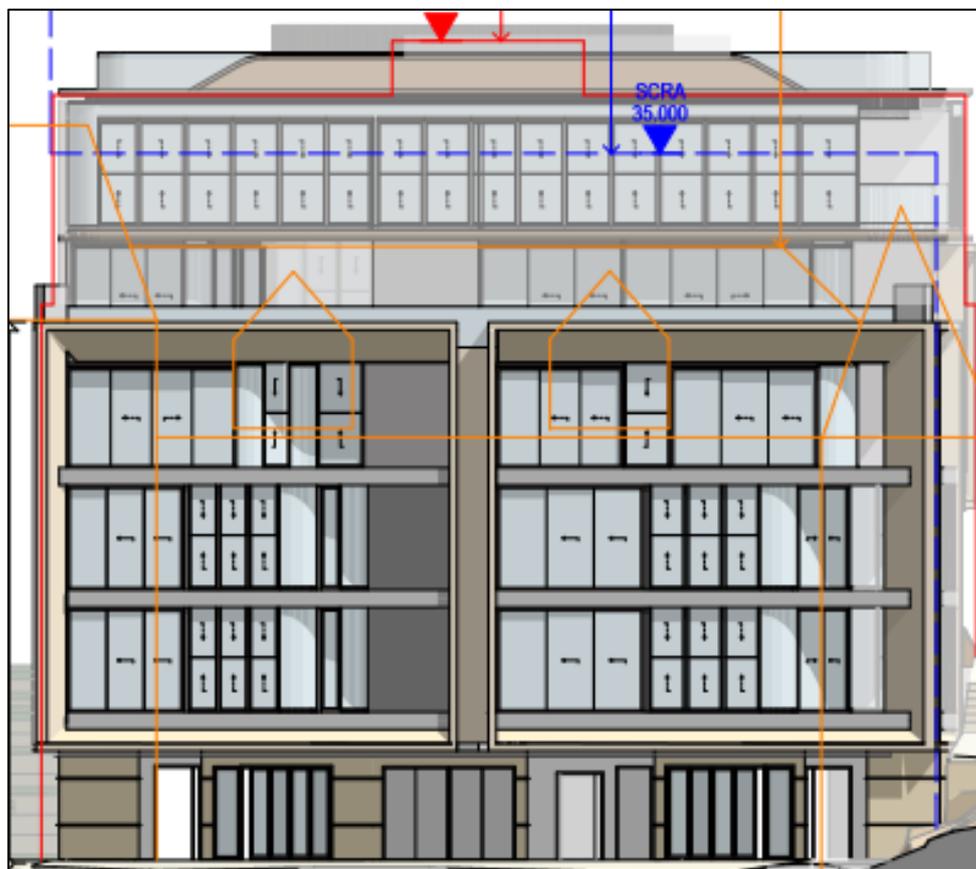


Figure 27: Eastern (Harrington Street) elevation of Building 2 (Source: Architectural Plans)

The Department considers the built form of Building 2 must be considered in the visual and heritage context of Harrington Street and the Baker’s Terrace. These relationships are considered below.

Harrington Street

The context of Harrington Street in this location is described in **Section 5.3.2**. 66 Harrington Street (**Figure 24**) is located opposite Building 2 and has a height of four storeys with the uppermost storey being setback from the street. **Figure 28** provides a cross section of Building 2, including its relationship to 66 Harrington Street.

Although the building will appear approximately one storey higher than 66 Harrington Street and will extend half a storey (1.5 m) above the SCRA Scheme envelope height, the Department considers it will be predominantly viewed in the same context as the DFS Galleria building at 68 Harrington Street and the Rendezvous Hotel. The Department considers the height of the proposed building is therefore compatible in this context.

The building presents vertical setbacks to the street boundary ranging between 800 mm and 1.2 m. The proposed setbacks are design features which provide visual interest to the façade but do not reduce the overall height of the building as viewed from street level.

Although roof top fencing, lift overrun and plant room are proposed, they are setback 1 m, 2 m and 6.5 m respectively from the eastern elevation. The Department considers these are minor elements that will not be visually prominent, particularly from street level, and will not materially increase the bulk and scale of the building when viewed from Harrington Street.

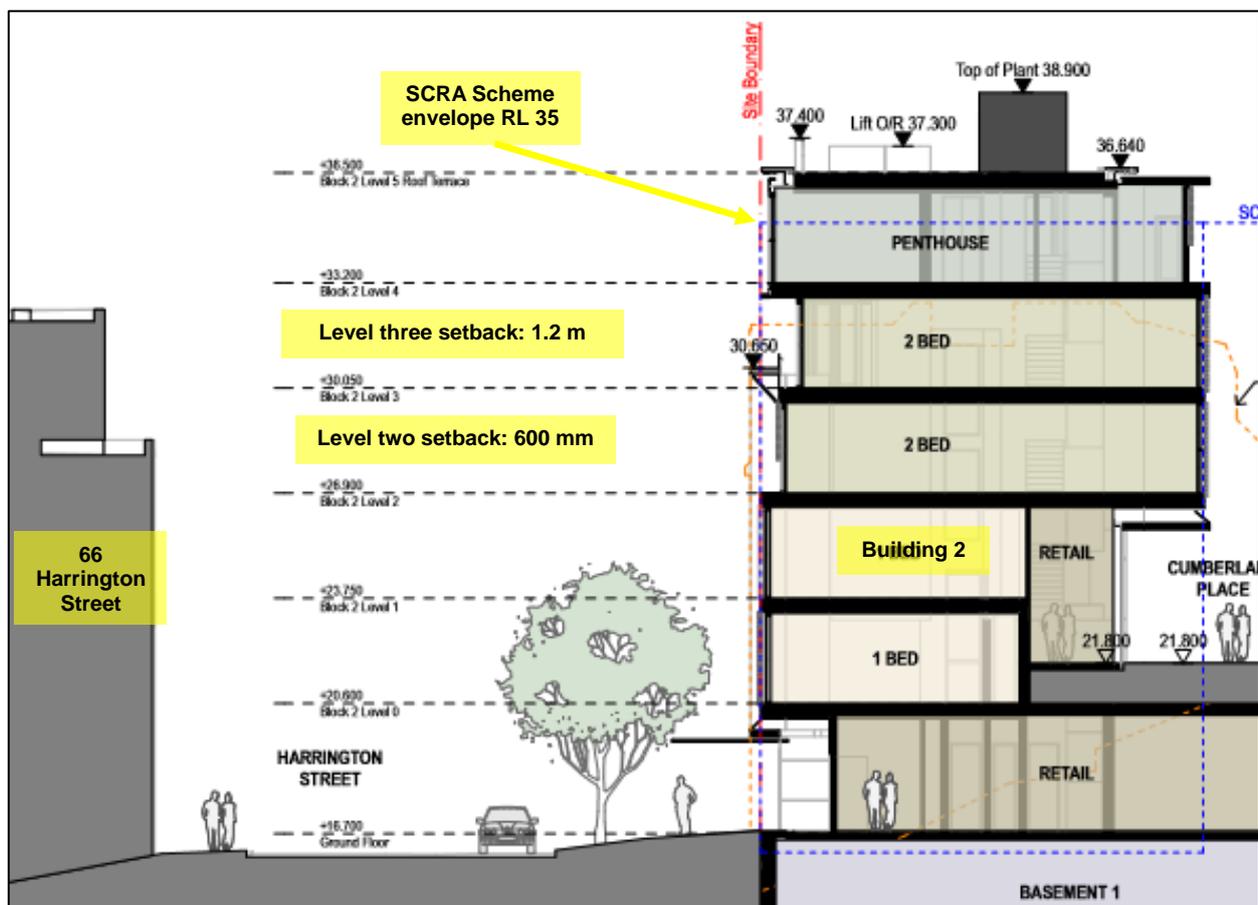


Figure 28: Cross-section of Building 2 to 66 Harrington Street (Source: Architectural Plans)

The Department concludes the proposed built form and design of Building 2 appropriately responds to the scale, proportions and character of Harrington Street and will not result in adverse visual impacts on the streetscape. Although the Department notes the western elevation may be partially

visible from Gloucester Street, past the Baker's Terrace, it will be viewed as background from Gloucester Street and would have no adverse impact on streetscape views from this location.

Baker's Terrace

The western elevation of Building 2 facing the Baker's Terrace has a height of four storeys (ground level retail and three residential levels). The ground level retail is setback 2.5 m from the two levels above, with the top storey setback 600 mm.

The roof of Building 2 will extend a metre higher than the roof of the Baker's Terrace (RL 36.6 compared to RL 35.7). A minimum separation of 6.4 m is proposed at the southern end of Building 2 (to the Baker's Terrace balcony) increasing to 10.8 m at the northern end. The proposed public plaza is located between the buildings. **Figure 29** provides a section of Building 2 in relation to the Baker's Terrace.

Submissions received in response to the EIS and RTS exhibitions did not raise any concerns regarding the relationship of Building 2 to the Baker's Terrace.

The Department considers the height and built form of Building 2, in combination with the proposed setbacks, compares sympathetically with the roof height of the Baker's Terrace. Although roof plant will extend up to RL 38.9, this occupies a small, central area of the roof and will be setback 4 m from the western elevation and will not impact the visual relationship to the Baker's Terrace.

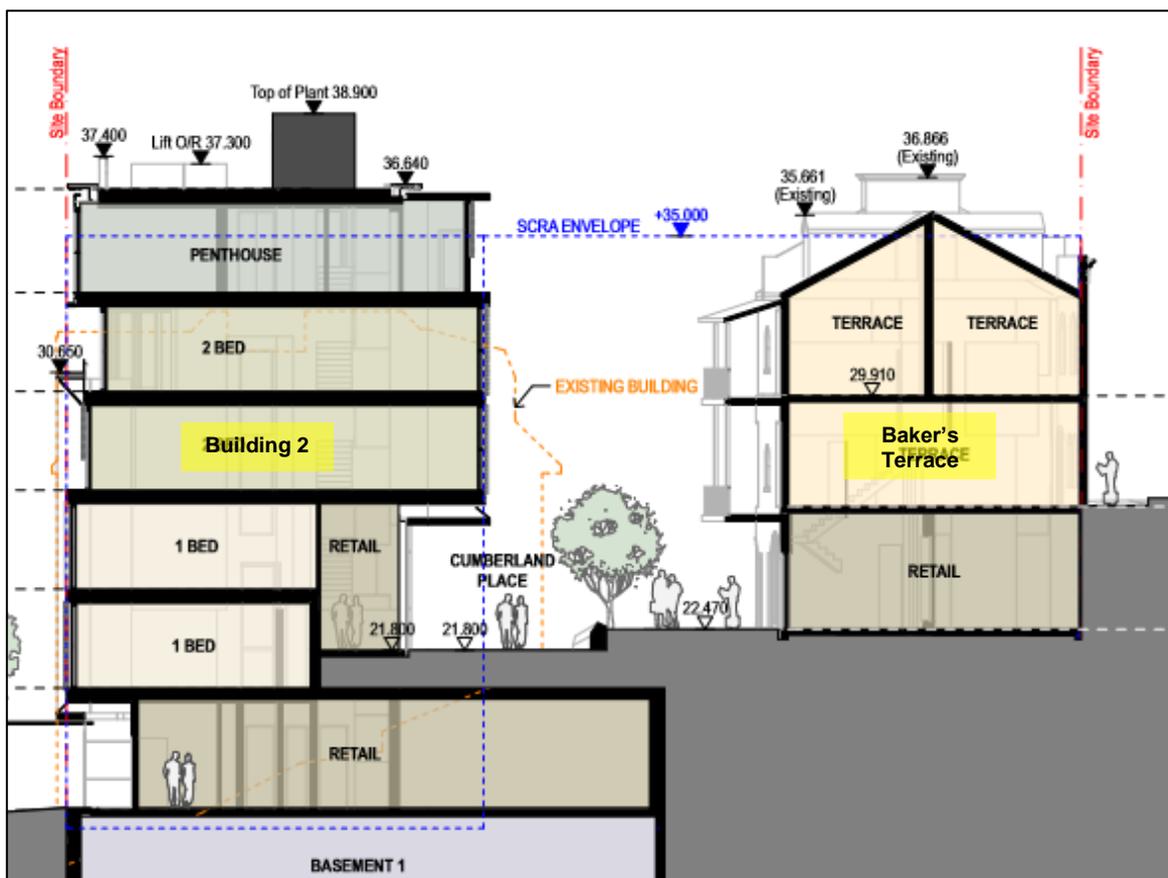


Figure 29: Cross-section of Building 2 and Baker's Terrace (Source: Architectural Plans)

The Department concludes the proposed height and built form of Building 2 would be compatible and sympathetic to the heritage significant Baker's Terrace and is acceptable.

5.3.4 Works to Baker's Terrace

The proposed development includes works to the Baker's Terrace, a State listed heritage item (**Figure 30**). The four original terrace dwellings date from 1875 to 1882 and were amalgamated

horizontally in the 1970s which included penetrations to party walls to create a commercial tenancy on each floor across all four terraces. Further significant internal work occurred in the 1990s.

The proposed development includes the adaptive re-use of the Baker's Terrace from commercial to retail on the lower ground floor (fronting the public plaza) with two residential townhouses above. The proposed works to facilitate the proposed re-use include:

- alterations to recent internal fabric to remove commercial fit-out including minor modifications to the original fabric
- removal of intrusive basement slab and brick skin walls
- revised internal layouts comprising a reconfiguration of spaces and services within the existing principal walls and removal of modern fire stairs in the southern terrace
- various minor conservation and maintenance works.



Figure 30: Left: Baker's Terrace viewed from Gloucester Street looking north-east. Right: Baker's Terrace viewed from the rear looking south-west (Source: Department's photograph)

The Applicant's EIS included a Heritage Impact Statement (HIS) prepared by Urbis which provides a detailed assessment of the potential heritage impacts of the development on the Baker's Terrace and surrounding heritage context. The RTS included an addendum to the HIS. An updated Conservation Management Plan for the Baker's Terrace has also been prepared by the Applicant and is currently under review by OEH.

The HIS notes the proposed internal reconfiguration will have a neutral impact as the works will not impact the original highly significant fabric. The HIS considers the current proposal to convert the terrace to residential use better reflects the historic use of the terraces and will have positive heritage outcomes.

OEH, Council and HHTNSW have raised no concerns with the proposed change of use or works to the Baker's Terrace. OEH have requested conditions be imposed regarding further details of the retention of the original heritage fabric and a requirement for a full archaeological assessment. These are included in the Department's recommended conditions.

The Department supports the proposed adaptive re-use of the Baker's Terrace and associated works because:

- the works will sympathetically revitalise an existing heritage building
- the proposed residential and retail uses are appropriate for the building and The Rocks
- the works will have no adverse impact on the neighbouring properties or the character of the surrounding conservation area.

5.3.5 Visual and scenic impacts

In addition to views from Harrington Street and Gloucester Street, the proposed development will be visible from more distant locations within and around The Rocks. A Visual Impact Assessment (VIA)

was submitted with the EIS, with an addendum provided in the RTS, that considers the potential view impacts from these locations.

Council raised concerns stating the VIA fails to accurately identify the visual impact of the proposal as viewed from East Circular Quay and the Sydney Opera House (SOH). Council further considers the proposal will form a visible backdrop that will detrimentally impact the significance of The Rocks Conservation Area.

The VIA provides a view analysis from 18 locations, including the 12 locations specifically nominated in the Department's SEARs including from East Circular Quay and the SOH. A further prominent view location was analysed at the southern end of the Sydney Harbour Bridge. **Figures 31 to 36** illustrate existing and proposed views from these locations.

The Applicant contends the proposed visual and scenic impacts to be minor and acceptable. The Department has viewed the site from various locations. Despite Council's concerns, the Department considers the VIA accurately identifies the visual impact of the proposed development, as originally proposed, from various vantage points including East Circular Quay and the SOH.

While the Department acknowledges the upper levels of the proposed buildings will be visible to varying degrees from these locations, the visual impacts are considered negligible given the distances involved and the relationship of the proposed development to surrounding buildings. In particular, the Department notes views of the development from East Circular Quay and the SOH will be substantially obscured by the Museum of Contemporary Art and the DFS Galleria Building.

Although the Department notes the development will be more visible when viewed from the Harbour Bridge, it will be predominantly viewed with the YHA building in the foreground together with a backdrop of significant towers within the CBD. This relationship minimises any visual prominence of the proposed buildings.

The Department concludes the proposed development will sit comfortably in its context when viewed from various locations and will not adversely impact the scenic character at these locations or The Rocks.

5.3.6 Conclusion

Although extending higher than the existing SCRA Scheme building envelope, the Department considers Building 1 incorporates satisfactory setbacks of the upper levels and a curved, recessive roof form which reduces the scale of the building. Other design features including façade articulation to ensure the building responds sympathetically to the Harrington Street and Gloucester Street streetscapes and to the Baker's Terrace.

The Department considers Building 2 is of an acceptable height and scale. It is noted Building 2 extends higher than the existing SCRA Scheme building envelope but it is considered the built form is sympathetic to the character of Harrington Street and to the Baker's Terrace.

Although the proposed development will be partly visible from a variety of more distant locations including East Circular Quay, SOH and Harbour Bridge, the Department concludes the proposed buildings will not be obtrusive and are compatible with surrounding buildings and any visual impact on the heritage character of The Rocks will be negligible.

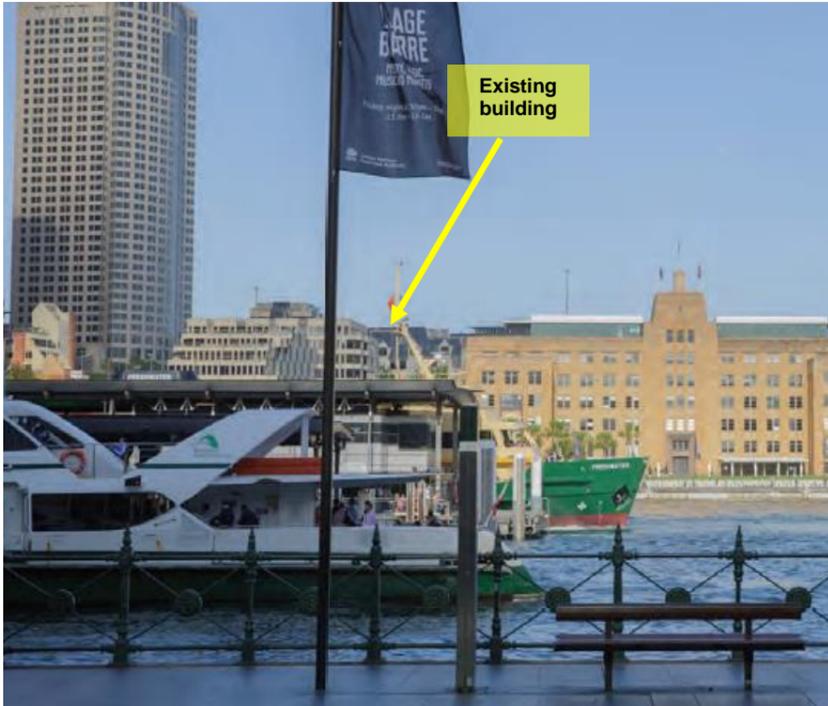


Figure 31: Existing building viewed from East Circular Quay (Source: VIA)

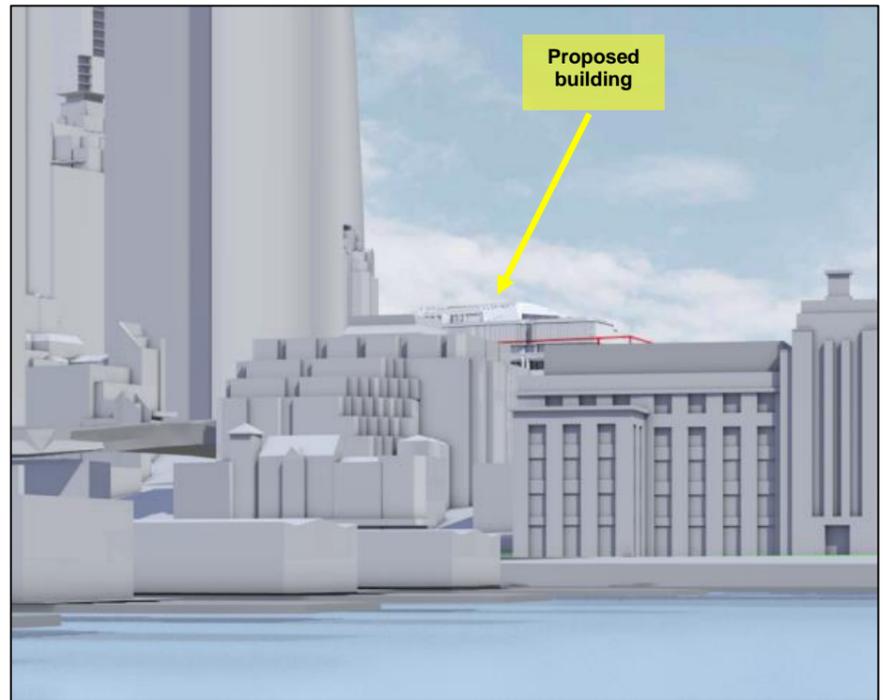


Figure 32: Proposed development viewed from East Circular Quay (Source: Applicant's RRTS)



Figure 33: Existing south-west view from Sydney Opera House (Source: VIA)

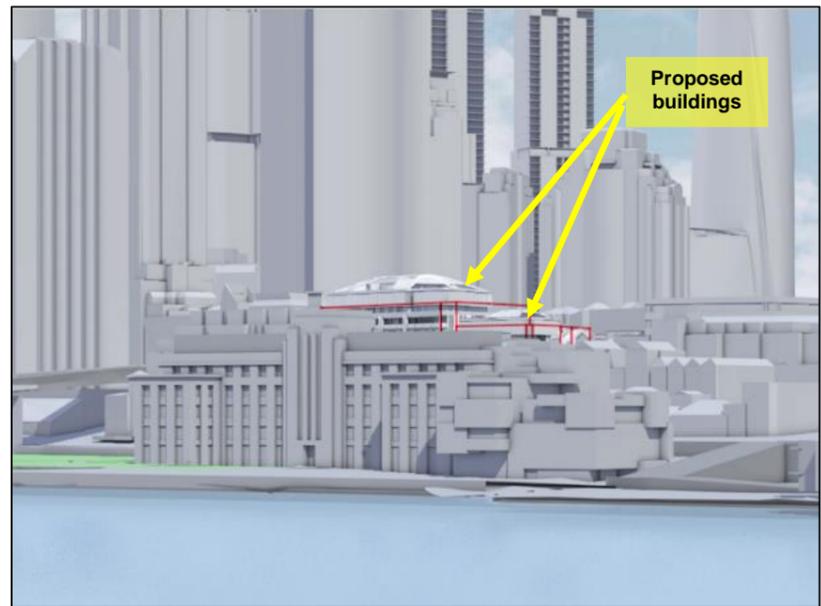


Figure 34: Proposed development viewed from Sydney Opera House (Source: Applicant's RRTS)



Figure 35: Existing building viewed from Sydney Harbour Bridge looking south-east (Source: VIA)

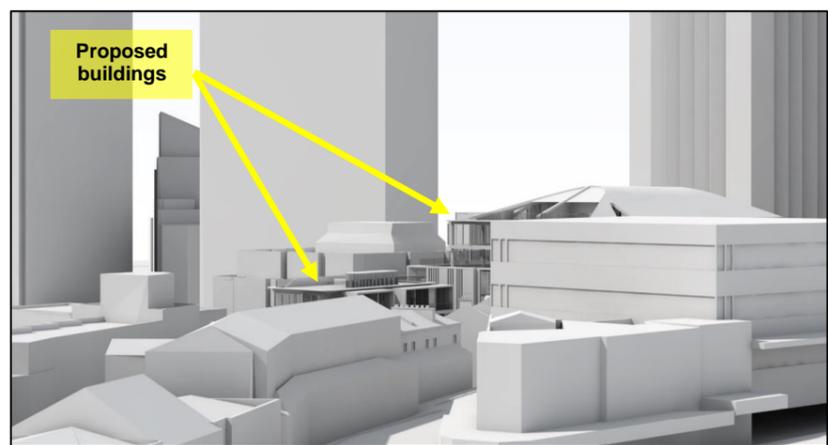


Figure 36: Proposed development viewed from Sydney Harbour Bridge looking south-east (Source: Applicant's RRTS)

The Department considers the proposed materials compatible with the surrounding heritage context of The Rocks. The Department has also recommended a standard condition requiring the Certifying Authority to be satisfied that the proposed external materials comply with the Building Code of Australia (BCA) particularly in relation to building cladding.

The Department considers the proposed contemporary development provides an appropriate and positive site-specific design response to the constraints and heritage context of site. The Department notes Peter Webber's independent review concludes the built form and architectural character of the development is of excellent quality and is fully supported.

The Department concludes the height and design of the proposed buildings will relate sympathetically to surrounding buildings and the historical character of The Rocks. Furthermore, the proposed buildings will be compatible with the adjacent Baker's Terrace and neighbouring heritage items.

5.4 Public Domain

The proposed development includes the following public domain works and benefits:

- new landscaped public plaza
- significantly improved through-site link and a new public lift
- retail activation of Harrington Street.

No submissions were received objecting to the proposed domain works. However, one submission objected to there being no public benefits and a second submission objected on the basis the proposed residential units will detract from the vibrancy of The Rocks.

The Applicant contends the proposed variations to the SCRA Scheme building envelope are partly predicated on the extent of public domain benefits that will be achieved by the proposed development. This issue is considered separately in **Section 5.2** and **Appendix D**.

Figure 37 illustrates the location of the proposed key public domain works/ benefits. An assessment of each element is provided below.

Public plaza

The Applicant seeks to create a new public plaza to the north of Building 1 between the Baker's Terrace and Building 2 (**Figures 37** and **38**) and is designed as an extension to the existing pedestrian laneway network. Retail tenancies are proposed within the Baker's Terrace and Building 2 fronting the plaza. The commercial level within Building 1 will also open onto the southern side of the plaza.

The plaza will be split level, including an access ramp, and will be landscaped with planter beds and a new tree. Public toilets are also proposed within Building 1 to service the plaza.

The plaza will replace an existing smaller public space which is not activated by any retail uses and is of limited amenity (**Figure 39**).

The Department notes the proposal significantly increases the size and openness of the plaza compared to the existing public space. The northern end of the plaza will also open onto the Cumberland Steps matching the level of Cambridge Street which will contribute to its integration with existing pedestrian corridors.

The proposed retail tenancies and commercial level entry will activate the plaza and together with good solar access from around noon in mid-winter, will enhance its likely vitality providing an attractive and desirable location for members of the public and future residents and workers.

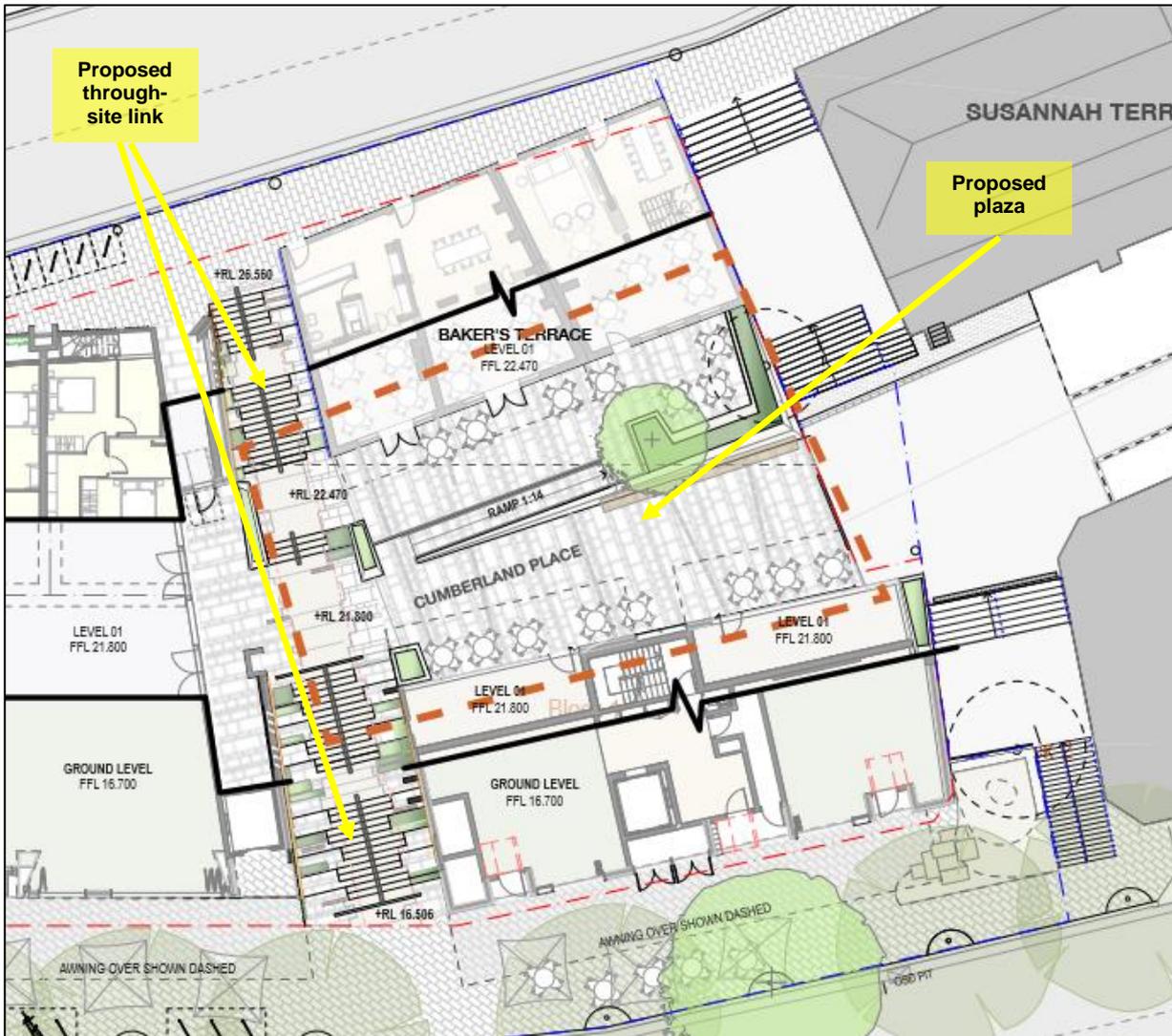


Figure 37: Proposed public domain works (Base source: Applicant's RTS)



Figure 38: Proposed public plaza (Source: Applicant's RTS)



Figure 39: Existing public space to rear of Harrington Court and Baker's Terrace (Source: Department's photograph)

The location of residential units overlooking three sides of the plaza will also provide passive and casual surveillance of the area. This will be supported by closed circuit television cameras in appropriate locations as detailed in the RRTS.

The Department concludes the proposed plaza will deliver a significant positive and desirable public benefit.

New through-site link and public lift

The proposed pedestrian link is located between Building 1 and the Baker's Terrace/Building 2. It will replace an underutilised and poorly designed existing link that partly extends beneath the Harrington Court building, emerging into the public space adjacent to the Baker's Terrace (**Figure 40**).

The width of the link ranges from 4 m at the western end to 6.3 m at the eastern end. The link has been designed to include seating, planting terraces and a green wall with the central portion of the link opening onto the new plaza and the commercial level within Building 1 (**Figures 41 and 42**).

A new public lift is also proposed to provide access from Harrington Street to the proposed plaza level and Gloucester Street. For security and amenity reasons, it is proposed for the lift to be accessible between 10 pm and 7 am to residents only.



Figure 40: Existing through-site link viewed from Harrington Street (Source: Department's photograph)

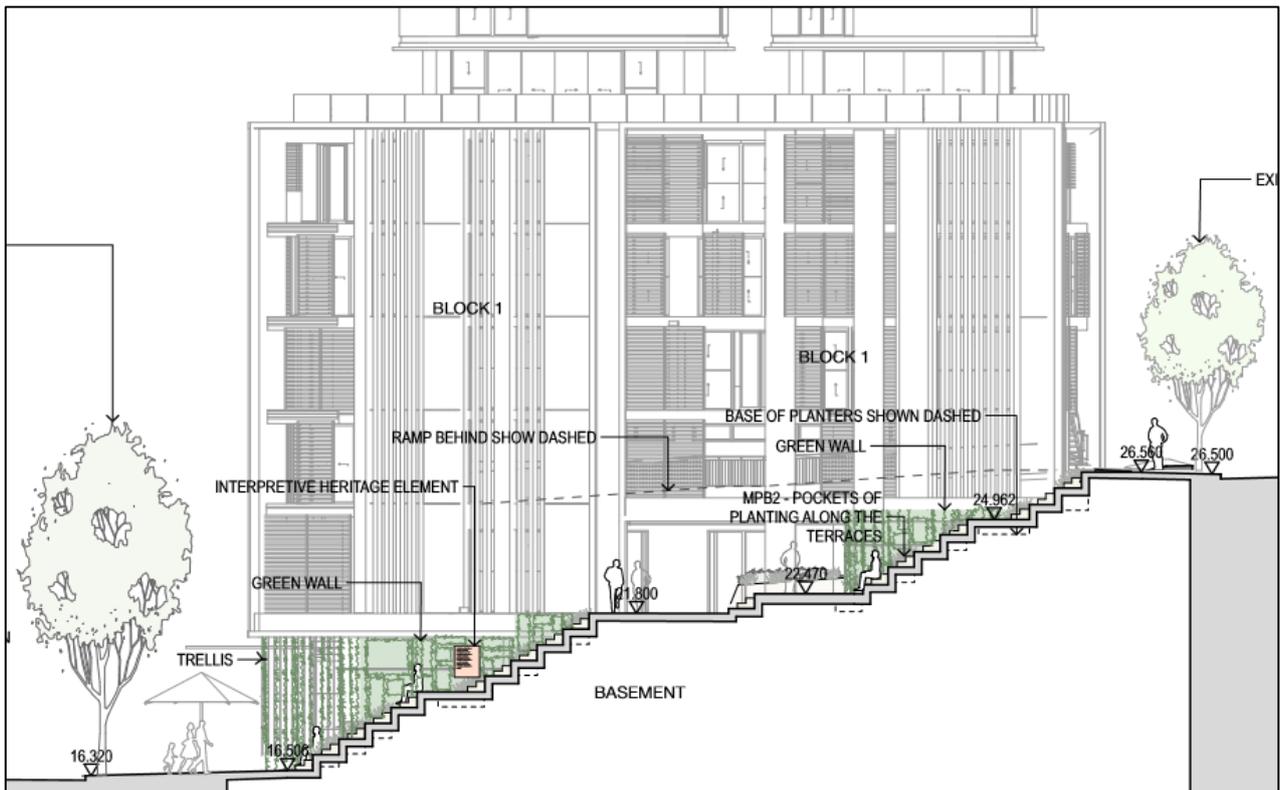


Figure 41: Profile of proposed pedestrian link (Source: Applicant's RTS)



Figure 42: Illustration of proposed pedestrian link viewed from Harrington Street (Source: Applicant's RTS)

In addition to the restricted hours of accessibility to the lift, double glazed and high-level bedroom windows on level 2 in Building 1 are proposed adjacent to the lift pathway.

The Department considers the proposed pedestrian link and public lift will provide:

- significant public benefits and amenity and security improvements compared to the existing link
- provide improved accessibility between the different levels of Harrington Street and Gloucester Street
- attractive public views towards Circular Quay
- contribute to the overall attractiveness of the site and vibrancy of The Rocks.

Retail activation of Harrington Street

The proposed ground floor retail tenancies in Building 1 on the Harrington Street frontage will replace the existing commercial frontage of Harrington Court.

The Department supports this aspect of the development as a positive urban design outcome noting it will generate public interest and activity in this location and contribute positively to the vibrancy of The Rocks.

Conclusion

The Department concludes the proposed development incorporates significant public domain benefits for residents, workers and visitors as it will improve the quality of the existing public domain and its vibrancy within this area of The Rocks. The works will also improve pedestrian connectivity within The Rocks, including providing public lift access across three levels and desirable public views.

5.5 Amenity Impacts

Consideration is provided below to potential amenity impacts raised in public submissions to the proposal, specifically view and overshadowing impacts. Privacy impacts are considered separately in **Section 5.6**.

5.5.1 View impacts

The location and height of the proposed buildings mean they have the potential to impact on views of Sydney Harbour, Harbour Bridge and the SOH that are currently enjoyed from neighbouring properties to the south of the site.

The potential impact on views of the SOH from a property at 140-142 Cumberland Street was raised in a public submission. The property currently operates as a bed and breakfast hotel and is located adjacent to the Expressway to the south-west of the site (see **Figure 7**). Two of the nine guest rooms have views across the subject site towards the SOH and Sydney Harbour. The Department visited the property to assess the potential view impacts from the proposed development.

A public submission from the Strata managers on behalf of the Owners Corporations of the Quay West Hotel and Apartments to the south of the site objected to the proposed variation to the SCRA Scheme building envelope. Although view impacts were not raised, the Department nevertheless visited the building to assess potential impacts.

The Applicant has undertaken a detailed assessment of potential view impacts from the Quay West Hotel and Apartments, Four Seasons Hotel and Shangri-La Hotel. The assessment includes a comparison between a compliant SCRA Scheme building envelope and the proposed development. Proposed and compliant scheme views from the most affected level within each building are provided in **Figures 43 to 48**.

The Applicant contends the view impacts to the Shangri-La Hotel, Quay West Hotel and Apartments, and Four Seasons Hotel will be very limited and not unreasonable in accordance with view sharing principles established by the NSW Land and Environment Court. The Applicant also contends views towards the SOH will remain largely unimpeded with wider views to the north-east increased and as such the proposal also satisfies Land and Environment Court view sharing principles.

The Applicant has also undertaken a detailed assessment of potential view impacts on 140-142 Cumberland Street (**Figures 49 and 50**).

The Department has reviewed the Applicant's view impact assessment and is satisfied it accurately considers the views affected, location of views obtained and the extent of impacts.

To ascertain whether the proposed view sharing impacts are reasonable, the Department has followed a four-step assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah [2004] NSWLEC 140*. The steps/principles adopted in the decision are:

1. assess what views are affected and the qualitative value of those views
2. consider from what part of the property the views are obtained
3. assess the extent of the impact (from 'negligible' to 'devastating')
4. assess the reasonableness of the proposal that is causing the impact.

The Department notes the Tenacity planning principle relates to the evaluation of view impacts enjoyed by private residential properties in the vicinity of a development rather than to commercial uses or hotels. The Department nevertheless considers it remains appropriate to frame the assessment of this issue against the steps/ principles adopted in the decision. The findings of the assessment against the first three steps are summarised in **Table 8**.



Figure 43: Proposed development viewed from Shangri-La looking north-east (RL 47.24)
(Source: Applicant's RRTS)

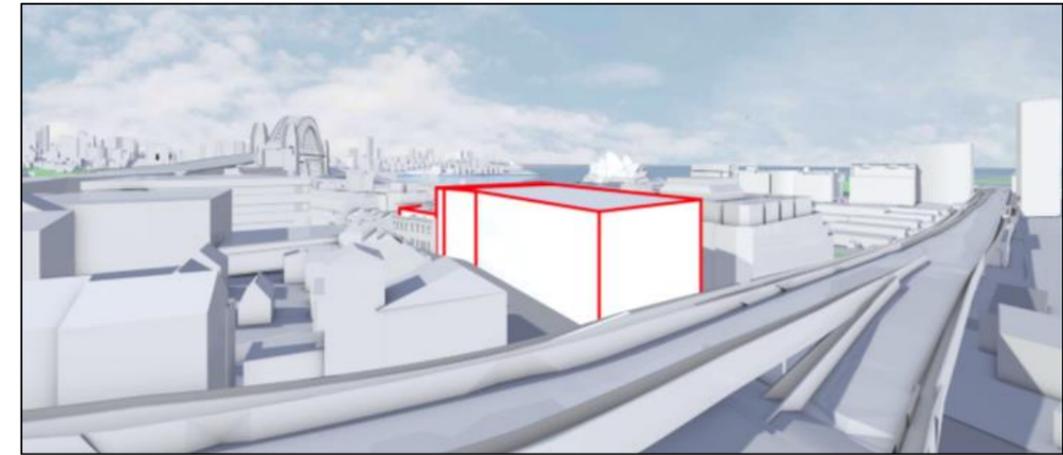


Figure 44: SCRA Scheme building envelope viewed from Shangri-La looking north-east (RL 47.24)
(Source: Applicant's RRTS)

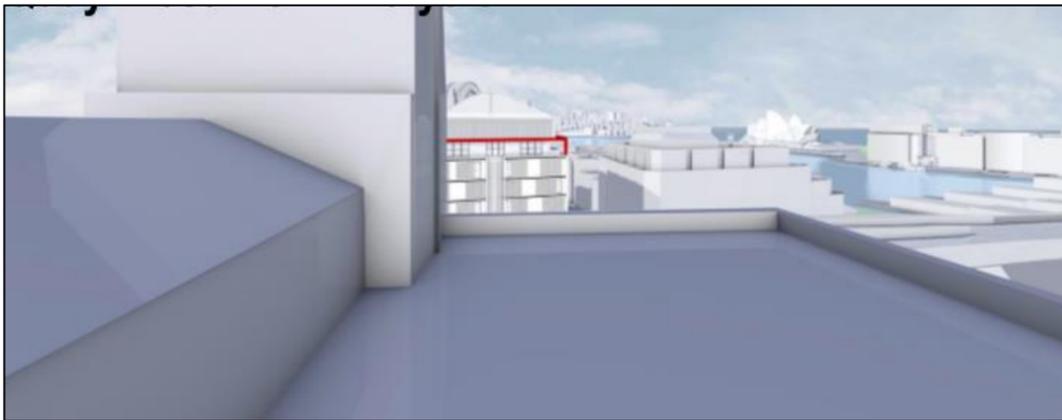


Figure 45: Proposed development viewed from Quay West looking north (RL 43.75)
(Source: Applicant's RRTS)

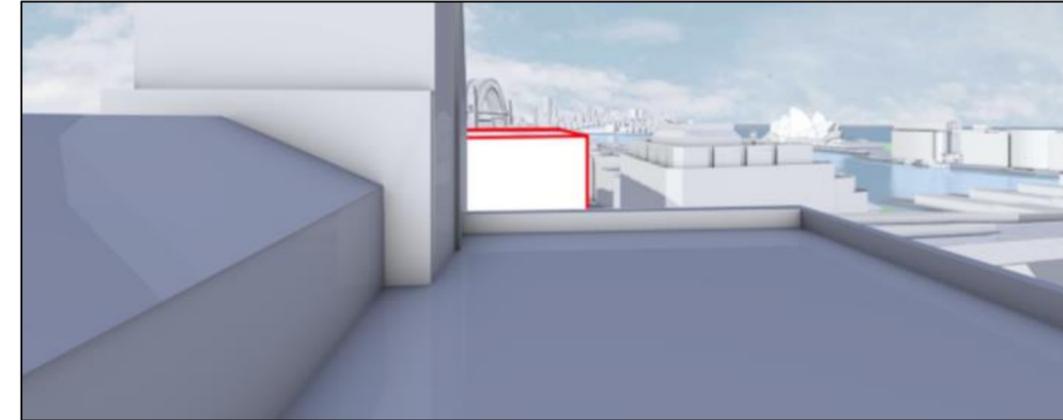


Figure 46: SCRA Scheme building envelope viewed from Quay West looking north (RL 43.75)
(Source: Applicant's RRTS)



Figure 47: Proposed development viewed from Four Seasons looking north (RL 47.24)
(Source: Applicant's RRTS)



Figure 48: SCRA Scheme building envelope viewed from Four Seasons looking north (RL 47.24)
(Source: Applicant's RRTS)



Figure 49: Existing view from bedroom window in eastern elevation of 140-142 Cumberland Street looking north-east (Source: Department's photograph)

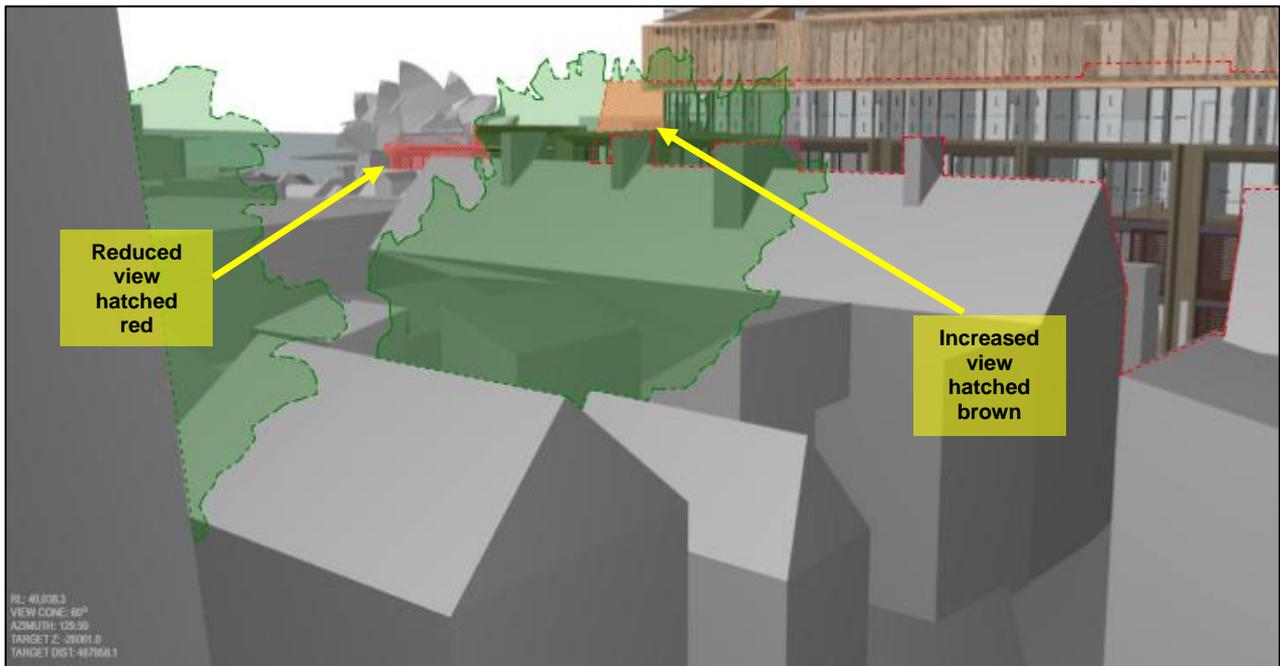


Figure 50: Proposed view from bedroom window in eastern elevation of 140-142 Cumberland Street looking north-east (Source: Applicant's RRTS)

The fourth step of the Tenacity planning principle is to assess the reasonableness of the proposal that is causing the impact. In particular, the principle states development that complies with all planning controls would be considered more reasonable than one that breaches them. This assessment is provided below **Table 8**.

Table 8: Summary of view loss impacts

| Principle | Building | Consideration |
|---|---------------------------|---|
| Views affected | 140-142 Cumberland Street | Views toward the north-east to the SOH and partial views to Sydney Harbour and foreshore beyond. |
| | Shangri-La | Views toward the north-east to the SOH and to Sydney Harbour and foreshore beyond. |
| | Quay West | Views toward the north to the Harbour Bridge. |
| | Four Seasons | Views toward the north to North Sydney CBD, Lavender Bay and McMahons Point. |
| From what part of the property are the views obtained | 140-142 Cumberland Street | Views from two west facing bed and breakfast rental rooms. |
| | Shangri-La | North facing hotel rooms on levels at RL 40.35 to RL 54.13 (five levels). |
| | Quay West | North facing commercial levels at RL 43.75 to RL 54.13 (four levels). This includes a terrace, currently used as external open space for a child care centre, on the lowest level (RL 43.75). |
| | Four Seasons | North facing hotel rooms on levels at RL 40.35 to RL 54.13 (five levels). |
| Extent of impacts | 140-142 Cumberland Street | Minor impacts to the two bed and breakfast rental rooms with only views to a small portion of the lower concourse of the SOH impacted. This represents a small portion of the overall view of the SOH and the wider panorama. |
| | Shangri-La | The proposed development will result in severe impacts to rooms on three levels (RL 40.35 to RL 47.24). However, significant views to the Harbour Bridge and North Sydney CBD will be retained. |
| | Quay West | The proposed development will result in severe impacts to commercial tenancies on two levels (RL 43.75 and RL 47.24) due to significant loss of views to the Harbour Bridge. The impact reduces to moderate for levels directly above. Views to the SOH and Sydney Harbour to the north-east will not be impacted. |
| | Four Seasons | The proposed development will result in moderate impacts to hotel rooms on these levels due to loss or partial loss of north-western views. Impact reduces to minor for levels directly above. Views to the Harbour Bridge, SOH and Sydney Harbour east of the SHB will not be impacted. |

140-142 Harrington Street

The property contains nine bed and breakfast rooms of which views from two east facing rooms on the upper level would be impacted by the development.

The Department considers the impact on views obtained from the two rooms to be minor with only a small portion of the lower concourse of the SOH impacted (see **Figure 50**). This represents a small proportion of the overall view with almost the entire existing view to the SOH, including all of the sails, unaffected. As also illustrated in **Figure 50**, the Department notes the setbacks provided to the upper levels on the northern elevation of Building 1 result in a partial widening of views to the north-east obtained from the two rooms compared to the existing Harrington Court building.

The owners of 140-142 Cumberland Street were provided with an electronic copy of the RRTS view impact analysis on 30 October 2017. No further comments were received.

Although the view impact occurs from the height of Building 2 extending above the SCRA Scheme building envelope, given the minor extent of the impact combined with a slight improvement in views in the location of Building 1 compared to the existing building, the Department considers the impacts to be reasonable.

Shangri-La Hotel

Although severe view impacts to the SOH would occur to rooms on three levels (RL 40.35 to RL 47.24), this impact only effects a small proportion of the 565 rooms within the hotel. A compliant SCRA Scheme development would also severely impact rooms on one level (RL 40.35).

Given the limited extent of impact on the overall hotel and occupants of the rooms are transient and have a choice in terms of preferred views when booking, the Department considers the view impact resulting from the proposed built form to be reasonable.

Quay West Hotel and Apartments

Although views to the SHB would be most impacted from the terrace and commercial tenancy on the level at RL 43.75, the tenancy and associated terrace are currently occupied by a child care centre. Commercial offices are located on the levels above and below the terrace. Wider views to Sydney Harbour and the SOH will not be impacted from these levels.

Hotel rooms/ serviced apartments commence above the commercial levels with residential units located on the upper levels of the building. Views from these levels will not be affected.

The Department considers view impacts from the proposed development, predominantly to the SHB, will occur only to the commercial levels, including the child care centre.

Although a compliant SCRA Scheme development would minimise view loss from the identified commercial levels, the Department considers impacts to views from commercial tenancies to the Harbour Bridge is not material given the preservation of views from commercial buildings within the Sydney CBD would prevent much of the CBD from further development and is not a reasonable or viable planning objective.

Four Seasons Hotel

View impacts, predominantly to the North Sydney CBD, would occur to rooms on three levels (RL 40.35 to RL 47.24). Only a small proportion of the 531 rooms within the hotel would be impacted.

Although the Department notes a development compliant with the SCRA Scheme building envelope would reduce the view impacts, the impact of the proposed view loss from these rooms is considered insignificant, particularly given views to the Harbour Bridge and SOH will not be impacted. Furthermore, given the limited extent of impact on the overall hotel and that occupants of the rooms are transient and have a choice in terms of preferred views when booking, the Department does not consider the view impacts to be a material concern.

Conclusion

The Department considers view impacts arising from the proposed development will impact only commercial tenancies and a relatively small quantity of hotel rooms. Given the nature of the uses impacted, overall views retained and in comparison with views lost compared to a complying SCRA Scheme building envelope, the Department concludes the view impacts arising from the proposed built form are reasonable.

5.5.2 Overshadowing

The proposed buildings will generate additional overshadowing compared to the existing building predominantly due to their increased height. One public submission was received which raised concerns regarding increased overshadowing of neighbouring properties and public space.

The Applicant considers the location of the site is ideal for limiting overshadowing impacts given the location of the Expressway directly to the south together with non-sensitive commercial and retail uses to the south, south-east and east.

The Applicant has provided an overshadowing analysis illustrating the impacts of the proposed development compared to a complying SCRA Scheme building envelope. It shows a marginal

increase in overshadowing to residential terraces on the western side of Gloucester Street between 9 am and 9.30 am in midwinter (**Figure 51**).

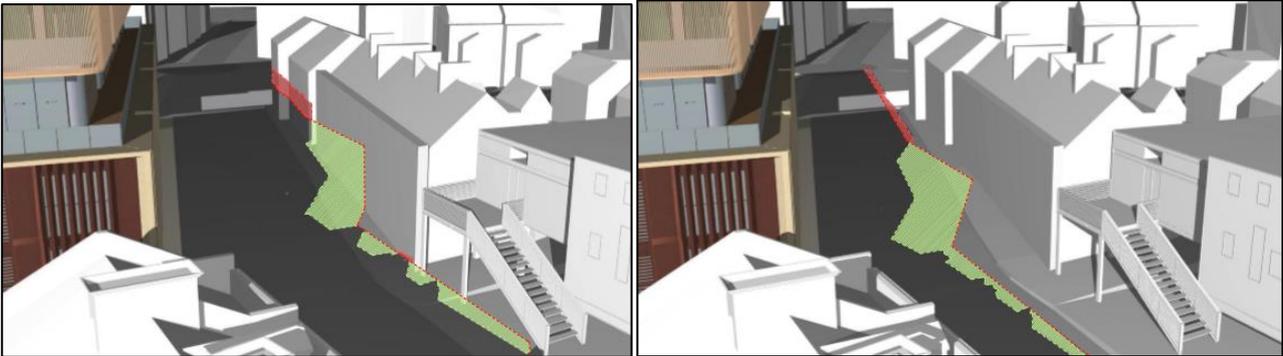


Figure 51: Overshadowing to western side of Gloucester Street Left: 9 am midwinter. Right: 9.30 am midwinter. Increased overshadowing compared to compliant SCRA Scheme building envelope shown hatched red. Reduced overshadowing shown hatched green (Source: Applicant's RRTS)

The Department notes the shadow impact is minor with no overshadowing occurring after 9.30 am. At the equinoxes, the overshadowing analysis demonstrates no increased overshadowing would occur to any windows at 9 am. The Department further notes the rear elevation of the subject properties also receive solar access during the afternoon.

The Department notes the proposed development would result in less overshadowing to terraces located further north between 9 am and 9.30 am in midwinter, compared to a complying SCRA Scheme development.

Overall, the Department considers the shadow impact of the proposed built form to residential properties on the western side of Gloucester Street, in comparison to overshadowing from a complying SCRA Scheme development, to be negligible and would have minimal amenity impact.

Although there would be some increased overshadowing of Gloucester Street, Harrington Street and the Cahill Expressway, the Department considers the impact would be minor, largely consistent with a complying SCRA Scheme development, and there would be no increased overshadowing of any parks, plazas or active public open space.

The Department therefore concludes the extent of overshadowing impact arising from the proposed development beyond that anticipated by the controls to be minor and acceptable.

5.6 Residential Amenity of Units

SEPP 65 seeks to improve the design quality of residential apartment developments. The associated ADG sets out best practice design principles for residential apartment developments. A detailed assessment is provided at **Appendix C**.

The Department has considered the residential amenity of the proposal against the ADG design criteria and considers the proposal demonstrates good design in that the development provides an acceptable level of amenity. However, Council has raised concerns regarding how the proposal satisfies ADG solar access and natural ventilation recommendations. These and other key ADG matters are also considered below.

The independent review undertaken by Professor Webber included a review of the proposed design regarding the ADG and concludes the overall amenity would be of a good standard. Recommendations in relation to improving natural light and ventilation to the internal corridors (levels 2 to 5) and communal roof top facilities were provided. These matters are also considered below.

The Baker's Terrace does not constitute an apartment building under the provisions of SEPP 65. However, given the proposal includes two new dwellings within the Baker's Terrace, the amenity of these dwellings has been considered in the following ADG assessment.

5.6.1 Communal and public open space

To enhance residential amenity and to provide opportunities for landscaping, the ADG recommends an area at least equal to 25% of the site area be provided as communal open space. The ADG also recommends at least 50% of the communal open space receives at least two hours of direct sunlight between 9 am and 3 pm in midwinter.

Although the expectation of the ADG is for communal open space to be located at ground level and co-located with deep soil zones, it notes developments located in dense urban areas can alternatively provide the following:

- communal landscaped podium/roof top terraces or a common room
- provide larger balconies or increased private open space
- demonstrate good proximity to public open space.

The Rocks constitutes a dense urban location and with the exception of a small area of public space located between the existing buildings, the footprint of the existing buildings occupy the entire site. Given the constraints and density of the site and surrounding area, the Department considers it is not reasonable to provide exclusive communal open space for the proposed development at ground level.

The development incorporates the following communal and public open space elements (see **Figure 52**):

- 123 m² communal open space on the top storey of Building 1 incorporating internal and external areas and views of the SOH, Harbour Bridge and Sydney Harbour (**Figure 53**). Access to the communal facilities will be shared between the residents of both proposed buildings and the Baker's Terrace
- 485 m² of public open space in the form of a new plaza at ground level and new through-site link which includes seating and landscaping (see **Section 5.4**).

The total proposed area of communal and public open space equates to 29% of the site. It will provide high quality amenity to residents, workers and visitors with both areas receiving excellent solar access.

Although the area of exclusive communal open space equates to 6% of the site area, given the quality and proximity of the proposed public open space within the development, the Department considers the proposed combined form of open space will provide significant amenity benefits to future residents. The Department notes both the communal and public open spaces will each receive in excess of two hours solar access in midwinter (between 9 am and 3 pm).

Professor Webber's review of the proposal notes the proposed roof terrace would provide excellent communal open space but suggests it could be improved two improvements:

- 1) Provide communal access to the northern section of the roof level of Building 1 (currently occupied by two private terraces).
- 2) Provide communal open space on the roof of Building 2.

The Department agrees Professor Webber's suggestions would provide additional north facing communal open space. However, these design changes are not recommended for the following reasons:

- given the exceptional quality of the communal open space proposed, the Department does not consider the implications for the design and amenity of the two north facing penthouse units with terraces on the roof level to be reasonable
- the provision of communal open space on the roof of Building 2 would require lift access to be extended to the roof, resulting in a larger, higher roof top structure. Only nine units are proposed

within Building 2 and the short distance to the communal area in Building 1 is reasonably accessible for future residents.

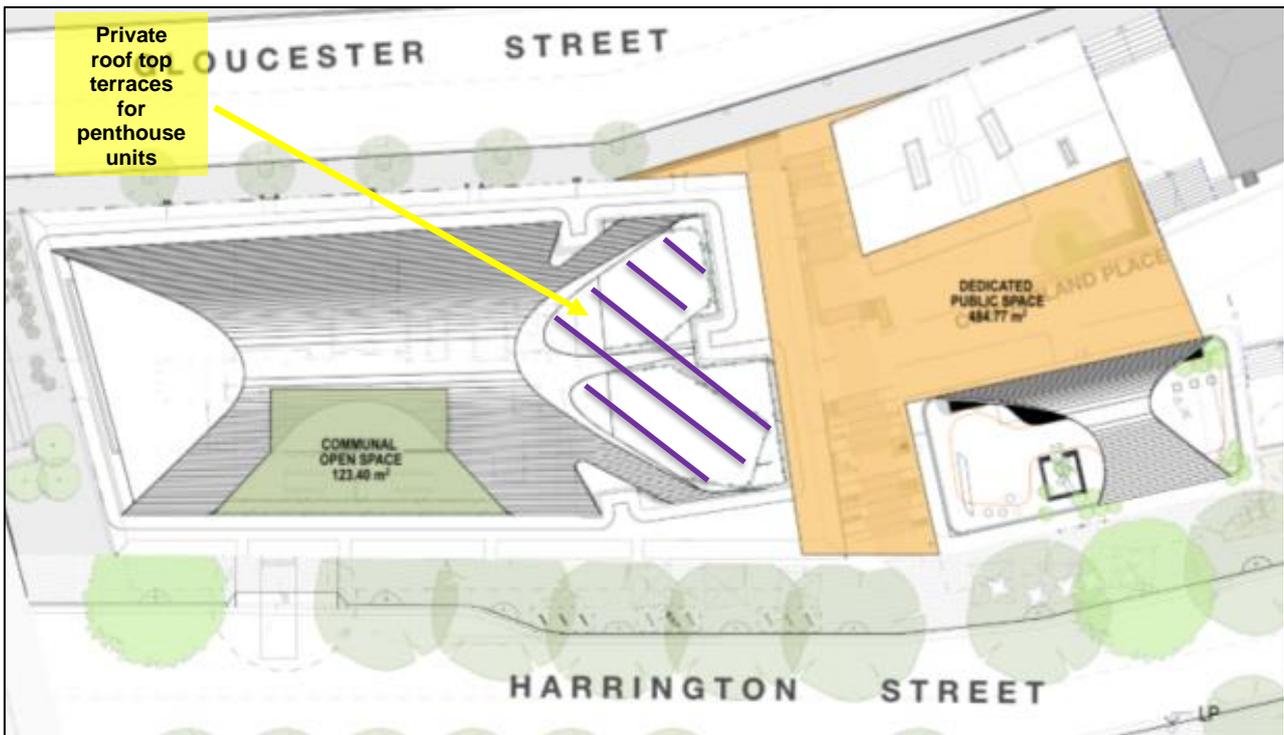


Figure 52: Location of proposed communal and public open space and private roof top terraces (Base source: Applicant’s RTS)



Figure 53: Proposed communal open space (Source: Applicant’s RRTS)

The Department considers the overall quantum of open space within the site available to residents (29% of the site area), combined with exceptional views from the communal terrace, is reasonable and satisfies the intent of the ADG. Furthermore, the Department notes the site is located within close proximity to high amenity public places and spaces within and around The Rocks which further supports the proposed level of on-site communal open space.

The Department concludes the proposed areas of communal and public open space suitably respond to the site conditions and provide a variety of high quality spaces that will enhance residential amenity and provide opportunities for social interaction.

5.6.2 Building separation/visual privacy

To ensure adequate visual privacy for residents, the ADG recommends minimum distances between habitable rooms and balconies of adjacent buildings. Building separations between the proposed buildings, the Baker's Terrace and the neighbouring Rendezvous Hotel are less than recommended by the ADG as set out in **Table 9** below. **Figure 54** illustrates the proposed building setbacks.

Table 9: Proposed building separations and ADG recommendations

| ADG Height & Separation | Relationship | Proposed | Achieved |
|----------------------------|--|-----------------|----------|
| 4 Storeys 12 m | Building 1 and Building 2 (levels 2 and 3) | 5.4 m to 6.2 m | No |
| | Building 1 (levels 2 and 3) and Baker's Terrace | 5 m | No |
| | Building 2 (levels 2 and 3) and Baker's Terrace | 6.4 m to 10.8 m | No |
| | Building 2 (level 0 to level 3) and Rendezvous Hotel | 6m to 6.6 m | No |
| Up to 4 -8 Storeys 18 m | Building 1 and Building 2 (levels 4 and 5 only) | 5.4 m to 6.2 m | No |

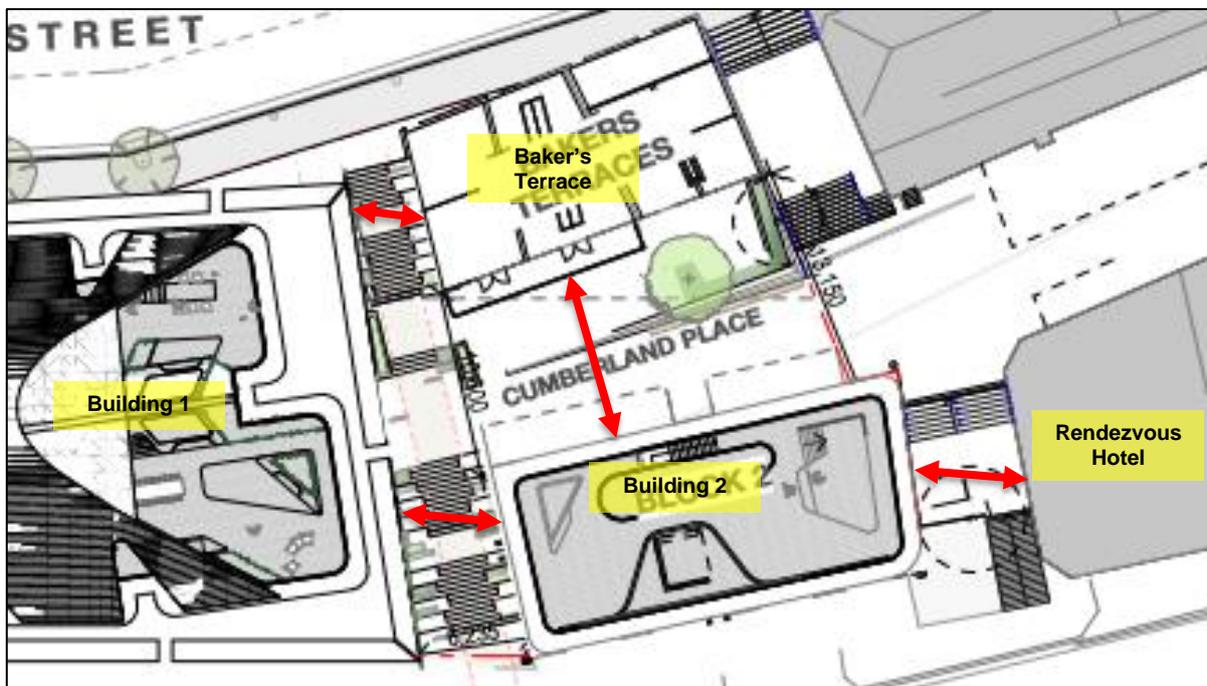


Figure 54: Proposed building separations (refer to Table 9) (Base source: Architectural plans)

One public submission raised concerns regarding visual privacy impacts from Building 2 to the Rendezvous Hotel. In response to this concern, the Applicant contends visual privacy will be achieved due to the orientation of views and through various design treatments as detailed in **Table 10**.

Table 10: Proposed privacy mitigation (within site)

| Relationship | Design/ Treatment |
|--------------------------------|---|
| Building 1 and Building 2 | <p>High level bedroom windows in Building 1 behind public walkway screening (level 2).</p> <p>Views from Building 1 north-east corner balconies are to the north-east. Operable screening proposed.</p> <p>Fixed directional screening provided to bedrooms windows in Building 1 and secondary living area windows in Building 2.</p> <p>Views from central balcony is at 90 degrees to west facing bedroom windows in Building 2. Fixed and operable privacy screens proposed to this balcony (see Figures 55 and 56).</p> <p>Fixed directional screening proposed to south facing windows at levels 3 and 4 in Building 2.</p> |
| Building 1 and Baker's Terrace | <p>High level bedroom windows in Building 1 behind public walkway screening.</p> <p>Existing floor to ceiling screen located on southern end of Baker's Terrace living area balcony.</p> <p>Views from central balcony is at 90 degrees to east facing Baker's Terrace balcony and narrow bedroom doors. Fixed and operable privacy screens proposed to Building 1 balcony (see Figures 55 and 56).</p> |
| Building 2 and Baker's Terrace | <p>Operable screening is proposed to the bedroom windows on both levels of Building 2 facing towards living area and bedroom windows and balconies in the Baker's Terrace (see Figure 56).</p> |

Note: High level windows are proposed to the bedrooms on level 2 of Building 1 adjacent to the public pathway to the proposed public lift. The pathway will be closed to public access between 10 pm and 7 am.

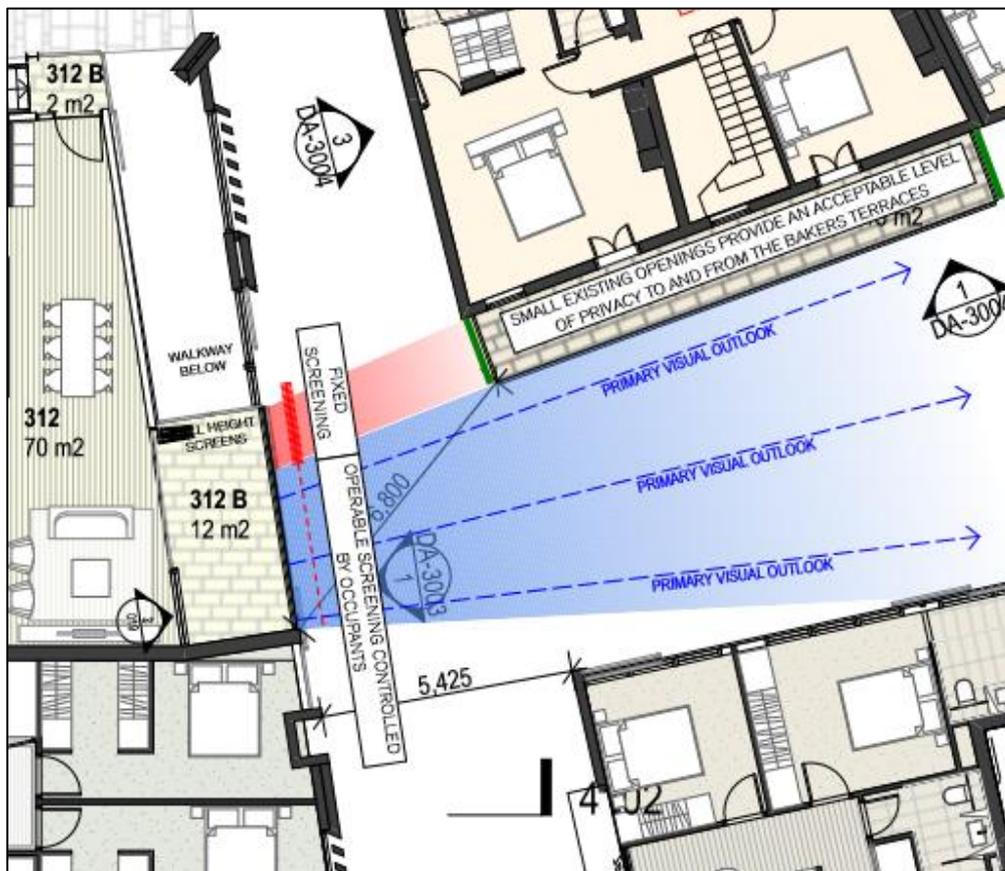


Figure 55: Relationship of Building 1 level 3 balcony to Baker's Terrace and Building 2 (Base source: Applicant's RRTS)



Figure 56: View from Building 1 level 3 balcony looking north towards Building 2 (Source: Applicant's RRTS)

The Rendezvous Hotel has six narrow windows in the southern elevation facing proposed Building 2 (**Figure 57**). Both the hotel and the existing building on the site are built to the boundary, separated by the Cumberland Steps, a distance ranging from 6 m to 6.6 m in this location.

In response to privacy concerns raised in the Rendezvous Hotel's submission, the Applicant has provided detailed consideration of the relationship of Building 2 to the hotel (**Figures 58 and 59**). The Applicant contends acceptable privacy will be achieved due to the utilisation of fixed/operable louvres on the northern elevation, primary living rooms are orientated to the east where there are views and solar access, the south facing hotel windows serve hallways or are secondary windows, and levels 2 to 4 are above the window levels of the hotel.

The Department notes the siting of Building 2 adjacent to the Cumberland Steps reflects the siting of the existing building sought to be demolished. The retained building separation is characteristic of the close proximity of buildings to each other characteristic of The Rocks, particularly in this location where a built form setback to the Cumberland Steps would be inconsistent with the setting and character of the steps and The Rocks.

Although the proposed building introduces residential use with north facing windows, the Department notes these are either screened bathroom windows or living area windows setback a minimum of 2 m behind the balcony. The balconies on the north-eastern corner include operable screening on the northern sides (on levels 0 and 1) which are at the same height as facing windows within the hotel. Screening is not proposed to the balcony at level 2 as it is above the level of the facing windows. The Department further notes views from the proposed living areas and balconies are directed to the SOH and harbour to the north-east.



Figure 57: Windows in southern elevation of Rendezvous Hotel facing Building 2 (Source: Department's photograph)

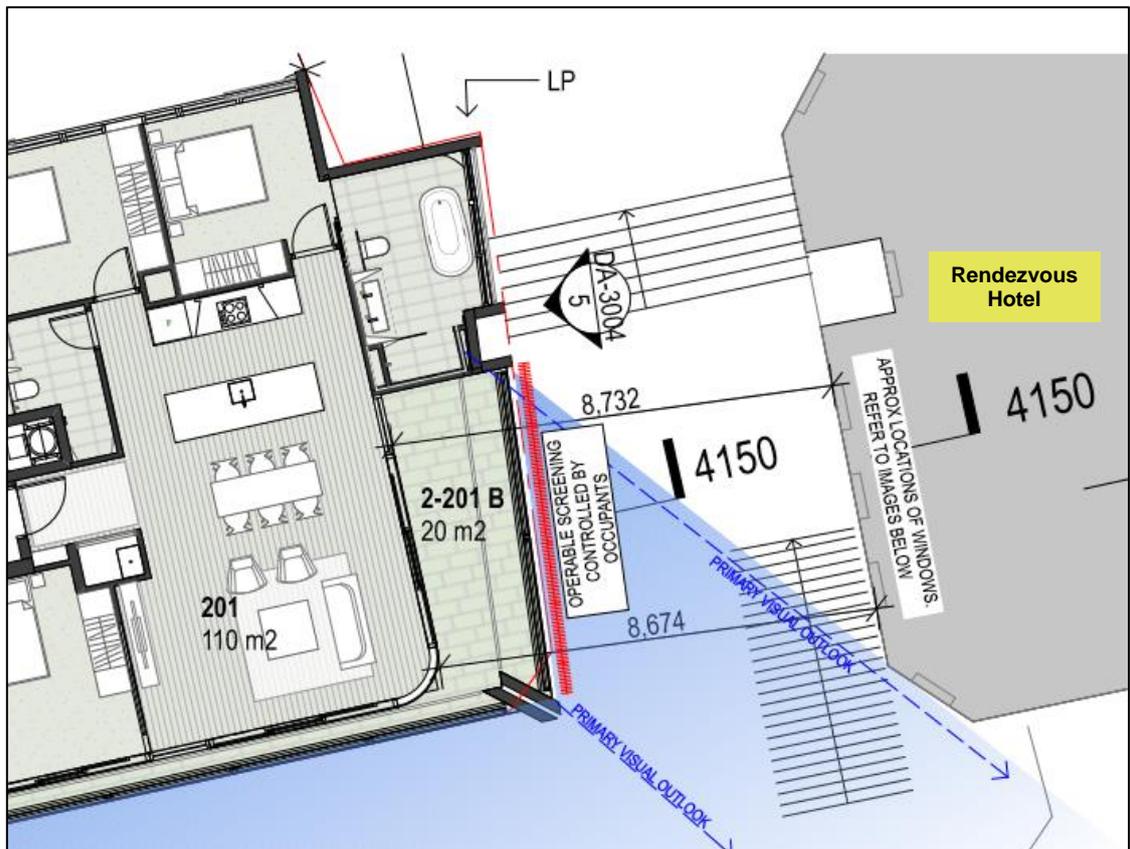


Figure 58: View angles and proposed screening on level 2 (northern elevation) of Building 2 (Source: Applicant's RRTS)



Figure 59: Proposed screening measures on northern elevation of Building 2 (Base source: Applicant's RRTS)

The Department considers the narrow width of the south facing windows within the adjoining hotel combined with the treatments provided on Building 2, limit the potential for loss of privacy.

The Department notes The Rocks is a high-density, heritage area characterised by building separation significantly less than prescribed by the ADG. The Department considers the ADG recommended separation distances cannot be reasonably achieved in this context and to do so would result in an uncharacteristic built form. Instead, suitable measures should be incorporated into the design to achieve visual privacy between buildings.

The Department concludes reasonable design measures have been provided to address the reduced separation distances between buildings, particularly through the orientation of the buildings and openings and proposed screening measures where more sensitive relationships are proposed. The Department further concludes no unreasonable impact on the privacy of the hotel would result from the proposed development.

5.6.3 Solar access

The ADG recommends the following solar access provisions between 9 am and 3 pm at mid-winter:

- a minimum 70% of living rooms and private open spaces of apartments receive a minimum of two hours direct sunlight
- a maximum of 15% of apartments receive no direct sunlight.

Council objected to the original design which provided only 53% solar access and raised concern that the solar access performance of the amended development could not be verified due to lack of documentation provided with the RTS.

In response, the RRTS included a detailed solar access and heat map study that conclude:

- 39 of the 56 units (70%) receive a minimum of two hours direct sunlight to living rooms and private open space between 9 am and 3 pm in mid-winter

- 54 of the 56 units (96%) receive a minimum of two hours direct sunlight to living rooms and private open space between 8 am and 3 pm in mid-winter
- all units receive some direct sunlight to either the living area and balcony between 9 am and 3 pm in mid-winter.

The proposed development will therefore meet the minimum ADG solar access recommendation. Furthermore, although the ADG recommendations allow for 15% of units not achieving any solar access, no south facing units are proposed and all units will receive some solar access in mid-winter. This is a superior outcome than recommended by the ADG.

While both proposed townhouses within the Baker's Terrace will receive some solar access between 9 am and 3 pm in mid-winter, the small size of the window openings and lack of north facing openings in both townhouses restricts the level of solar access received. Given the heritage listing of the Baker's Terrace, external changes are not proposed. The Department considers this reasonable given the limitations created by the heritage significance of the building fabric and noting the terraces were in residential use prior to conversion to commercial use.

The Department's assessment concludes the proposal provides adequate solar access and amenity for future occupants of the development.

5.6.4 Natural ventilation

To maximise units with natural cross ventilation, the ADG recommends at least 60% of units within the proposed buildings be naturally cross ventilated. These are units with more than one aspect or windows located in different pressure regions. Units with only one aspect are not cross-ventilated.

Of the total 56 units proposed, 29 (52%) achieve natural cross-ventilation. This equates to a shortfall of five units compared to the 60% ADG recommendation.

Council has raised concerns the natural cross-ventilation of the proposed development performs poorly when considered against the ADG recommendation.

The Applicant contends that three of the two-storey townhouse units and three units above located on the western side of Building 1 (levels 3 to 5) and three units on the eastern side of Building 1 (levels 3 to 5) should also be considered to achieve the ADG natural ventilation objectives. **Figure 60** illustrates the unit layout on level 3 of Building 1. As part of the RRTS, the Applicant provided a ventilation study, prepared by ARUP, which details how pressure differentials on the windward wall of these units caused by a prevailing wind from the south or north respectively would be expected to result in good natural ventilation through the units.

The study concludes the unit layouts are well designed to develop good quality natural ventilation and overall, 47 units would be expected to achieve sufficient natural ventilation to meet the qualitative requirements of the ADG.

Figure 60 highlights cross-ventilated units in blue. The uncoloured units have only one aspect. However, the units circled red are two-storey townhouse units which have west facing windows on levels 2 and 3.

The Department considers the five two-storey townhouses will reasonably all receive adequate natural ventilation given the pressure differences between levels which will assist in directing air flow into and through the units. The Department further notes this will be enhanced by the following design measures:

- all units are provided with balcony sliding doors into living spaces to maximise ventilation
- all units have been configured to maximise circulation of air and natural ventilation performance noting all units are open plan and not overly deep when considered against the guidance of the ADG.



Figure 60: Level 3 of Building 1 (townhouse units circled in red) (Base source: Applicant's RRTS)

The Department therefore considers 34 (61%) of the proposed units satisfy the recommendations of the ADG. While not included in these figures, the Department notes the east facing single aspect units also incorporate the above design measures and will receive prevailing north-east sea breezes in summer thus also improving natural air flow to these units.

In addition, the Department notes both proposed townhouses within the Baker's Terrace would achieve natural cross-ventilation.

The Department concludes the proposed level of natural ventilation within the development is acceptable and satisfies the intent of the ADG.

5.6.5 Common circulation and spaces

To achieve good amenity to common circulation spaces, the ADG recommends daylight and natural ventilation should be provided to all common circulation spaces above ground, corridors longer than 12 m should be articulated, and the number of units off a circulation core on a single level should ideally not exceed eight (with a maximum of 12).

The proposal complies with the ADG requirements with two levels within Building 1 providing access to a maximum of 12 units off a circulation core and all other levels within both buildings providing access to a maximum of five units.

The common corridor of Building 1 over levels 2 to 5 serves between five and 12 units per floor, is 40 m in length and has natural light provided from the south facing stairwell using a 'hold open' magnetic fire door (Figure 61). The two penthouse corridors on levels 6 and 7 do not have access to daylight and ventilation but are only 24 m in length and serve only three penthouse units.

The common corridor of Building 2 serves a maximum of two units per floor, is only 5 m in length and has natural light provided from the west facing stairwell using a 'hold open' magnetic fire door.

Professor Peter Webber supports the proposed corridor design measures but given the number of units proposed per floor, has recommended better light and ventilation should be provided to the corridors of levels 2 to 5 of Building 1 by removing bedrooms at the northern end of the corridor to provide a north facing opening on each of these levels.

The Applicant's RRTS includes provision of a plenum (a space between the ceiling and floor to facilitate air circulation between the inside and outside of the building) at the northern end of the corridor on levels 2 to 5 to provide improved ventilation (location shown highlighted in **Figure 61**). In conjunction with the south facing opening and a range of widths, varied materials and deeply recessed door reveals, the Applicant contends the proposed corridor design will provide acceptable amenity for common circulation.

Within Building 1, the Department notes the front entry to the five, two-storey townhouse units on the western side will be direct from Gloucester Street. As such, only levels 4 and 5 provide access to 12 units with the remaining levels providing access to no more than five units.



Figure 61: Level 4 of Building 1 showing location of proposed light and ventilation (Base source: Architectural plans)

The Department considers the proposed corridors will provide an acceptable level of daylight, ventilation and articulation as recommended by the ADG. Furthermore, the Department considers removing rooms at the northern end of the corridor would have significant design implications being the loss of a bedroom to a total of four units. Given the amenity of the corridors is considered reasonable, the Department does not consider the benefits of this recommended design change outweigh the resultant loss of residential density.

Although an indicative plan of the plenum location has been submitted, the Department recommends a condition requiring a plenum to be provided at the northern end of the communal corridor on levels 2 to 5 of Building 1.

5.6.6 Unit type amenity

The intent of the ADG is to help achieve better design and planning for residential apartment buildings, including improving liveability through enhanced internal and external residential amenity.

Although the Department considers the proposed overall design is acceptable regarding each of the key ADG residential amenity design criteria, the Department also considers it appropriate to analyse how each unit type responds to a combination of the key design criteria to ensure all proposed unit types achieve an overall acceptable level of amenity.

An analysis of how the overall proposal responds to the ADG design criteria for individual units is provided at **Appendix C**. The proposed buildings contain a mix of one, two and three bedroom units with upper level penthouses. Building 1 contains six residential levels (plus a small residential area

within the roof form) with up to 12 units per floor while Building 2 contains five residential levels with a maximum of two units per floor.

While a variety of unit types are proposed, the Department notes the following common features:

- all exceed the minimum unit size recommendations (including the recommendation for an additional 5 m² per additional bathroom)
- internal unit dimension recommendations are satisfied i.e. depth of living area less than 8 m from a window, minimum width of 3.6 m for one bedroom units and 4 m for larger units
- all layouts are open plan and well organised with minimised wasted circulation space
- all are provided with functional private open space that satisfies minimum area requirements
- all habitable rooms are provided with a window that is visible from any point within the room
- all satisfy minimum 2.7 m ceiling height recommendations
- all are provided with sufficient internal and basement storage areas.

The proposal also achieves the ADG minimum solar access recommendations and the proposed level of natural ventilation satisfies the intent of the ADG (see **Sections 5.6.3** and **5.6.4**). Suitable design measures are also proposed to ensure visual and acoustic privacy to neighbouring buildings (see **Section 5.6.2**). Many units will also be provided with highly desirable views which will further complement the overall amenity of the proposed units. Units without views will notably have access to views from the communal roof level open space.

Of the 56 units proposed, 12 do not receive two hours solar access between 9 am and 3 pm in mid-winter and are not naturally cross-ventilated. The two bedroom units also extend to a maximum of 9.5 m in depth, 1.5 m deeper than the maximum recommended by the ADG. These units are located over four levels (three units per floor) on the eastern side of Building 1 (**Figure 62**).

The Department considers these units (1x one bedroom and 2x two bedroom) meet the fewest of the recommended ADG design criteria and therefore, provide the lowest likely future amenity. The Department nevertheless notes the following beneficial design aspects of these units, as amended as part of the RRTS:

- the units are spaciouly designed as the internal area of the one bedroom unit (66 m²) exceeds the ADG recommended minimum area by 16 m² while the internal area of the two bedroom units (99 m²) exceeds the recommended minimum area by 29 m²
- the width of the two bedroom units exceed the minimum recommended width (4 m) by 300 mm
- the balconies of the two bedroom units exceed the ADG recommended minimum area (8 m²) by 3 m²
- the living area façades are angled to the north-east to maximise solar access and views
- all units will receive solar access in mid-winter with over two hours received between 8 am and 3 pm
- the units are provided with a high level of internal storage.

On 29 June 2017, the Planning Circular '*Using the Apartment Design Guide*' was issued by the Department. The Circular emphasised the ADG is not intended to be applied as a set of strict development standards and where it is not possible to satisfy all the design criteria, the consent authority is to consider how, through good design, the objective can be achieved.

The Circular supports the Department's approach to assessing the residential amenity of the proposed development in that not all proposed units are reasonably expected to achieve every amenity design criteria and that the ADG does not require this. Further consideration of the Circular is provided at **Appendix C**.

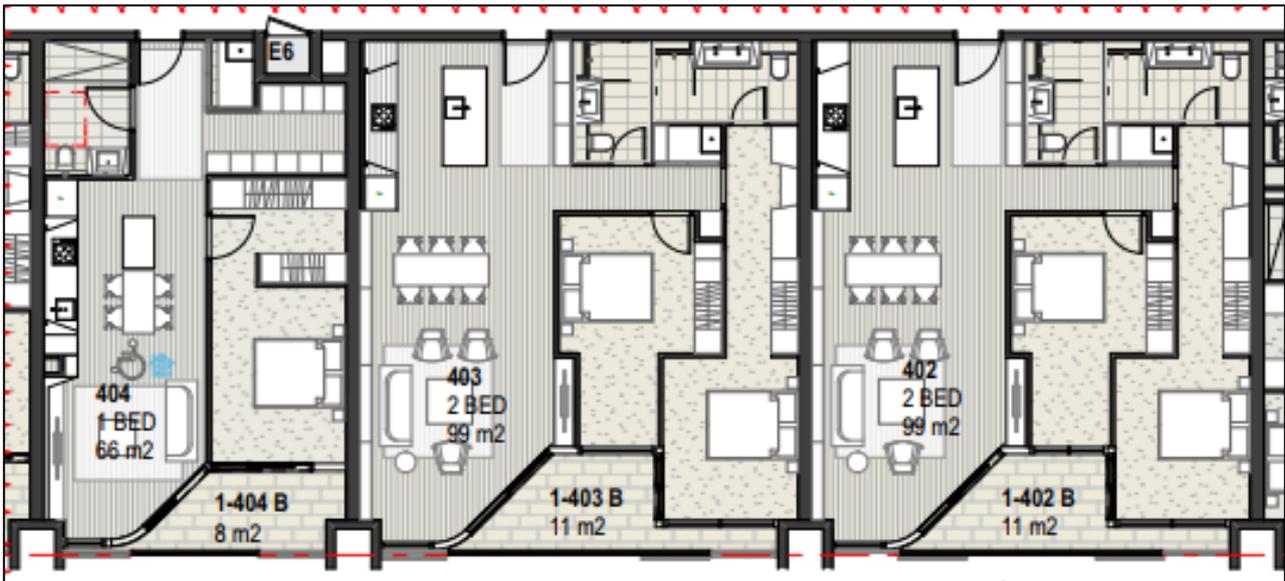


Figure 62: Layout of three units (levels two to five) on eastern side of Building 1 (Source: Architectural plans)

The Department considers all unit types within each building, including the 12 identified units on the eastern side of Building 1, will achieve an acceptable level of amenity with most units receiving a high level of amenity. As such, the Department concludes the proposed buildings satisfy the intent of the ADG and are acceptable in relation to residential amenity.

5.7 Traffic and Car Parking

The Applicant submitted a revised Traffic Impact Assessment (TIA) with the RTS which assesses potential traffic impacts and the provision of car parking and bicycle parking on the site.

5.7.1 Traffic Impacts

The TIA estimates the proposal will generate nine vehicle trips in the morning peak and eight vehicle trips in the evening peak. This compares to 17 and 13 respectively for the existing commercial development. The reduction in traffic movements occurs as the proposed development incorporates only residential car parking.

The number of forecast trips are not anticipated to compromise the safety or function of neighbouring streets or local traffic access. TfNSW and RMS have not raised any concerns with the proposal, and as such, the Department considers the proposed development will not cause adverse traffic impacts on the surrounding streets.

5.7.2 Car Parking

The proposal provides a total of 63 car parking spaces located across two basement levels. All parking spaces are proposed to be allocated to residential units with no visitor or commercial car parking.

Council objects to the proposed parking provision and recommends the proposal should comply with SLEP 2012 parking rates.

Although SLEP 2012 does not apply to The Rocks, the Department considers the LEP parking rates, are relevant in considering the appropriate level of car parking for the site. While parking guidelines contained in RMS' *Guidelines to Traffic Generating Developments* have also been considered, the Department considers the LEP parking rates to be more relevant given the RMS guidelines date from 2002, are not reflective of contemporary inner-city parking standards and do not contemplate the extensive availability of various public transport modes available to the site.

Table 11 provides details of the proposed car parking provision in relation to Council and RMS parking rates.

Table 11: Proposed parking compared to SLEP 2012 and RMS guidelines parking rates

| Type | No. | SLEP 2012 parking rate | RMS parking rate | SLEP 2012 parking allowance (Maximum) | RMS parking guidelines (Minimum) | Spaces proposed |
|--------------------------------|----------------------|------------------------|-----------------------------------|---------------------------------------|----------------------------------|-----------------|
| Residential | | | | | | |
| 1 bedroom | 18 | 0.3 spaces per unit | 0.4 spaces per unit | 5.4 | 7.2 | 63 |
| 2 bedrooms | 17 | 0.7 spaces per unit | 0.7 spaces per unit | 11.9 | 11.9 | |
| 3 bedrooms | 9 | 1 space per unit | 1.2 spaces per unit | 9 | 10.8 | |
| Town Home (2 or 3 bedrooms) | 7 | 1 space per unit | 1 space per unit | 7 | 7 | |
| Penthouse (3 or more bedrooms) | 7 | 1 space per unit | 1.2 spaces per unit | 7 | 8.4 | |
| Visitors | 58 | No requirement | 1 space per 7 units | 0 | 8.3 | |
| Subtotal | | | | 40 | 54 | 63 |
| Non-residential | | | | | | |
| Retail | 938 m ² | Subject to formula | 4.5 spaces per 100 m ² | 6 | 42 | 0 |
| Commercial (Office) | 1,130 m ² | Subject to formula | 1 space per 40 m ² | 7 | 28 | 0 |
| Subtotal | | | | 13 | 70 | |
| Totals | | | | 53 | 124 | 63 |

As demonstrated in **Table 11**, under SLEP 2012 the proposed 58 residential units generate a maximum car parking allowance of 40 spaces. Under RMS guidelines, the proposal generates a minimum residential car parking requirement of 54 spaces.

The Applicant contends the proposed 63 residential car parking spaces are reasonable given no retail or commercial car parking is proposed. If included in the calculations, these elements would generate a total maximum parking provision of 53 spaces under SLEP 2012 and a minimum of 124 spaces under RMS guidelines.

The Applicant further contends the TIA demonstrates the proposed 63 residential parking spaces would generate less traffic movements than a mix of residential, retail and commercial allowed by the Council and RMS parking rates. In addition, given the proximity to public transport and the CBD, the Applicant contends residents would likely only use cars to a limited extent during peak periods.

The Department notes the site is located in close proximity to a large number of public transport modes, notably Wynyard Railway Station approximately 500 m to the south and the Circular Quay Railway Station and ferry terminal approximately 250 m to the east. Extensive bus services operate in the vicinity of the site and light rail services from Circular Quay will also commence in 2019.

Given the site is located within the Sydney CBD and is extremely well served by public transport, the Department considers car parking for new developments should be rationalised and private vehicle dependency reduced.

The Department therefore agrees with Council that car parking in this location should be consistent with the maximums referred to in SLEP 2012. However, given the LEP would allow a maximum of 53 car parking spaces for the proposed mix of uses and the TIA does not identify any traffic issues

with the proposal, the Department concludes the provision of 53 residential car parking spaces to be acceptable. This is also compatible with the RMS guidelines recommended minimum of 54 residential parking spaces but is notably 70 spaces less than the 124 total car parking spaces otherwise recommended for the development.

The Department therefore recommends a condition requiring the allocation of a maximum of 53 parking spaces for residential use. The Department notes the Applicant has confirmed its agreement to a condition reducing the number of car parking spaces by 10 spaces to a maximum of 53.

5.7.3 Bicycle Parking

The proposal includes room for bicycle parking within each of the 58 individual storage areas for each unit. This is consistent with SDCP 2012 requirements.

In addition, 35 class B bicycle spaces for workers and a further 30 spaces for visitors are located on basement level 1. End-of-trip facilities are also located on basement level 1.

The Department is satisfied the proposal provides sufficient bicycle parking spaces, noting it exceeds SDCP 2012 requirements.

5.7.4 Servicing

The Applicant advises the proposed loading van space on basement level 1 and the loading area at ground level, which can be utilised by two small rigid vehicles simultaneously, will satisfy the likely demand for service vehicle parking. As required by Council, the loading dock has been designed to cater for a 9.25 m rigid vehicle and includes a turntable to allow vehicles to enter and leave in a forward direction.

In response to concerns from Council, the Applicant has provided swept path analysis demonstrating the required movement of Council's waste vehicle within the site.

The Department considers the proposed service spaces together with future building management will ensure a satisfactory level of servicing for the proposed buildings. As recommended by TfNSW, a condition is recommended by the Department requiring approval of a Loading Dock Management Plan prior to occupation of either building.

5.8 Other Matters

Other relevant matters for consideration are addressed in **Table 12**.

Table 12: Other matters for consideration

| Issue | Consideration | Recommendation |
|--|---|--|
| <p>Construction Noise and Vibration/ Construction Hours</p> | <ul style="list-style-type: none"> • The Department notes a public submission was received raising concerns with potential construction impacts. • Construction hours are proposed in accordance with DECCW Interim Construction Noise Guidelines: <ul style="list-style-type: none"> - 7 am to 6 pm Monday to Friday - 8 am to 1 pm on Saturdays - No work on Sundays or Public Holidays. • The EIS includes an Acoustic Assessment, prepared by Acoustic Studio, which provides a detailed assessment and recommendations for managing/ mitigating noise impacts and vibration impacts during construction. • The report states there will be times when construction noise and vibration associated with demolition, excavation and construction works | <ul style="list-style-type: none"> • The Department considers the application acceptable in relation to construction noise and vibration subject to conditions being imposed in relation to compliance with the recommendations of the Acoustic Assessment. These include mitigation measures, recording and monitoring procedures. • Construction hours are recommended to be restricted to: <ul style="list-style-type: none"> - 7 am to 6 pm Monday to Friday |

| Issue | Consideration | Recommendation |
|--|---|---|
| | <p>may exceed the relevant noise criteria, particularly when works occur in the areas closer to sensitive receivers or with direct view between the receivers and the works.</p> <ul style="list-style-type: none"> If such exceedances occur, the report notes the recommended noise/vibration control measures together with construction best practices will minimise any impact and ensure compliance with relevant standards and guidelines. | <ul style="list-style-type: none"> - 8 am to 1 pm on Saturdays - No work on Sundays or Public Holidays. |
| Construction Traffic | <ul style="list-style-type: none"> The Construction Traffic Management Principles report, prepared by Varga Traffic Planning, states up to six trucks and up to 10 smaller delivery vehicles per day will access the site from demolition through to construction. Construction traffic will exit via Harrington Street, turning left into Argyle Street and left into Sussex Street. The TIA raises no concerns regarding potential traffic impacts from construction vehicles. A construction work zone will be required on Harrington Street for heavy rigid vehicles up to 12.5 m and on Gloucester Street for small rigid vehicles up to 6.4 m. No heavy vehicles will access the site via Gloucester Street. Small trucks may access the site via Gloucester Street as well as Harrington Street. It is proposed that carpooling will be encouraged during the entire construction period to minimise the reliance on on-street and public parking in the vicinity. The opportunity will be taken for the workers to park in the basement as soon as practicable during the construction process. TfNSW have recommended a condition requiring a Construction Pedestrian and Traffic Management Plan (CPTMP) be prepared. A condition is recommended requiring the CPTMP to be prepared in consultation with TfNSW, Property NSW and Council, and approved by the Department prior to commencement of any work. | <ul style="list-style-type: none"> The Department considers the application acceptable in relation to construction traffic movements and potential impacts subject to a condition being imposed requiring approval of a CPTMP prior to the commencement of any work. |
| Road and Rail Noise and Vibration | <ul style="list-style-type: none"> The Acoustic Assessment assessed the potential noise impacts on future residents of the proposed development from the adjacent rail corridor and Expressway to the south of the site. The Assessment concludes the development would be capable of achieving a satisfactory accommodation environment for future residents subject to measures to ensure the specified sound insulation level of the southern, eastern and western elevations is achieved to meet BCA requirements. The Acoustic Assessment also includes consideration of vibration impacts from the rail corridor. The Assessment concludes predicted vibration levels indicate all of the measured train events would result in vibration levels below the vibration criterion. | <ul style="list-style-type: none"> The Department is satisfied the proposed development can be constructed to achieve compliance with necessary sound insulation requirements. Conditions are recommended to ensure the required measures are included in the design prior to issue of any construction certificate. |

| Issue | Consideration | Recommendation |
|--|---|---|
| Operational Noise | <ul style="list-style-type: none"> Operational noise from the development will occur predominantly from mechanical plant located on or within the roof of each building. Noise impacts from future uses of the retail tenancies will be subject to separate approvals. | <ul style="list-style-type: none"> The Department recommends a condition to limit noise emissions for mechanical plant and ensure compliance with the <i>NSW Industrial Noise Policy</i> with details to be approved prior to issue of any construction certificate for the buildings. |
| Wind and Reflectivity | <ul style="list-style-type: none"> The proposal incorporates design features that will ameliorate prevailing wind conditions with balconies designed to minimise wind impacts and maximise useability and comfort through recessed balconies, operable screens, pergolas and shutters. At the ground plane, awnings are provided where appropriate to minimise wind impacts. A reflectivity assessment was not required. | <ul style="list-style-type: none"> The Department is satisfied the proposal will not have any adverse wind impacts to the local area. The Department is satisfied the development can achieve acceptable reflectivity impacts subject to a condition requiring the reflectivity of the proposed external materials and glazing to be low glare. |
| Contamination | <ul style="list-style-type: none"> The EIS included a Phase 1 Preliminary Environmental Site Assessment prepared by Douglas Partners. The Assessment confirms the site was largely used for residential purposes up until the 1960s and then commercial uses until the present time. Fill of unknown origin was imported to the site in the 1980s in association with the development of the existing building. The Assessment concludes that the potential for significant or widespread contamination is low to moderate and the site is able to be made suitable for the proposed apartment building development. Further investigations are recommended at a later stage including: <ul style="list-style-type: none"> development and implementation of a sampling and analysis plan (detailed investigation) a waste classification assessment. In response to the Department's request for submission of a detailed site investigation, the Applicant advised it would not be practical to undertake the required investigation until demolition of the buildings has occurred (or the buildings are vacated). | <ul style="list-style-type: none"> Given existing constraints, the Department acknowledges it is not viable to undertake a detailed site investigation prior to demolition or vacation of the buildings. Conditions are recommended requiring a detailed site investigation be undertaken following demolition. A further condition is recommended requiring a waste classification assessment to ascertain the contamination status of the soil and ensure the proper waste classification for disposal. |
| Water Quality and Stormwater Management | <ul style="list-style-type: none"> The EIS included an Integrated Water Management Plan. The plan confirms the development can comply with Sydney Water stormwater, waste water and sewerage requirements and will comply with water re-use BASIX requirements. | <ul style="list-style-type: none"> The Department has recommended a condition of consent requiring BASIX compliance and implementation of a detailed Water Management Plan. |

| Issue | Consideration | Recommendation |
|-------------------------------|---|--|
| Waste Management | <ul style="list-style-type: none"> The EIS included a Waste Management Plan which outlines provisions and procedures for residential waste, retail waste and bulky goods. | <ul style="list-style-type: none"> The Department is satisfied the Waste Management Plan will appropriately manage the handling of waste on the site. The Department has recommended a condition requiring the Waste Management Plan be implemented. |
| Railway Corridor | <ul style="list-style-type: none"> The site is located in close proximity to the City Circle railway corridor to the south (below the Cahill Expressway). The EIS has considered potential impacts on the rail corridor and includes assessment of geotechnical impacts. The Applicant's geo-technical investigation concludes the proposed excavation and construction works can be designed and undertaken so it would not have a detrimental impact on the railway corridor or associated infrastructure subject to adherence to TfNSW requirements. The Department referred the application to TfNSW during the public exhibition process. Its response included a suite of conditions recommended by Sydney Trains to mitigate potential impacts on the rail corridor and rail operations. | <ul style="list-style-type: none"> The Department is satisfied the proposal would not have adverse impacts upon the operation of the adjacent rail corridor subject to the implementation of conditions provided by TfNSW and Sydney Trains. |
| Archaeological Impacts | <ul style="list-style-type: none"> The archaeological potential of the site was assessed in <i>The Rocks and Millers Point Archaeological Management Plan in 1991</i>. It was identified as having only limited archaeological potential due to the extensive redevelopment which occurred in the late 1980s. The Applicant has provided an Archaeological Assessment prepared by Urbis, which concludes the potential for the site to contain a historical archaeological resource is low. OEHL have recommended conditions to manage unexpected archaeological discoveries. | <ul style="list-style-type: none"> The Department has included OEHL's recommended archaeological conditions. |

5.9 Consideration of key issues raised in submissions from Council and the public

Table 13 presents the key issues raised in the public and Council submissions (as summarised in **Section 4**), and how the Department has considered each issue.

Table 13: Consideration of key issues raised in submissions from Council and the public

| Concerns raised | Department's comments |
|--|--|
| <ul style="list-style-type: none"> Excessive bulk and scale. Out of context with character of the area. Inappropriate transition to Baker's Terrace | <p>In response to concerns raised in submissions regarding the proposed built form, the design has been revised to more sympathetically integrate with the surrounding character of the area and the Baker's Terrace.</p> <p>The Department has undertaken a detailed assessment of the proposed form of development including obtaining an independent heritage and design review from Professor Peter Webber. The Department concludes</p> |

| Concerns raised | Department's comments |
|---|---|
| <ul style="list-style-type: none"> Adverse impact on The Rocks Heritage Conservation Area Potential impact on archaeology in the area <p>(Council, HHTNSW and public submissions)</p> | <p>the proposed form of development is consistent with the character of the area because:</p> <ul style="list-style-type: none"> the design and scale of each proposed building responds sympathetically to the Harrington Street and Gloucester Street streetscapes and the overall historic character of The Rocks the variation to the SCRA Scheme building envelope as viewed from each street front is not visually significant appropriate setbacks and design features are proposed to ensure an acceptable relationship to the Baker's Terrace the proposed buildings are compatible with neighbouring buildings and will have a negligible visual impact when viewed from public locations within and outside The Rocks conditions are recommended to ensure appropriate archaeological management of the construction site the proposal incorporates significant public benefits such as a new through-site link and public plaza that will benefit residents, workers and visitors and substantially improve the vibrancy of this area of The Rocks. |
| <ul style="list-style-type: none"> Visual impact of proposal viewed from East Circular Quay and the Opera House is not accurately identified. Proposal will have a detrimental visual impact on the significance of the Rocks heritage conservation area. <p>(Council submission)</p> | <ul style="list-style-type: none"> The Department considers the VIA submitted with the EIS does accurately identify views from East Circular Quay and the SOH. Given the distances involved and noting further design modifications to reduce the scale of Building 1, the Department considers the visual impact of the proposed development from these locations to be negligible and will not detrimentally impact the significance of The Rocks Heritage Conservation Area when viewed from these locations. |
| <ul style="list-style-type: none"> Insufficient information to demonstrate ADG design criteria relating to solar access and cross-ventilation are satisfied. <p>(Council submission)</p> | <p>Additional information relating to solar access and ventilation has been submitted with the RRTS. Following a detailed review of the ADG design criteria, the Department concludes:</p> <ul style="list-style-type: none"> the non-compliances are minor and will not impede the objectives of the ADG to achieve better design including improving liveability through enhanced internal and external residential amenity all proposed residential units will achieve acceptable levels of amenity with most units achieving high levels of amenity and the intent of the ADG has been satisfied. |
| <ul style="list-style-type: none"> Excessive car parking proposed. <p>(Council submission)</p> | <ul style="list-style-type: none"> The Department agrees the proposed 63 residential car parking spaces is excessive given the location of the site within the CBD and proximity to various modes of public transport The Department recommends a condition reducing the number of car parking spaces to 53. This is consistent with Council's LEP noting that the LEP does not strictly apply to development within The Rocks. Although all 53 spaces are to be allocated to residential use as opposed to also including retail and commercial spaces, the Department accepts the proposed allocation will not increase traffic movements and is considered reasonable. |
| <ul style="list-style-type: none"> Loss of views from 140-142 Cumberland Street. <p>(Public submission)</p> | <p>The Department has assessed potential view impacts from the bed and breakfast property in Cumberland Street. Notwithstanding the existing commercial use of the property, the Department concludes the view impact is acceptable because:</p> <ul style="list-style-type: none"> there will be only a minor loss of view from two east facing windows to the lower concourse of the SOH due to the height of Building 2 the overall view of the SOH and wider Sydney Harbour from these windows will be largely unaffected by the proposal |

| Concerns raised | Department's comments |
|--|--|
| | <ul style="list-style-type: none"> wider views will be slightly increased due to setbacks of the upper levels of Building 1 compared to the existing Harrington Court building. |
| <ul style="list-style-type: none"> Construction impacts on DFS Galleria (66 Harrington Street) <p>(Public submission)</p> | <ul style="list-style-type: none"> The Department acknowledges that some disruption and noise impacts will occur to neighbouring buildings from the proposed construction. However, conditions are recommended to ensure impacts are minimised. These include limited construction hours, preparation of a construction and pedestrian traffic management plan, a noise and vibration management plan, and dust control measures. |

6. CONCLUSION

The Department has considered all relevant matters under section 79C of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development. The Department has reviewed the EIS, RTS, RRTS and the proposed SCRA Scheme variation and considered advice from public authorities. Issues raised in submissions have also been considered and all relevant environmental issues associated with the proposal have been thoroughly assessed.

The Department considers the proposed built form of development, as revised through the assessment process, will sit comfortably within the surrounding heritage context of the site and will provide an attractive and visually interesting built form that is sympathetic to the overall character of The Rocks. Although the proposal will have some impacts on exiting views from commercial uses and hotels, the Department considers the impacts to be acceptable.

Professor Peter Webber's independent review of the proposal concludes the built form and architectural character is of excellent quality and is fully supported and that the proposed variation to the SCRA Scheme building envelope is logical and supportable.

Importantly, the development also incorporates significant public benefit outcomes that will contribute positively to vibrancy and vitality of The Rocks. The key benefits include a new public plaza, enlivened by adjacent retail tenancies, a significantly improved through-site link together with a public lift, and activation of the Harrington Street and Gloucester Street frontages.

The Department's review of the internal amenity of the proposed units concludes future residents will be provided with a high level of amenity through good design, consistent with the intent of the ADG. In this regard and consistent with the 'Using the Apartment Design Guide' Planning Circular, the Department has not applied the ADG as a set of strict development standards but has reviewed the proposal against the objectives of the design criteria.

Given the CBD location of the site and close proximity to various modes of public transport, a condition is recommended to reduce the number of car parking spaces from 63 to 53. The local road network has sufficient capacity to accommodate traffic movements generated by the development.

The Department is satisfied the recommended conditions and implementation of measures detailed in the Applicant's EIS, RTS and RRTS report and as recommended by agencies will adequately mitigate the residual environmental impacts of the proposal. Key conditions of consent would require the Applicant to:

- prepare amended architectural plans to provide a plenum at the northern end of the communal corridor on levels 2 to 5 of Building 1
- reduce the maximum number of car parking spaces from 63 to 53
- prepare a Construction and Pedestrian Traffic Management Plan and Loading Dock Management Plan
- prepare a Noise and Vibration Management Plan.

The Department concludes the proposal is consistent with the strategic objectives for the area, as outlined in *NSW 2021, A Plan for Growing Sydney, Towards our Greater Sydney 2056*, the *Draft Greater Sydney Region Plan* and the *Revised Draft Eastern City District Plan*. The proposal would result in a wide range of positive social and economic impacts, including a high-quality mix of uses, increased housing availability and choice near public transport, increased employment opportunities and services, and improved public domain outcomes which will benefit residents, workers and visitors. The development will also result in a desirable environmental heritage outcome due to the proposed adaptive re-use and associated conservation and maintenance works to the Bakers Terraces.

The Department concludes the development is in the public interest and is capable of being approved, subject to the SCRA Scheme variation being made and recommended conditions.

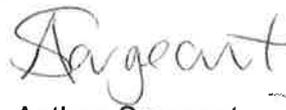
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