

# **Millers Point Community**

## Resident Action Group

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**REPORT ON THE COMMUNITY'S VISION FOR THE FUTURE HERITAGE  
CONSERVATION OF THE *MILLERS POINT AND DAWES POINT VILLAGE*  
*PRECINCT***

**Prepared by  
Millers Point Community Resident Action Group  
August 2021**

## EXECUTIVE SUMMARY

### Background

The Millers Point Community Resident Action Group Inc. (“MPCRAG”) protects and promotes Millers Point as a precinct of state and national heritage significance. It advocates on behalf of all residents, in both high rise and heritage homes, to ensure the enhancement of the safety, amenity and character of this Precinct.

MPCRAG is invested in working with the Heritage Council of NSW to create a shared vision for the Precinct which both protects its special and unique characteristics and allows for appropriate changes to accommodate modern amenity. The community wants to create a Precinct that is the jewel in the NSW heritage crown: a story of our history in its architecture, streetscapes, diversity of buildings, its people, a living and working neighbourhood that we can all be proud to share with all Australians and other visitors.

In the words of the NSW Minister for the Arts: *“Heritage is our legacy. It is the stories, memories and collective experiences of our state in physical form. Heritage items of special significance play an important role in our community whether it be sparking joy, bringing people together or encouraging reflection. Our heritage deserves to be protected and cherished.”*

### The Last Decade

In 2014, the NSW Government announced the freehold sale of the remaining Government-owned terrace housing in Millers Point, Dawes Point and The Rocks, homes of the oldest community in Australia (following on from the earlier 99-year leasehold sale process commenced in 2010). Following a long-fought campaign, many of these vulnerable tenants were sadly relocated against their wishes and their homes sold, with the proceeds being used to fund new social housing across Sydney and regional NSW.

In total, over a ten-year period from 2010, the NSW Government sold the entire heritage housing stock in the Millers Point and Dawes Point Village Precinct (“the Precinct”) into private ownership - some 300 dilapidated and neglected homes. Unfortunately, the NSW Government failed to foresee and make provision for the heritage governance and systems required to accommodate the restoration, conservation and changes for modern amenity needed for these homes. It is generally accepted that the system could not cope with the sheer volume of decisions required regarding the conservation of these significant heritage homes, particularly after 2015.

The sale of properties in the area, rather than promoting the rebuilding of a community resulted in many properties being bought by investors for short-term letting (pre-Covid). The result was weekend lets, leaving an empty community with major issues with rubbish, noise and anti-social behaviour. Since 2020, many of these properties have now been let on a long-term basis, with the rebuilding of our community well underway.

In addition, over that time the Precinct has been impacted by substantial changes – the building of a new Metro station and the major commercial and residential developments in Barangaroo, the partial closure of George Street in The Rocks, the Arts Precinct redevelopment and more.

### **A Chance for Change**

In April 2021 the Heritage Council of NSW commenced a community consultation process on the future heritage conservation of the Millers Point and Dawes Point Village Precinct.

In response to the Heritage Council of NSW initiated community consultation process, MPCRAG surveyed owners of state heritage listed homes; heritage professionals who advised on restoration of those homes; and Precinct residents generally. The surveys both canvassed the experience of owners and heritage professionals in conserving the heritage homes within the Precinct as well as the views of all residents of the Precinct on its built infrastructure (roads, footpaths, parks and gardens), general amenity and how the Precinct can and should be both conserved and developed to best contribute to Sydney as a vital part of its history.

The results of the surveys highlighted that there is a need for a more collaborative approach to conserving both the heritage homes within the Precinct and in conserving and enhancing the neighbourhood as a whole.

### **What needs to Change**

There is a fundamental need to elucidate a simple approach for determining whether an alteration has an acceptable impact on the heritage significance of a home.

The culture within the Heritage Division and Heritage Council needs to transform to ensure a more balanced approach to development applications for these heritage homes, in particular in accommodating modern amenity.

The Development Application process for heritage homes is unnecessarily complex and requires review and simplification. The current legislative framework is thought to be adequate, but there is a lack of clarity with respect to the determination criteria.

We seek greater accessibility to heritage officers and a greater focus to working together toward a joint goal of achieving the best result for each home. The appointment of dedicated heritage officers for particular groups of terraced homes or streets would, for example, ensure a consolidation of knowledge and consistency of approvals. Government and the community need to work together for better outcomes for both.

In relation to the built infrastructure and general amenity of the Precinct, we again strongly support more consultation and collaboration between the community, government and others. Our joint goal should be achieving results which both protect and enhance the Precinct as an area of state and national importance.

A review is needed of the current sign off controls following work undertaken by service providers in the area to ensure remedial works are completed to a high standard.

We also see a need for greater consistency between the rules applied to private owners of heritage homes and the rules applied to Government and major property developments. Private citizens should not be forced to 'jump through heritage hoops' when others are able to continually modify original plans with little consequence and major impacts on local residents.

Finally, the community is vehemently opposed to the transfer of control and regulation of the short-term letting regulations (STR) to the NSW government. It should remain with local councils who are best placed to understand their neighbourhoods.

## **INTRODUCTION**

In April 2021 the Heritage Council of NSW commenced a community consultation on the future heritage conservation of the Millers Point and Dawes Point Village Precinct (“the Precinct”).

The Millers Point and Dawes Point Village Precinct is of state and national significance. It is unique for its strong sense of cohesion facilitated by a range of complementary yet diverse architecture, authentic characteristics, composition of both residential and commercial Australian building forms and social elements. It is a rare example of a maritime harbourside precinct that contains evidence of over 200 years of European settlement and activity that spans all historical phases in Australia since 1788.

In 2010, the NSW State Government embarked upon the sale of the approximately 300 homes in the Millers Point and Dawes Point Village Precinct initially under a 99-year lease and from 2014, as freehold properties.

These homes, of which the vast majority were former public housing stock, had been severely neglected, despite their immense heritage significance to NSW and Australia, and were sold in varying degrees of dilapidation.

The vast majority of new owners took to their restoration task with the right intent - reviewing Conservation Management Plans, engaging heritage specialists (architects, consultants, trades people) while being sensitive to the heritage significance of these buildings.

Unfortunately, the NSW Government failed to foresee and make provision for the heritage governance and systems required to accommodate the restoration, conservation and changes for modern amenity, needed for these heritage homes within a ten-year period. It is the view of the MPCRAG that the system failed.

## **THE MILLERS POINT COMMUNITY RESIDENT ACTION GROUP (“MPCRAG”)**

The MPCRAG wishes to work with Heritage NSW and Heritage Council to enhance and promote the heritage nature of these buildings and history of the area and have ideas for joint activities. We are proud of the history and beauty of the Precinct, the restoration work that has been undertaken by private owners and a strongly developing sense of community and wish to share this with others. All homes and other local buildings have fascinating histories as documented in the many Conservation Management Plans.

The potential for quality tourism using traditional methods (local walks) and new technology such as QR codes and Bluetooth provide ways to attract people to come and linger in Millers Point, supporting local businesses. We want to make Millers Point a destination, not a detour.

We hope to use this process as a chance to share our thoughts and enthusiasm in working with the Government to promote the area for the benefit of all. We believe that the area can contribute to local tourism that brings longer visits to the area (and return visits by recommendation) and keeps tourist dollars in Australia.

## THE SURVEYS

To make the most informed contribution to the consultation process, MPCRAG surveyed:

- owners of heritage listed properties within the Precinct who have restored or are restoring their properties under the current Heritage Act and legislative framework as applied by Heritage NSW;
- heritage professionals who have worked on the restoration of heritage listed properties within the Precinct under the current Heritage Act and legislative framework as applied by Heritage NSW; and
- residents of the Precinct, including owners and tenants of both heritage homes and apartments, on their views regarding the built infrastructure of the Precinct.

The results of the surveys are contained in the two annexures to this report.

The first annexure addresses the experience of owners and heritage professionals in conserving the heritage homes within the Precinct. The feedback from this report is critical for identifying what is and what is not working in the current consent process and its implementation for the conservation of these properties and for providing recommendations for areas of improvement.

The second annexure covers the views of all residents of the Precinct on its built infrastructure (roads, footpaths, parks and gardens), general amenity and how the Precinct can and should be both conserved and developed to best contribute to Sydney as a vital part of its history.

This Report provides invaluable insights from those living and working in the community, who are clearly invested in ensuring that the character of this vitally important heritage Precinct is protected, conserved and enhanced.

### Findings from Annexure One: Conserving the heritage homes in the Precinct

This annexure summarises responses from two surveys: a survey of owners who purchased heritage houses with the aim of restoring these and a survey of architects and consultants who assisted in this process.

The average price of the heritage homes purchased from the NSW Government was \$3 million. Owners then spent approximately a further 65% of the purchase price restoring and renovating the homes. The total benefit to the NSW Government from the sale of these properties is estimated at \$900 million, being the sale proceeds of \$610 million, stamp duty of \$35 million and restoration savings of \$245 million.

The surveys identified multiple issues with the Development Application Process and its administration including the determination criteria NSW Heritage Division use to approve or reject alterations requested by owners:

1. **Excessive complexity.** The Development Application process is overly complicated and not clearly communicated. For example, why is there a need for the two pathways (pathway one - S60 then DA or pathway 2 - Integrated Development Application and then S60)? Also, under pathway 2 "integrated" is a misnomer if the applicant is still required to submit a S60.
2. **Lack of clarity and transparency.** A lack of clarity exists around the determination criteria and transparency in relation to the decisions made by the Heritage Division i.e., a one-line reason is generally provided as justification for a Conditional Approval or a Rejection.
3. **Access to Heritage Personnel.** Heritage NSW staff were seldom accessible either prior to and during the process. There was a clear appeal for Heritage NSW to visit on-site to fully appreciate the owners needs and home and to work collaboratively with both owners and

heritage architects to find the best solution and to be available by phone. Where owners were able to engage with the Heritage NSW prior to submitting an application, there was greater agreement and satisfaction with the decision.

4. **Limited collaboration.** Heritage NSW appeared to take an adversarial rather than a collaborative approach. There was a tendency to deny an application where determination was not straight forward.
5. **A lack of accountability** Heritage NSW officers took limited accountability for the financial implications of giving a “No” decision, forcing owners to incur considerable costs to appeal to either the Heritage Council and/or the Land & Environment Court.
6. **Inconsistencies in decision making.** There was a lack of consistency in decisions within groups of heritage properties or for similar properties within a particular street or area. There were also inconsistencies between alterations approved for heritage buildings owned by Government and large businesses and those approved for heritage buildings owned by private individuals. Finally, there was an inconsistency between opinions expressed between Heritage NSW and City of Sydney Council and a view that state listed properties should be managed by local Councils.
7. **Lack of clarity re CMPs.** There was confusion regarding the weight to be given to the Conservation Management Plans (CMPs). The CMPs were inconsistent, sometimes flawed, and outdated, due to the haste with which they were prepared for the NSW Government prior to the sale of the homes. The CMPs were drafted during a period of perceived concern by the NSW Government that the newly sold homes would be inappropriately developed once they were out of government control. The focus was very much on restricting any but the most essential conservation works. As such, there has been a lack of consideration for the future use of the homes, in particular adaptation for modern amenity.
8. **Modern amenity.** In many cases Heritage NSW staff rejected alterations considered to be essential for modern amenity, such as air-conditioning. This was exacerbated by an inconsistency in allowing such modern amenities in some properties and not others. In some cases, owners were prevented from making such changes because of a concern to protect the ‘internal fabric’ when often these changes would be barely visible.
9. **Impact of fees and cost.** Fees were felt to be reasonable. However, the unreasonable and inequitable rejection of many applications required owners to appeal, sometimes all the way to the Land & Environment Court, to obtain approval. This exponentially increased the total cost of obtaining approval and was felt to put an unacceptable financial and emotional toll on many owners within the community.
10. **Variable timeframes.** Timeframes were generally acceptable. However, again, the unreasonable and inequitable rejection of many applications required owners to appeal, prolonging the time to obtain approval to an unreasonable length.

The feedback demonstrated a clear need to initiate a transformation of the culture within Heritage NSW to ensure a more balanced approach is taken to development applications for these heritage homes. For example, the mere potential of impacting original fabric should not of itself be a basis for rejecting essential or necessary amenity.

Over 75% of respondents stated that they were aware of unapproved alterations to some heritage homes within the Precinct. They also saw developers being able to override heritage requirements with alacrity which made the seemingly pedantic restrictions imposed on private owners even more frustrating and seemingly grossly unfair.

Respondents noted that the rapid growth in short-term letting after a large number of sales left large parts of the area 'gutted', with occupation mainly at weekends. Further the area was disrupted by anti-social behaviour and by the significant overflows of rubbish from takeaway food and alcohol. The community and heritage 'feel' were significantly impacted.

There was strong support for the NSW Government's proposal to have a category for standard residential properties, 'Category 3 State significant heritage', but it was felt that more clarity and detail was required.

On the matter of how to incentivise private conservation efforts, views varied from simply making it easier for owners to make changes to their properties for modern amenity to tax deductions for expenses incurred on restoration.

### **Findings from Annexure Two: Built Infrastructure of the Precinct**

We asked three questions about the built infrastructure in Millers Point:

- Should there be greater regulation of the impacts of the significant construction and maintenance work in Millers Point to ensure the impacts on Sydney's "Old Town" are properly considered.
- What improvements would you suggest to infrastructure such as footpaths, road and pedestrian safety and park and garden areas as well as generally?
- How should short-term rental arrangements be dealt with in Millers Point?

The feedback on these three questions is summarised below and expanded in Annexure 2 to this report.

- 1. Insufficient community liaison, consideration, transparency and genuine consultation.**
  - a. Insufficient liaison with the Community both prior to and during development works. For example, the (now abandoned) Kent Street cycleway, which was proposed without consultation with the community and was ill-thought out in terms of safety, traffic and general amenity of the Precinct.
  - b. Insufficient consideration and transparency in relation to the impact of development on traffic, the closure of entry and exit points into and out of the Precinct, parking, noise and pollution within the Precinct.
- 2. Missed opportunities.** This came out in several different ways:
  - a. A strong concern to protect, conserve and enhance the character of this extremely important heritage area.
  - b. A feeling that there is capacity to enhance and capitalise on the history and heritage of the area and share this with all Australians and visitors.
  - c. The community is not against development of the Precinct and surrounding area, but there is a lack of forethought, planning and consultation with the Community to ensure the development is undertaken in a manner that is considerate of this extremely important heritage Precinct.
- 3. Insufficient oversight and alignment across different authorities**
  - a. A lack of oversight controls following work undertaken by Council, developers, service providers in the area, particularly in relation to road and footpaths, resulting in poor quality surfaces eg. sunken manholes and damaged footpaths.
- 4. A strong desire to limit and regulate short term rental arrangements** such as Airbnb's from operating within the Precinct on the basis that locals felt that this type of tourism:
  - a. negatively impacts the heritage significance of the area and detracts from the character and community feel of the Precinct that makes it unique.



- b. does little to benefit the local businesses in the community, such as the many restaurants and hotels in the area, as the overflowing Tuesday rubbish bins indicate that the online delivery companies are the main beneficiaries of these visitors
  - c. results in increased noise and anti-social behaviour.
- 5. A feeling of powerlessness when dealing with Government and large developers.** There was a sense that these large organisations with deep pockets, appear to ‘ride roughshod’ over planning laws and requirements. Consultation appears to be more about telling locals what will be done rather than collaborating with them for shared benefit. Owners within the Precinct have noted that while they are required to comply with complex CMPs that regulate even internal changes, that are not visible to the public, developers seemingly have greater freedoms, examples being the extension to the Palisade Hotel and the multiple modifications in Barangaroo post DA approval.

## **RECOMMENDATIONS**

MPCRAG makes the following recommendations from our consultations:

### **Recommendations from Annexure One: Conserving the heritage homes in the Precinct**

1. **Recognise and support commitment to Heritage.** We ask the Heritage Council of NSW to recognise that the overwhelming majority of owners of heritage homes in the Precinct are committed to the conservation and protection of the heritage significance of the homes and that outliers should be dealt with through existing enforcement mechanisms including penalties for non-compliance. To support this commitment and ensure it continues, in addition we recommend that the Heritage Council:
  - a. Consider ideas for incentivising private conservation efforts including tax deductions for conservation expenses and exempting state heritage listed properties from land tax.
  - b. Provide greater State Government support for owners who contribute to heritage outcomes and celebrate these with those involved, for example by Open Days and possibly rebates of some kind for a period post completion.
2. **Simplify the process.** Simplify the Development Application process and reconsider the need for the current two pathways by making the City of Sydney Council solely responsible for approvals (who have done all Sec 60 and Sec 65 approvals since October 2020) with such approvals to be carried out under the Council's published LEP and DCP.
3. **Review, improve and clarify the process.**
  - a) Consider and define what makes a residence 'standard' vs 'heritage'.
  - b) Clarify which alterations do not require Development Application approval, such as:
    - internal decoration which does not adversely impact original fabric eg. painting;
    - installation of free-standing joinery eg. wardrobes;
    - landscaping and gardening activities which don't involve substantive excavation;
    - installation of TV aerials which don't adversely impact the heritage significance of the home or the character of the streetscape setting.
  - c) Clearly define which alterations should implicitly receive approval within the Development Application process (subject to design approval), such as:
    - air-conditioning;
    - bathroom facilities on all bedroom levels;
    - double or triple glazing (depending on acoustic impacts such as the Sydney Harbour Bridge);
    - installation of skylights and dormers, particularly on the rear elevation;
    - installation of lifts (either internal or external);
    - installation of slate roofs on pre-1900 properties;
    - installation of solar panels and other sustainability improvements;
    - application of new render on existing brick/stucco buildings where old render and ashlar coursing is dilapidated;
    - rear extensions - either the development of a new outbuilding or the renovation of existing outbuildings .
  - d) Installation of slate roofs to replace tin roofs where sought by the owners.
  - e) Ability to paint your front door a different colour to that of your neighbours.
  - f) Clarify and communicate the approach to be taken in relation to all other alterations when considering the impact on heritage significance of those alterations, and such approach should be clearly communicated to the public to ensure clarity and transparency of the determination criteria. For example, the approach approved by the court in *Kovacs v Council of the City of Sydney* [2020] NSWLEC 1258 could be considered. The approach should clearly highlight the weight to be given to the Conservation Management Plans.

- g) Review each of the current communication channels, testing with owners to ensure the information and required actions are clear and easily understood.
4. **Transform culture and elevate collaboration with local owners.** We seek a commitment to initiate a transformation of the culture within the Heritage NSW and Heritage Council to ensure a more balanced approach is taken to development applications for these heritage homes, a “yes if” approach. Associated with and key to this cultural transformation we strongly recommend the following changes in approach:
- a. Allocate a dedicated heritage officer for each application who is fully accessible to owners and their heritage architects both prior to and during the process.
  - b. Recognise that although alterations to a home should be assessed on a case-by-case basis, there is a need to ensure consistency of treatment within and across terraced groups or similar homes on a particular street and any analysis of impact must include consideration of prior approvals within those related homes. For example, assigning a dedicated heritage officer for particular terraced groups or similar homes on a particular street would consolidate the required knowledge regarding those approvals and aid consistency.
  - c. Place a greater emphasis on pre-application collaborative on-site meetings between owners, their heritage consultants and Heritage officers to discuss and determine the best solution for the home.
  - d. Consider a Local Heritage Office presence where work is being conducted in a number of properties in an area.
5. **Retrospectively review outcomes and past decisions.** Heritage NSW needs to look forward and back to ensure alignment and improved outcomes as a result.
- a. Going forward, review the Conservation Management Plans of all heritage homes in the Precinct, funded by the NSW Government. This would allow the Plans to proactively consider potential development and change and better inform and manage the conservation and future use of the property. Any review should ensure that the same heritage architect authors particular groups of terraced homes and similar homes on a particular street to ensure consistency of approach.
  - b. Working with the City of Sydney Council to undertake a review of any past rejected development applications (either in whole or part) as sought by any owner (without any additional charge to the owner) so as to review the appropriateness of the decision.
6. **Overhaul the Compliance Mechanisms**
- a. Ensure greater consistency of application of rules, penalties etc across similar properties and an area.
  - b. Ensure effective and appropriate enforcement of compliance mechanisms.

**Recommendations from Annexure Two: Built Infrastructure of the Precinct**

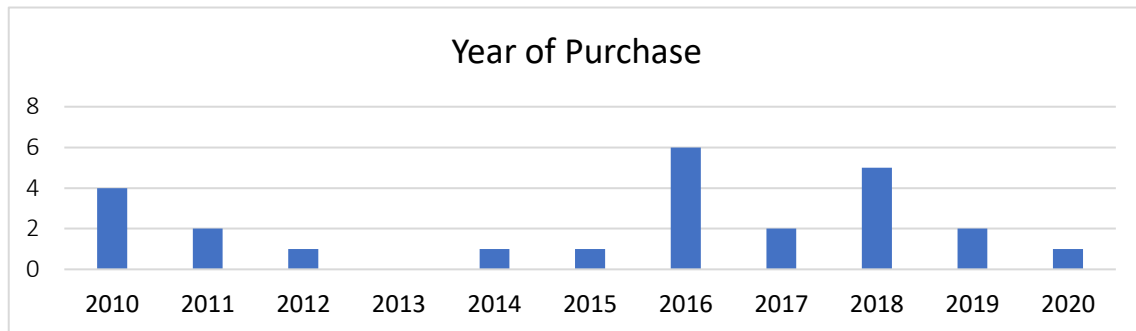
1. Consistency of treatment between Government and Developers and private individuals when applying planning laws.
2. A pro-active, collaborative approach between the community and state government towards planning for the future of the Precinct to both protect and enhance it as an area of state and national importance. For example, an increase in blue plaques to celebrate heritage within the Precinct and the incorporation of QR code technology to allow visitors to experience the architectural, social, cultural etc history in the area.
3. A review of the current sign off controls following work undertaken by service providers in the area to ensure remedial works, particularly to the road and footpaths, are completed to a high standard.
4. That control and regulation of the short-term letting regulations not be transferred to the NSW government but should remain with local councils who are best placed to understand the neighbourhoods. The Precinct is zoned residential, not visitor and tourist accommodation and, as such, short term lettings should be excluded. Tourism should be focused on longer visits to the area which bring net tourist dollars into Sydney, NSW and Australia and tend to encourage repeat visits and referrals.

## Annexure 1: Report on the survey of Owners of Heritage Homes and Heritage Experts

### OVERVIEW

In response to the Heritage Council of NSW initiated community consultation process, the Millers Point Community Resident Action Group (“MPCRAG”) surveyed owners of state heritage listed homes and heritage professionals who advised on the restoration of those homes

The surveys were undertaken to help inform the MPCRAG on their submission to the Heritage Council and also the Heritage Office of NSW and City of Sydney (as the relevant consent authorities).



The 25 survey respondents purchased their properties over 11 years. Five owners purchased properties before 2013, when the houses were purchased from LAHC and usually subject to 99-year lease. The remaining 20 purchased their houses between 2014 and 2020. Only one of these houses was fully renovated with modern amenities, two had basic amenities and one was not habitable.

The feedback from these surveys is critical, not only to other heritage areas but also for those who are still undertaking work and/or new owners planning to improve houses that have had only basic work completed before purchase. It would be useful for Heritage NSW to explore not only the issues raised but also to identify causes and any ‘bright spots’ to achieve a better result moving forward.

A key finding from the respondents is that there is a need to review the Heritage Act to better reflect the sale of government heritage houses into private ownership.

Owners and architects completing the survey are clearly keen to maintain the heritage value of the houses they have purchased. It is therefore disappointing that they have been ‘put through hoops’, high costs and significant uncertainty to achieve what should be a common goal.

We recognise the area of Millers Point as one of Australia’s most significant historical sites.

Owners recognise the importance of protecting heritage in the area and have invested significant time and money in making this a reality for their homes. Most also support the aims and core principles of the Heritage Act. However, there is considerable frustration around the combination of significant variability in the application of those processes and what appears to be a greater focus on the process itself rather than its practical application.

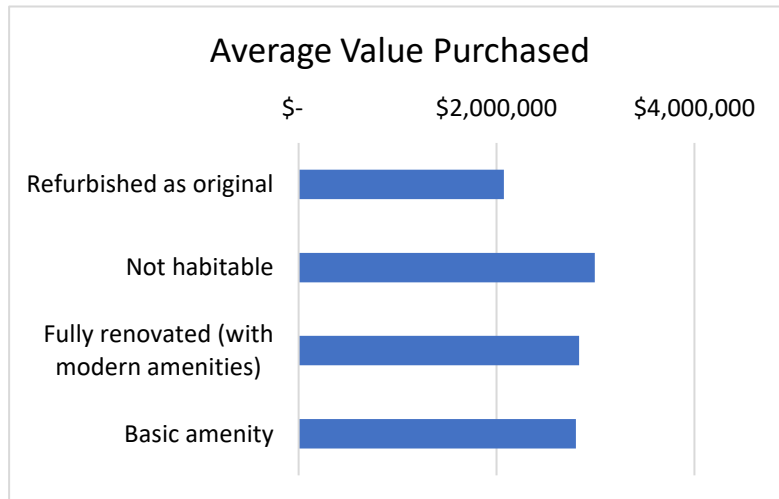
Most respondents were also frustrated by what they saw as the ease with which the Government and developers seemed to be able to override both Heritage and other planning requirements.

## Survey 1 - Owners of Heritage Properties in Millers Point

### 1.1 Prices and Original Condition

Houses in Millers Point were sold off by the Government as early as 2000 under 99-year leases. The houses purchased by those surveyed were bought between 2010 and 2019, with those houses bought earlier, being not habitable or only offering basic amenity.

The NSW Government raised over \$611m from the sale of 340 dwellings<sup>1</sup> in Millers Point implying an average sale price of \$1.8m (This does not include Sirius which would take the whole sell off to \$761m). This compares to the **average price paid by respondents to the survey of \$3.1m** (price calibrated by the condition of the house at purchase). Additional sums spent on development are considerable: 65% of the value of 'not habitable houses' and 38% of 'houses offering basic amenity'.



**Resident owners are likely to have invested at least \$900 million on these homes.**

Of the 25 respondents, 36% (9) bought properties that were barely habitable. A further eight bought properties that provided only basic amenity. Four properties had been refurbished, as original, and four were fully renovated properties.

The total original cost of the 22 properties in the survey who provided this information was over \$90m or an average of \$4.09m. This was skewed by one property which involves multiple apartments which cost 29.55m. Taking that property out of the total gives an average price for the remaining 21 properties of \$2.87m.

Pre-2014 purchases on the 99 years lease basis were lower than freehold purchase prices. In addition, the 99-year prices do not reflect the freehold conversion payment by those homeowners.

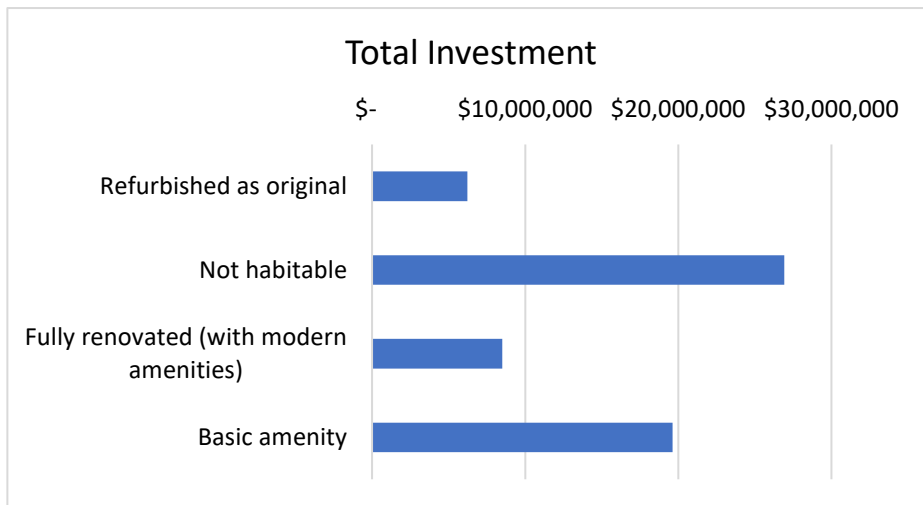
With two exceptions of houses less than \$1m (\$0.99m and \$0.81m) prices for remaining houses ranged between \$1m and \$5.5m.

The average price for the nine houses deemed 'not habitable' was \$2.66m and the average for the seven deemed 'basic amenity' was just over \$3m, with the average of the two that were refurbished being approximately \$3m. The fully renovated property cost \$5.1m.

This compares to the average price paid by respondents to the survey of \$3.1m. This has been calibrated by the condition of the house at purchase date.

<sup>1</sup> <https://www.dpie.nsw.gov.au/housing-and-property/divisions/property-and-development-nsw/advisory-and-transactions/previous-projects/millers-point>

Sums spent on repair and refurbishment are considerable, 65% of the value of ‘not habitable’ houses

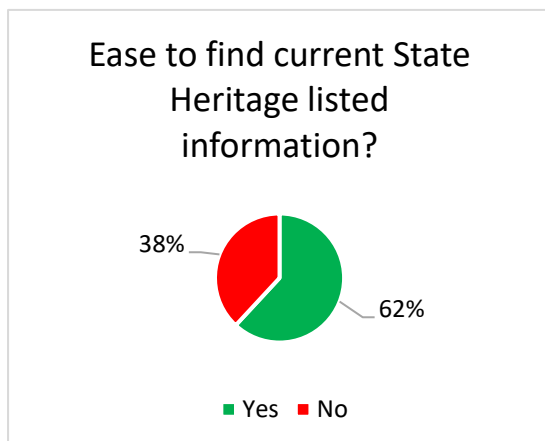


and 38% of houses offering ‘basic amenity’. Thus, residents are likely to have invested over \$900 million on these houses across the area.

For this exercise, we have assumed that the average price paid by those surveyed is in line with the price paid for properties across the board.

## 1.2 Ease, Transparency and Predictability of Permit Approval Process

20 of the 25 respondents had applied to make alterations to their heritage listed residential property. 21 looked for current State Heritage information on their property.



None found the information they needed on the Heritage or City of Sydney websites. 15 out of the 20 who applied (75%) found out about the Permit process via a Heritage architect. The remainder used a consultant (1) amended CC material (3) or used a variety of sources including the Heritage website. A variety of architects were used. Nine respondents commented on the way the permit approval was communicated to the public.

Twelve respondents used a Heritage architect. Three of those who used architects used multiple

architects. Architects and consultants used included Anne Warr (3); Tropman & Tropman (5); David Scobie; Design 5; Stephen Liusek; Colin Brady; NBR5; Jackson Teece; Peter Watts, Robinson and Hindmarsh and Peter Philips.

Comments on the way the permit approval process is communicated to the public included:

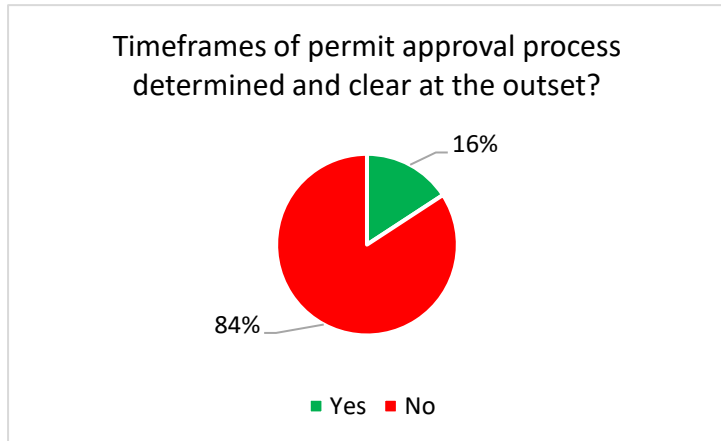
- *“I think for the average property owner with no prior knowledge of heritage process’ or cmp’s etc it is a very difficult process to navigate”*
- *“Found the process to be opaque and considerably influenced by ‘knowing the right people’ to get desired results: Information is difficult to find online”*
- *“The communication and the reality of the assessment do not correspond”*
- *“It’s complicated. LAHC (the vendor) gave some advice in their marketing material but it was very basic - just a taste of what you were in for. The only way you could really navigate the process was via your Heritage architect/consultant. Heritage Council/Heritage Office were not useful”*
- *“There are some approvals that should not require the engagement of a heritage consultant eg removal of a tree which the CMP states must be removed, but a section 57 is still required - such a waste of time and money”*

- *“We found it very difficult to find out what the process was. Heritage’s website is very difficult to understand. Particularly what process is to be use - DA or Sect 57 and who is the application/s to be made to. City of Sydney or the Heritage Department; complicated; and poorly. A number of people simply said ‘no’.”*

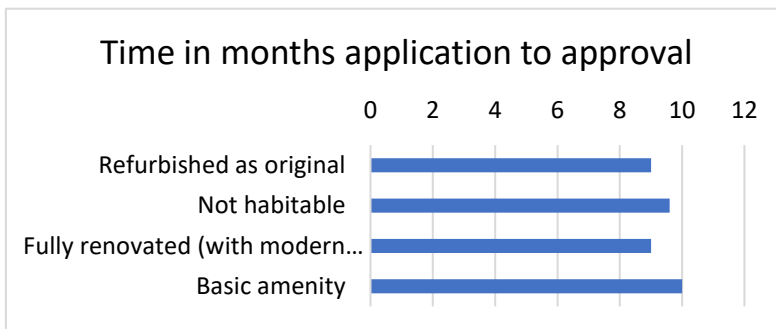
In response to the question, ‘Are the current regulatory thresholds for standard exemptions and fast-track applications clear and easy to understand?’, answers ranged from: ‘easy to understand’ to ‘too difficult to understand’; with most more finding it difficult and only a few scoring these thresholds as ‘easy to understand’.

Overall, most respondents found the process of gaining permit approval complex, hard to understand and time consuming. They found it difficult to establish timeframes and requirements and in most cases the process took far longer (and therefore cost more) than anticipated.

Timeline from application to approval varies but is typically 8-11 months.



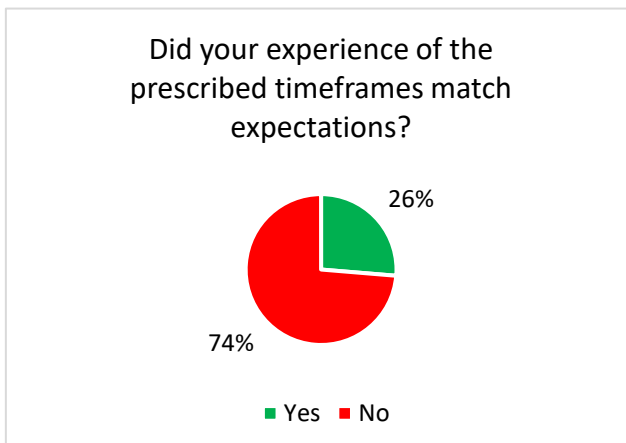
**For 14 of 20 respondents (70%), their experience of the timeframes to get their permit did not match expectations.** The timeline from application to approval varies but is typically 8-11 months. The durations ranged from less than three months to more than 2 years.



The homes that were basic amenity when purchased took longest (between 10 and 11

months) with those not habitable taking 7-8 months and those that were ‘fully renovated’ less than 2 months.

The majority (10) took between 3 and 12 months.



Anecdotally, we believe three different periods impacted owners’ experiences of the process:

- the 99 year lease period (pre-2014),
- the 2015-16 period where s.57 “Repair & Maintenance” applications dominated
- the post-2016 period being via the Integrated DA process

Multiple respondents made comments on the process. One commented that the process was relatively straightforward, another that it



was 'ridiculously long'. One respondent, whose house had relatively little original fabric, noted that the process was relatively straightforward. One respondent with a shorter (3-6 month) timeframe who felt the process was longer than expectations made the interesting comment that Heritage indicated its timeframes were "aspirational" rather than the period in which decisions would be made. This infers that perhaps Heritage could learn the lesson of managing expectations as well as the process.

Many respondents provided extra detail:

- *"Without an expert advocating our proposal and navigating the process our application would have taken a much longer time."*
- *"Very clear that the Heritage Office did not have nearly enough resource to both process, applications and monitor actual activity"*
- *"Heritage lost our application. Even when found it they took 3 times longer to reply than they were meant to"*
- *"The published timelines of NSW Heritage were not complied with by the Department. Loopholes such as Christmas and "registration of the application" were exploited by the Department"*
- *"Section 57 applications (2) relatively easy. Once submitted one took 14 days and the second 8 days. As to our Section 60 application, after the nominated 40 days we contacted Heritage and it appears they had misplaced our application and they had not started to process it. This held us up by months."*
- *"We lived without a kitchen and a structurally unsafe balcony over the garden for 6 months with children, no consideration of these factors."*
- *"It was never clear. The process was delayed by a level of inquiry by Heritage Office of a level of minutiae that was ridiculous. **Imagine if they actually attended the site to walk around and discuss the issues so we could resolve these things face-to-face and quickly.** Imagine if they had an office in Millers Point where 300 heritage listed properties were being sold and to be renovated. Imagine being that responsive to your "customer" Oh what a world that would be."*
- *"We were advised the obstacles to gaining approvals to modifications such as an extra toilet were too great to hold up the process. So we just opted to update the property along the lines of repair and maintenance. It was a pity because we missed an opportunity to have a house suited to our needs e.g. having a toilet on the same level as our bedroom. We were told that this would not be approved so we didn't actually apply."*

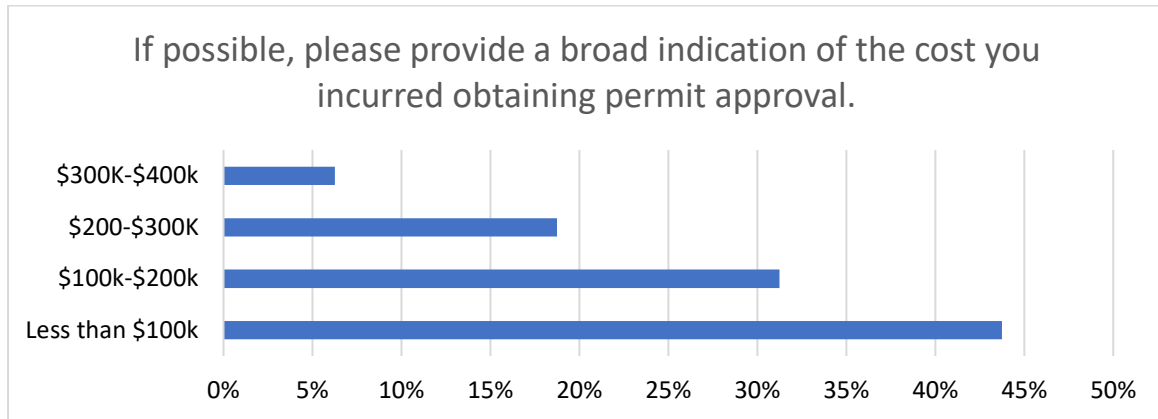
Comments from two different homeowners emphasised both the time delays involved and the additional unplanned costs incurred as a result.

- *There is a lot of confusion about the approval process, which is made worse by inconsistencies and errors and delays in getting approvals. Being understaffed also exacerbates this.*
- *Due the delays we experienced the costs were in holding the property for more than a year before we could start the renovations, which means hundreds of thousands of dollars*

An example of one reason for the delay, but something others were also concerned about, was inconsistencies within and across organisations.

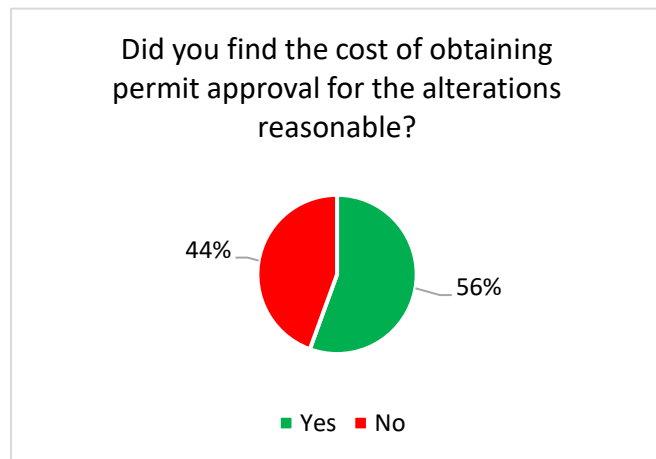
*The conditions placed on the development by the heritage board were contradictory to the Council's conditions on the DA, meaning the project came to a standstill until one of the two departments admitted an error six months later.*

### 1.3 Permit Costs



56% found the costs of obtaining permit approval reasonable.

One respondent noted that the estimated development cost on which the permit fee is calculated is necessarily higher for heritage properties due to the need for specialist tradespeople, consultants, materials etc. and this should be accounted for in the permit fee.

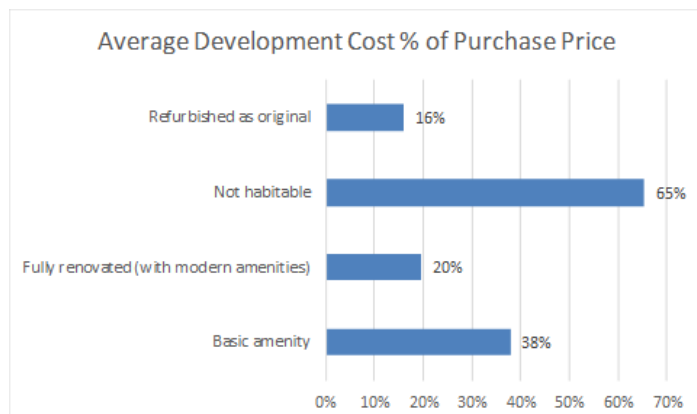


Other respondents noted:

- *“The consultant costs required were prohibitive and the need to continue to apply due to rejections added significantly and unnecessarily to the cost”*
- *“Happy to pay the cost but the process was extremely difficult and painful”*

### 1.4 Costs of development relative to Purchase Price

Sums spent on development are considerable - 65% of the value of not habitable houses and 38% of houses offering basic amenity. Thus, residents are likely to have invested over one billion dollars on these houses.



Costs provided ranged from \$600k to \$5.2m. Eleven of the 18 respondents provided costs. The average was \$2.15 million which is 2/3rds of the overall cost in most cases as shown in the graph.

## 1.5 Understanding the Heritage Process

We were interested in how well owners were able to understand the processes they had to comply with, given they were required to go through a number of 'hoops' to get approval for what, for many, were critical changes to their homes.

The level of understanding of the criteria that Heritage applied to deliver approvals varied across a range from 'no understanding' to 'clear and comprehensive understanding'. Apart from one respondent who cited clear understanding, the rest ranged from no understanding to slightly better than limited understanding.

The respondents were asked whether the key values listed on the Heritage NSW website were upheld by the Heritage division during their interactions with the division, including:

- *"As public servants, we uphold the values of integrity, trust, service and accountability in all we do"*
- *"We lead through respect, openness and collaboration"*
- *"We champion rigorous, transparent and evidence-based decisions"*

50% of the respondents strongly disagreed, 30% neither agreed or disagreed, with 20% strongly agreeing that the values were upheld.

When categorising their interactions with the Heritage division, 64% of respondents reported that their interactions were adversarial in nature, with 14% of respondents noting that their dealings were collaborative. Comments from respondents included the following:

- *"Different rules for different properties in the same street"*
- *"I never want to deal with them again"*
- *"(Some individuals) were great. I'd be happy to work with them again. There are certain others who are known for being jerks, if they pick up your file, it doesn't matter what you're asking for, the answer will be NO"*
- *"Lack of published/objective assessment criteria supports the view that the assessing officer's personal views inform decision making. Certain assessing officers were hostile without explanation from the outset. Reasoning, analysis and engagement with the CMP and criteria of state listing can be lacking."*
- *"There is a culture of fear of making a positive decision. The default position is "no" as no-one wants to be responsible for an approval"*
- *"We were very disappointed that we weren't allow to install a bathroom or even just a toilet on the same level as our bedroom. We were told 'the property has enough toilets' - but too bad they are on the basement and ground level whereas the bedrooms are on levels 1 and 2. The end result is inconvenient and potentially dangerous."*
- *"Despite the sale of Millers Point properties being quite well publicised, I don't think they were prepared for the subsequent level of activity. With probably the greatest concentration of heritage properties undergoing change, the mere fact that there was no Heritage Office presence in Millers Point was astonishing. I still don't think they get it."*
- *"The Heritage Division visited the property before the DA was submitted in an on-site meeting with Council and our heritage architect and ourselves. They provided feedback which was then used to modify the DA so it was approved first time in a reasonable timeframe."*

- *“Decisions were based on personal interpretation of the heritage consultant reviewing the application. -The views differed widely to heritage consultants understanding. - no time frame and poor communication - inconsistent approvals, we have the exact same property as our neighbours: they were allowed aircon, we were not etc. - no compromise or discussion - threats of court if we did anything incorrectly: not collaborative, like the home owners are the enemy - asked us to prove we didn’t do work which had been done whilst in government ownership - want the houses preserved as a museum but they need to be fit for modern living (note not talking knocking down walls simply aircon installation and the like) - the more money you have and challenges you make, the more likely you can get your way i.e extensions out the back, lifts, new dormer windows in copper....decisions appear to be based on wallet size which undermines the whole process”*
- *“Although we obtained our S60 as we were making limited changes to our home, many neighbours tell us there are many inconsistencies between similar terraces. For example, our CMP stated we could put in two skylights (which can be seen from the harbour) where other have been 'knocked back' over skylights. One of the biggest issues around the process is that the CMPs themselves are not consistent. These CMP were done in a rush by different consultants which had led to many conflicts between Heritage and among residents.”*
- *“[Some Heritage officers] should be re-educated to ensure [they] implement the Heritage legislation in line with the policy intent published by Heritage NSW”*

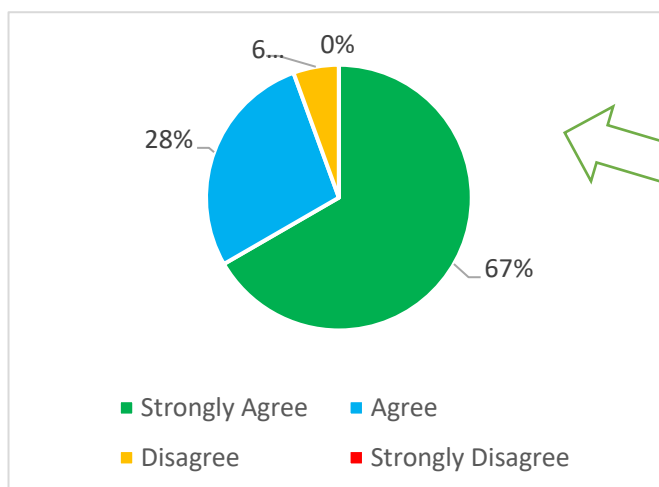
Seven respondents had no or limited onsite inspection by the Heritage Division throughout and felt that such an inspection would have enhanced understanding of the reason for the proposed alterations and encouraged a more collaborative approach to finding solutions. The one who did not was very appreciative of several of the Heritage team and received full approval.

### 1.6 Determination Criteria

Of critical importance to those renovating their homes was understanding how key decisions would be made so they could ensure they focused on the requirements that mattered most to Government. The determination criteria and understanding of these was thus critical to success.

There was considerable confusion among respondents about what the actual determination criteria used by the Heritage Division was.

When asked whether the Heritage division takes a balanced view in relation to change to enable modern amenity i.e., “a ‘yes if’ approach, 77% of respondents strongly disagreed.



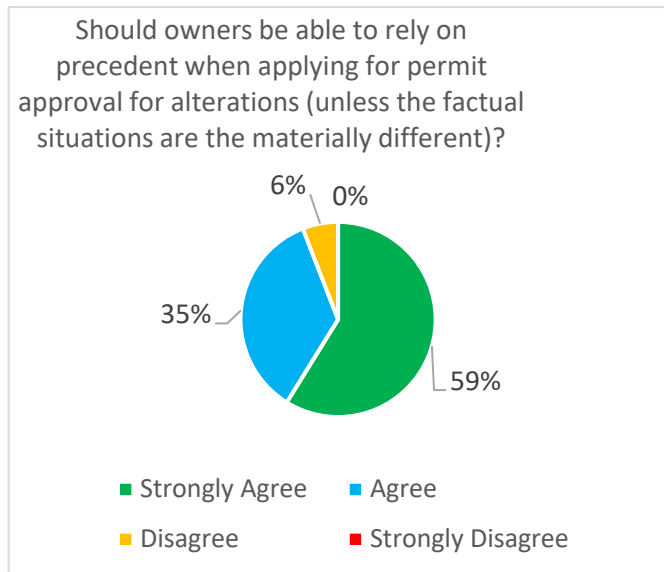
*“Should the Heritage Division be consistent in relation to heritage permit approval decisions within groups of heritage properties or for similar properties within a particular area?”*

Survey participants **also felt strongly that the CMP’s for these properties should be aligned to ensure consistency of heritage conservation criteria and decisions across the properties.** (61% strongly agreed with this view and 27% agreed).

There was also a very strong view that Heritage division should apply precedent for such properties, where the factual circumstances are near identical.

Where respondents discussed their proposed alterations with Heritage Division prior to submitting a permit application, 66% indicated that their understanding of what Heritage Division would/would not be approved was reflected in the decision.

Most felt that it would be helpful to have known that they could rely on precedent to gain confidence in the likely decision. For example, they felt it would be useful if planning a bathroom or toilet on an upper floor they could be confident that if others had been able to get this approved, they would also have requested this change.



### 1.7 Appeals

Several respondents reported that, after initially having their application declined by the Heritage Division, they appealed to the Heritage Council and/or the Land & Environment Court which resulted in full approval of their application. There was frustration that they had to undergo the time, uncertainty and cost involved when perhaps this decision could have been made earlier.

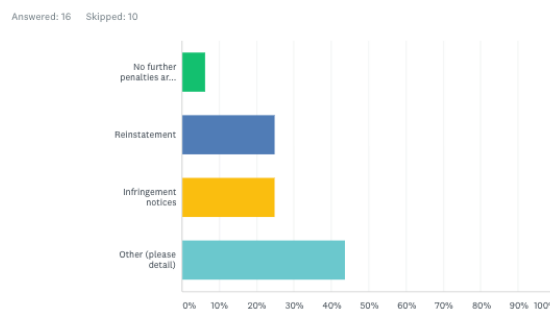
### 1.8 Compliance and Enforcement

Over 75% of respondents reported that they are aware of **significant unapproved alterations** to some heritage properties within the Millers Point area. This was obviously frustrating for those who had tried their hardest to comply throughout the process. In their view, compliance and its mechanisms are in serious need of overhaul. Support for owners and celebration of heritage are primary objectives of Heritage Act, but most owners see limited evidence of these.

There was a mixed response from respondents in relation to penalties for non-compliance.

Just under 50% of respondents thought reinstatement or infringement notices were warranted. However, the remaining respondents indicated no further penalties were needed and/or penalties needed to take into account context and the individual circumstances of each case.

What additional penalties do you believe should be available for non-compliance?



Bigger issues seemed to be that while the penalties themselves were adequate and appropriate:

- they were not being consistently applied, which is unfair and sends the wrong message;
- they should be proportionate to the 'crime'.

The following comments make this clear:

- *“The penalty provisions are adequate - **the administration and application of those is selective and inconsistent**”*
- *“It really depends on the “offence”. Technically we require approval just to paint the **INSIDE** of our properties, this is ridiculous and let’s be honest- no one is going to go through all that drama in order to repaint a wall, we all just get on with it. Knocking out walls though is another matter- **I don’t think structural changes should be made without approvals because many would require engineers reports etc and may also affect the stability of neighbouring houses**”*
- *“**The context needs to be understood before penalties are determined.** Flagrant heritage breaches are different to lesser changes which might have been approved anyway.”*
- *“Compliance and its mechanisms are in serious need of overhaul. Support for owners and celebration of heritage are primary objectives of Heritage Act, but limited evidence of these.”*
- *“Each case is very individual and should be assessed as such.”*

### 1.9 Proposed category for Heritage Listed Residential Property

Approximately 70% of respondents supported a proposal to have a category for standard residential properties with tailored protections (proposed Category 3 State significant heritage). However, comments from respondents indicated that more clarity and detail was required around which properties would and would not fall within this category and the implications for owners of those properties.

- *“As with all regulatory process, definitions need to be clear rather than 'simple', and the framework comprehensive, not complex”*
- *“Devil will be in the detail”*
- *“Common sense. These are not museums, they are people's homes. In Millers Point, we have done the job that the NSW Govt (both sides) failed to do over decades. Demolition by neglect. The State Govt has a hide to expect a higher level of protection be done by private owners when they did bugger all in Millers Point for years.”*
- *“Discussion paper did not mention what would make a property 'standard'. Category should include all state-listed residential properties in Millers Point and Dawes Point. It should also include all farm properties currently placed in proposed Category 2.”*
- *“I think when you have a site specific CMP, this is not required”*

### 1.10 Incentivisation of Private Conservation Efforts

Comments from respondents on how to incentivise private conservation efforts were varied. They ranged from simply making it easier for owners to make changes to the properties for modern amenity to tax deduction for expenses incurred on restoration. The comments included:

- *“By appreciating the need for today’s requirements for living”*
- *“The availability of and criteria for funding for heritage conservation work should be made more widely known. In my experience, it is handed out to only a few who are 'in the know’”*
- *“I’d prefer council and heritage spend money fixing public assets rather than private ones. Like that lamp post out front of 43 lower fort...”*
- *“Allow homes to have sensible amenities like kitchens, bathrooms, aircon”*
- *“Private owners saved the government's bacon by spending the money we did on saving the built fabric of Millers Point because they have neither the ability or inclination. It is common in other countries where heritage is valued - maybe that's the difference.”*
- *“multiple support mechanisms to meet objectives of Heritage Act, including timely information, rebates for essential maintenance of state-listed heritage properties, partnering with heritage owners to celebrate and provide greater appreciation of state heritage.”*

- *“There should be more incentives. It cost us money to apply for heritage grants but we received \$0”*
- *“Tax deduction for expenses incurred on repair and maintenance of heritage properties”*
- *“Make the process clearer and understand that we the owners are preserving Australia's earliest history, spending the money to restore these significant homes which the State Government failed to do. We want to save these listed homes, but we need to live in them in a modern comfortable way. There needs to be a compromise!”*
- *“Private owners saved the government's bacon by spending the money we did on saving the built fabric of Millers Point because they have neither the ability or inclination. It is common in other countries where heritage is valued - maybe that's the difference”.*
- *“Make the process clearer and understand that we the owners are preserving Australia's earliest history, spending the money to restore these significant homes which the State Government failed to do. We want to save these listed homes, but we need to live in them in a modern comfortable way. There needs to be a compromise!”*
- *“Discussion paper did not mention what would make a property 'standard'. Category should include all state-listed residential properties in Millers Point and Dawes Point. It should also include all farm properties currently placed in proposed Category 2. celebrate and provide greater appreciation of state heritage”.*

*‘Whilst it is not specific, developers seem to be able to “work around” heritage and planning constraints whereas local owners of heritage properties have been subjected to high costs and often overly tight constraints in terms of what they can and can’t do with the interiors of their properties. I am concerned about the constant changes made by developers and commercial interests stretching the boundaries.*

## Survey 2: Heritage Architects and Consultants

This survey was for Heritage Architects and Consultants who have direct experience of the Heritage approvals process as a result of advising clients within the Millers Point heritage area.

When asked ‘What problems do you have with the current Development Application system for Heritage properties?’, the comments included:

- *“Processes are too slow. Heritage office staff refuse to come to site. Heritage office relies to heavily on CMPs many of which are erroneous. It needs to be a more hands on approach. Most of the CMPs will need to be rewritten especially in light of the type of changes that owners expect i.e. installations of lifts at the back of the Lower Fort Street properties. These sorts of things need to be anticipated and included in the CMPs. Additionally, heritage management documents (HMDs) would be better in terms of controlling change. The emphasis should be on managing change rather than resisting it.”*
- *“The inconsistencies within the application of what is permitted and what is not across properties, including some instances within the same row and identical terraces where, for example, skylights were permitted to one and not the other, amongst other instances of an inconsistent approach. The difficulty also arises out of the range of CMPs which are far more stringent, particularly in relation to the rear additions, than what may be found in CMPs relating to other state heritage listed properties outside of Millers Point. There are also inconsistencies between what City of Sydney agrees to and then what Heritage NSW agrees to, to the extent that on one job City of Sydney agreed to the reinstatement of French doors which had clearly be blocked up with a window added whereas Heritage NSW refused the reinstatement of the French doors. There is also no clear directive or information from City of Sydney or Heritage NSW to inform owners as to the process which needs to be followed e.g. DA then S60, and if a modification then 4.55 then S65a. There have also had instances where Heritage NSW was confused over the process and misinformation provided.”*
- *“Duplication of effort across the [City of Sydney Council] and the [NSW Heritage Office]”*

These experts were asked what improvements could be made to the current system for the benefit of your clients. Their answers were:

- *“The heritage office needs to much more accessible and amenable to change. People who pay several million dollars for their homes are entitled to expect bespoke changes according to their lifestyle expectations. The management documents need to anticipate this but obviously at the same time, protecting significant heritage fabric. It is my view that for each property, a dedicated heritage officer needs to be allocated for the job and to be fully accessible to clients regarding their queries and concerns. This appears not to be the case under the current system. Perhaps, one officer per group of homes. My experience to date has been that the heritage office is largely inaccessible and this needs to be radically overhauled with the right sort of staffing i.e. Heritage architects who understand fabric, change and detailing - not archaeologists who do not understand historic building technology.”*
- *“Greater transparency in relation to the process and an approach similar to how any other State heritage listed property would be assessed ie on a case by case basis. Heritage NSW also needs to understand that the CMPs were written at a completely different time to what it currently is ie when there was a mass sell off and a fear of development. These properties have now been purchased generally by people who are aware of and appreciate the heritage significance and therefore want a sensitive outcome, however one that serves the longevity and usability of their property. There needs to be more flexibility by Heritage NSW. It seems*



*there are some signs of a more consistent approach now that City of Sydney has delegated authority and given the cities finite awareness of the area however Heritage NSW are having to rely solely on the CMPs without much of fine grain knowledge of the area.”*

- *“Total delegation to [City of Sydney Council] and site inspection by [City of Sydney Council] heritage officers similar to cc inspections”*

In response to what changes they recommended to the current legal and administrative controls, in and around Millers Point, they noted:

- *“In my answers to the above two questions I have covered the administrative controls that I think can be improved. In terms of the legality, the heritage office needs to understand that in a conversion of the housing stock from public to private ownership, there is bound to be a high level of physical change to the properties. As long as these changes do not result in negative impacts, owners are having to fork out large sums of money not only to purchase their properties but also repair them. I believe incentives should be introduced to make it worthwhile for investors of the stock. Incentives may include nil lodgement fees. This is the case with Scottish Heritage which does not charge for DAs/ S60s. I also think that SHR properties should be completely exempt from land tax. I also believe that incentives should include up to 50% of income tax reduction considering that owners are effectively endowing the State with a major private investment into a public good such as Cultural Built Heritage for which there should be return. This could extend to GST rebates on renovations of the stock. I think that the City Council is doing a better job at managing the Millers Point stock than the Heritage Office and therefore delegation to COS is appropriate. Taking this model, it is my view that all state listed properties should be managed by local Councils in whose LGA the SHR property resides. The Heritage Office should concentrate on inquiring skills in historic building technology. When I refer to the 'Heritage Office', I mean the Millers Point management as well.”*
- *“City of Sydney to have complete delegation removing the S60 process and making the City solely responsible for approvals.”*
- *“Statutory authorities to fully comply with scc heritage advice and controls”*

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## **Annexure 2: Report on the survey of residents on the built infrastructure and general amenity of the Precinct**

### **INTRODUCTION**

Millers Point Community Resident Action Group Inc. (“MPCRAG”) has undertaken a survey of residents of the Millers and Dawes Point Village Precinct (“the Precinct”), including owners and tenants of both heritage homes and apartments (incorporating the five high rise apartment buildings at the southern end of Kent Street), on their views regarding the built infrastructure of the Precinct.

Respondents were asked for their views on the following three topics:

1. Regulation of building development activities impacting the Precinct.
2. Vision for the Precinct with suggested Improvements balancing both heritage and amenity.
3. Regulation of non-hosted short-term letting (Airbnb) in the Precinct.

### **OVERVIEW OF FINDINGS AND RECOMMENDATIONS**

#### ***Regulation of Development Activities***

The Millers Point Peninsula has been impacted by building development for many years both within the Precinct and in the surrounding areas of the Rocks, Walsh Bay and Barangaroo. For the last decade, there has been substantial development in Barangaroo which has heavily impacted the southern end of the Precinct. More recently the building of the Barangaroo Metro and conservation work has begun on the Sydney Harbour Bridge with residents in the West and North of the Precinct severely impacted by the noise of night works.

A major concern from respondents was the lack of consultation with the community both prior to and during the development process. Homeowners and small business/commercial property owners are concerned with the ability for Government and major developers to override the heritage constraints that private owners are required to adhere to. This is often done by several developments being declared ‘State Significant Developments’ (SSD) circumventing the normal regulated Development Application processes, with the notification and consultation process waved by the State Government. Many also verbally commented on how galling it is to receive constant letterbox drops advising of further ‘Modifications’ (Mod #) after providing thoughtful and time-consuming input into original plans. It was noted that one of the building projects in the Crown precinct is now to Mod #10 which has increased the height of the building by 25 metres and increased the floor space by 8000 sq metres.

Other significant concerns raised included:

- Traffic congestion especially with the diversion of heavy trucks along Kent Street from Barangaroo and from the George Street closure.
- Closure of entry and exit points to the area.
- Loss of street parking to trade and other vehicles.
- The impacts of dust, noise and other disruption.

Anecdotally, some owners and business felt the increase of rates and land tax a few years ago due to the ‘increased benefits’ of the Barangaroo development was galling given the ongoing disruption.

Going forward, the obvious solution is to tighten restrictions and to consult with the community prior to and during any development being undertaken.

### ***Vision for the Precinct***

Millers and Dawes Point Village Precinct is of state significance for its ability to demonstrate the principal characteristics of 19<sup>th</sup> and 20<sup>th</sup> century Australian maritime harbourside precincts, such as a close proximity between workplace and residence. The social and public nature of neighbourhood hotels, corner shops and small businesses are demonstrative of the earlier 'everyday' environment of Millers Point.

There is a strong desire from all respondents to protect, conserve and enhance the character of this extremely important heritage area. This requires pro-active management of issues that are detrimentally impacting the character of the area including traffic, noise and anti-social behaviour. The community wants to create a neighbourhood that welcomes visitors and highlights the story of its history in its architecture, streetscapes, diversity of buildings and its community.

The community would like to work collaboratively with the relevant parties/authorities to enhance and capitalise on the history and heritage of the area and share this with all Australians and visitors.

### ***Short-Term Letting***

The sale of the State Heritage Listed social housing properties in the Precinct over the last decade, resulted in rapid and unconstrained growth in short-term letting, concentrated in a number of streets within the area, in particular High Street, Kent Street and Dalgety Street.

There was a 'very strong negative' response to short-term letting from all respondents. Residents saw the impacts clearly in the streets, including the increased rubbish, dumping of large household goods, noise and disturbance and patterns of mainly weekend visitation on the life in this community. Short-term rental accommodation is inconsistent with the preservation of the heritage significance of the area. Many of these significant Heritage properties have been poorly renovated, destroying many of the historical features of the buildings and conducting illegal alterations removing significant original features and material, often against the individual Conservation Management Plans (CMP's) implemented to protect and preserve these homes.

The survey reported a clear appeal to ensure that control and regulation of the short-term letting regulations should remain under the control of the City of Sydney, who are the best placed to understand the neighbourhoods. The Precinct is zoned residential, not visitor and tourist accommodation and, as such, short term lettings should be excluded.

A comprehensive account of the responses received in relation to these three topics follows.

## Should Impacts of Major Developments on Millers Point be Regulated?

The Millers Point Peninsula has been impacted by building development for many years both within the Precinct and in the surrounding areas of the Rocks, Walsh Bay and Barangaroo. In the 1990s, Highgate the Georgia and Observatory Tower were converted from commercial to residential, with the Stamford on Kent and Stamford Marque converted in 2000 and 2008 respectively.

*I can see why those with properties facing Barangaroo have sold or moved on. The quality of life for existing residents has deteriorated. Yes, developing Barangaroo is good for Sydney, but the amount of construction has been seemingly unmoderated. It is, as another example, almost impossible to park off the street in Millers Point (Kent/High St) during the day as parking bays are filled with utes and vans*

After a series of competitions and master plans, work on Barangaroo began in 2012 and is still underway with several years still until completion. Residents in Kent Street apartments and houses and beyond have been living with the noise, dust, excessive transport movement, etc for almost a decade.

Residents of Lower Fort Street have also been impacted by night works on the Sydney Harbour Bridge.

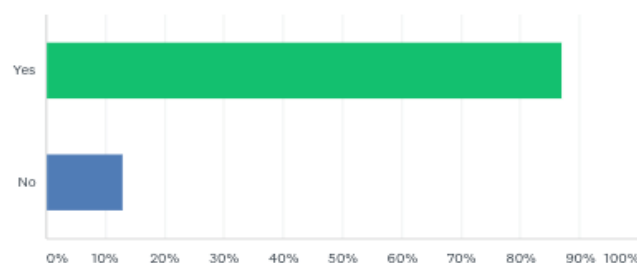
*....perhaps the Government might look at ways to compensate/better support Millers Point Owners and Residents rather than piling more and more issues on us*

Millers Point Owners experienced an increase in rates about 3 years ago to fund the increased 'facility' from Barangaroo. Some commercial properties had their land tax increased some years ago for the same reason. In one case they suffered a number of requests for refunds from guests as a result of noise and other disturbance interrupting their hotel stay.

If anything, it appears that the level of disruption due to construction has increased over time, so we asked residents their view on the impacts on them and how they felt these could be addressed.

As a peninsula, we are impacted by developments around us e.g. Barangaroo, George St partial closure in The Rocks, SHB maintenance works. These impacts can result in greater traffic and increased noise, dust and disruption. Should there be greater regulation on these activities to ensure the impact on Sydney's "Old Town" is properly and effectively considered?

Answered: 54 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	87.04% 47
No	12.96% 7
<b>TOTAL</b>	<b>54</b>

Comments (30)

Key issues identified by the respondents included the following:

- The ability for developers (including those on Government supported projects) to ‘ride roughshod’ over planning laws and requirements.
- Comments are often made about the number of ‘Mod’s’ residents receive from the Government for review and feedback knowing that they have no real say on whether they proceed. This seems particularly galling given the very tight constraints on private citizens renovating heritage houses in the area.
- Impact on traffic flows and parking of extra cars from Barangaroo and the George Street closure (note that while car parking spaces were initially restricted, this was significantly extended).
  - Significantly increased numbers of large trucks with impacts on traffic flows and air quality
  - An increase in ‘tradies’ vehicles’
  - Limited entry and exit points to and from the peninsula - exacerbating the traffic impacts;
- Increase in (often very black) dust entering even high-rise buildings some distance away from the development and requiring constant cleaning to address the resulting impact on windows, furniture and fittings.
- Decline in quality of road and footpath surfaces, with a particular impact on the elderly walking in the area and those on mobility vehicles and in wheelchairs.

*There has been a visible increase in traffic congestion once Crown Sydney in Barangaroo opened. The amount of construction in Barangaroo has also meant the amount of noise and dust has increased.*

*my Dyson air purifier used to be show green but now after opening the door to my balcony, it immediately goes red*

*.... Traffic is a big problem...there are very limited entry and exit points from the community.*

- Noise pollution from rogue venues.
- The length of time works seem to take to start and complete, exacerbating the above impacts.

87% of those responding felt there was a need to better regulate traffic noise and disruption in the area with their comments wide-ranging in their scope. Many raised concerns about dust, traffic congestion and more, with traffic congestion to be made worse by the Fort Street school development. In the case of traffic, concerns were also expressed about the impact of the George Street closure and the apparent lack of planning and consideration of traffic impacts on the area generally.

The previously proposed Kent Street cycleway (now abandoned) provided yet another example of the impacts of poor forward planning on the area’s liveability, community connectivity and safety.

A key concern of the respondents was the impact changes are having on the character of the area.

*‘Sydney’s “Old Town” heritage is irreplaceable and every effort should be made to preserve and enhance the area wherever possible. The Rocks, Walsh Bay and the extant historic residences must be preserved as a living reminder of this Colony’s beginning’*

An important comment (right) reflected the ‘very strong’ and often passionate feelings of many in the community, about the area and its heritage and the importance of preserving and maintaining this. While critical, Local Owners and Residents are keen to work with the Government to preserve

and improve the area, most, if not all, would like to see more timely, in-depth consultation with residents and business owners in Millers Point and adjacent suburbs, prior to commencement of works. They would also appreciate greater transparency regarding expected impact of works on Millers Point and surrounds in terms of increased traffic, noise etc.

Recommendations made by residents and owners included the following:

- Change parking to 1 hour maximum other than residential permit parking.
- Consider road safety initiatives (speed limit/speed reduction initiatives and shared zones).
- More consistency between rules applied to business/government and those applied to private citizens.
- Better co-ordination between service providers for example aligning works such as footpath upgrades and digging up the same footpaths for services to avoid rework and cost<sup>2</sup>.
- Greater protections against noise pollution coming from surrounding rogue venues.

### Should Impacts of Major Developments on Millers Point be Regulated?

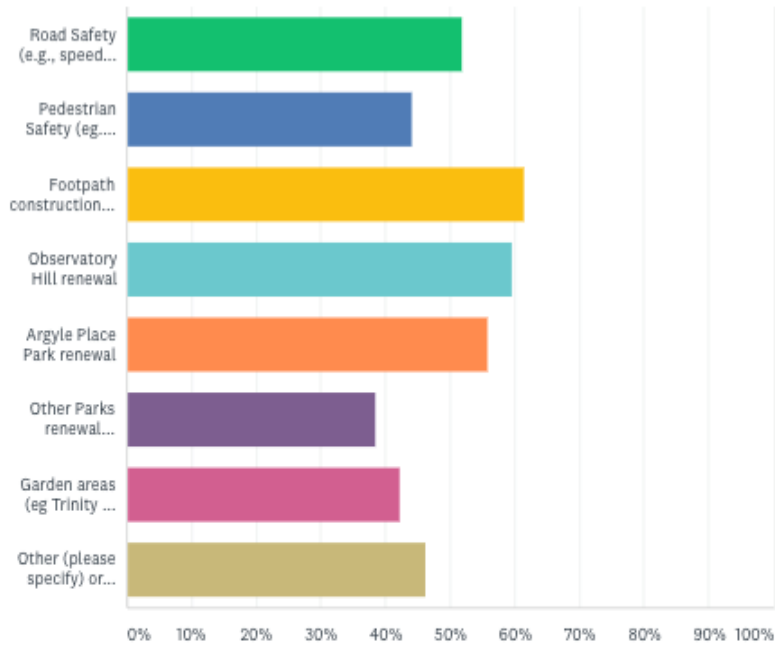
The responses from participants were spread across the topics in the Diagram below. Note that footpath construction receiving the most attention, followed by Observatory Hill and Argyle Place renewal.

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<sup>2</sup> Example: marking of the footpath for installation of services shortly after the major upgrade to the western side of Kent Street

What specific improvements would you suggest for the following? In making your comments, please consider the balance between heritage and modern amenity.

Answered: 52 Skipped: 2



ANSWER CHOICES	RESPONSES
▼ Road Safety (e.g., speed limit, shared zones, speed reduction initiatives)	51.92% 27
▼ Pedestrian Safety (eg. pedestrian crossings, pedestrian refuges, shared traffic zones)	44.23% 23
▼ Footpath construction (e.g. construction material choice other than black asphalt, footpath garden beds, etc)	61.54% 32
▼ Observatory Hill renewal	59.62% 31
▼ Argyle Place Park renewal	55.77% 29
▼ Other Parks renewal (Pottinger, The Paddock, Munn Reserve, Watson Rd Reserve, Clyne Reserve, etc)	38.46% 20
▼ Garden areas (eg Trinity Ave garden area on Lower Fort St)	42.31% 22
▼ Other (please specify) or and/or provide comments in relation to any of above	<a href="#">Responses</a> 46.15% 24
<b>Total Respondents: 52</b>	



Suggestions summarised below addressed the key concerns:

### **Roads and traffic**

- Better enforce speed limits on the road.
- Address issue of adult cyclists speeding on footpaths (especially food delivery).
- Deal with issues with traffic lights at Kent Street and Gas Lane and continue to monitor\*<sup>3</sup>.
- Deal with noise for cars and motorbikes treating the roads in the area as their personal 'race track', often late at night (selfish hooning).

### **Footpaths**

- Footpaths to be more even, and properly repaired when changes are made. Consider standard Sydney grey tiles, stone or pavers, such as those outside the Sydney Opera House, with non-slip surface as opposed to asphalt where feasible (more complementary to Heritage and more climate friendly). These block pavers allow for ongoing underground repairs to be conducted, with them being readily dug up and replaced. Not the current 'patchwork' and uneven asphalt footpaths we have today.
- Keeping garden beds maintained with weeds and rubbish removed.
- Maintain the heritage difference of area rather than look like every other suburb.
- Rubbish bins to be moved off footpaths outside collection times.

### **Parks**

- Maintain the heritage of Observatory Hill - no changes. Observatory Hill and its slopes with the famous yellow clock ball at the top is untouchable. Observatory Hill should look like a hill and not be built around.
- Consider extra playground areas and places to relax and enjoy the vistas.
- Return the streets to local traffic making Millers Point a destination rather than a detour.
- Monitor and fix lights on Kent Street and Gas Lane.
- Upgrade Lang and Wynyard Parks.

### **Overall**

- More green - pots of plants, native trees etc.

Note in respect of the traffic lights that Observatory Tower now has a camera permanently directed towards the lights which could be used by the Government as required to monitor traffic.

## **Short-Term Letting (Short Term Rental Accommodation)**

**Question: How should non-host attended short-term rental (STR) arrangements (e.g. Airbnb) be specifically regulated in the Millers Point heritage precinct?**

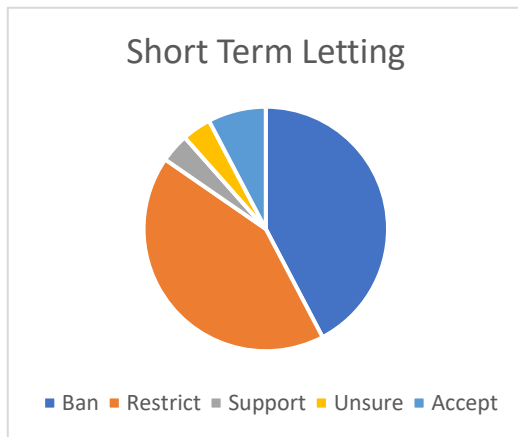
MPCRAG members noted the high volume of short-term letting in the area which, prior to COVID, encompassed most of High Street and a significant number of Kent Street, Windmill St and Dalgety St properties, but also Argyle Place, Merriman St and Lower Fort St. During COVID a number of properties were converted to longer lets, although it is not clear whether these revert to STR post COVID, leaving current renters to look for alternatives.

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<sup>3</sup> The community raised concerns about the traffic lights when these were first installed. While changes have been made, it is unclear whether the issues have been resolved. Residents would like to see this reviewed again when traffic opens post-COVID lockdown.

Most of the STR occupation occurred over weekends and on holiday periods. The result was high volumes of rubbish on council collection day on a Tuesday, with rubbish bins full and overflowing and being left on the street all week. Much of this rubbish appeared to be takeaway food cartons often placed in the wrong designated bin. There was also a significant increase in night-time noise and poor behaviour.

In the main, this pattern of visitation provided limited benefit to local businesses such as the many excellent restaurants and a number of the hotels in the area. Indeed, it is likely the majority of profit from this ‘tourism’ was gained from the 30% margin paid to firms such as Airbnb and Uber Eats and Deliveroo. Note that locals tend to pick up their food from their local restaurant during COVID as they want to keep local restaurants running. This feeling was echoed by at one respondent who insisted. “[Short term lets] *Should not be allowed. Pre-COVID it was worse but even now the Tuesday bins are overfull and rubbish is often put in the wrong bins. Many seem to buy all their food online so question how much contribution they make to the local businesses*”



Responses included a spread of residents from those living in former social housing near the junction of Kent Street and Gas Lane.

A significant majority (84%) of respondent’s comments were strongly in favour of banning STR or severely restricting it. In the latter case many of those in strata buildings felt STR should be allowed **only if a 75% majority agreed of owners were prepared to allow short-term letting in the building at all.**

Only four respondents out of 50(8%) felt STR could be accepted. Two were ‘unsure’ or ‘didn’t care’ and two felt that it should be fully permitted. These two felt that this would require specific additional conditions/restrictions and/or payments for example *‘Hosts to fund daily rubbish collection and nightly security, levy to be applied (circa \$250 per person per night) to supplement Council funding of local area improvements.*

One resident’s comment was out of synch with almost all of most other comments saying *‘It’s a tourist area, so let tourists stay in short-term accommodation. We need less regulations, not more.*

A number of respondents were concerned with the impact of STR on the character and heritage of the area. An excellent example which was echoed by others was the following: *Airbnb and other short-term rentals have changed the character of the area. The outcome is an influx of people for 2 to 3 days at a time using the houses as a place to party or sleep, and then leaving huge piles of garbage at the end of their stays. The transition from social housing in Millers Point has been completely botched by the NSW Government - we now have no residents, no pride in the environment and no community.*

The mix of those living in heritage houses and high-rise strata also showed in different recommendations. The following recommendations cover both standalone premises and strata buildings. *They [STL] should be Strictly controlled. In standalone premises only where Owner accepts full responsibility for guests’ behaviour, in Strata building only if 75% of owners approve such operation, and the applicant pay a special levy for the additional usage for commercial gain by an owner.*

Note **the clear majority of strata occupants** seemed to be of the view that STR should be **totally banned or only allowed if this was supported by 75% or more of Owners**. Certainly, the view of residents was a long way from current state government stand, which allows non-hosted STR in strata and elsewhere for 180 days a year. In strata, only if 75% of Owners vote to prevent STR can it be restricted and even then, can be conducted by Owner occupiers for 180 days per year.

One respondent suggested a different approach, *Specific property approval by City of Sydney to control number, concentration and nature of properties offered for STRAs. CoS should consult Strata Committees for input on strata applications.*

In separate observations outside the survey from longer standing residents, the neighbourhood has far fewer young children than in the past before the social housing tenants were moved out. A significant percentage of the children also live in the high-rise apartments. The small numbers are disappointing given the presence of an excellent primary school in the immediate area which is being expanded. This provides yet another reason to move STR out to make room for essential more workers and young families.

Table A provides a full list of survey responses in respect of short-term letting in the area by type. As can be seen from the detailed comments, a significant number of residents are concerned at the significant impact of STR on the feel' of the neighbourhood. Clearly the issue is a very real and emotional one and of concern to many in the area.

**Table A: Short-Term Letting**

<b>BAN or Restrict</b>
<i>They should be disallowed. Noise, debris, and bins on the sidewalks are disruptive. So nice to see my neighbours when I walk around, not some lost folks.</i>
<i>Owners and Strata by laws should manage and have control over short term rentals. Our building has a 3-month minimum for rental and we do not wish our building mandated for hotel/short term accommodation - this is undemocratic!</i>
<i>I don't think it should be allowed in houses that were sold off by state government - it takes away from the community aspect of Millers Point.</i>
<i>Strata premises should not allow short term rentals less than 6 months as there are significant safety issues for residents as there are no investigations into background</i>
<i>Short-term letting should be limited to at least 3month duration. The communal nature of the area is very important. Residents look after properties better and care for our environment and neighbours.</i>
<i>Do not agree with Airbnb for in our building.</i>
<i>Prohibited (note this was the response- means should be banned)</i>
<i>Strata committees should have the ability to limit, control or prohibit short-term letting within their building. Short term lettings often attract tenants who are less considerate to their neighbours and can be very disruptive to other residents in predominantly residential buildings and neighbourhoods</i>
<i>For high rise building, the owners at a vote of an AGM or EGM should have absolute discretion whether such infringement of the right to control one's private property is approved. A man's home is his castle and should not be opened for general access for the likes of Airbnb customers against the majority wishes of the owners in strata buildings.</i>
<i>Not allowed in apartment buildings. The greater good of residents and neighbours should be considered and individual strata's allowed a fair vote on the matter</i>
<i>There should be a total ban on Airbnb-type arrangements, especially given the presence of The Langham Hotel and the fact that Millers Point has Crown Sydney to the west and a number of other short-term accommodation within a walking distance to the east, e.g. Shangri-La, Four Seasons, Jamison Hotel etc. Moreover, short-term rental arrangements in a place like Millers Point's heritage precinct that features terraces, often attract visitors who hold parties that go into the night.</i>
<i>Yes, especially in residential apartment blocks which can impact everyday life of residents.</i>
<i>They should be prevented at all cost in Apartment buildings where owners have their living amenities trampled by the greed of absent owners and the lack of care or interest from short term blow ins.</i>
<i>Should restrict it all together</i>
<i>They should be Strictly controlled. In standalone premises only where Owner accepts full responsibility for guests behaviour, in Strata building only if 75% of owners approve such operation, and the applicant pay a special levy for the additional usage for commercial gain by an owner.</i>
<i>Airbnb has no community value whatsoever and consequently, it should be restricted in this neighbourhood type area.</i>
<i>By the Strata body</i>
<i>Hotels are meant for tourists and business travellers. Residential properties are meant for residents. Short-term rentals in residential properties is an attempt to effectively make them hotels and should be stopped. Owners of the private properties must have full rights to decide on how their properties can be used. In case of strata ownership majority of owners make the rules. Any govt regulation voiding the private ownership rights is against the principles of our liberal system. AirBnB and the like are just internet based booking applications who attempt to bypass the regulated licensed hotels. They want to make money from "hotel" business without licence, insurance, qualifications and without any responsibility for the safety of their clients. They should be stopped like in many major cities around the world.</i>
<i>Same as residents, noise rules, garbage etc.</i>

<b>BAN or Restrict</b>
<i>No short term rentals (air BNB) allowed. Body corporates should be allowed to decide whether they allow short term rentals in their community</i>
<i>Not permitted in apartment complexes when 75% of owners do not want it. Reduce the number of days to 60/year/property. This allows the area to be liveable.</i>
<i>Apartment buildings which do not want short term letting should be able to regulate via their own By-Laws.</i>
<i>Airbnb should only be permitted in high rise apartment buildings where the Body Corporates agree by majority vote to approve short term lettings. Residential apartment buildings are shared spaces and work on effective cooperation amongst owners and residents. People buy into these spaces based on the rules and bylaws adopted by each building. The power to refuse short term lettings should be retained by Body Corporates providing voting is permitted at Annual General Meetings to ensure that remains the majority view.</i>
<i>they should not be (allowed- meaning should not be permitted)</i>
<i>Yes, and by each apartment building's management and their owner's surveys</i>
<i>Isn't it a no-brainer that each apartment building can decide for itself via AGM? Imposition of Short-Term Rentals can only have adverse effects on security (and increased costs thereof) and on neighbourliness. And such imposition offends the sense of "one's home being one's castle" . It is contrary to the vibe of it, surely, not least by way of moving the goalposts on those who bought, often at great cost, into existing arrangements and amenities. To deprive us of a say in how our building is run is both unfair and unreasonable.</i>
<i>This decision should be up to building strata corporations for apartments. Individual residences should require a licence of sorts to ensure that the local area is respected by Airbnb renters and monitored by lessors.</i>
<i>Depends on the type of development. Up to Strata schemes to legislate in large towers.</i>
<i>Should discourage it --as it will change the dynamics of the area----as it will lead into people who do not care about the area so antisocial behaviour is possible----we want Millers Point to be a place people want to live, work and enjoy the recreation</i>
<i>I am strongly opposed to non-host attended short term rentals. These arrangements have no regard for the peace of this residential area. Litter increases and the general respect for public property is not observed, for the most part</i>
<i>Airbnb and other short term rentals have changed the character of the area. The outcome is an influx of people for 2 to 3 days at a time using the houses as a place to party or sleep, and then leaving huge piles of garbage at the end of their stays. The transition from social housing in Millers Point has been completely botched by the NSW Government - we now have no residents, no pride in the environment and no community.</i>
<i>Specific property approval by City of Sydney to control number, concentration and nature of properties offered for STRAs. CoS should consult Strata Committees for input on strata applications.</i>
<i>Body Corporate of individual buildings should determine whether short terms letting is permitted</i>
<i>It should be regulated quite heavily.</i>
<i>Only long term rentals should be encouraged as is currently the situation in some of the residential towers. This better enhances the sense of community within the area.</i>
<i>Not allowed</i>
<i>It should not be permitted</i>
<i>Either ban or limit.</i>
<i>If allowed overall, should be up to individual body corporate whether to allow for apartment.</i>
<i>Different for apartment blocks as opposed to stand alone homes. Either way non hosted is always difficult as more than likely it will disrupt neighbours</i>
<i>Either ban or limit. If allowed overall, should be up to individual body corporate whether to allow for apartment</i>

<b>BAN or Restrict</b>
<i>It should not be permitted. These homes are not suitable for the high wear and tear of short term rental tenancies and the negative impact on the community in terms of noise, mess, increased rents etc is too high</i>
<i>Strict quota on rental headcount per property (not bus loads as at present), hold owners liable if garbage/recycling disposal not correctly done by tenants (e.g. put out much too soon, left in the wrong location, bins not taken in expeditiously after collection, garbage spilled on footpath), mandatory larger bins to cope with the quantum of garbage/recycling observed. Kent Street sometimes resembles an informal settlement.</i>
<i>STR is inconsistent with both the heritage values of Millers Point and that we are a residential suburb (for the last 150 years). We are not The Rocks which is a "tourist" destination (as promoted by Place Management NSW - that's another conversation). We also need to recognise that this is medium density living, shared party walls, security issues with random strangers living next door in party mode every weekend. It should be severely limited. Many other "Old Towns" around the world have stopped STR in these places for these reasons.</i>
<i>Should not be allowed. Pre-COVID it was worse but even now the Tuesday bins are overfull and rubbish is often put in the wrong bins. Many seem to buy all their food online so question how much contribution they make to the local businesses</i>
<i>Minimal. Plenty of hotels in the area. Neighbourhood feel needs to be upheld</i>
<b>Unsure or Disagree (accept in area)</b>
<i>Don't really care much. Haven't had any issues with the status quo</i>
<i>Apart from reporting noise and public nuisance issues to the local police, unsure how to address short-term rentals.</i>
<i>No. Same rules should apply across the whole state. Can't have us all heading happily to a coastal Airbnb but refuse them in our backyard. That's just being super privileged.</i>
<i>It's a tourist area, so let tourists stay in short-term accommodation. We need less regulations, not more.</i>
<b>Accept with Conditions</b>
<i>should be allowed as much as possible. however Airbnb enabled properties should pay higher strata and maintenance fees.</i>
<i>A register of such properties must be maintained. There should be limits placed on number of occupants and visitors. If there are complaints from residents due to noise, piling up of rubbish etc., then council must take action.</i>
<i>Restrict with rules. Same as residents, noise rules, garbage etc.</i>
<i>Hosts to fund daily rubbish collection and nightly security, levy to be applied (circa \$250 per person per night) to supplement Council funding of local area improvements.</i>

### **Acknowledgement of the Community Contribution and Energy**

As with any community project, this document was the culmination of many people contributing in many different ways.

For the residents who attended the community consultations sessions at the Community Centre in May and June – who put forward their views and lived experience with passion, respect and a determination to see positive change.

For the scores of residents across the whole precinct, who contributed through the survey where they could – your feedback, observations and insights were invaluable.

For the conversations we had in the street, the emails people sent, the informal meetings at the Markets, all with the very clear message that people love living in Millers Point and are committed to seeing it thrive and prosper as a community, and that we are best placed to inform how that can happen.

And finally, to the small band of committed authors/editors/creators of this document – delving into the detail of how to design the survey, interpreting the results, constructing the narrative for the report, identifying the way forward, putting the words together, reviewing, re-reviewing, thinking, discussing and finally landing on a complete and outstanding product. A magnificent job.

So, our collective and heartfelt thanks for your contributions. It is a privilege to represent this community.

The MPCRAG Executive Committee.