

JRPP REF NO. 2010SYE018

TITLE: 100 Glover Street

DA NUMBER: 8.2010.18.1

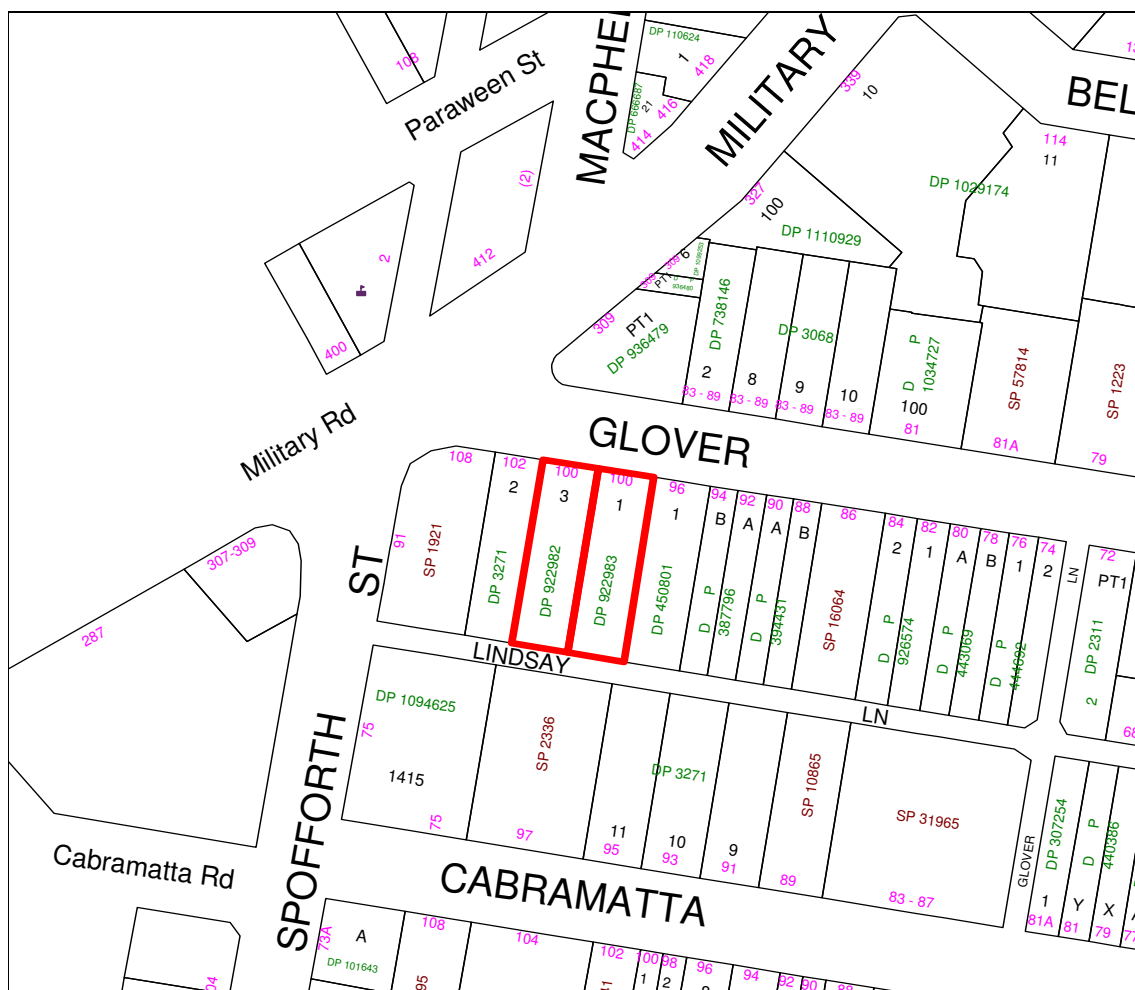
PROPOSAL: Demolition of an existing commercial building, retention of basement and construction of a new four (4) storey multiple dwelling containing 35 dwellings with 47 car spaces

REPORTING OFFICER: Duncan Livingstone, Town Planner

LODGEMENT DATE: 29 January 2010

OFFICER'S RECOMMENDATION: Approval with conditions

LOCALITY MAP



EXECUTIVE SUMMARY

The development involves demolition of the existing commercial building, retention of the existing basement and construction of a new four (4) storey multiple dwelling containing 35 dwellings with 47 car spaces. As the application has a capital investment value in excess of \$10 million dollars, it has been referred to the Joint Regional Planning Panel for determination.

The proposal complies with the floorspace ratio development standard. MLEP 1998 does not prescribe a numeric development standard in relation to height for development within the 3(a2) Cremorne Business zone however the proposal is assessed as being consistent with the height objectives within Clause 18(1) of MLEP 1998. The proposal is assessed as satisfactory with regard to the objectives and guidelines contained within SEPP 65.

The proposal does not comply with the 12m height guideline within Mosman Business Centres DCP, however this non compliance is found to be reasonable in this assessment.

The development received twenty three (23) submissions. These submissions primarily relate to car parking, increased traffic on Lindsay Lane, view loss and impacts on the streetscape. An analysis of the issues raised in those submissions is provided within Section 7.0 of this report.

This assessment finds that the proposed car parking arrangements and the projected traffic loads on Lindsay Lane is reasonable. The assessment has also found that the proposal has reasonable impacts on views and the streetscape.

The proposal is recommended for approval subject to conditions.

REPORT

1.0 DESCRIPTION OF THE LOCALITY AND THE SITE

The subject site is located on the southern side of Glover Street, between Military Road and Glover Lane. The site comprises two allotments legally known as Lot 1 and Lot 3 in DP 922983. The combined site is rectangular in shape with frontages of 29.26m to Glover Street and 29.26m to Lindsay Lane. The site falls 1.5m to the south at an average gradient of 3.2%. The site also has crossfall of approximately 1m to the east.

The site presently contains a three storey commercial building with basement car parking accessed from Lindsay Lane. Surrounding development consists of commercial premises to west and north of the site associated with the Cremorne Business Centre and residential development to the south and east of the site including single storey dwellings and multiple dwellings of varying heights. The neighbouring property to the east being 96 Glover Street is zoned 3(a2) Cremorne Business however it is residentially scaled. Photographs of the subject site and locality are at **Annexure A**.

2.0 BACKGROUND

The relevant background development history of the site has been researched, and is provided below.

On 12 December 1985 Development Consent Application 142/85 comprising demolition of two existing single storey commercial buildings and construction of a new three storey commercial office building with basement car parking at 98 – 100 Glover Street, Mosman was approved, subject to conditions.

On 12 August 1986 Development Consent Application 161/86 comprising demolition of two existing single storey commercial buildings and construction of a new three storey commercial office building with basement car parking at 98 – 100 Glover Street, Mosman was approved subject to conditions. According to Council records this consent amended Development Consent No. 142/85.

On 15 October 1986 Development Consent Application 351/86 comprising a new three storey commercial office building with basement level car parking at 100 Glover Street was approved, subject to conditions.

Subject Development Application 8.2010.18.1

The subject Development Application was lodged with Council on 29 January 2010. The application was notified in accordance with Council's Notification DCP between 11 and 26 February 2010. The application received 21 submissions in response to notification.

On 26 February 2010 the applicant provided Council with a Capital Investment Value (CIV) statement from Quantity Surveyors Slattery Australia. The applicant directed that this statement was supplementary to the Construction Cost Report prepared by Quantity Surveyors Slattery Australia. The revised statement amended the construction cost of the development from \$9,510,278.00 (as stated in the original QS report) to \$9,214,492.00 and in addition provided for a CIV of \$12,249,502.00. The applicant submitted that the proposal due to the CIV in excess of \$10 million would be required to be determined by the Joint Regional Planning Panel.

In view of the information provided above the Development Application was renotified between 19 March 2010 and 17 April 2010, making clear that the application was to be assessed by Council, but determined by the Joint Regional Planning Panel. The need for re-notification arising from the submission of the CIV has resulted in 38 days being lost in this assessment. The renotified application received a further 2 submissions.

On 14 May 2010 Council requested additional plans and information from the applicant. This is discussed in further detail within Section 3.1 of this report.

3.0 DESCRIPTION OF THE PROPOSAL

The proposal consists of:

- Demolition of the existing three (3) storey commercial premises;
- Construction of a new four (4) storey multiple dwelling to provide for 35 dwellings (22x 1 bedroom dwellings and 13x 2 bedroom dwellings) and 47 car spaces. The proposal utilises the existing basement level car parking on site;
- Associated changes to landscaping.

Plans depicting the extent of the proposal are provided within **Annexure B**.

No concurrent approvals are sought under the *Local Government Act 1993*.

3.1 ADDITIONAL INFORMATION AND AMENDED PLANS

In response to Council concerns and the briefing with the Joint Regional Panel on 13 May 2010 Council formally requested, additional information and amended plans on 14 May 2010. The requested additional information and amended plans was received on 9 June 2010. A summary of the relevant additional information and amended plans as well as the applicant's response to the requested documentation is summarised in the table below:

Council Request	Applicant Response
External wall for the roof top plant area to be deleted or substantially reduced in height.	Rooftop plant significantly reduced in height and scale (please see Figures 1 and 2).
Height profiles to ascertain view loss from multiple dwellings on the northern side of Military Road.	The applicant contends that even a DCP compliant scheme of 12m in height would result in the same amount of water view loss when compared with the subject development. The applicant has undertaken to erect height profiles for inspection by the JRPP.
Clarification of areas included in gross floor area calculations due to discrepancies in nominated gross floor area.	The applicant acknowledges the omission of basement storage areas which are included as gross floor area in accordance with Council definition. In response to Council concerns the applicant has reduced the gross floor area of the development from 2974.1m ² to 2804.1m ² .
Clarification of building height due to discrepancies. Council's preliminary assessment disclosed building heights in excess of 13m, contrary to the submitted maximum height of 12m.	The applicant acknowledges that the maximum building height is approximately 13m. The originally proposed eastern most roof top Clerestory window for unit 34 (as nominated the plans) has been deleted.
The original proposal resulted in numerous inconsistencies with the guidelines and Rules of Thumb associated with State Environmental Planning Policy No. 65 - Design of Residential Flat Development. The applicant was asked to consider a redesign of the development to address these inconsistencies.	<p><i>Depth of Single Aspect Dwellings</i> – Original depth of single aspect dwellings ranged from 12.3m – 9.6m. Depths have been amended to between 8m – 10m.</p> <p><i>Building Separation</i> - All east facing and upper level dwellings are set back further from property boundaries.</p> <p><i>Communal Open Space</i> –Increased.</p> <p><i>Ceiling Heights</i> –The amended plans detail complying floor to ceiling heights of 2.7m.</p> <p><i>Flexibility</i> – Unit 1 modified for disabled access.</p> <p><i>Storage</i> – Figures nominate that the</p>

	<p>proposed storage complies.</p> <p><i>Formal Crime Risk Analysis</i> – The amended documentation contains a formal Crime Risk Analysis.</p>
Additional information was requested which demonstrate the adequacy of visibility for vehicles exiting the site from Lindsay Lane,	Visitor parking reconfigured to enable adequate lines of sight.
Further information was requested in relation to the adequacy of the submitted traffic analysis.	A letter from the applicant's traffic consultant stating that the relevant analysis is a recognised intersection analysis program as set in the RTA guide.



Figure 1: Originally submitted proposal with roof top plant area.



Figure 2 – Amended Scheme with deleted roof top plant area.

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
- State Environmental Planning Policy No. 65 - Design of Residential Flat Development
- State Environmental Planning Policy - Building Sustainability Index: BASIX 2004
- Mosman Local Environmental Plan 1998

- State Environmental Planning Policy (Infrastructure) 2007
- Draft Mosman Local Environmental Plan 2008 (Draft MLEP 2008)
- Mosman Business Centres Development Control Plan
- Notifications Development Control Plan
- Mosman Transport Development Control Plan
- Mosman Section 94 Development Contributions Plan 2006

5.0 PLANNING ASSESSMENT

5.1 NUMERIC CONTROLS SUMMARY TABLE

LEP CONTROLS	CONTROL	PROPOSED	COMPLIANCE
Zoning	3(a2) Cremorne Business Zone		
Site Area		1406m ²	N/A
Gross Floor Area		2804.1m ²	
Floorspace Ratio	2 : 1	1.99: 1	Yes

BDCP CONTROLS	CONTROL	PROPOSED	COMPLIANCE
Building Height – Apartments	12m	13.1m	No
Building Height – Clerstory Window	12m	13.3m	No
Minimum Floor to Ceiling Heights	2.7m	2.7m	Yes
Setbacks – Street Wall Height			
Glover Street	2 Storeys	3 Storeys	No
Lindsay Lane	2 Storeys	3 Storeys	No
Setbacks			
Vehicular Gap in the Street wall	7.3m (25% of frontage)	11.6m (39.6% of frontage)	No
Setbacks – height plane	45 ⁰ height plane for external wall above the second storey	89 ⁰ – 88 ⁰ building height plane drawn from external wall associated with level two	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:

- within the Foreshores and Waterways Area;
- as a strategic foreshore site;
- as a heritage item;
- 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 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' and the determining authority is the Joint Regional Planning Panel (Sydney East Region).

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. There is no development history to 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 No. 65 - Design of Residential Flat Development

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

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. The Design Verification Statement submitted with the application states that the residential development was designed by Robert Stephenson of Crone Partners Architecture Studios, a registered architect, and that it was designed in accordance with the Design Quality Principles of SEPP 65.

In accordance with Part 2 of SEPP 65 the design quality principles provide a guide to achieving good design and the means of evaluating the merit of proposed solutions. These design quality principles contained in SEPP 65 are assessed within **Annexure C**.

Additionally, 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. The relevant points are addressed within **Annexure D**.

The assessment has found that the application is reasonable with regard to the requirements and guidelines within SEPP 65.

5.2.5 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.

Conditions of consent have been 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.

5.2.6 State Environmental Planning Policy (Infrastructure) 2007

The site contains an Energy Australia electricity substation within the site's north eastern portion. The proposal seeks to retain this substation without causing its removal. In accordance with Clause 45(b)(ii) and Clause 45(2)(a) and (b) of the SEPP, Council has given

written notice to the electricity supply authority (Energy Australia) inviting comments about potential safety risks.

Energy Australia has not raised objection to the proposal subject to conditions. Comments from Energy Australia can be viewed in Section 6.0 of this report.

5.2.7 Mosman Local Environmental Plan 1998 (MLEP 1998)

Zoning and Permissibility

The site is zoned 3(a2) Cremorne Business.

The works are defined as 'demolition' and development for the purpose of 'multiple dwellings' hence the works are permissible with Council's consent pursuant to the development control table at Clause 16.

The development satisfies zone objectives.

Subdivision

The site comprises Lot 1 and Lot 3 in DP 922983. The recommendation includes consolidation of the allotments.

Floorspace Ratio

The proposal complies with the numeric floorspace ratio development standard and is consistent with the objectives contained within Clause 17 of MLEP 1998.

Height

MLEP 1998 does not prescribe a numeric development standard in relation to height for development within the 3(a2) Cremorne Business Zone. The relevant objectives for height limits are provided within Clause 18(1) of MLEP and are discussed below.

18(1)

(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

The fourth storey is stepped back within the site and its associated parapet roof is 1.67m above the height of the neighbouring commercial development to the west. The height of street wall associated with the third storey is approximately 1.37m below the height of the neighbouring commercial development to the west.

The height of the multiple dwelling is compatible with existing buildings in terms of height. Military Road and Spofforth Street include numerous examples of buildings within the vicinity of the site which provide for multiple dwellings and commercial development of a similar or larger scale.

The stepped back form of the upper level minimises bulk and scale and the three storey street wall is comparable with neighbouring built form to the west. The parapet roof form is an appropriate design response in this locality which includes many similar roof forms.

(b) to provide opportunities for higher buildings in suitable locations to achieve the Council's residential strategy and provide employment opportunities.

The height of the proposal allows for a four storey multiple dwelling with 35 dwellings. The density of this development is appropriate in the site's location and the height of the proposal is assessed to be suitable in this location given its location on the fringe of the business centre with good access to public transport.

Views

Concern in relation to view loss was raised by two properties within 2 Macpherson Street, being Units 307/2 and 214/2 Macpherson Street. These submissions raise concern over water view loss from 307/2 Macpherson Street and from the fourth storey common area. Photos of view affectation are provided in Figures 3 and 4 below:



Figure 3 : *Standing View from balcony of 317/2 Macpherson Street*



Figure 4 : *Standing View from common BBQ Area of 2 Macpherson Street*

Council has previously requested the erection of height profiles or photomontages to assess view impacts. The applicant has been reluctant to erect profiles or provide photomontages but has now agreed to erect profiles for the JRPP inspection. The response from the applicant to date has been that view affectation from a complying scheme of 12m would not result in a tangible preservation of views. The belated agreement to erect profiles and the reporting deadline to the JRPP has necessitated a view assessment without the benefit of height profiles.

The Land and Environment Court Planning Principle (Tenacity) has been taken into consideration during the assessment process. This assessment is provided below.

Notwithstanding that only two submissions have been received from the multiple dwelling at 2 Macpherson Street, site visits have disclosed that the proposal is likely to result in some view loss from the majority of dwellings on the fourth storey. All dwellings within 2 Macpherson Street were notified of the proposal. This assessment takes into consideration view impacts from the dwellings at 307/2 and 214/2 Macpherson Street and the rooftop common area to which all units have access.

Fourth storey dwellings of the multiple dwelling at 2 Macpherson Street benefit from southerly harbour views and the associated eastern suburbs cityscape. The view primarily encapsulates Rushcutters Bay, Darling Point and Double Bay. This view corridor does not encompass iconic views however the view does capture the land water interface of the aforementioned Bays. The view of the harbour is interrupted by the Cremorne Point Headland, providing for two distinct water bodies as viewed within Figures 3 and 4. The view to Double Bay east of Cremorne is generally uninterrupted whereas the view to Rushcutters Bay is over the roof of the subject site and is partially screened by the roof of 97 Cabramatta Road.

The view from 307/2 Macpherson Street is from a standing and siting position on the balcony which is located off the main living area. The living area also benefits from views in standing position to Double Bay and a minor portion of water west of Cremorne Point. The views from the common BBQ area are gained from a standing and siting position and are from the eastern portion of the common area. These views are an oblique southerly view.

The proposal will result in the loss of water view west of Cremorne Point from the common area and 307/2 Macpherson Street. This view includes Rushcutters Bay, the associated landwater interface and the related cityscape. The view loss from the living room of 307/2 Macpherson Street relates to a minor portion of water west of Cremorne Point, it being noted that the primary view from the living room to Double Bay is maintained. The proposal also results in loss of some eastern suburbs cityscape from 214/2 Macpherson Street.

The view to Double Bay and the associated landwater interface from 307/2 Macpherson Street and the common area will be unaffected by the proposal. In terms of a quantitative analysis the smaller body of water to be lost to the west Cremorne Point is assessed as approximately 30% of the total existing water view from the balcony of 307/2 Macpherson Street and the common area. Qualitatively this view loss is assessed as moderate. The assessment of the view impact is provided below:

- While the views from the fourth floor dwellings at 2 Macpherson Street are the only water views afforded from the site these views are not assessed as iconic.
- The view loss from 307/2 and the common area relates to the smaller body of the water (with regard to the total view) west of Cremorne Point. The larger more significant view to Double Bay is maintained and this is assessed to be more highly valued.
- The area of view loss is across the roofscape of buildings on Glover Street and Cabramatta Road. The preservation of these views is unrealistic in that MLEP 1998

encourages height compatibility and in this regard the height of the building is assessed as compatible when compared with surrounding built form.

- Views are unlikely to be further degraded. The primary view to Double Bay is unlikely to be impacted by development which would obstruct views due to topography and the residential zoning where this view corridor is located.
- To require a reduction in the parapet roof height by 1.1m to a complying height of under 12m MBCDCP would be unreasonable as this would result in the loss of the fourth storey and a significant loss of development yield which is within the 2:1 maximum provided under MLEP 1998. In the context of a scheme which complies with the floorspace ratio standard, is assessed as compatible with neighbouring building and is which is satisfactory with regard to SEPP 65, the proposal's impact on views is assessed as reasonable.

Foreshore Scenic Protection Area

The proposed development will not be highly visible from either the waterway or foreshore, as a consequence of the distance of the site from the waterway and the vegetation and development that exists between the site and the waterway.

Excavation

The proposal does not involve a significant amount of excavation due to the utilisation of the existing basement car parking. Plans submitted with the application nominated excavation to a depth of approximately 2m to accommodate the lift pit. Subject to usual Council conditions in relation to excavation the development is assessed to be consistent with Clause 31 of MLEP 1998.

Heritage

The site does not contain a heritage item and is not within a heritage conservation area. The site is located within the vicinity of 92-94 Glover Street, a pair of semi detached dwellings which are heritage items of local significance as stated within Schedule 2 of MLEP 1998.

The proposal will not have a material impact on the heritage setting of the items, it being noted that 94 Glover Street is located approximately 14.7m from the subject site. Council's Heritage Consultant has reviewed the proposal and has raised no objection. Comments from Council's Heritage Consultant can be viewed within Section 6.0 of this report.

Aboriginal Heritage

The site is not known to contain an Aboriginal object or Aboriginal place nor is it in an area known to be sensitive to the discovery of Aboriginal objects or Aboriginal places.

5.2.8 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 B2 Local Centre under the provisions of Draft MLEP 2008.

The proposed works are for a 'residential flat building' and would be permissible with consent pursuant to the land use table of Draft MLEP 2008.

The site is not a heritage item and is not within a heritage conservation area pursuant to Schedule 5 of Draft MLEP 2008.

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)

Section 4 - Desired Character

Section 4.6 – Cremorne Business

The proposal is consistent with the desired character and the objectives of the Cremorne Business Centre contained within Section 4.6 of MBCDCP in that:

- The development allows for a residential development in the commercial zone which contributes to the mixed use character of the area.
- The proposal encourages rear lane vehicular access which is desired within the business centre.

Section 5 – Urban Design and Planning Guidelines

Section 5.2 – Arterial Business Centres

In accordance with Planning Guideline P4 the maximum building height in the Cremorne Business Zone is 12m. The parapet roof associated with the fourth storey provides for a maximum building height of 13.1m and the clerestory window for unit 35 (as nominated on the plans) achieves a maximum building height of 13.3m.

As discussed in the assessment of MLEP 1998, the proposed building height is assessed to be compatible with development in the vicinity. The stepping back of the fourth storey adequately reduces visual bulk as viewed from Glover Street.

In accordance with Planning Guideline P7 buildings are to have a street wall no higher than two (2) storeys. The proposal provides for a street wall of three (3) storeys. The street wall including its façade treatment is assessed as reasonable in that it is compatible with the overall development pattern to the west of the site, it being noted that the street wall is of lesser height than streetwall of the neighbouring commercial development at 102 Glover Street.

Planning Guideline P10 stipulates that vehicular entrances must not exceed 25% of the length of the street frontage. The vehicular entrances associated with the basement car parking and the visitor car parking encompasses 39.6% of the Lindsay Lane frontage. The vehicular entrances are reasonable in that Council policy encourages rear lane access to sites. The entrances will not have an adverse impact on Lindsay Lane or existing pedestrian routes.

Pursuant to Planning Guideline P11 the external building walls are to be set back so as not to exceed a 45 degree height plane from Glover Street and Lindsay Lane. The proposed height plane which is drawn from the top of the second storey wall does not comply with this guideline due to the proposed three storey street wall height. The non-compliance with the height plane is minor, it being noted that the upper level is appropriately set back as evidenced in Figure 5 below.



Figure 5: 45 degree building height plane as measure from 7.2m above the natural ground level.

Section 6 – Environmental, Amenity and General Guidelines

Section 6.2 – Heritage Items and Conservation Areas

This has been discussed in the section relating to MLEP 1998.

Section 6.3 – Accessibility

The design provides for disabled access to all levels and provides for an accessible unit on the ground floor. The proposal provides a continuous path of travel to and within the building and provides for corridors and doorways of sufficient width to enable disabled access.

Section 6.7 Privacy and Security

The proposal is assessed as having a reasonable impact with regard to overlooking to neighbouring properties. The design of balcony balustrades being predominately opaque mitigates downward overlooking impacts.

An objection from 94 Glover Street has been received raising concern with overlooking from the east facing apartments into the rear yard. The rear yard of 94 Glover Street is located in excess of 17m from the proposed development. This separation is assessed to be reasonable with regard to overlooking impacts.

The ground floor units will not adversely affect the privacy of neighbouring buildings due to the proposed vegetation adjacent to the eastern boundary. The east facing second, third and fourth floor dwellings of the proposal will not adversely overlook the windows of 96 Glover Street due to building separation and restricted downward lines of sight. No objection from 96 Glover Street in relation to privacy was received (this site is also located within the 3(a2) zone).

The balconies of the south facing dwellings are greater than 9m from the habitable windows of 97 Cabramatta Road. The north facing windows of 97 Cabramatta Road are not to primary living areas and no objection from 97 Cabramatta Road was received.

The proposal provides for acceptable safety and security for residents with appropriate entrances and dwelling layouts. The building represents a significant increase in public safety in that the change of use from a commercial to a residential use increases passive surveillance on Lindsay Lane and Glover Street.

Section 6.7 of MBCDCP contains numerous guidelines in relation to private open spaces of dwellings within business zones. In this regard the private open spaces of all dwellings are accessed from the main living areas and the depth of all balconies complies with the 2m rule of thumb contained within SEPP 65.

MBCDCP contains numerous guidelines in relation to acoustic amenity. The proposal was accompanied by an acoustic report which recommends measures to reduce acoustic impacts to and from the multiple dwelling. These measures are incorporated as recommended conditions of consent.

Energy Efficiency and Solar Access

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 states that the provision of the BASIX Certificate overrides the MBCDCP that would otherwise add to or subtract from the BASIX requirements. Appropriate conditions have been included in the recommendation to achieve the fulfilment of the BASIX requirements.

The individual dwellings within the proposal comply with the minimum solar access and natural ventilation requirements as stated within the SEPP 65 rules of thumb, it being noted that the majority of dwellings are orientated north.

MBCDCP requires that dwellings should be sited and designed to maximise sunlight to north facing windows of habitable and principle areas of open space. North facing windows to living areas and main ground level private open space of neighbouring buildings should not have sunlight reduced to less than two hours between 9am and 3pm on 21 June.

The applicant has submitted plan and elevation shadow diagrams to assess the impact on overshadowing to neighbouring properties. The shadow diagrams illustrate the impact of overshadowing from the existing and proposed development at 9am, 10am, 11am 12 noon, 1pm, 2pm and 3pm on 21 June.

Due to lot orientation the proposal will not cause unreasonable impacts on 96 and 102 Glover Street. The proposal will result in additional overshadowing to the neighbouring development to the south being 97 Cabramatta Road. The shadow diagrams illustrate that the habitable rooms of 97 Cabramatta Road will not be affected by shadow from shortly after 11am until shortly after 2pm. This is illustrated in Figures 6, 7 and 8 provided below.

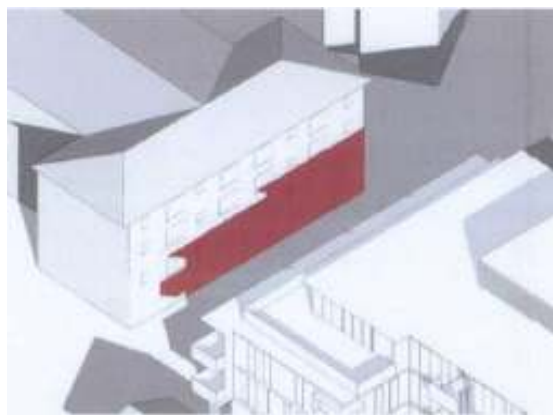


Figure 6 – Overshadowing on 97 Cabramatta Road – 9am, 21 June

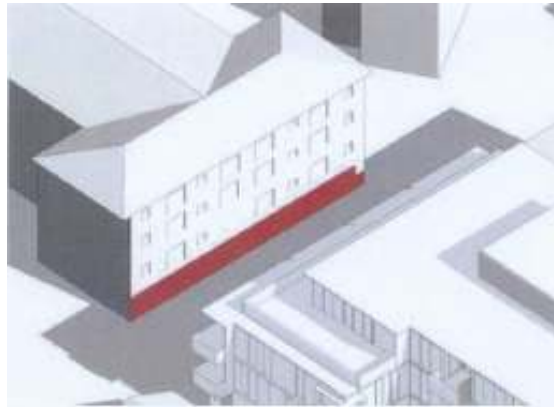


Figure 7 – Overshadowing on 97 Cabramatta Road – 12pm, 21 June

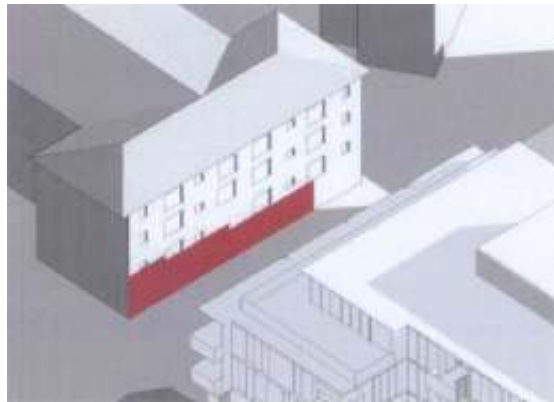


Figure 8 – Overshadowing on 97 Cabramatta Road – 3pm, 21 June

The proposal complies with Council's minimum solar access requirements and subject to conditions the development contains sufficient energy efficient initiatives.

Site Management and Excavation

This has been discussed in the excavation section relating to MLEP 1998. Usual Council conditions in relation to minimising the impacts on neighbour amenity during construction are included within the recommendation.

Stormwater Management

Council's Development Engineer has reviewed the proposed development including the proposed stormwater and rainwater treatments and has advised that the development is acceptable, subject to recommended conditions.

Ongoing Waste Management

The proposal was accompanied by a waste management plan. Recommended conditions of consent ensure the prescribed waste management measures are adhered to.

The proposal includes a bin enclosure adjacent to Lindsay Lane and within the visitor car park area. The plans submitted with the application nominate this bin enclosure as containing 30x 240L waste bins. The location of the bin enclosure adjacent to the rear lane is appropriate with regard to waste collection and is suitably integrated with the building.

Demolition and Construction Waste

Usual Council conditions in relation to demolition of the building and the associated management of construction waste are included within the recommendation.

5.3.2 Mosman Transport Development Control Plan (MTDCP)

Section 1.7 of the MTDCP states:

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.

As the proposal relates to a complete redevelopment of the site, the proposal is expected to satisfy all relevant provisions of the MTDCP.

Vehicular Access

The site has frontage to Glover Street and a secondary frontage to Lindsay Lane. In accordance with the desired character of the Cremorne Business Centre contained with Section 4.6 of MBCDCP, rear lane vehicular access is encouraged. The proposed development satisfies this requirement.

Lindsay Lane is approximately 6.2m wide. The laneway receives regular traffic from vehicles gaining access to the residential dwellings on Cabramatta Road and Glover Street and from the commercial development and Childcare Facility within the vicinity of the subject site.

The majority of objections in relation to the development application are based around concern on additional traffic loads on Lindsay Lane and the proposal's shortfall in meeting parking requirements. In this regard traffic impacts are assessed as reasonable. Relevant comments from Council's Traffic Engineer can be viewed in Section 6.0 of this report. In addition the applicant has submitted supporting information proposed by a traffic consultant using a recognised intersection analysis program as set in the RTA Guide which concludes that the proposal would result in an increase of 1 – 3 vehicles per hour when compared to the existing use. In this context the proposed vehicular access arrangements and additional traffic loads are assessed as satisfactory.

Car parking

Section 2 of the MTDCP requires that parking facilities should be provided in accordance with the rates and requirements specified in table 2.2 of MTDCP. The minimum car parking requirements for the proposed development is outlined in the table below

Type of Space	Rate	No. of required spaces	No. of proposed Spaces	Complies
Car Parking Spaces	1 space per each 1 bedroom dwelling 1.2 spaces per each 2 bedroom dwellings	22 spaces 15.6 spaces Total required = 37.6	 Total proposed = 39	Yes
Visitor Parking Spaces	1 visitor space per 4 dwellings	8.75 spaces	8 spaces	No
Motor Cycle Parking	1 space per 25 dwellings	1.4 spaces	2 spaces	Yes
Bicycle Parking	1 space per 4 dwellings	8.75 spaces	10 spaces	Yes
Disabled Parking	Required in conjunction with accessible unit and relevant Australian Standards.	Width 3.8m Length 5.5m Height 2.5m	Width 3.8m Length 5.5m Height 2.8m	Yes
Car Wash Bay	1 bay per 12 dwellings	2.9 car wash bays	3 (visitor spaces may be utilised)	Yes

The proposed development complies with Council's car parking guidelines with the exception of the visitor car parking spaces. Section 2.1 of the MTDCP states that requests for variations to the parking rates must be appropriately justified and in this regard a Traffic Report by Colston Budd Hunt & Kafes Pty Ltd has been submitted in support of the application.

In considering a variation, Council must have regard to the merits of the application, and in particular, the points listed within Section 2.1 of MTDCP. In this regard the proposed visitor space shortfall and the provided parking in general is assessed as reasonable for the following reasons:

- The site has good access to public transport associated with the nearby transport nodes of Cremorne and Military Road.
- While it is noted that there are numerous resident concerns with regard to existing car parking in the vicinity, the amount of car parking on site complies with Council guidelines with the exception of a 0.75 shortfall which in itself is assessed as negligible.
- Council officers and the applicant's consultant are satisfied that additional traffic on Lindsay Lane is reasonable.
- The additional movements of 1 -3 vehicles per hour will not cause unreasonable congestion or safety impacts.
- The redistribution of 1 resident space to a visitor space while possible is not assessed to be of particular benefit in the context of there being recommended a minimum allocation of parking for each proposed dwelling.

To ensure an appropriate distribution of parking spaces within the development, a condition is included in the recommendation which requires at least 1 car space to be allocated to each dwelling. Subject to recommended conditions, the car parking provision and impact on the surrounding road network is assessed as reasonable.

5.3.3 Mosman Section 94 Development Contributions Plan 2006

The application gives rise to a Section 94 contribution of \$383,254.00 in accordance with Council's Section 94 Plan which prescribes a payment of \$9,753.00 per each 1 bedroom dwelling and \$12,976.00 per each 2 bedroom dwellings (for multiple dwellings).

5.4 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

Applicable regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection may be addressed by appropriate consent conditions in the event of an approval.

6.0 COMMENTS FROM COUNCIL DEPARTMENTS OR STATE AUTHORITIES

Council's Landscape Architect raised no objection subject to conditions and made the following comments:

No trees are proposed for removal.

Conditions recommended by Council's Landscape Architect are included within the recommendation.

Council's Development Engineer raised no objection subject to conditions.

Conditions recommended by Council's Development Engineer are included within the recommendation.

Council's Heritage Advisor raised no objection subject to conditions and made the following comments:

The proposal has no more adverse impact than what is presently on this site. The site marks the boundary between the residential and commercial areas and there is no transitional character, however the proposal maintains an acceptable separation from the adjoining residential development. I do not consider that heritage would be a determinative factor in this assessment.

Council's Building Surveyor raised no objection subject to conditions and made the following relevant comments:

The development does not meet deemed-to-satisfy requirements of the BCA. However BCA provisions do not form part of the development assessment and a performance review would need to be considered at CC stage.

Conditions recommended by the Area Building Surveyor are included in the recommendation.

Council's Environmental Health Officer raised no objection subject to conditions.

Conditions recommended by Council's Environmental Health Officer are included in the recommendation.

Council's Traffic Engineer made the following relevant comments:

I have reviewed the application and advise that the present commercial developments car park has a capacity of 57 spaces accessed from Lindsay Lane. It is proposed with the redevelopment of the site for residential use, to reconfigure the car park to provide 47 spaces accessed from Lindsay Lane. The additional traffic movements, if any, in Glover Street, Lindsay Lane and Glover Lane due to the redevelopment of the site will not be significant.

Conditions recommended by Council's Traffic Engineer are included within the recommendation.

Energy Australia raised no objection, subject to conditions and made the following relevant comments:

I wish to advise that Energy Australia has no objection to the development at 100 Glover St, Mosman proceeding at this stage.

Conditions recommended by Energy Australia are included within the recommendation.

7.0 PUBLIC NOTIFICATION AND SUBMISSIONS

The application was notified between 11 February 2010 and 26 February 2010. The application was renotified between 19 March 2010 and 17 April 2010 due to the revised Capital Investment value and the need for the Joint Regional Panel to determine the application.

Twenty Three (23) submissions were received from or on behalf of the following properties:

- 307/2 Macpherson Street;
- 214/2 Macpherson Street
- 110 Glover Street;
- 104 Glover Street;
- 94 Glover Street ;
- 90 Glover Street ;
- 88 Glover Street;
- 1/86 Glover Street;
- 2/86 Glover Street
- 3/86 Glover Street
- 84 Glover Street
- 82 Glover Street;
- 81 Glover Street;
- 4/81a Glover Street
- 5/81a Glover Street;
- 7/81a Glover Street;
- 76 Glover Street;
- 74 Glover Street;
- 72 Glover Street;

- 69 Glover Street;
- 66 Glover Street;
- 66a Glover Street;
- 60 Glover Street;

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

- View loss from 2 Macpherson Street. Request to have the building no higher than the existing building on site;

Comment: The impact on views is addressed in Section 5.2.7 of this report.

- Overshadowing;

Comment: This is addressed in the assessment pertaining to energy efficiency and solar access within Section 5.3.1 of this report.

- Privacy impacts to 94 Glover Street;

Comment: This is addressed in the assessment pertaining to privacy and security within Section 5.3.1 of this report.

- Lack of car parking on site and the exacerbation of the existing lack of car parking in the vicinity of the site;

Comment: This is addressed in Section 5.3.2 of this report.

- Loss of heritage value to 94 Glover Street;

Comment: This is addressed in the assessment pertaining to Heritage within Section 5.2.7 of this report. Please also refer to comments from Councils Heritage Advisor within Section 6.0 of this report.

- Congestion from increased vehicular access on Lindsay Lane;

Comment: This is addressed in Section 5.3.2 of this report.

- Increased use of Lindsay Lane and concern for children being picked up from the nearby Childcare Centre;

Comment: This is addressed in Section 5.3.2 of this report.

- Visual impact of the proposal in the streetscape and development too large;

Comment: The proposal has been amended to comply with Councils floorspace ratio development standard. The height and streetscape presentation of the building has been assessed as reasonable.

- Interruption to traffic flow and impacts due to construction;

Comment: Conditions of consent are included within the recommendation requiring a Construction Management Plan to ensure that construction vehicles do not adversely interrupt traffic flows in the construction phase of the development.

- Eastern elevation does not comply with the 45 degree angle setback;

Comment: The proposed siting of the building has been assessed as reasonable. Please refer to Section 5.3.1 and Figure 5.

- Fire stairs do not comply with 12m height limit;

Comment: The amended scheme has deleted the fire stairs from the scheme.

- The traffic report does adequately assess traffic flows.

Comment: The applicant provided Council with further information detailing that the traffic analysis program within the submitted Traffic Report was a recognised intersection analysis program as set in the RTA guide.

- The traffic report should be viewed by the RTA as per SEPP 11;

Comment: SEPP 11 has been repealed.

- Concern from a number of residents in Glover Street and Cabramatta Road who use Lindsay Lane who were not notified of the development application;

Comment: The application was notified to a total of 291 recipients both within the Mosman Local Government Area and the North Sydney Local Government Area. The application was notified to 26 dwellings on Cabramatta Road, it being noted that no submissions from dwellings on Cabramatta Road have been received. Nos. 84 through to 72 Cabramatta Road were not formally notified of the proposal however notwithstanding this Nos. 84, 82, 76, 74 and 72 Glover Street lodged objection to the proposal. In accordance with usual practice the application is notified in the local newspaper and the site included two "Development Proposal" signs on the Glover Street and Lindsay Lane frontage for the duration of the notification.

8.0 CONCLUSION

The proposed development has been assessed against the relevant planning guidelines and policies and is recommended for approval, subject to conditions.

9.0 APPLICATION DETAILS

The applicant is Charter Hall. The owner is Trust Company Limited. The estimated CIV is \$12,249,502.00.

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

RECOMMENDATION

That Development Application No. 8.2010.18.1 be approved subject to the following conditions:

APPROVED PLANS AND DOCUMENTATION

1. The development must be carried out in accordance with the following stamped approved plans and documentation, except where amended by later conditions of consent:

Plan Nos.	Date of plan	Prepared by
Survey – Reference No. 090808 Issue A, Sheet 1 of 2 Sheets, and Survey Reference No. 090808, Sheet 2 of 2 Sheets.	11 September 2009	Denny Linker & Co
da00 – Revision B, 10 – Revision B, da11 – Revision B, da12 – Revision B, da13 – Revision B, 14 – Revision B, da15 – Revision B, da16 – Revision B, da21 – Revision B, da22 – Revision B, da31 – Revision B, da32 – Revision B, and da81 – Revision A.	7 June 2010	Crone Partners Architecture Studios,
Sk01 – Revision C	7 June 2010	Oculus
SW-000 Issue 01, SW-100 Issue 01, SW-101 Issue 01, SW-102 Issue 01, SW-103 Issue 01, SW-104 Issue 01, SW-105 Issue 01, SW-106 Issue 01, SW-107 Issue 01, SW-108 Issue 01, and SW-109 Issue 01.	27 January 2010	Steve Paul & Partners

Document title	Date of document	Prepared by
Statement of Environmental Effects	December 2009	Sk Design
Design Verification Statement	10 December 2009	Bob Stepheson of Crone Partners Architecture Studios
Arborist Assessment	September 2009	Botanics, Tree Wise People Pty Ltd
Noise Traffic Assessment – Version A	November 2009	Wilkinson Murray Pty Ltd
Building Code of Australia Report	1 December 2009	McKenzie Group Consulting Pty Ltd
Traffic Report	November 2009	Colston Budd Hunt & Kafes Pty Ltd
BASIX Certificate	12 November 2009	Applicant
Assessor Energy Certificate	11 November 2009	Applicant

(ABSA)		
Waste Management Plane	14 January 2010	Anna Williamson
Letter from sk Design	9 June 2010	Stephane Kerr of sk Design
Letter from Colston Budd Hunt & Kafes Pty Ltd	4 June 2010	Tim Rodgers of Colston Budd Hunt & Kafes Pty Ltd
Crime Prevention Through Urban Design Report	June 2010	Elton Consulting

PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE

The following conditions must be satisfied prior to the release of the Construction Certificate.

Conditions may require the submission of additional information with the Construction Certificate application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.

A Certifying Authority must not issue a Construction Certificate for development on a site which affects an existing building unless a Council, a Consent Authority or an Accredited Certifier has carried out an inspection of the building.

Car Parking

2. To ensure an appropriate distribution of car parking, at least eight (8) visitor car spaces shall be provided and at least one (1) car space shall be allocated to each dwelling within the proposal. Details are to be included in the Construction Certificate application.

Acoustic Certification for Construction

3. To ensure reasonable acoustic amenity for surrounding properties is maintained works are to be carried out in accordance with the requirements of the NSW Interim Construction Noise Guideline for building sites. Certificate from a suitably qualified acoustic consultant shall be submitted with the Construction Certificate application.

Noise Impact Statement

4. A Noise Impact Statement must be prepared by a certified Acoustic Consultant. The Noise Impact Statement shall contain but not be limited to the following matters:
 - a. the identification of sensitive noise receivers potentially impacted by the proposal;
 - b. the quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and in accordance with the relevant Australian Standards and the NSW EPA requirements);
 - c. details of any acoustic control measures that will be incorporated into the proposal;
 - d. the formulation of suitable assessment criteria;

- e. the identification of all noise that is likely to emanate from items of plant and other movable equipment including gates roller doors security items and the subsequent prediction of resultant noise at the identified sensitive receiver locations from the operation of the premises;
- f. a statement certifying that the development is capable of operating without causing a nuisance.

Waste Management

- 5. A Waste Management plan for the management and removal of waste and recyclable material must be provided to Council for approval by the Manager Environment & Health prior to the construction certificate being issued.

Construction Certificate Application Plans

- 6. Two copies of architectural and Structural Engineer's plans must be submitted with the Construction Certificate application. The structural engineering plans must be signed by a qualified practicing Structural Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field.

The plans are to incorporate and note any changes from the approved development application plans as required by conditions of this consent.

For applications involving alterations and additions, one set of plans should be coloured which indicate the extent of new works.

Dilapidation Report – Council Assets

- 7. To assist with an assessment of claims for the refund of the security deposit over Council's property, a dilapidation report must be submitted. The dilapidation report shall be submitted as a PDF in Adobe format or in A4 format. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development. Any damage not shown in this manner will be assumed to have been caused as a result of the site works undertaken and must either be rectified at the applicant's expense or compensated by deduction from the security deposit.

Dilapidation Report – Private Assets

- 8. The applicant shall supply Council with a dilapidation report for the adjoining properties at 96 Glover Street and 102 Glover Street which documents and photographs the condition of buildings and improvements on those properties. The dilapidation report shall be submitted as a PDF in Adobe format or in A4 format. The report will be held by Council and will be made available in any private dispute between the neighbours regarding damage arising from site and construction works.

Excavation, Backfilling and Support for Neighbouring Buildings

- 9. Excavation works shall not commence prior to the issue of the Construction Certificate or the issue of any relevant notices to adjoining owners, the Principal Certifying Authority or Council as required by other conditions of this consent.

10. A report shall be prepared by a practicing Geotechnical Engineer and submitted to Council or the Accredited Certifier detailing the structural condition of adjoining structures / property and their ability to withstand the proposed excavation, backfilling and construction. The report must investigate site and soil conditions and outline any recommended measures to ensure that no damage will occur to the structures / property during or subsequent to the carrying out of works.

Retaining Walls

11. If soil conditions require it, retaining walls or other approved methods necessary to prevent the movement of soil, together with associated stormwater drainage measures, shall be designed by a civil engineer or other appropriately qualified person. Details of any retaining walls shall accompany plans and specifications submitted with the Construction Certificate application.

Council Property

12. A Structural Engineer shall certify that plans submitted with the Construction Certificate application provide for the garage and driveway being structurally separate and non reliant on the retaining wall supporting Council's road and further that the integrity of support for Council's road will either not be interrupted during site works or will be supplemented where necessary by temporary support, full details of which shall be supplied with the application.

Drainage

13. To prevent constant flows of water into private property, Council's street gutters or across Council's roads, any sub-soil drainage disposal system to be installed on this site must be connected directly to a Council gully pit or pipe. If a suitable gully pit or pipe is not located near the subject property, an alternate method of disposal must be submitted to Council and approved.

Rainwater Re-use System/On-site Detention

14. Having regard to hard surface areas proposed, the capacity of the stormwater system and the need to retard the flow of stormwater in peak flow periods, an on-site detention system shall be provided. Detailed plans shall be submitted with the Construction Certificate application and certified as complying with Council's policy for Stormwater Management in Mosman by a Civil Engineer with corporate membership of the Institute of Engineers Australia or who is eligible to become a corporate member and has appropriate experience and competence in the related field. Where located below a driveway or built structure, the engineer is to certify that the on-site detention system has been designed to withstand all loads likely to be imposed on it.

Alternatively the applicant has the option to utilise rainwater re-use tanks in lieu of or in conjunction with on-site detention tanks. Rainwater re-use tanks can be used to offset the volume requirements of the on-site detention tanks in accordance with Council's policy for Stormwater Management in Mosman. The offset ratio for OSD to rainwater tanks is: 1 cubic meter of OSD is equivalent to 3 cubic meters of rainwater storage. It should be noted that these tanks are to be at a minimum connected to the toilet and washing machine to achieve this offset.

Sydney Water

15. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect any Sydney Water

assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. Please refer to the web site www.sydneywater.com.au or telephone 13 20 92 for:

- Quick Check agents details – see 'Building, Developing and Plumbing' then 'Quick Check' or;
- Guidelines for building over / adjacent to Sydney Water assets – see 'Building, Developing and Plumbing' then 'Building and Renovating'.

The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate.

Driveway

16. The internal driveway and parking area shall be designed in accordance with Australian Standard 2890.1-2004 and specifications in Council's *Transport Development Control Plan*. Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway shall be provided with the Construction Certificate application demonstrating that vehicles will not scrape their undercarriage.

Materials & Finishes

17. Materials and finishes shall be complimentary to the character and streetscape of the area. Highly reflective roofing materials shall not be used. Details of finished external surface materials, including colours and texture, must be submitted to the satisfaction of Council or the Accredited Certifier.

Access, Mobility & Adaptable Housing

18. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1, shall be provided between the entrance to the premises and any disabled car parking space. Details demonstrating compliance must be submitted with the Construction Certificate.
19. To provide accommodation suitable for people with disabilities, the ground floor units must be designed as adaptable dwellings in accordance with Australian Standard 4299 and the Building Code of Australia.

BASIX Certificate

20. Where any conditions of this consent affect the commitments specified in the submitted BASIX Certificate, a revised BASIX Certificate is to be prepared to ensure energy efficiency targets are still achieved.

Fire Safety

21. To enable the issuing of a fire safety schedule, information required by clause 168(3) of the *Environmental Planning & Assessment Regulation 2000* must be submitted with the Construction Certificate application.

Long Service Levy

22. In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant shall pay a long service levy at the prescribed rate

of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Mosman Municipal Council for any work costing \$25,000 or more. To pay the levy online go to <https://levy.lspc.nsw.gov.au/>.

Security Deposit

23. A cash deposit or bank guarantee to the value of \$5,000 in favour of Council shall be provided for the making good of any damage caused to Council property and to ensure the satisfactory completion of any works required to be undertaken outside the property boundary. A request for a refund of unused funds (less an inspection fee) may be made following the completion of all works, both inside and outside the property boundary, and an inspection of the site by Council.

Section 94 Contribution

24. Pursuant to Section 94 of the Environmental Planning & Assessment Act 1979, a monetary contribution of \$383,254.00 towards the acquisition and embellishment of public open space as outlined within Part C of the *Mosman Section 94 Development Contributions Plan 2006* shall be paid to Council.

This condition is imposed under Mosman Municipal Council's Section 94 Development Contributions Plan 2006. The Plan may be inspected at Council's offices within the Civic Centre, Mosman Square, Mosman.

Note: Contribution rates will be indexed by use of the Consumer Price Index and the actual amount to be paid will be determined at the date of payment. You may contact Council on 9978 4111 prior to payment to confirm current figures.

Construction Traffic Management Plan

25. To minimise disruption to and ensure reasonable safety for surrounding public and private property during site works, a Construction Traffic Management Plan shall be submitted to and adopted by Council's Traffic Committee. The plan is to address matters raised in *Council's Guide for Construction Traffic Management Plans* which is available in Appendix 4 of Council's *"Transport Development Control Plan"*.

Notes:

- (a) Council's Traffic Committee meets once every two months. To avoid delays in the commencement of works early lodgement is recommended;
- (b) An application fee of \$500 per site for Construction Traffic Management Plans applies. When assessment is required within 7 days, the required fee is \$1,500 per site; and
- (c) Fees will be indexed by use of the Consumer Price Index and the actual amount to be paid will be determined at the date of payment. You may contact Council on 9978 4111 prior to payment to confirm current figures.

Structural Certification

26. Certification shall be provided from a qualified practicing Structural Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field that the basement carpark of the existing building that is shown to be retained on the

approved plans, can be retained, and that these components will withstand the proposed additional loads.

PRIOR TO THE COMMENCEMENT OF SITE WORKS

The following measures must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.

Notice of Intent to Commence Site Works

27. In accordance with Section 81A(2) of the *Environmental Planning and Assessment Act 1979*, no site works (including building works, demolition, excavation or the removal of vegetation) are to commence until:
- (i) the Construction Certificate has been issued;
 - (ii) the person benefiting from the consent has appointed a Principal Certifying Authority (PCA) by way of completing Form 7A (attached at the end of the consent);
 - (iii) in instances where Council is not the PCA, the PCA has, no later than 2 days before the building work commences, notified Council of his or her appointment by way of forwarding a completed copy of Form 7A and notified the person benefiting from the consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work by way of completing Form 7B (attached at the end of this consent). In instances where Council is the PCA, Council has completed Form 7B if necessary and forwarded it to the person benefiting from the consent.
 - (iv) the person benefiting from the consent, if not carrying out the work as an owner-builder, has (by way of completing Form 7C):
 - appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved; and
 - notified the PCA of any such appointment; and
 - unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
 - (v) the person benefiting from the consent has given Council at least 2 days' notice of the person's intention to commence the erection of the building by way of completing Form 7D.

Home Building Act

28. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work to be done by the holder of a contractor licence under that Act:
 - (i) the name and licence number of the contractor; and
 - (ii) the name of the insurer by whom the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by the holder of an owner-builder permit under that Act, the name and permit number of the owner-builder.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Construction Hoarding or Fencing

29. If site or building works will:
- cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or
 - have the potential to damage adjoining private land by way of falling objects

then a temporary hoarding or fence must be erected prior to the commencement of works between the work site and the adjoining area to the following standards:

- (a) if adjoining public land it shall be covered in cyclone wire mesh to discourage the graffiti
- (b) the toe of the hoarding fence or its supporting structure must not protrude onto Council land including footpath areas so as to avoid a trip hazard
- (c) the hoarding fence must be securely fixed to withstand strong winds
- (d) the fence must have only one point of entry which must correspond with the vehicle crossing and have inward opening gates or gates which are removable and fitted with a locking device
- (e) the hoarding/fence must have no protruding bolts nails or similar devices which may cause injury.

The hoarding/fence must be removed when the work has been completed.

Where construction requirements or site constraints necessitate the hoarding or fencing being located on Council land, a Footpath/Nature Strip/Roadway Occupation form is to be lodged with Council and all fees paid prior to the hoarding/fencing being erected. (A copy of the form is available on Council's website.)

Hoarding or fencing on Council land must maintain a minimum of 1500 clear footpath width at all times (lesser distances may be considered in exceptional circumstances).

Protection of Landscape Features

30. To limit the potential for damage to the trees to be retained, tree protection measures are to be installed prior to the commencement of site works in accordance with the recommendations in the arborist report prepared by Botanics, Tree Wise People dated September 24, 2009.

Sediment & Erosion Controls

31. Temporary sedimentation and erosion controls shall be constructed prior to commencement of any site works in order to prevent the discharge of sediment from the site. The controls shall be designed and installed in accordance with the requirements of the NSW Department of Environment and Conservation's "Managing Urban Stormwater: Soils and Construction Manual Volume 1, 4th Edition March 2004". [Note: this document is now available from the Department of Planning]

Public Liability Insurance

32. Public liability insurance to the value of \$5,000,000 must be taken out by the builder or owner to protect any person, firm or company from injury, loss or damage sustained as a consequence of the carrying out of site works, including all excavation, demolition and construction works. A copy of the policy must be provided to Council or the Accredited Certifier.

DURING SITE WORKS / CONSTRUCTION

The following conditions must be satisfied during site and construction works.

Compliance with the Building Code of Australia

33. All works are to be carried out in accordance with the requirements of the Building Code of Australia.

Partial Demolition

34. All demolition work must be carried out in accordance with the provisions of *Australian Standard 2601 – 2001: The Demolition of Structures*. Demolition is not to exceed that approved under this consent and as shown on approved plans. If for structural or other reasons additional demolition and then rebuilding works are found to be necessary, consent for such works is to be obtained from Council.

Asbestos Material

35. Where asbestos material shall be removed or disturbed as a result of any proposed demolition, alteration or addition, all work must be carried out by a person licensed under Chapter 10 of the Occupational Health and Safety Regulation 2001 and undertaken in accordance with the requirements of clause 29 of the Protection of the Environment Operations (Waste) Regulation 1996. All asbestos to be removed must be disposed of at a tip recommended by the NSW Environment Protection Authority and under no circumstances shall be re-used or sold.

Signs for Building and Demolition Sites

36. A sign must be erected in a prominent position on any work site on which building work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work; and
 - (b) showing the name of the person in charge of the work and a telephone number at which that person may be contacted outside work hours; and
 - (c) stating that unauthorised entry to the work site is prohibited.

Any such sign shall be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Where Council is the nominated PCA, these signs may be purchased from Council's offices for a fee of \$25.

This condition does not apply in relation to building work or demolition work that is carried out inside, and does not affect the external walls of, an existing building.

Site Work Hours

37. In order to maintain the amenity of adjoining properties, audible site works shall be restricted to between 7.00am and 6.00pm, Monday to Friday and 8.00am to 1.00pm Saturday. Inaudible site works may also take place between 7.00am and 8.00am on Saturdays. No site works shall be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials shall not be delivered to the site outside the approved hours of site works.

Construction Hoarding or Fencing

38. Any construction hoarding or fencing is to be maintained in good order throughout the life of the fence.

Shoring and Adequacy of Adjoining Property

39. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must at the person's own expense:
- (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
40. All excavations and backfilling shall be limited to that required in accordance with the approved plans only and must be executed safely and if necessary properly guarded in accordance with appropriate professional standards to prevent them from being dangerous to life or property. At least 7 days before excavating, give notice of an intention to excavate to the adjoining owner and furnish particulars to the owner of the proposed work.

Sediment & Erosion Controls

41. Sedimentation and erosion controls must be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
42. All stormwater runoff must be intercepted and diverted from areas susceptible to erosion through temporary earth banks or other drainage methods. The diversion is not to direct waters onto adjoining properties.

Dust Control

43. Appropriate measures (e.g. fine water spray) shall be employed during demolition, excavation and construction works to prevent the emission of dust and other impurities into the surrounding environment. All such measures shall be co-ordinated with site sedimentation controls to ensure polluted waters do not leave the site.

Landfill

44. Any fill material imported to the site shall consist of virgin excavated natural material as defined by the Protection of the Environment Operations Act 1997 or be covered

by a Resource Recovery Exemption from the Department of Environment and Climate Change.

Council Property

45. The land and adjoining areas shall be kept in a clean and tidy condition at all times. No construction vehicles, building materials, waste, machinery or related matter shall be stored on the road or footpath for the duration of works unless separate approval has been obtained from Council's Traffic Committee for the establishment of a Construction Zone. Under no circumstances will any person be allowed to mix or dispose of concrete, mortar or slurry within Council property.
46. Any works carried out to Council owned property or Infrastructure as a result of this consent are to be undertaken in accordance with Council specifications; i.e "Specification For Concrete Kerb & Gutter, Footpaths, Vehicle and Kerb Crossings & Concrete Converters", "Public Domain Improvement Program", "Specification For Brick Paving", "Specification For Stormwater Drainage Construction" or "Specification For Asphalt Pavement Construction".

Construction Traffic Management Plan

47. All works and traffic movements must be carried out in accordance with the approved Construction Traffic Management Plan. A copy of the Plan must be kept on site at all times and made available to the PCA or Council officers on request.

Drainage

48. Stormwater shall be directed to the street gutter. All drainage works shall be constructed in accordance with Council's "*Stormwater Management in Mosman*".

Rainwater Re-Use System

49. To ensure proper installation of the rainwater re-use tank, all work is to be undertaken in compliance of Sydney Water's "Guidelines for Rainwater Tanks in Residential Properties" and "Rainwater Tanks, Information For Plumbers" and the NSW Code of Practice: Plumbing and Drainage. A licensed plumber must supervise all plumbing work.
50. For safety purposes, the tank and the fittings must be labelled 'RAINWATER, NOT SUITABLE FOR DRINKING'.
51. For health reasons, a first-flush-by-pass device must be installed allowing the first 1mm of initial runoff to bypass the tank.
52. For health reasons, in the occurrence of prolonged periods of rain any overflow from the rainwater tank should be discharged via an existing stormwater drainage system or to a Council approved device such as an on-site detention system. This pipeline must be covered with an insect proof mesh to prevent the breeding of mosquitoes.
53. Any mechanical equipment associated with the rainwater re-use tank and associated reticulation system shall be located in a sound proof container and positioned so that there is no increase in noise level at any point on the boundary with another property, including a public place.

Utility Services

54. To reduce the extent of overhead cabling, all low voltage distribution and service mains to the development must be underground for the full length of the service both inside and outside the property boundary.

Driveway

55. The levels at the boundary alignment of the property along the Lindsay Lane frontage shall be defined by the existing levels.

Car Parking

56. To ensure reasonable safety and manoeuvrability, all parking dimensions and access aisles must satisfy the requirements of Australian Standards 2890.1-2004 and Council's Transport Development Control Plan including, where applicable, dimensions for any disabled parking spaces.

NB: The Principal Certifying Authority may require a compliance certificate from a qualified architect, engineer or town planner certifying that this condition has been satisfied.

Materials & Finishes

57. The finished external surface materials, including colours and texture of any building and/or hard paved areas, shall blend with the surrounding environment and shall be non-reflective.
58. External materials and colour finishes shall be in accordance with the sample submitted to Council with the development application.

Protection of Landscape Features

59. All natural landscape features including trees and other vegetation, natural rock outcrops, soil and watercourses shall remain undisturbed except where affected by necessary works detailed on approved plans.

To minimise impacts upon trees to be retained, no permanent fill or storage of building materials, excavated fill or topsoil during site works shall take place within their driplines.

60. To minimise disturbance to the trees to be retained, for the duration of site works the tree protection measures recommended in the arborist report prepared by Botanics, Tree Wise People dated September 2009 are to be maintained in good order.

Tree Preservation

61. All street trees and trees on private property that are protected under Mosman Council's Tree Preservation Order 2003, shall be retained except where Council's prior written consent has been obtained, or where after approval of the relevant Construction Certificate, trees stand within the envelope of approved buildings or within the alignment of approved permanent paved vehicular access roads and parking areas.

Leighton Green Cypress

62. To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity, Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, shall not be planted on the site for the life of the development. Further information on Leighton Green Cypress may be obtained from Council or viewed on its web site at <http://www.mosman.nsw.gov.au> and then under "Environment" and "Trees". In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Weeds

63. For the duration of site works all noxious and environmental weeds shall be removed and managed. A list of noxious weeds and environmental weeds may be obtained from Council or viewed on its web site at <http://www.mosman.nsw.gov.au> and then under "Environment" and "Weeds".

BASIX Certificate

64. To promote energy efficiency, the development is to be carried out in accordance with the commitments contained in the BASIX Certificate dated November 12, 2009.

Siting, Height and View Loss

65. To ensure that siting, height and view loss objectives are achieved, all wall locations, finished floor levels and ridge levels must be in accordance with that approved under this consent.

NB: The Principal Certifying Authority may require a compliance certificate from a registered surveyor prior to the pouring of a concrete floor or the fixing of roof cladding to verify compliance.

Acoustic

66. To ensure reasonable acoustic amenity is maintained, all recommendations made in the acoustic report prepared by Wilkinson Murray Pty Ltd dated November 2009 accompanying the application which require specialised acoustic treatment of the building shall be complied with and maintained.

Lighting

67. To maintain amenity for adjoining properties, all external lighting installed shall comply with *Australian Standard 4282 – 1997 'Control of the obtrusive effects of outdoor lighting'*.

Toilet Facilities

68. To provide reasonable worker amenity, toilet facilities shall be provided at or in the vicinity of the work site for the duration of site work activities.

Waste Storage Area

69. To improve environmental sustainability the waste storage area shall make provision for dry recycling systems and services. For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards:

- Floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface;
- Walls must be constructed with solid impervious material and shall be cement rendered internally to a smooth even steel trowelled surface;
- All intersections between the walls and floors shall be coved with coving having a minimum radius of 25mm;
- All entry points into the room must be bunded to prevent the escape of liquid waste. Bunding shall be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users;
- Adequate ventilation shall be provided;
- Adequate lighting shall be provided;
- The ceiling must have a minimum height of 2.1m from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned;
- Waste storage areas shall prevent the access of vermin;
- Waste receptacles used shall be compatible with Mosman Council's waste collection service;
- The door to the storage area shall be weatherproof and shall be openable from the inside at all times;
- Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.

Waste Management

70. Building materials shall be re-used, recycled or disposed of in accordance with the Waste Management Plan submitted with the application.

Local Government Act 1993

71. This consent does not authorise the carrying out of any of the following activities which require the separate approval of Council under Section 68 of the *Local Government Act 1993*:

- Place a waste storage container in a public place
- Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

Note: A person who fails to obtain an approval or who carries out an activity otherwise than in accordance with an approval is guilty of an offence under Sections 626 and 627 of the *Local Government Act 1993*.

Approved Plans

72. A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

Critical Stage Inspections

73. To ensure building works are carried out properly and in accordance with the conditions of this consent, with the Building Code of Australia and/or with relevant Australian Standards, the following critical stage inspections are to be carried out:
- prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - prior to covering any stormwater drainage connections, and
 - after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
 - prior to covering any stormwater drainage connections, and
 - after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
 - after excavation for, and before the placement of, any footings

The critical stage inspections must be carried out by the Principal Certifying Authority (PCA), or if the PCA agrees, by another certifying authority excepting the final inspection which must be carried out by the PCA.

Notes: Records of the above critical stage inspections will be required to be submitted prior to the release of the Occupation Certificate – see later conditions of consent.

If you intend engaging Council to undertake the inspections, please telephone the area Building Surveyor to arrange a suitable time.

PRIOR TO THE RELEASE OF THE OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to the issue of the Occupation Certificate.

Commercial Waste and Recycling Removal

74. A copy of the Commercial Waste Removal and Recycling Removal agreement shall be submitted to Council, prior to the issue of an Occupation Certificate.

Operation of Plant Equipment

75. The operation of mechanical plant or other plant items must be in accordance with the criteria stated in condition 93 – During Occupation of Environment Health Assessment Report.

Record of Inspections Carried Out

76. In accordance with clause 162B of the *Environmental Planning and Assessment Regulation 2000*, the certifying authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. Where Council is not the PCA, the PCA is to forward a copy of all records to Council.

The record must include details of:

- The development application and construction certificate number;
- The address of the property at which the inspection was carried out;
- The type of inspection;
- The date on which it was carried out;

- The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

Car Parking

77. Parking spaces must be line marked and allocated to units and visitor parking. Allocation shall be in accordance with condition 2 of this.
78. Parking and manoeuvring areas shall be used solely for such purposes.
79. In order to avoid vehicular conflict, the ingress and egress crossings shall be suitably signposted.

BASIX Certificate

80. A Certifying Authority must not issue an Occupation Certificate (whether interim or final) unless it is satisfied that each of the BASIX commitments has been fulfilled. For the purpose of satisfying itself as to the fulfilment of any such commitment, a certifying authority may rely on the advice of any properly qualified person.

Within 2 days after issuing a final Occupation Certificate for a building, the Certifying Authority must apply to the Director-General for a BASIX completion receipt with respect to that building or part.

Further information on BASIX may be obtained from Council or viewed on its web site at <http://www.mosman.nsw.gov.au> and then under “Building and Development” and “Energy Efficiency”.

Car Parking

81. 3 car wash spaces must be provided which shall be graded to an internal drainage point, connected to a Sydney Water Sewer and have access to a water supply. When not in use for washing car, the spaces may be used for visitor parking. Car wash bays are not to be used for engine degreasing or mechanical repairs and must be signposted accordingly.

Bicycle Parking

82. To encourage and promote the use of sustainable transport modes, secure bicycle parking/storage must be provided to accommodate 9 bicycles. The facility must be provided in a suitable location which allows safe and easy access and should be designed and installed in accordance with *AS 2890.3-2004 – Parking Facilities – Bicycle Parking Facilities*.

On-Site Detention/Rainwater Re-use System

83. So as Council has accurate records of the stormwater system to aid with catchment management functions, work-as-executed details of the on-site detention system or rainwater re-use tanks prepared by a Civil Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field, demonstrating that the required storage and discharge volumes have been constructed in accordance with the design requirements and Council’s policy for Stormwater Management in Mosman are to be provided to Council. The details must show the invert levels of the on-site detention

system or rainwater re-use tanks as well as the pipe sizes and grades. Any variations to approved plans must be shown in red and supported by calculations.

84. To ensure that future owners are made aware of their responsibilities with respect to the on-site detention system or rainwater re use tanks, a positive covenant shall be created on the title of the allotment requiring that the owner(s) maintain and keep in working order the on-site detention system or rainwater re use tanks, unless otherwise approved in writing by Mosman Council.

A fee of \$110.00 applies (GST-inclusive) for the checking, approval and execution of the Positive Covenant by Council and must accompany the Positive Covenant when lodged with Council.

The terms of the positive covenant shall read:

- (i) In this Positive Covenant “detention system or rainwater re-use system” shall mean the detention system or rainwater re-use system approved by Mosman Council pursuant to Development Consent No. 8.2010.18.1 or any modification thereof approved by Mosman Council in writing.
- (ii) The Registered Proprietors will at their own expense well and sufficiently maintain and keep in good and substantial repair and working order any detention system/rainwater re-use system which exists from time to time on the land.
- (iii) The Registered Proprietors shall not remove the detention system/rainwater re-use system without the prior consent of Mosman Council.
- (iv) The Registered Proprietors hereby agree to indemnify Mosman Council from and against all claims, demands, actions, suits, causes of action, sum or sums of money, compensation damages, costs and expenses which Mosman Council or any other person may suffer or incur as a result of any malfunction or non-operation of any such detention system/rain water re-use system arising from any failure of the Registered Proprietors to comply with the terms of this Covenant.
- (v) The term “Registered Proprietors” shall include the Registered Proprietors of the land from time to time and all their heirs, executors, assigns and successors in title to the land and where there are two or more registered proprietors of the land the terms of this covenant shall bind all those registered proprietors jointly and severally.

Sydney Water

85. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorized Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the website www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application, a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate or Subdivision Certificate as applicable or whichever may occur first.

A copy of any Trade Waste Agreement required by Sydney Water shall be submitted to Council prior to the release of the Occupation Certificate.

Fire Safety

86. A final fire safety certificate prepared in accordance with Part 9 Division 4 of the *Environmental Planning & Assessment Regulation 2000* must be issued by or on behalf of the owner. Copies of both the final fire safety certificate and the fire safety schedule must be (1) supplied to Council, (2) forwarded to the Fire Commissioner and (3) prominently displayed in the building.

Consolidation

87. All allotments involved in this proposal must be consolidated into one allotment prior to the issue of the Occupation Certificate.

Street Numbering

88. The premises shall be identified by street numbering. Street numbering for the property shall be 100 Glover Street with individual dwellings ranging from 1/100 Glover Street to 35/100 Glover Street (inclusive).

PRIOR TO OCCUPATION

The following condition must be satisfied prior to occupation of the development.

Compliance Certificates and Inspection Records

89. Where Council is not the Principal Certifying Authority, a copy of any compliance certificates received by the PCA shall be forwarded to Council prior to occupation or commencement of the use.

Occupation Certificate

90. Occupation or use, either in part or full, shall not take place until an Occupation Certificate has been issued. The Occupation Certificate must not be issued unless the building is suitable for occupation or use in accordance with its classification under the *Building Code of Australia* and until all preceding conditions of this consent have been complied with.

Where Council is not the Principal Certifying Authority, a copy of the Occupation Certificate together with registration fee must be provided to Council.

DURING OCCUPATION

The following conditions must be satisfied during occupation or use of the development.

Mechanical Plant Noise

91. Noise associated with any mechanical plant must not give rise to any one or more of the following:

- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
- (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00 a.m. to 10.00 p.m. daily and 0dB above the L90 background between 10.00 p.m. and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
- (c) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

The method of measurement of vibration in (a) and sound levels in (b), (c) must be carried out in accordance with AS 2973 for vibration measurements. AS 1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

Ventilation

- 92. The premises shall be ventilated in accordance with the requirements of the Building Code of Australia (If using deemed to satisfy provisions: AS1668, Parts 1 & 2).

Landscape Maintenance

- 93. Landscaping provided shall be maintained for the life of the development. Where vegetation approved as part of this consent dies, it must be replaced with new landscaping that achieves a similar height and form to that approved under the landscape plan forming part of this consent.

Acoustic

- 94. To ensure reasonable acoustic amenity for surrounding properties is maintained, all recommendations made in the acoustic report prepared by Wilkinson Murray dated November 2009 accompanying the application which require specialised acoustic treatment with which the use must operate shall be complied with.

Fire Safety

- 95. An annual fire safety statement (and where necessary supplementary fire safety statements) prepared in accordance with *Part 9 Division 5 of the Environmental Planning & Assessment Regulation 2000* must be issued by the owner. Copies of each of the annual final fire safety statement, supplementary fire safety statements and the fire safety schedule must be (1) supplied to Council, (2) forwarded to the Fire Commissioner and (3) prominently displayed in the building.
- 96. Fire safety measures provided within the building must be maintained in good working order.

Energy Australia

The following conditions have been recommended by the Energy Australia. The applicant must ensure that the following conditions are met both in the final development and during construction:

97. Energy Australia requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres, measured by the shortest string line between housing and duct.
98. Any portion of a building, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120.
99. Access to the substation, easement, and any Right of Way must be maintained at all times.

ADVICE / NOTES

The following points are issued as advice to the applicant. They do not form conditions of the Notice of Determination.

- (i) Headings such as “Prior To The Release Of The Construction Certificate” together with bolded notes that immediately follow, form part of this Notice of Determination. Conditions under the respective headings shall be read in the context of the heading and note.
- (ii) Section 82A of the Act provides for an applicant to request Council to review its determination excepting applications made on behalf of the Crown or applications in respect of designated development, integrated development or a complying development certificate. The request for review must be made within 12 months of the date of determination or prior to appeal being heard by the Land and Environment Court. A decision on a review may not be further reviewed under section 82A.
- (iii) If you are unsatisfied with this determination, Section 97 of the Act gives you the right of appeal to the Land and Environment Court within 12 months of the determination date.
- (iv) This decision does not ensure compliance with the Commonwealth *Disability Discrimination Act 1992*. Applicants may wish to investigate their potential for liability under that Act.
- (v) The applicant shall consult with relevant public utility providers and meet any costs imposed by those providers for alterations to mains or services required as a consequence of this approval.
- (vi) This consent incorporates general terms of approval from Energy Australia.
- (vii) Other public authorities may have separate requirements and should be consulted in the following respects:
 - *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
 - *AGL Sydney Limited* for any change or alteration to gas line infrastructure;
 - *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
 - *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.

- (viii) Failure to comply with the relevant provisions of the Act and/or the conditions of this consent may result in the serving of penalty notices or legal action through the Land and Environment Court.
- (ix) In accordance with section 81A of the Act, the person benefiting from this consent is notified that if Council is engaged as the Principal Certifying Authority, critical stage inspections to be carried out will include those listed under the sub-heading "Critical Stage Inspections" in this consent. If additional inspections are required, further notice will be provided.
- (x) All references to "the Act" under this consent relate to the *Environmental Planning and Assessment Act 1979*.
- (xi) Occupants of all new dwellings approved since 1998 are not eligible to participate in Council's residential parking scheme. If a parking scheme exists in front of the property, occupants must either rely on off street parking or abide by signed parking restrictions.
- (xii) When private certifiers are registering Part 4A Certificates with Council, it is requested that plans be lodged in PDF format.
- (xiii) Following the issue of the Occupation Certificate an inspection fee of \$140.00 (per inspection) is to be paid at the Cashier's desk at the Civic Centre to ledger number 1040202.2997.028 in order to release the footpath security deposit.

Note: Fees will be indexed by use of the Consumer Price Index and the actual amount to be paid will be determined at the date of payment. You may contact Council on 9978 4111 prior to payment to confirm current figures.

- (xiv) To ensure adequate waste receptacles are provided prior to the occupation of the development Mosman Council Waste Services shall be contacted on Ph. 9978 4076 or council@mosman.nsw.gov.au.
- (xv) Sydney Water have specific requirements for the design of residential vehicle wash bays. The vehicle wash bay shall be designed in accordance with these requirements. Contact Sydney Water at www.sydneywater.com.au for further detail.
- (xvi) The applicant's attention is drawn to the requirements of the development in consultation with Energy Australia. Specifically the applicant is to consult with Energy Australia in the demolition process to ensure that the existing distributor supply to the site is safely disconnected. In addition the reconnection of the supply must also be undertaken in consultation with Energy Australia via the standard *Application for Connection* process.

ANNEXURES

Attachment A - Photographs of the site and surrounds

Attachment B - Plans of the Proposal

Attachment C – SEPP 65 – Design Quality Principles

Attachment D - SEPP 65 - Rules of Thumb

Details for and Instructions to Admin Team:

Applicant/Address:	Charter Hall PO BOX 2704 SYDNEY NSW 2001
Owner/Address:	Trust Company Ltd Level 4, 35 Clarence Street SYDNEY NSW 2000
Other Authorities	Energy Australia 51 -59 Bridge Road HORNSBY NSW 2077 Note: if any listed, Admin are to prepare a copy of the determination and covering letter to be forwarded to that Authority
Cost of Development:	\$12,249,502.00
BCA Classification:	2 and 7 Note: if Class 2-9, Admin to attach a fire safety schedule with any consent
Concurrent CC:	No
Section 94:	Yes Note: If Yes, Admin to cross-reference the consent to the Development Assessment - Section 94 Contributions folder in Dataworks
Section 94A:	No
Site Contamination:	No
Heritage Impact Statement:	No
Total Down Days:	27
SEPP 1:	No