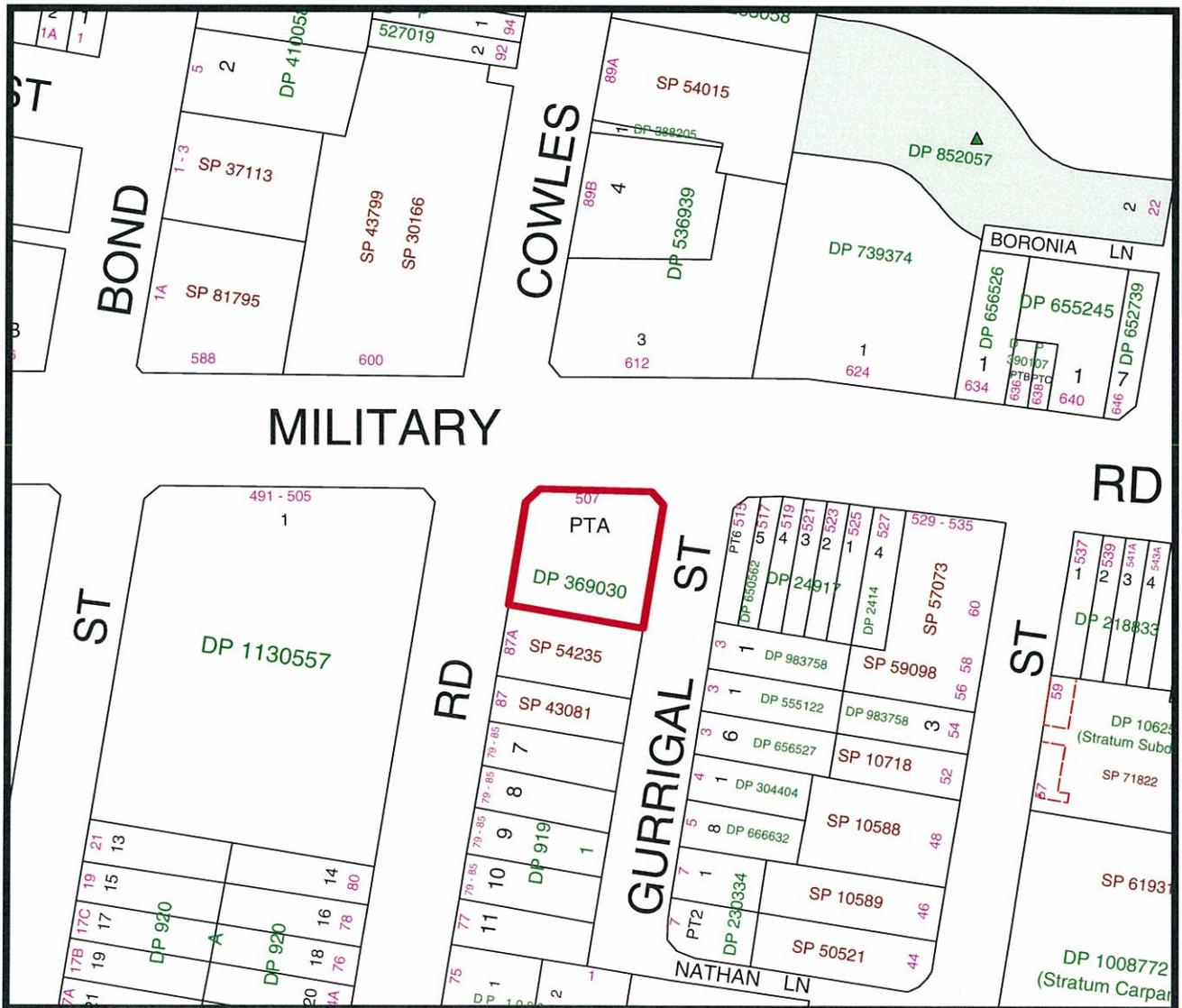


JRPP No. Item 1 (2009SYE011)

|                      |                                                                                                                                                                                                                      |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DA No.               | 8.2009.298.1 -                                                                                                                                                                                                       |
| Proposed Development | 507 Military Road, Mosman - Demolition of the existing structures on the site and erection of a mixed use commercial/retail and residential development with part two, part three levels of basement for car parking |
| Applicant:           | Roluke Pty. Ltd                                                                                                                                                                                                      |
| Report By:           | Stan Fitzroy-Mendis                                                                                                                                                                                                  |

### LOCALITY MAP



## EXECUTIVE SUMMARY

The development application is for the demolition of the existing structures on the site and erection of a mixed use development comprising two (2) levels of retail/commercial space with mezzanine fronting Military Road, twenty one (21) dwellings over five levels behind this building, part two/three levels of basement car parking, and strata subdivision. As the application has a capital investment value in excess of \$10 Million dollars, it requires referral to the Joint Regional Planning Panel for determination.

Assessment reveals that the proposal exceeds the floor space ratio (FSR) development standard. The SEPP 1 objection submitted has not demonstrated that compliance with the FSR is unreasonable and unnecessary in the circumstances of the case. The proposal also breaches a number of height controls, does not provide adequate setbacks to the adjoining residential flat building, and has a number of unsatisfactory departures from requirements stipulated in SEPP 65 Design Quality of Residential Flat Development. The proposal also results in unsatisfactory overshadowing to an adjoining property.

Two (2) objections were received from neighbouring properties. The objections related to bulk and scale, overshadowing, noise, setbacks, and traffic.

The issues raised in the report cannot be remedied by minor amendments to the proposal. The proposal is an overdevelopment of the site and is recommended for refusal.

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## REPORT

### 1.0 DESCRIPTION OF THE LOCALITY AND THE SITE

The subject site is located on the south-eastern junction of the intersection of Military and Cowles Roads, in proximity to the Bridgepoint Bridge and Boronia. The site also has a frontage to Gurrigal Street, is irregular in shape, and is relatively flat with an area of 885.9 sqm.

Improvements on the site include a concrete and bitumen hardstand, some street facing landscaping, and a vacant single storey office building which was originally used as a fast food restaurant.

Adjoining to the south is a three (3) storey residential flat building known as 87A Cowles Road. Beyond this is a two storey residential flat building, and beyond that is a Council Works Depot, which also fronts Cowles Road and Gurrigal Street.

To the north-west, beyond Military Road is a multi storey mixed use residential building (No. 600) comprising four (4) storeys. This building is partially excavated below street level and on a setback of about 5.0 metres from Military Road.

To the north-east beyond Military Road is a single storey car wash with awnings. Adjoining this is Boronia, a State heritage listed two storey villa used as a restaurant and function venue.

Cowles Road has a number of trees on the road reserve. To the west beyond Cowles Road is a two storey car dealership and service centre. This car dealership also fronts Military Road.

To the east beyond Gurrigal Street are a series of two storey mixed use retail/commercial strip shopping buildings which front Military Road. Photographs of the subject site, locality, and key are at **Attachment A**.

## 2.0 BACKGROUND

Formal pre-DA discussions were undertaken between Council staff and the applicant on 4 May, 2009. A sketch design was tendered showing a 15 metre high residential development behind a narrow commercial office building on Military Road. Entry and egress for vehicles was shown from Cowles Road with construction to northern and southern boundaries. Issues identified were necessarily general and focused on:

- Cowles Road as point of access in view of the location of the traffic signals;
- the wall height of approximately 11 metres adjacent to the southern boundary;
- Internal amenity issues; and
- The massing of the development at the southern boundary with the neighbouring multiple dwelling. This massing was seen as a major issue requiring significant reduction and relocation of the proposed building.

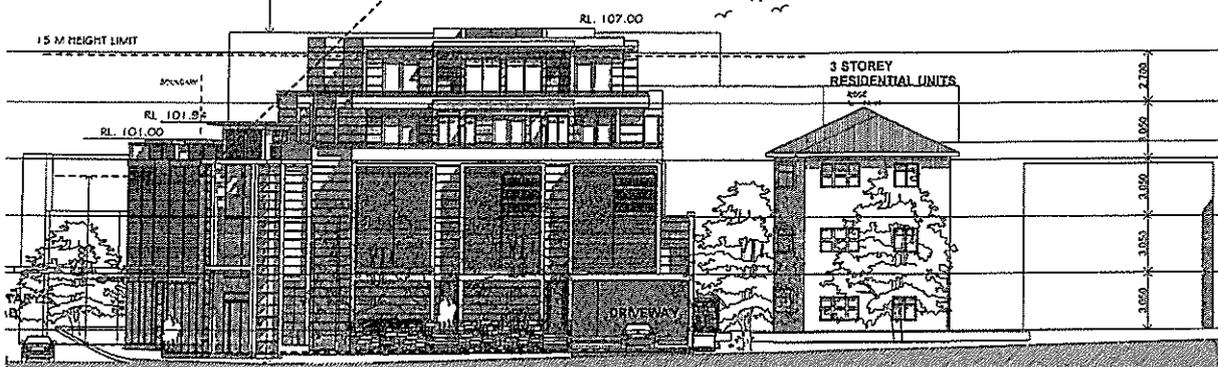
The FSR was not stated but was clearly greater than that contained in Mosman Local Environmental Plan 1998 (LEP 1998). Staff advised the applicant that the bonus floor space provision under the Draft Mosman Local Environmental Plan 2008 (DLEP 2008) would not apply as site is only 885.9 sqm.

## 3.0 DESCRIPTION OF THE PROPOSAL

Demolition of the existing structures on the site and erection of a mixed use development comprising:

- Two levels with mezzanine of retail/commercial space fronting Military Road;
- twenty one (21) dwellings over five (5) levels located behind this building;
- part two/three levels of basement car parking; and
- Strata subdivision.

Plans showing the extent of the proposal are at **Attachment B**.



**Figure 1:** An elevation of the proposal fronting Cowles Road. Note the relationship with the existing residential flat building to the rear.

## 4.0 APPLICABLE PLANNING CONTROLS

The following planning policies and control documents are of relevance to the development and were considered as part of the Section 79C assessment and form the basis of the Section 5.0 Planning Assessment:

- Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy (Major Development) 2005;
- State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55);
- State Environmental Planning Policy No 65 Design Quality of Residential Flat Development (SEPP 65);
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- State Environmental Planning Policy (Infrastructure) 2007;
- Mosman Local Environmental Plan 1998 (MLEP 1998);
- Mosman Business Centres Development Control Plan (MBCDCP);
- Mosman Transport Development Control Plan (TDCP);
- Notifications Development Control Plan;
- Mosman Section 94 Development Contributions Plan 2006; and
- Draft Mosman Local Environmental Plan 2008 (DLEP 2008).

## 5.0 PLANNING ASSESSMENT

The following is an assessment of the proposal against the relevant statutory and policy controls.

### 5.1 NUMERIC CONTROLS SUMMARY TABLE

| LEP CONTROLS                 | CONTROL                                                                                         | PROPOSED                                                                                               | COMPLIANCE             |
|------------------------------|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|------------------------|
| Zoning                       | 3(a1) Spit Junction Town Centre Zone                                                            |                                                                                                        |                        |
| Site Area                    | 885.9 m <sup>2</sup>                                                                            | 885.9m <sup>2</sup>                                                                                    | N/A                    |
| Gross Floor Area<br>Proposed | 1771.8 m <sup>2</sup>                                                                           | <u>2,392m<sup>2</sup></u>                                                                              | N/A                    |
| Floorspace Ratio             | 2:1                                                                                             | 2.7:1                                                                                                  | No                     |
| <b>MBCDCP CONTROLS</b>       |                                                                                                 |                                                                                                        |                        |
| Building Height              | 15m                                                                                             | 16.7m                                                                                                  | No                     |
| Streetwall                   | No more than two storeys to the street, laneway, or reserve                                     | Military Road: Two storey with mezzanine<br><br>Cowles Road: 3 storey<br><br>Gurrigal Street: 3 storey | No<br><br>No<br><br>No |
| Building Height Plane        | 45 degree height plane from the top of the wall of the second storey walls that face the street | Height plane drawn from the top of the mezzanine                                                       | No                     |

## 5.2 STATE & LOCAL ENVIRONMENTAL PLANNING INSTRUMENTS

### 5.2.1 Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The deemed SEPP applies to the entire Mosman Municipal Council area identified on the Sydney Harbour Catchment Map. The site is not identified:

- (a) within the Foreshores and Waterways Area;
- (b) as a strategic foreshore site;
- (c) as a heritage item;
- (d) within the wetlands protection area;

and therefore only Part 1 is applicable. Part 1 identifies aims of the plan from (a) to (h). The aims set out in Part 1 of the deemed SEPP have been considered and the application is consistent with these aims.

### **5.2.2 State Environmental Planning Policy (Major Development) 2005**

The provisions of State Environmental Planning Policy (Major Development) 2005 apply to the proposed development as the capital investment value is in excess of \$10 million. In accordance with the requirements of Section 13B(1)(a) of the SEPP, the application is defined as 'regional development.' In this case, the determining authority is the Joint Regional Planning Panel (Region East).

### **5.2.3 State Environmental Planning Policy No. 55 - Remediation of Land**

Under clause 7(1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated. The site was originally used for residential purposes. Approval was granted in 1969 for the use of the site as a fast food outlet with associated parking. This use continued until 2002. In 2004 approval was granted for the use of the site for the purposes of a motor car show room and display area. Mechanical workshops did not form part of the use. These uses do not suggest that the site is contaminated. The application does not require further consideration under clause 7(1) (b) and (c) of SEPP 55.

### **5.2.4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index: Basix (BASIX) applies to the proposed development. The application was accompanied by a BASIX certificate.

If the application were recommended for approval, conditions of consent would be included in the recommendation to ensure the fulfilment of the commitments listed in the BASIX certificate as prescribed by clause 97A of the Environmental Planning & Assessment Regulation 2000.

### **5.2.5 State Environmental Planning Policy No. 1 (Development Standards)**

An objection pursuant to State Environmental Planning Policy No.1 – Development Standards (SEPP No.1) has been made requesting variation to Clause 17(2) Floor space ratios (FSR) in business zones of MLEP 1998. An assessment of this SEPP 1 follows below:

#### Clause 17(2) Maximum Floorspace Ratio

The proposal has a gross floor area of 2,392 m<sup>2</sup> and a floor space ratio of 2.7:1 which exceeds the development standard of 2:1 in Clause 17(2) of MLEP 1998 by 620.2m<sup>2</sup> or 35%.

The objectives for the floor space ratio development standard in business zones are listed under Clause 17(1) of MLEP 1998. The reasonableness or necessity for compliance with the standard has been assessed against each of the objectives below:

17(1) *The objective of this clause is to control the bulk and site coverage of buildings so that buildings resulting from new development are compatible with existing buildings.*

In summary, the SEPP1 submission accompanying the application put forward the following arguments to support the numeric departure:

- the proposal incorporates a landscaped corridor and courtyard between the commercial and residential components of the scheme;
- the new building will be compatible with the surrounding development fronting Military Road including the parapet of the traditional terrace shops to the east;
- the residential building to the rear of the site is set back 7.5 metres from Military Road;
- the setbacks to the upper levels of the building to the Gurrigal Street and Cowles Road elevations will provide articulation, reduce height, visible bulk, and scale of the building;
- a nil setback to the multiple dwelling adjoining to the immediate south is acceptable on the basis that this site is zoned Business 3(a1). [The applicant cites the Mosman Business Centres Development Control Plan (MBCDCP) controls and not SEPP 65 controls when positing this argument.]

#### *Council's Assessment of the SEPP 1*

When considering the FSR objective Council considered specifically the following words and terms:

- 'bulk';
- 'site coverage'; and
- 'compatibility with existing buildings'.

In this regard the following is noted:

- The proposed commercial part of the building is out of scale with adjoining retail and commercial development fronting Military Road and the residential component is out of scale with nearby residential development;
- The landscaped corridor proposed is 2.477 m wide except for an area that joins with the private open space areas of units 3 and 5. The landscaped area is entirely over the structure for the car park, and is covered from above by bedroom elements of units 10 and 15 on level No. 2;
- The proposed building height exceeds Council's controls stipulated at Control P1 at Section 5.2 of the MBCDCP;
- The proposal does not comply with Council's streetwall controls to the street identified in Control P7 of Section 5.2 of the MBCDCP; and
- The proposal does not comply with the building height plane controls stipulated in Control P11 of Section 5.2 of the MBCDCP.

In reading the applicant's submission it is difficult to understand how a proposal with a more compliant FSR could not better address the LEP 1998 objective of reducing the bulk of the building, noting that it is out of scale with the existing retail development to the east, is far more bulky than adjoining residential development to the south, and has a site coverage which achieves a landscaped area which is of unsatisfactory width, is partially covered from above and also does not comply with Council's Building Height, Building Height Plane, and Streetwall Controls.

State Environmental Planning Policy No.1 provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the

attainment of the objectives of the Act. In assessing the SEPP 1 objection the following steps have to be undertaken:

1. Clause 17(1) of LEP 1998 is a development standard.
2. The SEPP 1 objection has not demonstrated why the variation to the development standard is unreasonable or unnecessary in the circumstances of the case.
3. The SEPP 1 has not demonstrated how the proposal has, notwithstanding the non compliance with the development standard, satisfied the objectives of the standard.
4. The variation is not consistent with the objects specified in Section 5(a) (i) and (ii) of the Environmental Planning and Assessment Act. Flexibility in the application of the standard is in this case not consistent with “the proper management and development” of the land and the “promotion and co-ordination of the orderly and economic use and development of land.”
5. The SEPP No.1 objection is not well founded and is inconsistent with the aims of the Policy as set out in Clause 3 of the SEPP and is unsatisfactory.

Accordingly, the objection under SEPP No.1 is considered to have failed to meet the appropriate tests.

#### **5.2.6 State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development**

SEPP 65 applies to the proposal. This Policy aims to improve the design quality of residential flat development in New South Wales.

There are a number of guidelines and rules of thumb contained in the Residential Flat Design Code which accompanies SEPP 65 that are applicable to the proposed development. They provide a meaningful and quantifiable assessment of the merits and deficiencies of the scheme when assessed against SEPP 65, and in turn inform whether the design quality principles contained in SEPP 65 are addressed. The rules of thumb are addressed in the table at **Attachment C**.

Clause 50 of the Environmental Planning and Assessment Regulation 2000 requires that an application that relates to a residential flat building be accompanied by a Design Verification Statement from a qualified designer. This is a statement in which the qualified designer verifies that he or she designed, or directed the design, of the residential flat development, and that the design quality principles set out in Part 2 of the SEPP 65 are achieved for the residential flat development. The Design Verification Statement submitted with the application states that the residential development was designed by Wolski Coppin Architecture with the design verification statement provided by David Wolski, a registered architect, and that it was designed in accordance with the Design Quality Principles of SEPP 65. The design quality principles contained in SEPP 65 are assessed at **Attachment D**.

Whilst full compliance with all of the provisions of SEPP 65 is desirable, it is accepted that this cannot always be achieved. As shown at **Attachments C and D**, the proposal as assessed has a number of unacceptable deficiencies that arise from within the site itself, rather than from the site constraints. This is largely because of the high density proposed on a relatively small site, its deficient setbacks, and excessive height. In summary the most significant deficiencies are:

- Insufficient separation to the proposed commercial building on the site, and the adjoining residential flat building to the rear; and

- There are no deep soil areas proposed, with all landscaping proposed on the car parking structure; and
- The apartment layout is unsatisfactory with an unacceptably high number of single orientation units.

### 5.2.7 State Environmental Planning Policy (Infrastructure) 2007

The aim of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) is in part to identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. Section 101 of the Infrastructure SEPP stipulates the requirements for residential development fronting a classified road. A classified road is defined by the SEPP to include any main road, tollway, highway, tollway etc. Section 102 further clarifies the definition as any other road with an annual average daily traffic volume of more than 40,000 vehicles based on the traffic volume data published on the website of the Roads and Traffic Authority RTA. The RTA publication *Traffic Flow Improvement Initiatives for the Spit/Military Road Corridor* dated August 2008 notes on page No. 3 that over 56,000 vehicles travel along Military Road in proximity to the subject site. In cases like this where the road corridor traffic volume exceeds the 40,000 vehicle threshold and the proposal is for a residential flat building adjacent to this road, then before determining a development application for residential development, the consent authority must be satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building-35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)-40 dB(A) at any time; and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The applicant has provided an acoustic report with the submission. The report does not explicitly address the requirements of the Infrastructure SEPP. However it does note that in the event of approval, acoustic measures are required to ensure compliance with the suitable noise levels. These measures include double glazing, and mechanical ventilation to areas where windows cannot be opened due to high background noise.

### 5.2.8 Mosman Local Environmental Plan 1998 (MLEP 1998)

#### Zoning and Permissibility

The site is zoned 3(a1) Spit Junction Town Centre Zone.

The proposed commercial premises are permissible with consent pursuant to the development control table at clause 16. Shops and restaurants are also permissible in the zone. The residential components are defined as multiple dwellings and are permissible with Council's consent pursuant to the development control table at clause 16.

Objectives one to five of the zoning table relate to encouraging employment generating uses in the zone, improve pedestrian links between key sites, and encouraging residential development in the zone and are largely addressed by any scheme that incorporates commercial and residential land uses. However, it should be noted that the subject site is not identified as a pedestrian linkage site and objective six requires:

*Buildings to be a height, bulk, and form that is compatible and complimentary to the existing streetscape.*

As noted above in the both the SEPP 1 assessment of FSR, and the SEPP 65 assessment, the proposal exceeds the FSR for the site by 35% and is not compatible or complimentary to the existing streetscape. The proposal also does not comply with the height, building height plane, and streetwall requirements (Section 5.3.1 below).

### Floor space Ratio

The proposed FSR of 2.7:1 is in excess of the permissible FSR of 2:1. As discussed above in section 5.2.5, the applicant has not provided satisfactory reasons as to why compliance with the development standard is unnecessary or unreasonable in the circumstances of the case.

### Height

There are no numeric height controls in the business zones under MLEP 1998 for height, although as discussed below, there is a 15 metre hight limit stipulated in the Mosman Business Centres DCP. Clause 18 of the MLEP 1998 identifies the height objectives the business zones in Clause 18(1) as follows:

The objectives of the height control stipulated in are as follows:

- (a) to ensure that buildings resulting from new development are compatible with existing buildings in terms of height and roof form to produce a cohesive streetscape, and*
- (b) to provide opportunities for higher buildings in suitable locations to achieve the Council's residential strategy and provide employment opportunities.*

The proposed commercial/retail building has a two storey with mezzanine level facing Military Road. The desired streetwall height is defined in the MBCDCP in the Spit Junction precinct as two storeys. The streetwall of development to the east and to the north-west is predominantly two storeys. The proposal seeks a streetwall to Military Road that is two storeys with mezzanine level. The proposal would have an adverse visual impact on the Military Road streetscape and will not provide a cohesive streetscape. The proposal will dominate surrounding development, including the residential flat building to the south of the site. With regard to surrounding development, the proposed height is unsatisfactory.

### Landscaped Area

The subject site notionally would not require landscaping under Clause 15 of Mosman Local Environmental Plan 1998 as the control relates to the residential zones. The site currently has some perimeter landscaping. The proposal does not provide any landscaped area as defined. The proposed absence of landscaping is not satisfactory in the context of the unacceptable density and inadequate setbacks particularly to the adjoining residential flat building to the south.

### Excavation

The proposed basement parking levels will require excavation of up to 7.8 metres below existing ground levels. A preliminary geotechnical investigation was carried out on the site in 2005. In the event the current application is approved, a further Geotechnical Report would be required confirming suitable geotechnical parameters for the proposed excavation.

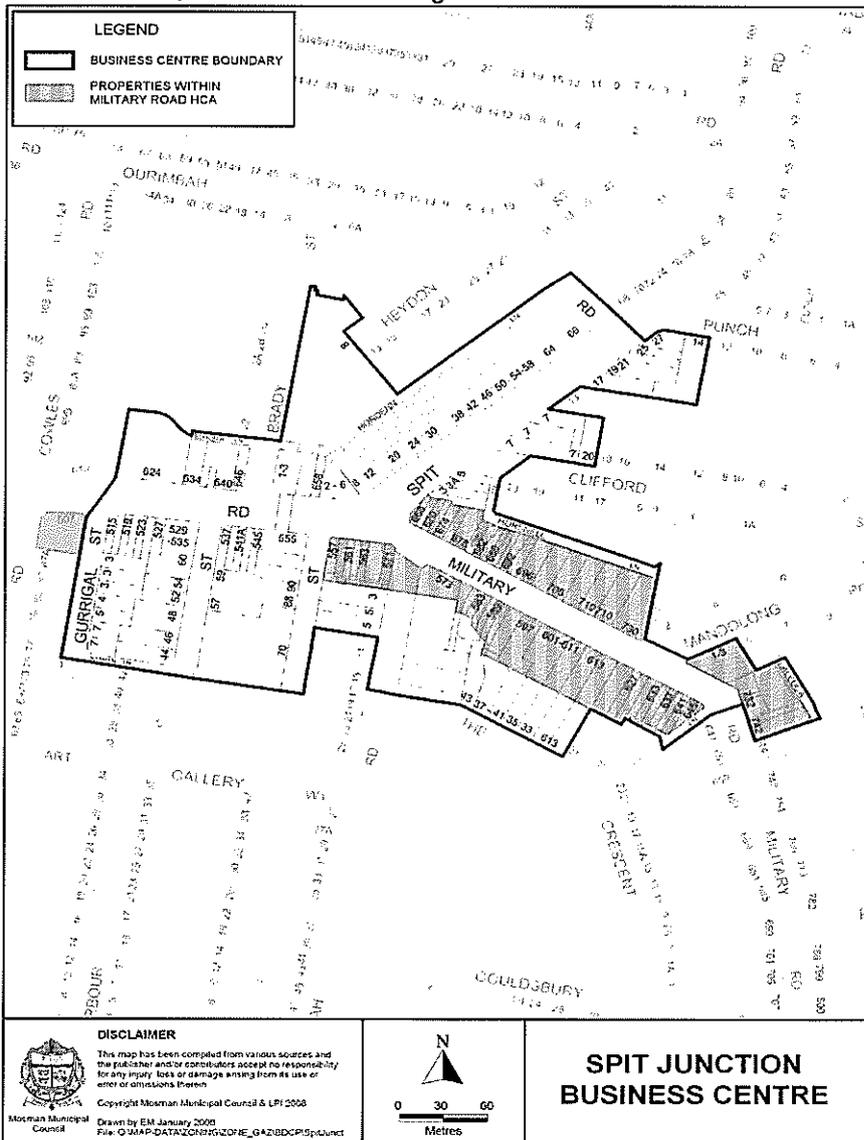
### Heritage

The site does not contain a heritage item and is not within a heritage conservation area. The site is in the vicinity of street trees on Cowles Road between Military and Belmont Roads. These trees are listed in Schedule 2 of the LEP as a heritage item of local heritage significance. There are no works proposed in the vicinity of the trees. The only element that would impinge on the road reserve is the proposed vehicular cross over. However, this cross over is not within the drip line of any significant street tree. The proposal would not have an adverse impact on the significance of the item.

**5.2.9 Draft Mosman Local Environmental Plan 2008 (Draft MLEP 2008)**

The Draft MLEP 2008 was on public exhibition from 15 October 2009 to 4 December 2009.

The subject site is zoned B6 Enterprise Corridor under the provisions of Draft MLEP 2008. The B6 zone spans to the west past Cowles Road and includes the car dealership on the opposite site of Cowles Road. The B2 Local Centres Zone commences to the east of the site and includes Gurrigal Street i.e. the site is excluded from the Spit Junction Business Centres area, as shown in the Figure below:

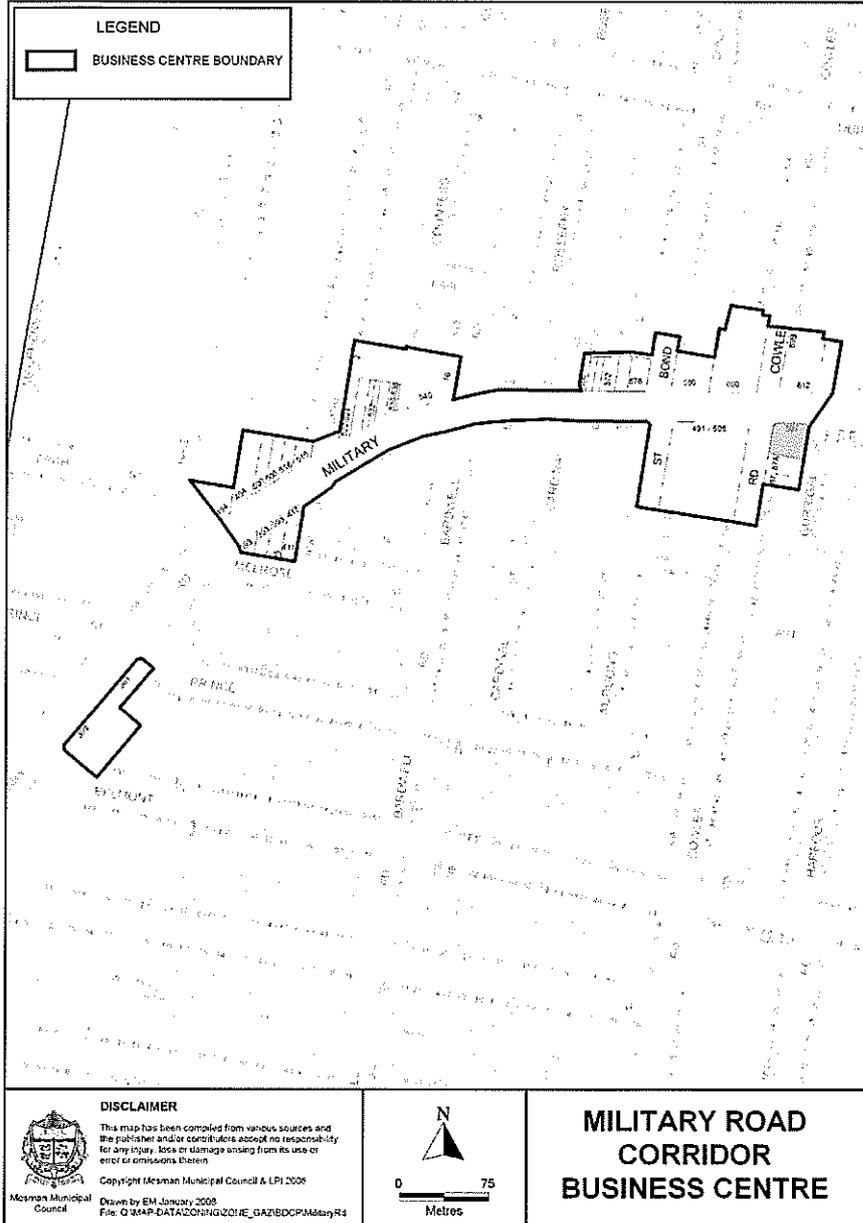


**Figure 2:** An extract from a map showing the proposed Spit Junction Business Centre. Note that the subject site is excluded from this area and is shown in red on this map.

The B2 Local Centre Zone attracts Floor Space Ratio incentives under Clause 4.4B of the Draft MLEP 2008. This proposed bonus incentive scheme has been drafted to encourage

the development of sites greater than 1,000 square metres, with direct vehicular access to streets other than Military Road, and compatible with the prevailing streetscape in the Spit Junction Town Centre to a maximum FSR of 3:1.

As noted above however, the subject site falls within the proposed B6 Enterprise Corridor Zone under the Draft MLEP 2008, and within the Military Road Corridor Business Centre under the draft Mosman Business Centres DCP, as shown in the map below:



**Figure 3:** An extract from a map showing the proposed Military Road Corridor Business Centre. Note that the subject site is included in this area and is shown in red on this map.

It is Council's intention with the B2 zone to provide a higher density nodal area Spit Junction and to maintain the economic strength of this node. The bonus provisions stipulated in Clause 4.4B of the draft MLEP 2008 encourage this, with a maximum base FSR of 2.5:1 and maximum bonus FSR of 3:1. In contrast the Military Road Corridor Business Centre does not have these proposed bonus provisions nor this B2 zoning. The underlying planning principle behind this stemmed from a desire to maintain this connection along the Military Road corridor as a lower density zone with limited retailing activities. Accordingly land within the Military Road Corridor Business Centre is zoned B6 Enterprise Corridor and has a maximum FSR of 2:1.

The proposed works are ancillary to the use of the site for a residential flat building in conjunction with a mixed use development would be permissible with consent pursuant to the land use table in Draft MLEP 2008. Office uses as defined are permissible, and only certain types of retail such as neighbourhood shops are permissible in this proposed zoning.

For the reasons above, Council is seeking to maintain the current maximum FSR of 2:1 for the site, and other B6 zoned land.

As at the date of this report the commencement of Draft MLEP 2008 in the exhibited form is neither imminent nor certain and accordingly its weighting pursuant to S79C is not determinative.

### **5.3 DEVELOPMENT CONTROL PLANS AND POLICY CONSIDERATIONS**

#### **5.3.1 Mosman Business Centres Development Control Plan (MBCDCP)**

##### Spit Junction Town Centre

Control 4.4 of the MBCDCP identifies the objectives for the Spit Junction Town Centre, which incorporates the subject site. The objectives for the Centre are to encourage businesses and services, with buildings that are compatible in scale, height, character, and form within the existing streetscape. The subject site, amongst others is an opportunity site for the provision of a mixed use building fronting Military Road as identified in the desired future character map on page 21. As noted in the above assessment, the proposal breaches Council's FSR development standard. It does also not have appropriate setbacks to the adjoining residential flat building to the south.

##### Arterial Business Centres

Control 5.2 of the MBCDCP stipulates the urban design and planning guidelines for the subject site. The proposal does not satisfy the urban design and planning objectives as follows:

- Objective O1: the proposal incorporates roof elements that are over the height control and are not compatible with the existing height and roof form in the locality;
- Objective O2: the proposal does not have a building setback, particularly to the rear that is consistent with other similar development in the locality. Examples include:
  - 56-58 Harbour Street – A mixed use residential development with a setback from the two storey component with upper levels within a 45 degree building height plane;
  - 590 Military Road (The Bond) – a mixed use residential development, with greater setbacks to the rear;
  - Special uses MacKillop Grange Retirement village at 28 Wudgong Street, (a.k.a 485 Military Road).

It is acknowledged that the proposal has setbacks at upper levels. This is in part an attempt to provide improved amenity to the upper level dwellings in the form of balconies, as well as reduce the perceived bulk and scale of the building. In the context of the unsatisfactory exceedence in FSR, this is an inadequate response, particularly having regard to the adverse amenity impacts on the apartment building to the rear.

- Objective O4: As described above, the proposal does not have a suitable presentation in terms of its bulk, scale, articulation, or presentation to the street in comparison to surrounding development.
- Objectives O5 to O9: identifying active street frontages, accessible business, pedestrian shelter, and vehicular access are generally satisfactory.

### *Height*

Control P1 of Section 5.2 provides a 15 metre numeric maximum height in the Spit Junction Town Centre. The proposal has a maximum height of 16.7 metres. The extent of the height departure is on part of the wall of level 4. The control explicitly notes that the purpose of the 15 metre maximum height is to allow for a ground floor of retail, a maximum of three (3) upper floors, and a pitched roof, with provision for an attic roof space. This style of development is evident at 56-58 Harbour Street to the east, fronting Military Road.

As noted above, the proposal incorporates two levels of office, with an additional mezzanine, with five levels of residential behind, without incorporating a pitched roof or an attic level. This is in excess of the numeric requirements and architectural approach sought by Council as well as the descriptive requirements that illustrate the desired maximum heights in the Spit Junction Centre.

### *Floor Space Ratio*

Control P6 of MBCDCP reiterates the desired maximum floor space ratio control identified in MLEP 1998. Refer to discussion at section 5.2.5.

### *Setbacks*

Control P7 of Section 5.2 requires buildings to have street heights no more than two storeys, with a consistent streetwall no higher than two storeys. Approval is sought for a two storey with mezzanine level to Military Road, with a streetwall to Cowles Road and Gurrigal Street of three storeys before the upper levels provide additional setbacks. The streetwalls to both of these street frontages are set back 1.0 metre from the start of the blade walls for the balconies and three metres for the glass line of the residential street walls at ground level. The MBCDCP defines 'streetwall' as:

*the walls built to the street frontage boundary or within one (1) metre of the street frontage boundary to a height of two storeys above ground level.*

The upper levels incorporate a minimum of 1.0 metre setback to the glass line at levels 2 and 3. Notwithstanding this, the proposal breaches the two storey streetwall height by a mezzanine level to Military Road, and by one storey to the Cowles Road and Gurrigal Street frontages.

### *Building Height Plane*

Control P11 of Section 5.2 of MBCDCP describes the application of the 45 degree building height plane. This plane is to be drawn from the top of second storey walls (excluding parapets and corner elements) that face streets, laneways, and public open spaces. The control notes that minor building elements such as balconies, projecting building eaves, cornices, and parapets may encroach on this height plane. How the plane is measured is illustrated at page 45 of the BCDCP. When assessed against this control, the following comments apply:

- Military Road Frontage - The applicant's architectural Plans DA 10 and DA 11 dated 7/9/09 illustrate a building height plane from Military Road. This plane has been taken from a point above the wall height of the second floor, at the point at the top of the wall height of the mezzanine. Contrary to the DCP approach, this in turn would show the proposal as not complying with the building height plane requirement to Military Road.

- Side streets - Similarly applying the building height plane to the Cowles Road and Gurrigal Street frontages, the building height plane as projected from the top of the second floor of the building will result in building form breaching the building height plane for levels 3, 4, and 5. These are unacceptable departures to the control because they contribute to bulk, scale and adverse amenity outcomes.



**Figure 4:** This diagram illustrates the building height plane as shown by the applicant. It correlates approximately to the wall height of the three storey residential flat building to the south, also shown in this figure. The solid line shows the correct position of the building height plane as dictated in the DCP control.

Departures in the building height plane are evident on all three street frontages.

#### *Setbacks for sites adjoining residentially zoned land*

Control P12 of section 5.2 of the MBCDCP identifies setback requirements for buildings adjoining residentially zoned land. The control requires a minimum setback of 1.5 metres from the common boundary for the first two storeys, with all levels above the second storey to be setback within a 45 degree building height plane. This plane allows for the exclusion of parapets and corner elements. The applicant argues that the adjoining residential flat building to the south at 87A Cowles Road is not zoned residential and is thus exempt from this DCP control. For reasons described in the SEPP 65 assessment at **Attachment C** and **D**, the setback to this building should be greater and could be achieved by a reduction in FSR to provide landscaped area with more utility, and provide greater separation from the residential flat building to the south.

#### *Shopfronts and Awnings*

Sections P16 through to P19 of Section 5.2 of the DCP describe the desired character of shopfronts and awnings, which centre around traditional shopfronts with red brick facades and traditional box awnings. The proposal provides a façade treatment and awning details which are at odds with the DCP and with the facade treatments of the locality. In isolation, this can be resolved, however there are significant other threshold issues described above.

#### *Façade Treatment above the Streetwall*

Controls P20 to 25 describe the façade treatment requirements above the streetwall. In particular P22 of Section 5.2 of the DCP discourages blank walls and large expanses of glazing to facades. The proposal is assessed to be inadequate in this regard as it

incorporates a glazed and louvred curtain wall to Military Road, with blank north facing walls above for the residential component. This is contrary to the control.

### *Rooftop*

Control P27 of Section 5.2 identifies controls for roof tops. Roof top plant must be screened behind a pitched roof profile or behind the general roof alignment so as not to be visible from the street and public open spaces. The proposal incorporates an enclosure on the roof for the provision of roof top plant such as air-conditioning condensers and ventilation fans and is satisfactory in so much as it cannot be seen from street level.

### Shadow Assessment

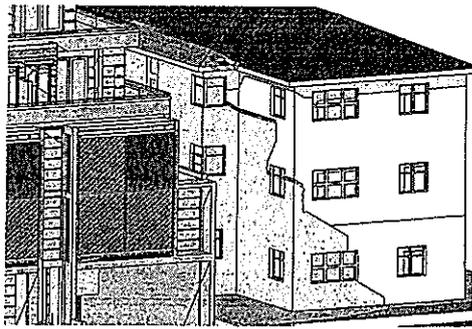
Section 6.8 of the MBCDCP incorporates controls for Energy Efficiency and Solar Access. For the purposes of this assessment, the controls relating to energy efficiency are largely replicated in considerations under BASIX and SEPP 65. However it is noted that the proposal contravenes Planning Guidelines E1 and E2 in that the proposal is not suitably orientated and designed to ensure optimum solar access is achieved to as many units as possible.

Planning Guideline E5 of Section 6.8 of the MBCDCP notes that in some circumstances, Council may require an additional setback to ensure that adequate solar access to adjacent buildings is achieved. As noted above, the setback to the residential flat building at 87A Cowles Road to the immediate south is assessed to be inadequate. This building comprises a multiple dwelling comprising six (6) dwellings. Two dwellings are allocated to each of the three floors of the building. Each dwelling is orientated either north-west or north-east, with a service stairwell located on the southern side of the building. The living areas of each of these units are located on the far north-eastern and far north-western sides of the block, with the bedrooms located either due north, or behind the living room.

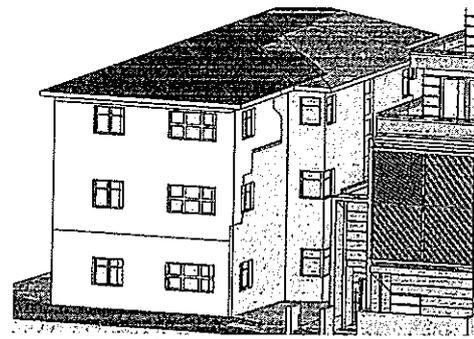
The shadow assessment shows that the existing situation, with the subject site only accommodating a single storey structure in the south-eastern corner of the site results in excellent solar access to 87A Cowles Road. The shadow diagrams submitted with the application show shadow impacts as a result of the proposal in both plan and elevation.

An assessment of the solar impacts of the proposal reveals that:

- The top level living area on Gurrigal side of 87A Cowles Road would have its north facing windows in shade from 11am onwards. The lower units will have overshadowing to its living room windows at this time; and
- The top unit living areas on the Cowles Road side of 87A Cowles Road would have their north facing windows in shade from 1-2pm. The lower units would have overshadowing to its living room windows at this time.



2 pm Cowles Road



10 am Gurrigal Street

**Figure 5:** This figure shows shadowing at 10am and 2pm at mid winter from the proposed building to the residential flat building adjoining to the south at 87A Cowles Road. The diagram also illustrates the small setback and height of the proposal to this building with the full extent of the height of the upper levels cut out of this diagram.

The north facing living room windows to all but the uppermost level will be overshadowed at times when it would be expected there would be solar access. This shadowing impact is largely due to the height, bulk, orientation, and setback of the proposal. The proposal does not meet reasonable shadow impacts in this context.

### 5.3.2 Mosman Transport Development Control Plan

Section 1.7 of the Mosman Transport Development Control Plan (TDCP) states that:

*In circumstances where a site is being fully redeveloped or extensively changed (i.e. where an existing building is demolished and replaced by a new building or where greater than 50% of the building fabric is being demolished) the proposal should be designed to comply with the relevant provisions of this Transport DCP. That is, car parking credits do not apply in circumstances where a building is extensively changed or demolished.*

Consequently, as the proposal relates to a complete redevelopment of the site, the proposal is expected to satisfy all relevant provisions of the TDCP. An assessment against the TDCP is discussed below:

#### Car parking

Section 2 of the TDCP requires that parking facilities should be provided in accordance with the rates and requirements specified in table 2. The minimum car parking requirement for the proposed development is outlined in the table below:

| Use          | Rate                   |                | Total              |
|--------------|------------------------|----------------|--------------------|
| Retail       | 1 space/16 sqm         | 85 sqm         | 5.31               |
| Commercial   | 1 space/37 sqm         | 154 sqm        | 4.16               |
| Residential  | 1 space/1bed           | 4 x 1 bedroom  | 4                  |
|              | 1.2 spaces/2bed        | 15 x 2 bedroom | 15                 |
|              | 1.5spaces/3bed         | 2 x 3 bedroom  | 3                  |
|              | Visitor at 0.25 spaces |                | 5.25               |
| <b>Total</b> |                        |                | <b>39.7 spaces</b> |

The proposed development makes provision for a total of 46 off-street parking spaces, thereby resulting in an excess of 6 spaces. As the proposal does not appear to make adequate provision for SEPP 65 storage, these spaces could be better utilised to improve basement manoeuvring and provide necessary storage to the apartment buildings.

### Vehicular Access

The site has frontage to Military Road, which is a busy arterial road. To avoid pedestrian conflicts no vehicular access is permitted from Military Road to a site. The proposed development satisfies this requirement with vehicular access proposed via Cowles Road.

Cowles Road already receives regular traffic from those travelling north across Military Road. Council's Traffic Engineer expressed concern that the proposed vehicle entrance way will have unsatisfactory impacts on the signalised intersection of Cowles and Military Roads. Vehicle queuing and manoeuvring at this intersection is already problematic due to frequent right turn movements from Cowles into Military Road. As a result of this, Council's Traffic Engineer notes that this intersection has an accident history. The proposal is likely to exacerbate this. In view of the above, access to the site from Gurrigal Street is preferable. If vehicular access is to be contemplated from Cowles Road, it is anticipated that works within the road reserve will be necessary to achieve safer vehicle movement from the access point.

### **5.3.2 Mosman Section 94 Development Contributions Plan 2006**

Council's Section 94 plan applies to this proposal. Conditions requiring relevant contributions would be included if the application was recommended for approval.

### **5.4 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000**

Applicable regulation considerations were taken into consideration in the assessment of this application.

## **6.0 COMMENTS FROM COUNCIL DEPARTMENTS OR STATE AUTHORITIES**

### **State Government Referrals**

#### *Roads and Traffic Authority (RTA)*

The RTA was satisfied with the scheme subject to conditions relating to the access arrangements and parking areas satisfying Australian Standards. Additional conditions relating to compliance with vehicle sight lines, noise, and utility upgrading, and manoeuvring were recommended in the event of the application being approved.

#### *Traffic*

Council's traffic engineer raised concerns over the impact of the proposed vehicular cross over on the safe and effective operation of the signalised Cowles and Military Road intersections as outlined above in Section 5.3.2.

#### *Energy Australia*

Energy Australia advised Council by letter dated 16 October, 2009 that the application was satisfactory, subject to the provision of an onsite substation or director distributor from an adjoining substation.

### **Internal Council Referrals**

### *Engineering*

Council's Engineer commented that further information is required on the gradient of the access driveway and the pedestrian pathways within the carpark. The transition between the 1:40 accessible path and the 1:20 vehicular driveway path is not clear in the drawings. In addition it is not clear on the cross fall of the proposed car spaces. These matters are to be addressed by a suitably qualified engineer and the basement car park must be certified as compliant to AS 2890.1-2004.

In summary, Council's engineer raised concerns about the workability of the basement car park.

### *Environmental Health Officer*

The proposal is satisfactory subject to noise, air quality, and construction sediment control management for the construction and operation of the building, in the event that it was approved.

### *Landscape*

Council's Landscape Officer was unable to assess the landscape plan as there are no plans (neither the survey, landscape plan or arborist report) which show the location of the trees to be removed. The survey only shows two trees however the arborist report lists 14 and the landscape plan only shows proposed trees plus two existing and one to be removed.

### *Building Surveyor*

Council's building surveyor commented that the proposed plans:

- do not provide sufficient detail for a proper BCA assessment to be carried out and the development appears to not satisfy many provisions of the BCA;
- appears to be unsafe in relation to Fire Safety issues especially with regard to the protection of openings, provision for escape, and services and equipment; and
- The building also has health and amenity issues in relation to light and ventilation and inadequate information regarding facilities for people with disabilities.

## **7.0 PUBLIC NOTIFICATION AND SUBMISSIONS**

The application was notified between 20 October and 4 November 2009. Two submissions were received from or on behalf of the following properties:

- 2/87A Cowles Road; and
- 42A Harbour Street.

Matters raised within public submissions and commentary on those matters is summarised below:

#### ➤ Bulk and Scale

Comment: The proposed bulk and scale is considered excessive. The proposal breaches Council's FSR, building height, building height plane, streetwall, and setback controls and is assessed to be unreasonable.

- Overshadowing to the residential flat building at 87A Cowles Road

Comment: The shadow impacts of the proposal have been assessed as unsatisfactory. A reduced bulk and height and increased setback may reduce the shadow impacts to the adjoining residential flat building.

- Parking

Comment: The proposed parking provision complies with the minimum parking expectation (see discussion in section 5.3.2).

- Fumes from the basement car park will impact on adjoining residential amenity

Comment: The proposal does not show any comprehensive mechanical ventilation plans. In the event of approval, ventilation exhaust would be subject to relevant standards which would be dealt with in conditions of consent.

- General Impacts on residential amenity;

Comment: Any proposal for a mixed use building on the site will result in an increase in amenity impacts. The proposal with its access point along Cowles Road, is likely to result in additional traffic impacts. The noise associated with the operation of the mixed use building, if not carefully managed, will impact on residential amenity. The overshadowing resulting from the proposal will result in additional overshadowing to that which is currently experienced by the multiple dwelling to the rear.

- Vehicular access to Cowles Road

Comment: Council's Traffic Engineer has expressed concern about vehicular access and the resultant impacts on the signalised intersection of Cowles and Military Road.

- Unacceptable increase in traffic to local streets and in particular Nathan Lane.

Comment: Council's traffic engineer has noted that due to a likely increase in vehicular traffic there will be increased vehicular pressure on the signalised intersection. This is likely to have an impact on surrounding local streets and lanes although this has not been quantified in the applicant's submission.

## **8.0 CONCLUSION**

The application has been assessed against the relevant planning policies and control documents. The assessment has found that the proposal:

- is in excess of the FSR development standard for the site. The arguments put forth under the SEPP 1 objection are not well founded;
- breaches the building height, streetwall height, and building height plane controls applicable to the site;
- has unsatisfactory setbacks to adjoining development, particularly the multiple dwelling adjoining to the south; and
- performs poorly when assessed against SEPP 65.

The issues raised in the report would lead to amenity and built form issues that cannot be remedied by minor amendments to the proposal. The assessment has found the proposal is an overdevelopment of the site and should be refused.

## **9.0 APPLICATION DETAILS**

The applicant is Poluke Pty Ltd c/o Wolski Coppin Architecture. The owner is Poluke Pty Ltd. The estimated value of works is \$10,764,000.00.

No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made.

## **10.0 MANAGER DEVELOPMENT SERVICES' RECOMMENDATION**

That Development Application No. 8.2009.298.1 be refused pursuant to Section 81(1)(a) of the Environmental Planning & Assessment Act, 1979 for the following reasons:

### ***Excessive bulk and scale***

1. The proposal fails to satisfy the numeric Floor Space Ratio requirement and objectives of Clause 17(2) of MLEP1998 and the applicant's SEPP 1 Objection is not well founded.
2. The proposal contravenes Section 5.2 P6 of the MBCDCP for the Mosman Arterial Business Centre in that it exceeds the FSR stipulated in MLEP 1998.
3. The proposal does not meet the objectives for the 3(a1) Spit Junction Town Centre Zone listed in Clause 16(2) of the Mosman LEP 1998 in that the proposal is not complimentary or compatible with the existing streetscape.
4. The proposal is contrary to Objective O4 section 5.2 of MBCDCP as the proposal does not have a suitable presentation in terms of its bulk, scale, or articulation to the street, in comparison to surrounding development.

### ***Height***

5. The proposal does not comply with the objectives relating to height contained in Clause 18 of the Mosman LEP 1998 in that the proposal will not result in development which is compatible with existing buildings in terms of height and roof form.
6. The proposal does not satisfy the numeric requirements of Control P1 section 5.2 of the MBCDCP, nor does it meet the anticipated number of storeys and roof form described by this height control.
7. The proposal does not satisfy Objective O1 of Control 5.2 of the MBCDCP in that it incorporates roof elements that are above the height control.

### ***Unacceptable setbacks and Building Height Plane***

8. The proposal contravenes Control P7 of section 5.2 of MBCDCP in that it does not ensure that the building has a streetwall height no more than two storeys.
9. The proposal contravenes Control P11 of section 5.2 of MBCDCP in that it does not satisfy the building height plane control required for the site.
10. The proposal will have an adverse impact on the adjoining residential flat building at 87A Cowles Road, due to its excessive height, bulk, and inadequate setbacks and is contrary to Objective O2 of Control 5.2 of the MBCDCP.

11. The proposal breaches planning guideline E5 of section 6.2 of the MBCDCP in that an appropriate setback to provide adequate solar access to adjoining buildings is not achieved.

***Unacceptable amenity impacts to the residential component of the proposal***

12. The proposal is unsatisfactory in relation to Clause 30(2) of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Developments.
13. The proposal breaches planning guidelines E1 and E2 of section 6.8 of the MBCDCP in that the building is not orientated and designed to achieve optimal solar access and ventilation.

***Unacceptable Overshadowing Impacts to adjoining property***

14. The applicant has not adequately demonstrated that the proposed development complies with Planning Guideline E5 of section 6.8 of the MBCDCP.

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**ATTACHMENTS**

**Attachment A - Photographs of the site and surrounds**

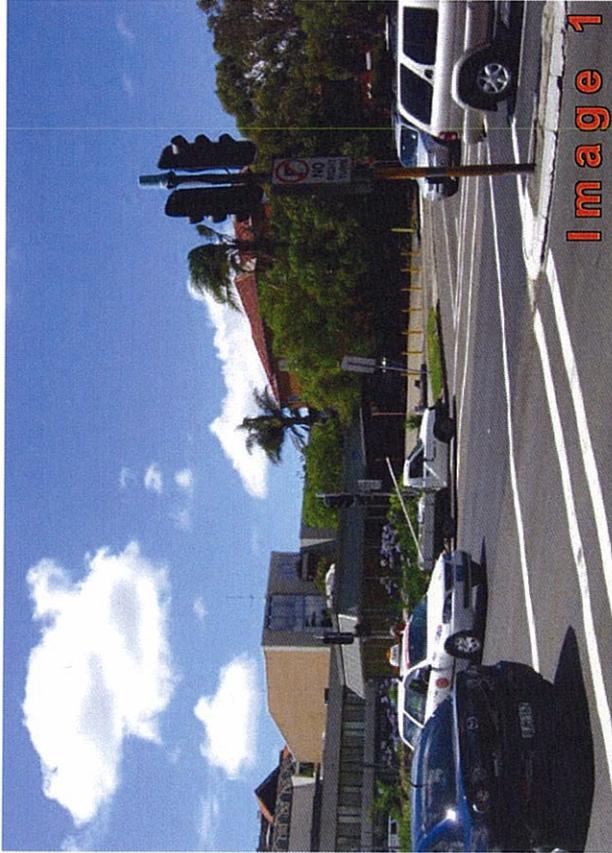
**Attachment B - Plans of the Proposal**

**Attachment C - SEPP 65 Rules of Thumb Assessment**

**Attachment D - Assessment of Design Quality Principles under SEPP 65**

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**Attachment A - Photographs of the site and surrounds**



**Image 1**



**Image 2**



**Image 3**

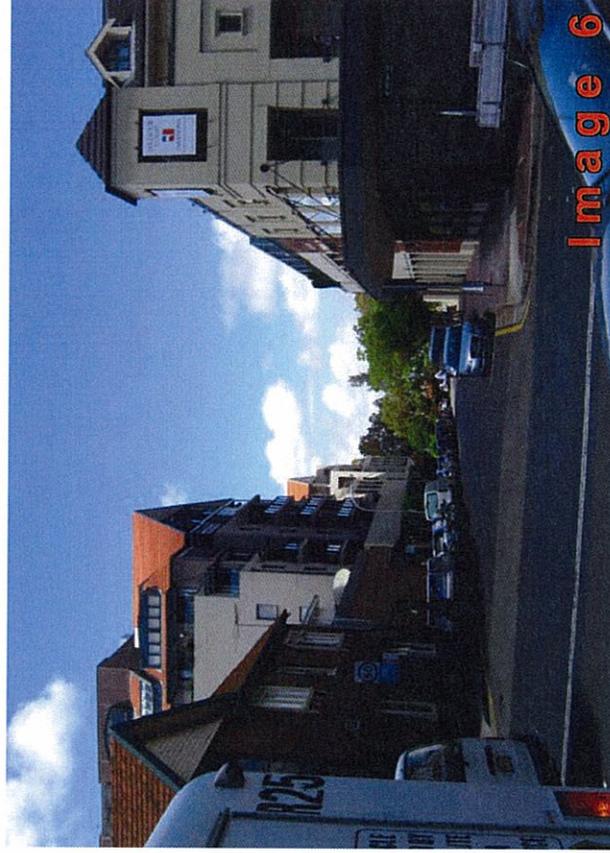
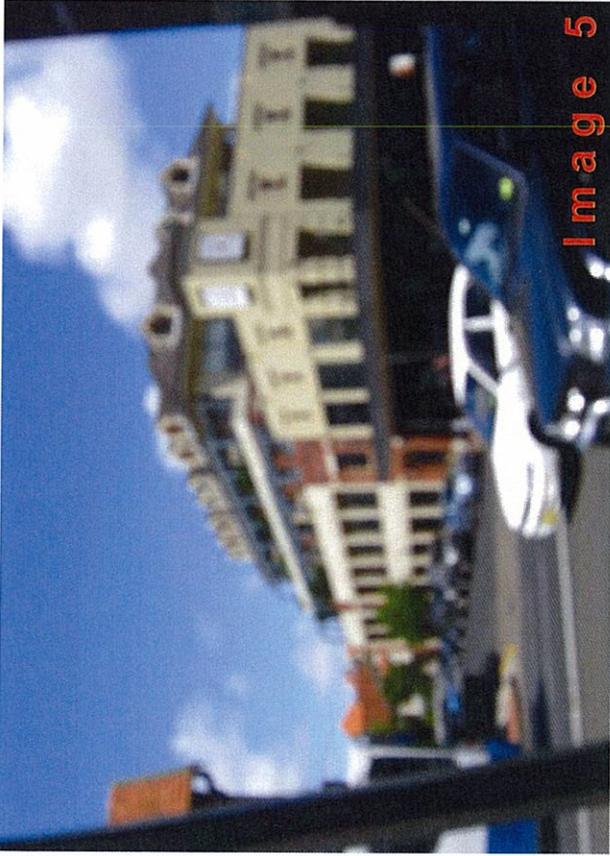


**Image 4**



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**507 Military Road  
 Mosman and Locality**



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**507 Military Road  
 Mosman and Locality**



Image 8



Image 9



Image 10



Image 11



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**507 Military Road  
 Mosman and Locality**



**507 Military Road  
Mosman - 2009**

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 File No 01\_Ubis\_2009/507MilitaryRd



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**Attachment B - Plans of the Proposal**









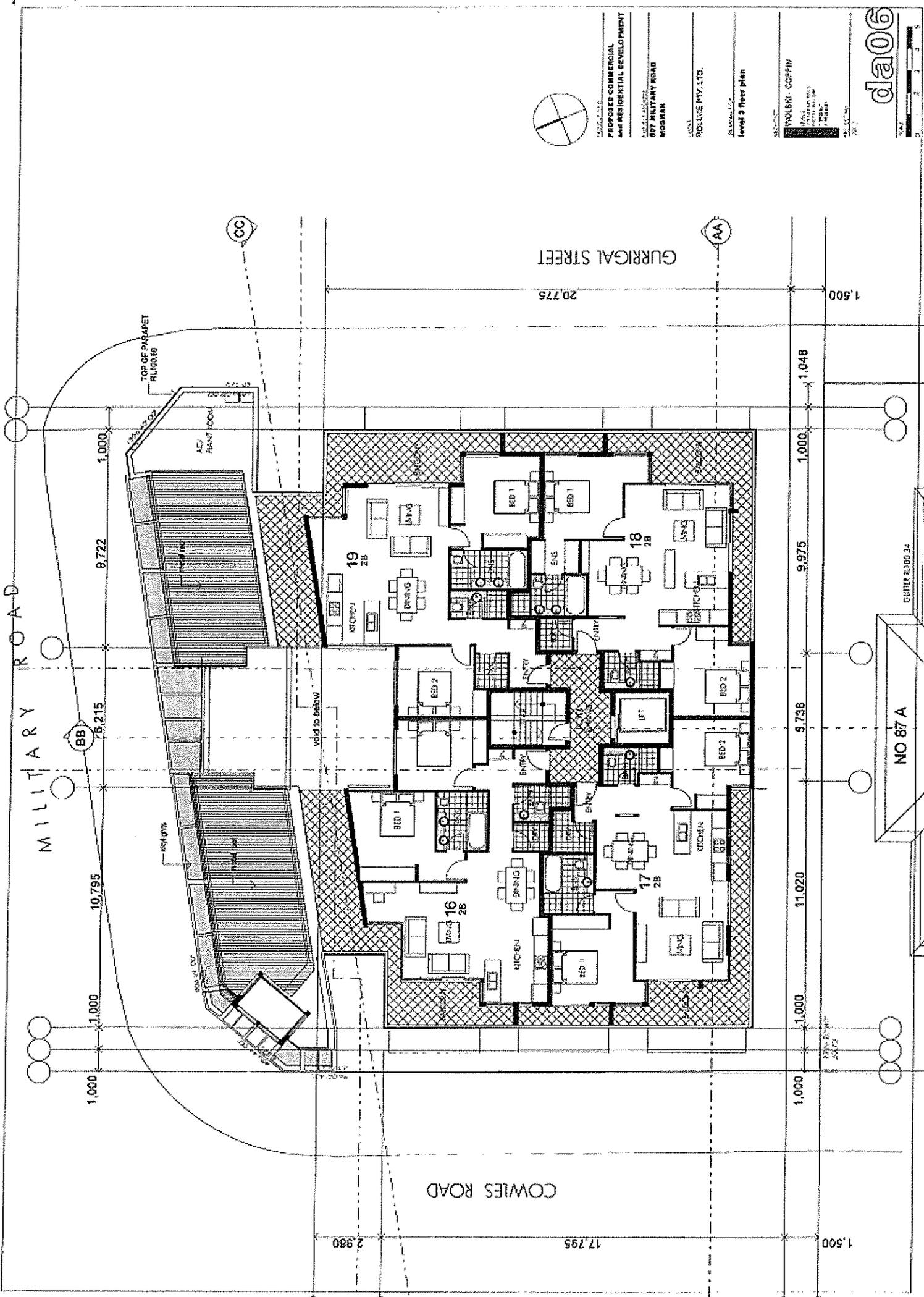




MILITARY ROAD

COWLES ROAD

GURRICAL STREET



1,000

1,000

10,795

76,215

9,722

1,000

1,500

2,980

17,795

1,500

1,000

1,000

11,020

5,736

9,975

1,048

1,500

1,000

1,000

1,048

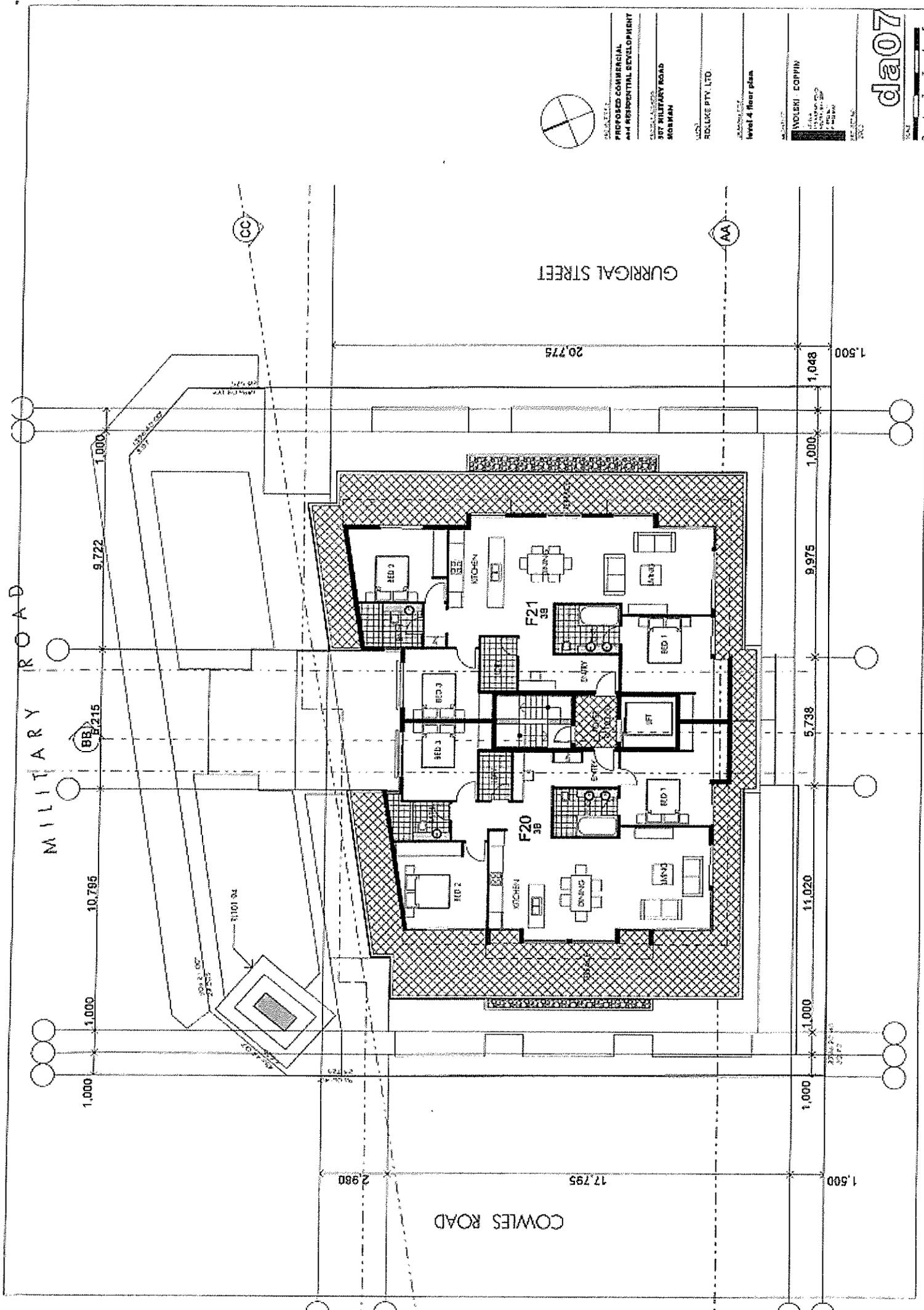
NO 87 A

GUTTER 8-100 34



PROPOSED COMMERCIAL AND RESIDENTIAL DEVELOPMENT  
 607 MILITARY ROAD  
 ROSBANK  
 REDLIVE PTY. LTD.  
 level 2 floor plan

da006



MILITARY ROAD

COWLES ROAD

GURIGAL STREET

1,000

1,000

10,795

BR B/2/15

9,722

1,000

2,980

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AA

CC



DEVELOPER  
**PROVED COMMERCIAL  
 444 RESIDENTIAL DEVELOPMENT**

OWNER  
**307 MILITARY ROAD  
 MOSMAN**

ARCHITECT  
**REXLUKE PTY. LTD.**

Level 4 floor plan

DATE  
**1/10/2014**

SCALE  
**1:100**

PROJECT NO.  
**14/00000**

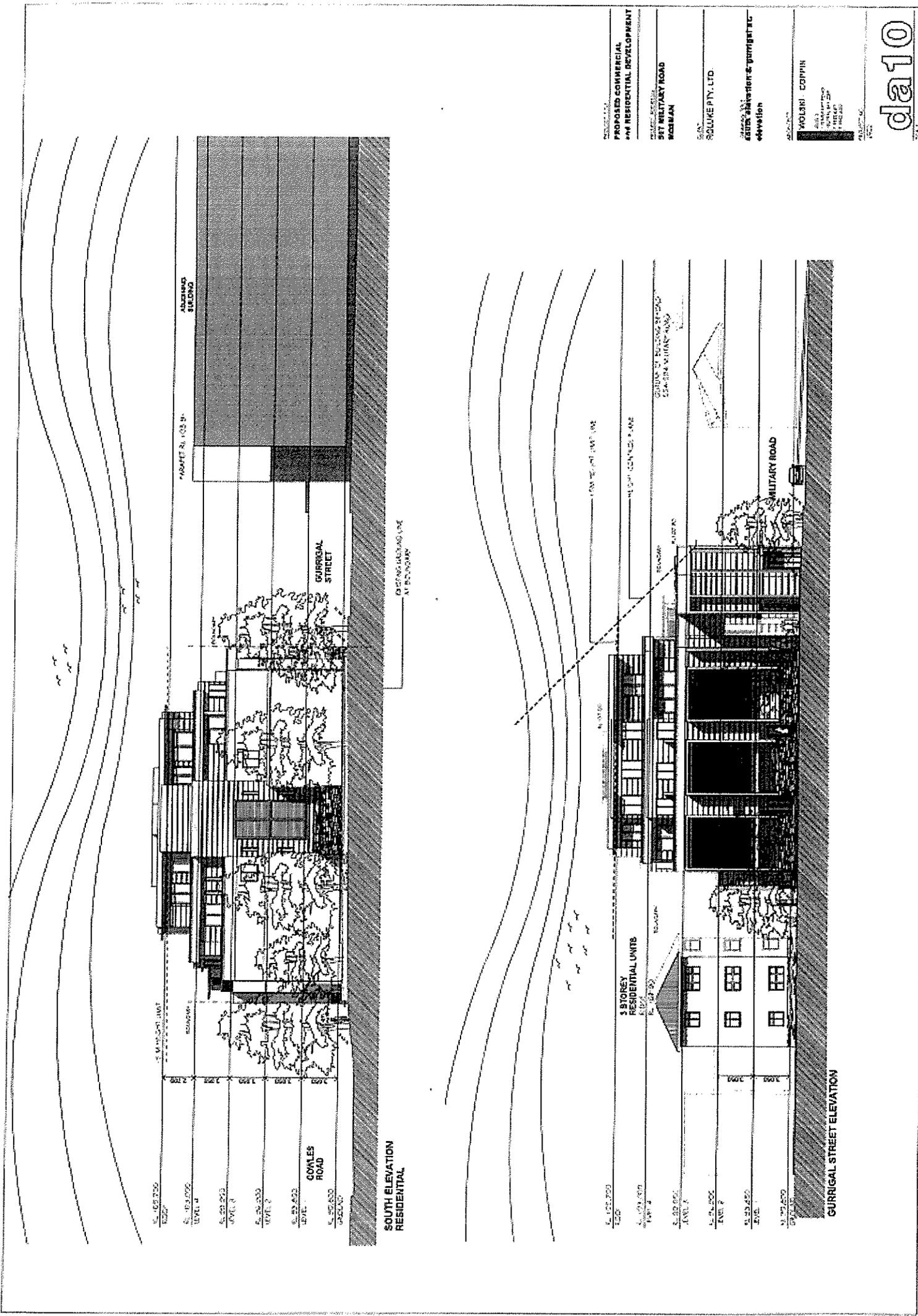
REVISIONS

da07

0 1 2 3 4 5







E. 102,750  
 LEVEL 4  
 E. 102,850  
 LEVEL 3  
 E. 102,950  
 LEVEL 2  
 E. 103,050  
 LEVEL 1  
 E. 103,150  
 GROUND  
 CONALES ROAD

**SOUTH ELEVATION RESIDENTIAL**

E. 102,750  
 LEVEL 4  
 E. 102,850  
 LEVEL 3  
 E. 102,950  
 LEVEL 2  
 E. 103,050  
 LEVEL 1  
 E. 103,150  
 GROUND  
 3 STOREY RESIDENTIAL UNITS

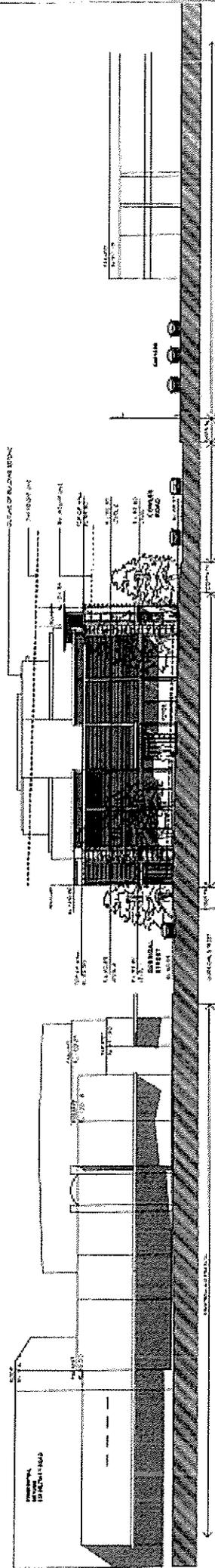
**GURRIGAL STREET ELEVATION**

**PROPOSED COMMERCIAL AND RESIDENTIAL DEVELOPMENT**  
 517 MILITARY ROAD  
 WOLSELEY  
 REID & PARTNERS  
 ARCHITECTS  
 100/102 GURRIGAL STREET  
 WOLSELEY  
 0800 762 222  
 06 833 6666  
 06 833 6667  
 06 833 6668  
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 06 833 6697  
 06 833 6698  
 06 833 6699  
 06 833 6700









MILITARY ROAD ELEVATION  
SCALE 1/300

PROJECTED COMMERCIAL  
AND RESIDENTIAL DEVELOPMENT

537 MILITARY ROAD  
WOLSELEY

DESIGNED BY  
ROSLINE PTY. LTD.

ARCHITECT  
MILITARY ROAD ELEVATION

DATE  
1988

SCALE  
1/300

PROJECT NO.  
100

DATE  
1988

SCALE  
1/300

PROJECTED COMMERCIAL  
AND RESIDENTIAL DEVELOPMENT

537 MILITARY ROAD  
WOLSELEY

DESIGNED BY  
ROSLINE PTY. LTD.

ARCHITECT  
MILITARY ROAD ELEVATION

DATE  
1988

SCALE  
1/300

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**Attachment C -SEPP 65 Rules of Thumb Assessment**

## Attachment C -SEPP 65 Rules of Thumb Assessment

|                                    | Control                                                                                                                                                                                                                                                                                               | Proposal                                                                                                                                                      | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building Depth – lower levels      | No greater than 18 metres.                                                                                                                                                                                                                                                                            | 11.45m by 21.5m.                                                                                                                                              | Even using the 'T' building form in the rules of thumb under diagram 1.6, there is still insufficient natural light to the internal elements of the building for the depth, comprising the long axis of the building, particularly to the rear from Military Road.                                                                                                                                                                                                                                                                                                                       |
| Setbacks                           | Rear setbacks to create usable land, and outlook, plus retain or create rhythm or pattern to development, as well as maintain deep soil or retain, and reinforce mature vegetation, plus provide visual and acoustic privacy.                                                                         | 1.5 metre setback provided off boundary, with a two storey blank wall, followed by a 3.0 metre setback and then a further setback at fourth and fifth floors. | Proposal unsatisfactory because: <ul style="list-style-type: none"> <li>- Conflicts with building separation controls;</li> <li>- no usable recreational private open space provided;</li> <li>- no deep soil provided;</li> <li>- prevents SW and SE units from gaining a satisfactory cross ventilation and outlook;</li> <li>- privacy and outlook satisfactory, largely but streetscape is not;</li> <li>- the building turns its back on the flat building to the south; and.</li> <li>- Significant overshadowing results.</li> </ul>                                              |
| Building Separation                | Building separations are to achieve daylight access. Development with less than the recommended separations must demonstrate that day light access, urban form and privacy have been satisfactorily achieved. Buildings that have a height range of 12-25 metres must have a separation of 18 metres. | 4 m to 5.6 m                                                                                                                                                  | It is acknowledged that the site context is different and more constrained than the control allows. However, the proposal does not demonstrate how solar access is adequately maintained to the adjoining residential flat building to the south. This is unsatisfactory.<br><br>Similarly the separation between the proposed commercial building to Military Road and the proposed dwelling behind is grossly inadequate, with the very little spatial separation further compromised by the setback area being in large part covered by parts of the development at the upper levels. |
| <b>Open Space</b>                  |                                                                                                                                                                                                                                                                                                       |                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Deep Soil Zones                    | At least 25% of site                                                                                                                                                                                                                                                                                  | zero                                                                                                                                                          | Entire site is comprised of car parking pad. No deep soil area is provided.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Communal open space                | 25-30% of the site area.                                                                                                                                                                                                                                                                              | zero                                                                                                                                                          | The application provides standard minimum balcony sizes. Some borrowed outlook is provided by the street tree planting. No attempt has been made to provide a satisfactory area of communal open space.                                                                                                                                                                                                                                                                                                                                                                                  |
| Private Open Space at ground level | 25sqm for each apartment – can be provided on podium or above car parking (525 sqm).                                                                                                                                                                                                                  | No private open space at ground level.                                                                                                                        | The site is heavily constrained. Private open space has necessarily had to be limited to balcony areas facing the street with apartments 3, 4 and 5 having internal courtyards above car parking structure.                                                                                                                                                                                                                                                                                                                                                                              |
| Site                               | Optimize solar                                                                                                                                                                                                                                                                                        | The lower                                                                                                                                                     | Central core might have better light and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

|                        |                                                                                                 |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| configuration          | access to residential apartments.                                                               | levels have limited access to direct sunlight, relying on one aspect, either east or west. Upper levels do not have north facing windows. Some undesirable SW and SE single aspect dwellings. | cross ventilation aspects if the building were reduced in density and reconfigured. A building with reduced density could result in a more appropriate building configuration on site capable of achieving appropriate outlook, height, setback, and articulation.                                                                                                                                                                                                                                            |
| Planting on structures | Adequate soil depth required.                                                                   | Small deep soil area shown.                                                                                                                                                                   | Unable to assess the capacity of planter beds to sustain vegetation without additional detail, showing the planter dimensions, particularly depths.                                                                                                                                                                                                                                                                                                                                                           |
| Safety                 | Formal Crime Risk analysis required for developments of more than 20 units.                     | No crime risk analysis undertaken with the submission.                                                                                                                                        | An unsatisfactory pedestrian thoroughfare between the commercial and residential components of the building is shown. (refer to visual privacy for further comment).                                                                                                                                                                                                                                                                                                                                          |
| Visual Privacy         | Encourage appropriate setbacks between buildings                                                | The proposal has a close interface between the commercial and residential buildings, with a 2.477 metre setback with windows facing the commercial building.                                  | Concern is raised about the ability of the ground floor residential units fronting the commercial building to open their north facing windows. The proposal does not incorporate an appropriate setback to the retail/commercial building, noting that in addition to the poor physical separation, the retail/commercial building incorporates large glazed areas facing the residential units. The narrow walkway connecting the buildings would further exacerbate the loss of privacy from this building. |
| Pedestrian access      | Encourage AS 1428 level of access to car parking areas                                          | Application has a satisfactory level of access.                                                                                                                                               | Good direct street access to ground floor units on the side streets from all ground floor units.                                                                                                                                                                                                                                                                                                                                                                                                              |
| Driveway width         | No more than 6 metres                                                                           | The driveway width is 5.46m. The main pedestrian entrance is away from the driveway.                                                                                                          | The driveway maximum width and position complies with this provision.                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Apartment Layout       | Layout should consider prevailing aspect, adaptability, and provide adequate private open space | Northerly units either have outlook to the commercial component, or no north facing openings. 9 out of 21 units are single aspect                                                             | The proposal does not incorporate north facing window openings to the upper most units. This despite these units having the added benefit of good separation from buildings to the north by Military Road. Presumably the applicant has chosen to reduce north facing windows here to minimise noise from Military Road. The high number of single aspect units, despite the site being on three street frontages                                                                                             |

|                         |                                                                                                                                                             |                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                         |                                                                                                                                                             |                                                                                                                                                                                                  | indicates that there are not sufficient internal openings such as voids and courtyards that enable multiple aspects.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Dwelling Mix            | Dwelling mix to reflect affordable housing, geographic and housing demand                                                                                   | The proposed dwelling mix is:<br>4 x 1 bed<br>13x2 bed<br>2x2 bed two level dwellings<br>2 x ground floor retail<br>2 x first floor office<br>46 basement parking on part two, part three levels | Satisfactory dwelling mix.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Balconies               | Minimum depth of 2 metres                                                                                                                                   | All units have outdoor areas with at least one balcony that is 2 metres deep.                                                                                                                    | Whilst the minimum depth requirement is satisfied, the amenity of some of these balconies is unsatisfactory, relying largely on street facing aspects with internal balconies for only 4 units.                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Ceiling Heights         | 2.7 metre minimum for all habitable rooms.<br>2.4 metre minimum for non-habitable rooms.<br>3.3 metre minimum for mixed use buildings – ground floor retail | Top floor of the residential component level does not comply with the 2.7 metre minimum requirements                                                                                             | The plans show the top floor having a floor to ceiling height that is below the minimum 2.7 metre minimum for habitable rooms on Plan DA11 dated 7/9/2009. This is because the plans show the top of roof RL, rather than the ceiling RL of dwellings No. 20 and 21. Taking account of the thickness of the roof slab, this uppermost level would have a deficient floor to ceiling height. In the context of the building already, exceeding the height controls for the site, this is unsatisfactory. A reduction in the number of floors would satisfy the height control and enable compliance with the minimum floor to ceiling heights. |
| Flexibility             | Apartments must be designed to afford flexible living arrangements and satisfactory working arrangements. Apartments must be adaptable                      | The applicant has demonstrated that the proposal has sufficiently flexible floor plates to accommodate changing living circumstances.                                                            | Satisfactory in terms of adaptable use for the apartments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Ground Floor Apartments |                                                                                                                                                             | Ground floor apartments do not have access to communal open space, either as a terrace or garden                                                                                                 | The proposal has been assessed as having a deficient setback to the residential flat building to the south (87A Cowles Road). A larger at ground floor setback could also enable more ground floor communal or private open space, whilst improving the separation between the subject building and the neighbouring building to the south.                                                                                                                                                                                                                                                                                                   |

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| Internal Circulation   | Loaded corridors – limited to a max of 8 entries                                                                                                                                                             | Maximum of six entries per corridor.                                                                                                | Satisfactory.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Building Configuration | Flexible layouts<br>Encourage mixed use buildings<br>Ensure that uses meet optimal building depths (10-18 metres)                                                                                            | Safe pedestrian access between the two uses is not achieved<br>Not able to achieve the maximum residential building depth see above | The proposal does not incorporate a safe path of travel between the commercial and residential buildings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Storage                | Accessible storage required at the following rates:<br>6 cubic per studio and 1 bed<br>8 cubic metres for two beds<br>10 cubic metres for three beds                                                         | Storage shown on the lower basement although the breakdown is not shown.                                                            | Could be satisfactory, subject to further detail. An engineering assessment reveals concerns with the layout of the basement car park. The excess in car parking provided may be better served by the provision of more storage for the residential units, whilst improving vehicle manoeuvring within the car park.                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Daylight Access        | Living rooms and private open spaces for 70% of apartments must receive direct sunlight access between 9am and 3pm mid winter<br><br>No more than 10% of single aspect apartments to be orientated SW or SE. | 15 units out of 21 meet this requirement. (71%)<br><br>5 out of 21 units or 23% have single aspect orientations and are SW or SE.   | Upper units only have direct northern aspect but do not afford any window openings to the north. The upper level dwellings have good orientation to the north, however they are orientated with their principle aspect to the east or west.<br><br>What little ground floor landscaping above the car park structure there is, does not receive sufficient direct sunlight.<br><br>SEPP 65 allows some variation of up to a maximum of 10% of the total units proposed with a SW-SE aspect. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed. The applicant has not demonstrated why this deficiency should be favourably considered. |
| Natural Ventilation    | Building depth 10-18 metres<br><br>60% of units should be naturally cross ventilated                                                                                                                         | No 24.5 wide and 21.5 to 18 m thick<br><br>38% only cross ventilated<br><br>Yes - 10/21                                             | The building is too thick and wide. Reflected in excessive FSR.<br><br>Units, particularly at lower levels are naturally ventilated.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|                    | 25% of kitchens should have natural light/ventilation | (47%) |                                                                                                                                                                                                          |
| Energy Efficiency  | BASIX commitments required on plans                   | No    | Not all BASIX commitments have been shown on plan. For example the energy efficient hot water systems are not shown on the plans. In the event of approval, these commitments would be required.         |
| Waste Management   | Supply                                                | Yes   | A waste garbage room is shown in the basement of the proposal. No detail is provided on which component of the garbage room is for commercial/retail waste and which component is for residential waste. |
| Water Conservation | Rain water tanks                                      | No    | BASIX commitments evident on plans relating to rainwater tanks and energy efficient water devices are not shown.                                                                                         |

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**Attachment D – Assessment of Design Quality Principles under SEPP 65**

## Attachment D – Assessment of Design Quality Principles under SEPP 65

| Principle                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <p><b>Principle 1: Context</b></p> <p>Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>                                                 | <p>In terms of context, the proposal:</p> <ul style="list-style-type: none"> <li>• Does not match the streetwalls of the commercial/retail shops fronting Military Road;</li> <li>• Does not have a compatible height to surrounding development and in particular residential development;</li> <li>• Does not have a scale that is compatible with surrounding development;</li> <li>• Does not have an appropriate contextual relationship to the residential flat building to the rear.</li> </ul> <p>The proposed building design is not consistent, nor is it compatible with surrounding development. It does not adequately respond to the context of the site, being located on Military Road, and in the immediate vicinity of smaller scaled buildings.</p> |
| <p><b>Principle 2: Scale</b></p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.</p>                                                                                            | <p>The established scale to Military Road is two storey in character. The proposed scale of development is unacceptable and inappropriate, and the design features a 2 storey element with mezzanine to Military Road, with the 4<sup>th</sup> storey of the building set back from the main frontage.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>Principle 3: Built form</b></p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>                                                                                                  | <p>The proposed development form is unsatisfactory in terms of its building alignments, particularly to the residential flat building adjoining to the rear.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>Principle 4: Density</b></p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p> | <p>The density of the proposal is greater than is normally allowable under Mosman Local Environmental Plan 1998 in the 3(a1) Spit Junction Town Centre Zone.</p> <p>Noting the density of surrounding development in particular, the density is excessive, particularly when the internal and external amenity effects of the proposal are considered.</p>                                                                                                                                                                                                                                                                                                                                                                                                             |
| Principle                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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| <p><b>Principle 5: Resource, energy and water efficiency</b></p> <p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p> <p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>                                                                                                                                                                                                                                                                                                                                                     | <p>A BASIX Certificate has been provided in relation to the design of the development as submitted.</p> <p>The orientation of the dwellings on the site, coupled with the use of glazed curtain walls on the Military and Road frontages and Gurrigal Street frontages are likely to result in higher energy consumption through the life of the building. This could be reduced with a more environmentally sensitive design.</p> <p>The application does not highlight what recycling of material may take place on site.</p> <p>In the event that the application is approved, a BASIX Certificate will be required prior to issue of the Construction Certificate. In addition, other suitable conditions of consent relating to energy efficiency would be applied.</p> |
| <p><b>Principle 6: Landscape</b></p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p> <p>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</p> <p>Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p> | <p>The proposal does not incorporate any ground level landscaping that is not on structure.</p> <p>Some vegetation has been provided in the form of planter boxes on balconies and with the provision of a narrow landscaped corridor separating the commercial and residential portions of the building. The landscaped corridor over car parking structure and does not allow deep soil planting capability. The landscaped area would afford poor amenity to the occupants of the building.</p>                                                                                                                                                                                                                                                                           |
| <p><b>Principle 7: Amenity</b></p> <p>Good design provides amenity through the physical, spatial and environmental quality of a development.</p> <p>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>The design provides amenity allowing disabled access to all levels. As illustrated in the 'rules of thumb' table however, the proposal does not have a sufficient number of units that satisfy the following:</p> <ul style="list-style-type: none"> <li>- configuring the floor layouts to maximise solar gain;</li> <li>- cross ventilation;</li> <li>- aspect; and</li> <li>- views.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                        |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>The units that face north are restricted in terms of openings that would enjoy direct sunlight.</p> <p>The proposal is unsatisfactory with regard to internal amenity, and also with regard to the impact on adjoining dwellings.</p>                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p><b>Principle</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p><b>Comment</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p><b>Principle 8: Safety and security</b></p> <p>Good design optimises safety and security, both internal to the development and for the public domain.</p> <p>This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.</p> | <p>The use of dwellings that front Cowles Road and Gurrigal Street, with balconies and living areas facing these streets enables passive surveillance both to and from the proposal.</p> <p>However, the proposal with its landscaped through connection has poor passive surveillance, is narrow, with several blind spots and is unsatisfactory with regard to safety and security.</p>                                                                                                                                                                                                                                                                    |
| <p><b>Principle 9: Social dimensions</b></p> <p>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.</p> <p>New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.</p>                                                                                                                                                                        | <p>The proposal is satisfactory with regard to social dimensions, providing a mix of 1, 2, and 3 bedroom dwellings.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Principle 10: Aesthetics</b></p> <p>Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.</p>                                                                                                                                          | <p>The proposed building finishes will include rendered painted walls, metal deck roofing and extensive use of glass and steel. A schedule of colours and finishes has been submitted with the application. Having regard for the character of surrounding development, the commercial component is inappropriate. In this regard, the majority of the nearby commercial buildings present a predominantly solid façade above street level or include in the case of the car dealership on the opposite side of Cowles Road, a façade that includes column and spandrel elements which express the building levels and articulate the building proposal.</p> |

**Details for and Instructions to Admin Team:**

Applicant/Address: Poluke Pty Ltd c/o Wolski Coppin Architecture  
115 Military Road  
NEUTRAL BAY NSW 2089

Owner/Address: Roluke Pty Ltd ATF Scotts Motors Unit Trust  
PO Box 1618  
DOUBLE BAY NSW 2028

Objector/s: 2/87A Cowles Road and 42A Harbour Street

State Authorities: RTA, Energy Australia

Cost of Development: \$10,764,000.00

BCA Classification: 2, 6, and 7  
**Note: if class 2-9, Admin to attach a fire safety schedule with any consent**

Concurrent CC: No

Section 94: No (refusal)

Section 94A: No  
**Note: If Yes, Admin to cross reference the consent to the Development Assessment Section 94A Contributions folder in Dataworks**

Site Contamination: No

Heritage Impact Statement: No

Total Down Days: 0

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