

**JOINT REGIONAL PLANNING PANEL  
(Sydney East)**

<b>JRPP No</b>	<b>2011SYE010</b>
<b>DA Number</b>	<b>8.2010.18.2</b>
<b>Local Government Area</b>	<b>Mosman Municipal Council</b>
<b>Proposed Development</b>	<b>Modification of consent comprising change in number of dwellings from 35 to 29, changes to dwelling mix, internal configuration, building envelope and facade</b>
<b>Street Address</b>	<b>100 Glover Street</b>
<b>Applicant/Owner</b>	<b>Applicant – Mark Monk c/ Helm Pty Ltd</b> <b>Owner – Helm No. 3 Pty Ltd</b>
<b>Number of Submissions</b>	<b>Three (3)</b>
<b>Recommendation</b>	<b>Approval with Conditions</b>
<b>Report by</b>	<b>Duncan Livingstone, Town Planner</b>

## Assessment Report and Recommendation

**TITLE:** 100 Glover Street

**DA NUMBER:** 8.2010.18.2

**PROPOSAL:** Modification of a consent comprising change in number of dwellings from 35 to 29, changes to dwelling mix, internal configuration, building envelope and facade

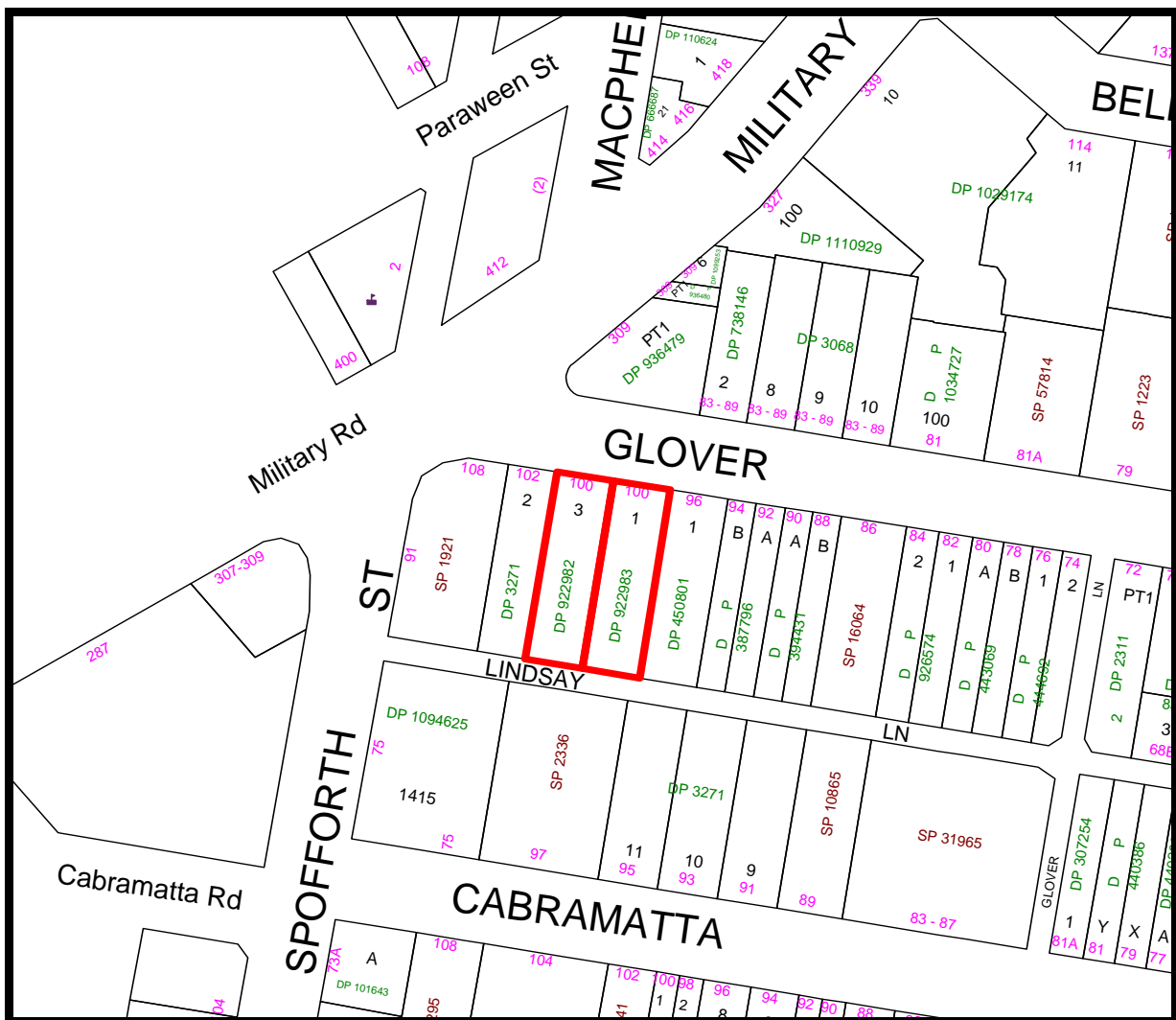
**REPORTING OFFICER:** Duncan Livingstone, Town Planner

**LODGEMENT DATE:** 5 January 2010 (Downtime 20 days)

**OFFICER'S RECOMMENDATION:** Approval with conditions

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### LOCALITY MAP



## EXECUTIVE SUMMARY

The modified development does not comply with the maximum floorspace ratio development standard. The additional floor area however is generally located within the previously approved building envelope or is not easily discerned from the public domain.

The primary issues in this application relate to an increase in the expanse of the roof area and provision for disabled access. Pursuant to requests from Council the applicant submitted a revised design which reduced the extent of roofing and included provision for disabled access at the ground floor level.

The recommendation includes a condition to further reduce the extent of roofing on the north eastern and south eastern corners of the building, its main purpose being to reduce the built form as viewed from the public domain. Additionally, it may reduce its impact on a view corridor maintained in the original approval.

Council's Senior Traffic Engineer raised concern with the sightlines of vehicles exiting from the Lindsay Lane basement carpark and non-compliance with Australian Standard AS2890.1 – 2004. Conditions of consent for a performance based solution are included in the recommendation.

The modification application is recommended for approval subject to conditions.

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## REPORT

### 1.0 DESCRIPTION OF THE LOCALITY AND THE SITE

The 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 Lindsay Lane. The site falls 1.5m to the south at an average gradient of 3.2%. The site also contains an approximate 1m cross fall 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 the 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 residential flat buildings of varying heights. Photographs of the subject site and locality are provided within **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 Application 142/85 comprising demolition of two single storey commercial buildings and construction of a new three storey commercial office building with basement car parking was approved, subject to conditions.

On 12 August 1986 Development Application 161/86 comprising demolition of two single storey commercial buildings and construction of a new three storey commercial office building with basement car parking was approved. According to Council records this consent amended Development Consent No. 142/85.

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

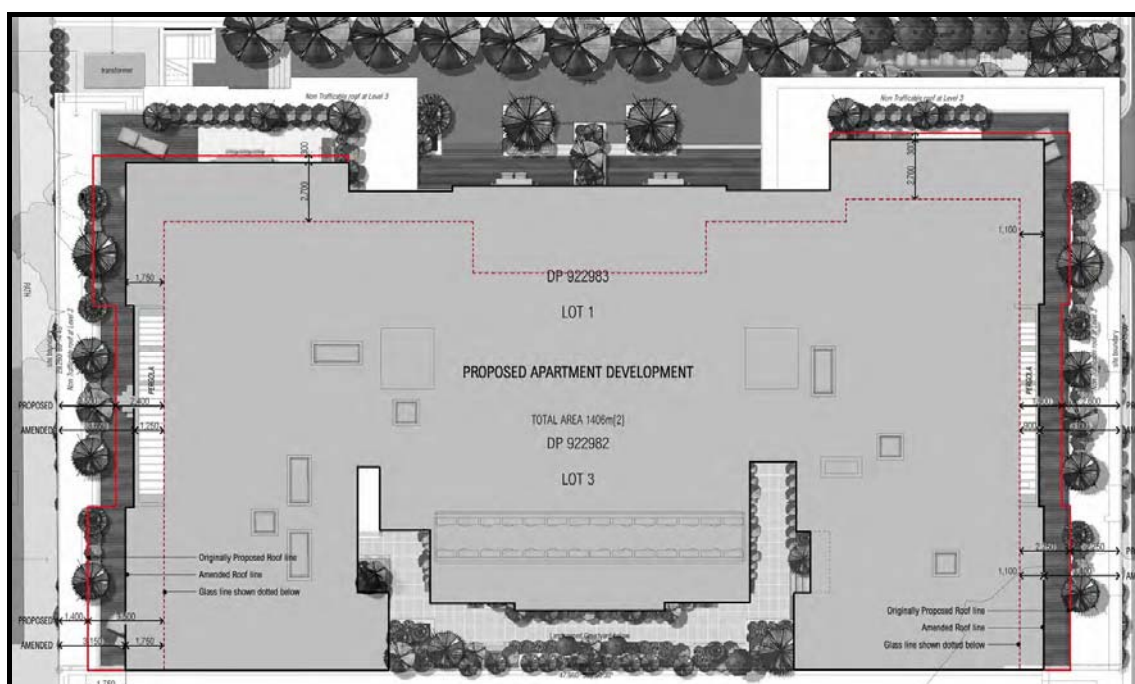
On 21 July 2010 Development Application 8.2010.18.1 (JRPP Reference 2010SYE018) comprising demolition of the existing commercial building, retention of basement and construction of a new four (4) storey multiple dwelling containing 35 dwellings and 47 car spaces was approved by the Joint Regional Planning Panel (Sydney East), subject to conditions.

## 2.1 ADDITIONAL INFORMATION AND AMENDED PLANS

In response to Council concerns and the briefing with the Joint Regional Panel on 10 March 2011 Council requested, additional information and amended plans on 11 March 2011. The final response in relation to the requested additional information and amended plans was received on 29 March 2011. 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
Reduced extent of roofing so that it extends no further than the proposed building alignment of the dwellings at Level 3.	<p>Within their submission the applicant agreed that the extent of roofing be reduced by way of condition. In addition an indicative plan was furnished. The reduced extent of roofing is provided below.</p> <p>Northern extent of roofing reduced from the originally proposed 3.5m – 2.4m overhang to a 1.75m – 1.25m overhang.</p> <p>Eastern extent of roofing overhang reduced by 300mm.</p> <p>Southern extent of roofing reduced from the originally proposed 2.25m – 1.9m overhang to a 1.1m – 0.9m.</p> <p>(Please refer to Figure 1)</p>
For safe and amenable pedestrian access provide a 1.2m width pedestrian path adjacent to the Lindsay Lane frontage.	Pedestrian access for dwellings G07 and G08 to Lindsay Lane deleted. Width of pedestrian path unaltered.
Due to internal circulation/disabled access issues with the landscaped internal courtyard and the revised dual aspect nature of the development associated with the new ground floor Lindsay Lane fronting dwellings a separate Lindsay Lane entrance/lobby was requested. The applicant was also asked to consider a redesign of the waste storage area.	Internal courtyard amended to allow for amenable disabled access. A separate lobby/entrance from Lindsay Lane was not included in the revised documentation and the waste storage area was unaltered.

Request to erect height profiles of the originally proposed development and height profiles detailing the requested amendments to the roof.	Due to access issues no height profiles have been erected.
<p>Additional information requested for review by Councils Senior Traffic Engineer including;</p> <ul style="list-style-type: none"> <li>- Documenting compliance with AS/2890.1 2004 (site distance requirements).</li> <li>- Confirmation and clarification of a disabled car space.</li> <li>- Additional commentary on whether SIDRA is an appropriate traffic analysis program.</li> </ul>	Additional information provided.



**Figure 1:** Reduced extent of roofing

### 3.0 DESCRIPTION OF THE PROPOSAL

The modification application consists of changes to all levels of the approved multiple dwelling incorporating the following:

#### *Basement Level*

- Internal reconfiguration including revised location of visitor car spaces, disabled car spaces, bike spaces, plant room, storage rooms and a new lift;

### *Ground Level*

- Increase in the number of ground level dwellings from the approved six (6) to nine (9) including changes to dwelling mix and the incorporation of the approved entrance and visitor parking area into new dwellings.
- New internal lift in the building's southern portion including associated changes to access and revised central courtyard/access way.
- Changes to the landscaped common area.
- Associated changes to façade and openings.

### *Level 1*

- Reduction in the number of level one dwellings from the approved eleven (11) to eight (8) including changes to the dwelling mix.
- New lift with associated changes to circulation.
- Associated changes to façade and openings.

### *Level 2*

- Reduction in the number of level two dwellings from the approved eleven (11) to eight (8) including changes to the dwelling mix.
- New lift with associated changes to circulation.
- Associated changes to façade and openings.

### *Level 3*

- Reduction in the number of level three dwellings from the approved seven (7) to four (4) including changes to the dwelling mix.
- New lift with associated changes to circulation.
- Associated changes to façade and openings.

### *Roofing*

- Expanse of concrete roof increased with revised location of services and plant equipment.

### *Other Changes*

- Changes to conditions arising from the revised design and supporting document and; the provision of adaptable dwellings.

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

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

## **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 96(2) and 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 (Infrastructure) 2007
- State Environmental Planning Policy - Building Sustainability Index: BASIX 2004
- Mosman Local Environmental Plan 1998
- Draft Mosman Local Environmental Plan 2010
- 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

#### 5.1.1 Mosman Local Environmental Plan 1998

LEP Controls	Control	Proposed	Compliance
Zoning	3(a2) Cremorne Business		
Site Area		1406m <sup>2</sup>	N/A
Gross Floor Area		3087m <sup>2</sup>	
Floorspace Ratio	2 : 1	2.196 : 1	No

#### 5.1.2 Mosman Business Centres Development Control Plan

BDCP Controls	Control	Proposed	Compliance
Building Height – Apartments	12m	14.2m	No
Minimum Floor to Ceiling Heights	2.7m	2.8m	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)	5.41m (18.5% of frontage)	Yes
Setbacks – height plane	45 <sup>0</sup> height plane for external wall above the second storey	90 <sup>0</sup>	No

#### 5.1.3 Draft Mosman Local Environmental Plan 2010

DRAFT LEP CONTROLS	Control	Proposed	Compliance
Height of buildings	12m	14.2m	No
Floor space ratio	2 : 1	2 : 1	Yes

## **5.2 STATE & LOCAL ENVIRONMENTAL PLANNING INSTRUMENTS**

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

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

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

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

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

The provisions of State Environmental Planning Policy (Major Development) 2005 apply to the proposed development as the capital investment value is in excess of \$10 million. In accordance with the requirements of Section 13B (1) (a) of the SEPP, the application is defined as 'regional development' 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 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 Peter Conley of PCA Architects, 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. The 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 which are applicable to the proposed development. The relevant rules of thumb are assessed 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 (Infrastructure) 2007**

The site contains an Energy Australia electricity substation within its 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 (dated January 11, 2011) to the electricity supply authority (Energy Australia) inviting comments about potential safety risks. To date no response from Energy Australia has been received.

Pursuant to Clause 16(1)(b) of State Environmental Planning Policy (Infrastructure) 2007 Council must take into account any response to the notice received (from Energy Australia) within 21 days after the notice is given. As no response has been received it is assessed that Energy Australia raises no specific concern in relation to the modification application.

Notwithstanding the above, the modifications do not materially impact the existing substation. The applicant has not sought to modify or delete the original conditions recommended by Energy Australia, which remain within the recommendation.

### **5.2.6 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.

### **5.2.7 Mosman Local Environmental Plan 1998 (MLEP 1998)**

#### Zoning and Permissibility

The site is zoned 3(a2) Cremorne Business.

The proposed works are for the purpose of a 'multiple dwelling' and are permissible with Council's consent pursuant to the development control table at Clause 16.

Subject to conditions, the development satisfies zone objectives.

The works are also permitted pursuant to Section 96(2) of the Act, it being noted that:

- (a) the development remains substantially the same as that for which consent was originally granted;
- (b) aspects of the proposed modification do not relate to conditions imposed by Energy Australia in their capacity as an approval body;
- (c) the application was notified in accordance with Council's Notifications DCP; and
- (d) three (3) submissions received have been addressed at section 7.0 of this report.

#### Subdivision

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

## Floorspace Ratio

The modifications result in an additional 283m<sup>2</sup> of gross floor area from that which was approved resulting in a floorspace ratio of 2.196:1 (FSR standard of 2:1). The additional floor area is primarily due to the incorporation of ground floor Lindsay Lane fronting dwellings within the previously approved visitor car parking area. Additional floor area is also proposed at each level associated with the decreased eastern setback of the dwellings.

The changes to the approved floorspace ratio are assessed as reasonable for the following reasons:

- With the exception of the additional roofing at the fourth storey the bulk and scale of the development is not significantly altered. The majority of the floor area is provided within the approved building envelope.
- Subject to conditions, the revised siting of the development does not cause unreasonable impact on neighbour amenity or the streetscape.
- Subject to conditions, the development remains of comparable scale with the surrounding built form.
- The modifications comply with the floorspace ratio standard within the Mosman Draft Local Environmental Plan 2010.

## 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 1998 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*

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

The amended flat roof design is at the same height as the originally approved roof at RL 94.69.

Changes to roofing also include the revised location of services such as the lift overrun and the screens to a/c units. These elements due to their siting will not be readily discernible from the public domain and their new positions are assessed to be reasonable.

The height of the revised multiple dwelling remains compatible with neighbouring buildings.

## Views

The original application resulted in some view loss from the upper level dwellings of the residential flat building at 2 Macpherson Street. The assessment found this view loss to be reasonable on the basis that the primary view towards the water body and associated land water interface to the east of Cremorne Point was maintained.

The applicant was asked to erect profiles of the amended design and that of the approved development to ascertain any possible additional view loss. However, due to access issues associated with the tenant of the existing building these profiles were unable to be erected.

The applicant has provided Council with a photomontage indicating the impact of the proposed development on views. This photomontage is from a fixed position and is not as helpful as height profiles for the purpose of assessing view loss.

Nonetheless, this assessment finds on the basis of the montage provided that the enlarged extent of roofing, particularly at the north eastern extremity, may impact on the view corridor provided by the approved development. While it is acknowledged that the additional built form within this area is a cantilevered roof element, this additional roofing contributes to a discernible fourth storey from the public domain which is at odds with Council policy. It is recommended that the extent of roofing be reduced so that view impacts are mitigated. See the assessment pertaining to 'Section 5.2 - Arterial Business Centres' in Section 5.3.1 of this report for further comment.

#### Foreshore Scenic Protection Area

The proposed development will not be highly visible from either the waterway or foreshore.

#### Contaminated Sites

There is no history to suggest that the site may be contaminated, for the purposes of this assessment the site is not contaminated and no remediation of land is necessary.

#### Excavation

MLEP 1998 indicates that consent of Council is required where a development has the effect of materially altering the shape or natural form of the land and as part of a development, control should be made of soil erosion, sedimentation, tree loss and drainage impacts associated with landform modification.

Conditions are included in the recommendation to ensure that effective measures are used to minimise soil erosion and sedimentation loss resulting from the proposed development.

#### 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 revised design of the building does not have a material impact on the setting or character of 92 – 94 Glover Street.

The application was referred to Councils Heritage Advisor who has not raised objection. Comments from Councils Heritage Advisor can be viewed in 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 2010 (Draft MLEP 2010)**

The Draft MLEP 2010 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 2010.

The proposed works are for the purpose of a 'residential flat building' and would be permissible with consent pursuant to the land use table of Draft MLEP 2010.

An assessment against the principal development standards of Draft MLEP 2010 relating to height of buildings and floor space ratio is provided in Section 5.1.3 of this report.

The site is not a heritage item and is not within a heritage conservation area pursuant to Schedule 5 of Draft MLEP 2010.

Draft MLEP 2010 was referred to the Department of Planning on 3 August 2010. As at the date of this report the Department has not indicated when and if the plan will be adopted in its current form.

### **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 modifications maintain the approved use of the site as a multiple dwelling which contributes to the mixed use character of the area.
- The changes to visitor parking maintain 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 Objective O3 within Section 5.2 of the MBCDCP, development is to have greater setbacks above a height of two storeys to reduce the impression of bulk. The originally proposed development provided for a stepped fourth storey which was not visually prominent from Glover Street or Lindsay Lane. This was achieved through a roof design which did not overhang the external walls at the fourth storey.

The modifications provide for an enlarged fourth storey level and incorporate a new concrete roof which extends beyond the revised fourth storey building alignment. In response to Council concerns the applicant submitted an amended design which reduced the extent of roofing. Please refer to Section 2.1 of this report for further information. Indicative photomontages are provided below:



**Figure 2:** Originally proposed extent of roofing as viewed from the corner of Military Road and Glover Street.



**Figure 3:** Reduced extent of roofing as viewed from the corner of Military Road and Glover Street.

While the extent of roofing has been reduced from that which was originally proposed, the extent of overhang at the south eastern and north eastern corners has remained prominent from other public domain vantage points.

While it is acknowledged that Glover Street includes examples of mature street trees, the presence of the trees is not assessed to be sufficient to reduce the presence of the amended fourth storey. To reduce the presence of the fourth storey, the extent of roofing at these corners is recommended to be reduced. These reductions are included in the recommended conditions of consent. The design intent of providing a unified roof element for the overall composition and expression of the building is maintained. The north eastern reduction may also serve to maintain an established view corridor preserved in the original application as discussed in the assessment pertaining to views within Section 5.2.6 of this report.

Subject to conditions which reduce the extent of roof overhang, the development will maintain a fourth storey which remains relatively discrete as viewed from the public domain and neighbouring properties.

The modifications maintain the approved street wall height. The façade treatment provides for a greater variety of external finishes than previously approved. The approved building height plane is also not significantly altered as a result of the modifications. The changes also reduces the number of vehicular entrances from Lindsay Lane providing for a development which complies with Planning Guideline P10 of MBCDCP.

Subject to conditions, the proposal is reasonable with regard to Section 5.2 of the MBCDCP.

## *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

In response to Council concerns the applicant provided a revised design for the ground floor internal courtyard to provide a complying disabled access travel path.

The applicant contended that the use of the internal courtyard area was misconstrued by Council in its physical separation between the two proposed lifts. The applicant contended that the centre courtyard was the unifying aspect of the proposed development and resulted in an improvement in internal circulation for residents.

The revised courtyard design now includes a continuous path of travel for persons using a wheel chair in replacement of the previously depicted lawn and stepping stones.

In addition the applicant has requested the amendment of condition 19 of the consent which required all of the ground floor dwellings to be adaptable. The applicant wishes to reduce the provision of adaptable dwellings from nine to three, being units G04, 104 and 204.

In circumstances where MBCDCP does not include provision for adaptable dwellings, the 10% provision proposed is reasonable.

### Section 6.7 – Privacy and Security

The revised layout of dwellings within the development will not give rise to adverse overlooking impacts on neighbouring buildings. The internal layout of the dwellings including the revised internal circulation maintains acceptable safety and security for residents.

Section 6.7 of MBCDCP contains numerous guidelines in relation to private open space for dwellings within business zones. In this regard the private open spaces of all dwellings are accessed from their main living areas.

MBCDCP contains numerous guidelines in relation to acoustic amenity. The modifications will not increase the acoustic impacts of the development it being noted that the number of dwellings is less than that originally approved.



## Section 6.8 – 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 dwellings 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. The modifications result in improved solar access and natural ventilation.

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 approved design resulted in acceptable overshadowing impacts on neighbouring development. Due to the enlarged extent of roofing and its overshadowing impacts on north facing windows of the lower level of dwellings at 97 Cabramatta Road, the applicant was requested to provide a reduced roof overhang on the southern elevation.

The response from the applicant detailed a reduced extent of roofing on the southern elevation which decreased the overshadowing impacts of the development. The applicant also submitted further elevation shadow diagrams. The revised elevation shadow diagrams illustrate the impact of overshadowing from the approved development and the scheme with the reduced roofing at 9am, 10am, 11am 12noon, 1pm, 2pm and 3pm on June 21.

The applicant contends in their response to Council that the lower level north facing windows of 97 Cabramatta Road are windows for bedrooms or bathrooms. A site visit has confirmed that at least two windows within the building's north - east and north - west corners are windows for living rooms. A review of the submitted elevation shadow diagrams has also identified that the documented number of windows is inaccurate.

Notwithstanding these discrepancies, the revised shadow diagrams show that the lower level dwellings at 97 Cabramatta Road will receive in excess of 2 hours of direct sunlight to their northern windows. The development results in complying solar access to 97 Cabramatta Road as illustrated in Figures 4, 5 and 6 below.



**Figure 4 : 11am**

**Figure 5 : 12pm**

**Figure 6 : 1pm.**

### Section 6.10 – 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.

### Section 6.11 – Stormwater Management

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

### Section 6.12 – Ongoing Waste Management

The modification application was accompanied by a waste management plan. This plan nominates Council's waste service as providing for the disposal of waste when the development is occupied.

Discussions with Council's Waste Management officer has raised concern in relation to the level of the bin room as compared with the level at the adjacent pathway. The bin room at RL 81.25 is 330mm below that of the adjacent path on Lindsay Lane. To provide for safe garbage disposal it is recommended that the bin room be amended to provide at-grade access to the Lindsay Lane footpath.

Notwithstanding the above the applicant indicated in a meeting on 21 March 2011 that a private waste management contractor would be used. The contractor would park any garbage collection vehicles within the confines of the site to reduce the impact that the garbage collection could have on traffic flow within Lindsay Lane. The private management of waste is included in the recommendation.

### Section 6.13 – 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 MTCDP 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 modification is associated with 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 within Section 4.6 of MBCDCP, rear lane vehicular access is encouraged. The modifications maintain this requirement.



## 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	10 spaces		
	1.2 spaces per each 2 bedroom dwellings	6 spaces		
	1.5 spaces per each 3 bedroom dwelling	21spaces		
		Total required = 37	Total proposed = 37	Yes
Visitor Parking Spaces	1 visitor space per 4 dwellings	7.25 spaces	7 spaces	Yes
Motor Cycle Parking	1 space per 25 dwellings	1.16 spaces	2 spaces	Yes
Bicycle Parking	1 space per 4 dwellings	7.25 spaces	7 – 8 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 5.4m Height 2.3m - 2.8m	Partial
Car Wash Bay	1 bay per 12 dwellings	2.4 car wash bays	2 (visitor spaces can be utilised)	Yes

The proposed development complies with Council's car parking guidelines with the exception of a minor and partial non compliance (100mm) with the length of disabled parking spaces. This non compliance is assessed as minor.

## Other Matters – Sight Lines from Lindsay Lane Driveway

Council's Traffic Engineer raised concern with the originally proposed development in relation to sight lines from the basement car parking onto Lindsay Lane. These concerns were reiterated in the review of the modification application. In this context the applicant was asked to provide evidence that the relevant standard AS/NZS2890.1.2004 for sight distance requirements was met.

In response to Council concerns advice was received from the applicant's Traffic consultant stating *inter alia* 'given the slight improvement in sight line from the proposed driveway compared to the existing driveway and that traffic flows would be less, we believe that provision of sight line compliance with AS2890.1 – 2004 is unreasonable'.

In order to protect the safety of vehicles Council's Traffic Engineer has recommended that the Lindsay Lane basement vehicular access ramp contain a speed hump and a stop sign. These are incorporated into the conditions of consent. Comments from Council's Traffic Engineer can be viewed in Section 6.0 of this report.

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

The modification necessitates a revised Section 94 contribution of \$403,795.00 in accordance with Council's Section 94 Contribution Plan which prescribes a payment of \$10,007.00 per each one (1) bedroom dwelling, \$13,313.00 per each two (2) bedroom dwelling and \$16,940.00 per each three (3) bedroom dwelling (for multiple dwellings).

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

Applicable regulation considerations were taken into account with the original approval and dealt with by conditions of consent. The proposed modification does not necessitate change to any of these matters.

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

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

*There are no trees being removed from the site. No changes to landscape conditions from the original consent, however as some of Council's conditions have been updated, the following now apply:*

These updated conditions primarily relate to the measures recommended in the submitted Arborist Report. These conditions are included in the recommendation.

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

Council's Development Engineer has recommended additional conditions generally relating to the works in proximity of a retaining wall adjacent to Council's road and in relation to the driveway for the basement car parking. These conditions are included in the recommendation.

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

*The revised treatment of the building will have no additional impact on the adjoining Conservation Area and the heritage listed properties in Glover Street. I have no concerns in this regard with the application.*

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

*No objections from a building point of view, standard conditions.*

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

*Council's waste and recycling contractor is to service wheelie bins from double louver doors in Lindsay lane at the top of the driveway. Council will supply 10x Red lidded 240litre wheelie bins for general waste removal, 4x 240litre Blue lidded wheelie bins for paper and cardboard and 4x 240litre wheelie bins for mixed container recycling. Please ensure hot and cold water supply with drainage to sewer for cleaning, with walls and floor coverings of an easy cleanable surface. Please refer to 5.15 of the current RDCP.*

Appropriate conditions of consent to satisfy Council's Waste Management Officer are included within the recommendation.

Council's Traffic Engineer made the following relevant comments to the originally proposed modification application.

*I have reviewed the application and advise that the present commercial development's car park has a capacity of 57 spaces accessed from Lindsay Lane. It is proposed to reconfigure the car park to provide 44 spaces with access to Lindsay Lane. There are unlikely to be any additional traffic movements with the lower capacity car park in Glover Street, Lindsay Lane and Glover Lane and therefore no objection is raised to the development on traffic grounds.*

*There is no footpath on the northern side of Lindsay Lane and vehicles leaving the driveway will exit directly onto the lane, where the speed limit is 50 kph. The applicant's Traffic Engineer will need to submit details showing that the sight distance requirements in Figure 3.2 of Australian Standard AS/NZS 2890.1.2004 [page 32] are met.*

*The Disabled Car parking Space on the eastern side of the basement car park [Space No.8] does not appear to comply with Clause 2.2, Parking Spaces - Dimensions of Australian Standard AS/NZS 2890.6.2009. The applicant's Traffic Engineer will need to comment on this requirement and also confirm that the Headroom requirements outlined in Clause 2.4 of Australian Standard AS/NZS 2890.6.2009 are met at each site and between each site and the car park exit.*

*Traffic Engineer's report makes no mention whether SIDRA is a satisfactory program. This was raised in my Memorandum of 3 May 2010 concerning the previous proposal for this site. Further consideration will be given to the application following the receipt of the above information.*

*A Construction Traffic Management Plan [CTMP] will be required as a condition of development consent.*

In response to concerns from Council's Senior Traffic Engineer additional information from the applicant's traffic consultant was furnished. Council's Senior Traffic Engineer provided the following response.

*As requested, I have reviewed the report dated 21 February 2011 prepared by Colston Budd Hunt & Kafes Pty Ltd.*

*It is considered that provision of sight distance compliance with AS/NZS 2890.1.2004 is necessary and this safety issue needs to be addressed. In this regard, consideration should be given to the following:*

- *Install a Stop sign; and*
- *Install a speed hump at the exit to the car park to force drivers to slow down at the Stop sign.*

*In addition, a Construction Traffic Management Plan [CTMP] will be required as a condition of development consent.*

These recommendations are incorporated into the revised conditions of consent.

Energy Australia did not provide comment in relation to the subject application. Please refer to Section 5.2.5 of this report for further information.

## **7.0 PUBLIC NOTIFICATION AND SUBMISSIONS**

The application was notified between 11 January 2011 and 27 January 2011.

Three (3) submissions were received from or on behalf of the following properties:

- 79 Cabramatta Road;
- 10/83-87 Cabramatta Road; and
- Anonymous Submission.

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

- The submitted Traffic Report does not address the impact of the proposed development on local traffic movements and the existing traffic situation is unacceptable;

Comment: The proposal will result in fewer traffic movements than originally approved. Council's Senior Traffic Engineer has not raised significant objection to the traffic impacts of the development.

- Increase traffic as a result of the proposed development;

Comment: Please see comments above.

- The proposal will cause undue impacts on neighbouring solar access and views;

Comment: The proposals impact on views and neighbouring solar access has been assessed as reasonable within Sections 5.2.7 and 5.3.1 of this report.

- The proposal needs more landscaping on the Glover Street elevation;

Comment: The landscaping provided within the modification application results in a similar amount of landscaping on the northern side to that originally approved. Council's Landscape Architect has not raised objection to the proposal.

- The development is ugly and out of character with Glover Street;

Comment: The revised design of the building and façade articulation are appropriate to the commercial zoning of the land.

## **8.0 CONCLUSION**

The proposed modifications have been assessed against all relevant statutory controls and planning policies and are recommended for approval, subject to conditions.

## **9.0 APPLICATION DETAILS**

The applicant is Mr. Mark Monk of Helm Pty Ltd. The owner is Helm No.3 Pty Ltd. The estimated value of works 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 Modification of Consent Application No.8.2010.18.1 be approved pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979* subject to the following:

- A1. Amending conditions Nos. 1, 2, 19, 24, 30, 60, 64, 66, 81, 82, 88 and 94 to read as follows:

## 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, da14 – Revision B, 15 – 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

<b>Document title</b>	<b>Date of document</b>	<b>Prepared by</b>
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 (ABSA)	11 November 2009	Applicant
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

As amended (8.2010.18.2)

<b>Plan Nos.</b>	<b>Date of plan</b>	<b>Prepared by</b>
S96.01 – Issue C, and S96.03 – Issue C.	22 March 2011	PCA Architects
S96.02 – Issue C.	15 March 2011	PCA Architects
S96.04 – Issue B, S96.05 – Issue B, S96.06 – Issue B, S96.08 – Issue B, S96.09 – Issue B, S96.10 – Issue B, S96.19 – Issue B, S96.23 – Issue B, and S96.31 – Issue B.	22 December 2010	PCA Architects
L-001 – Revision B, L-002 – Revision B, and L-003 – Revision B.	20 December 2010	Oculus
HDA01/P3 – Amendment P3, HDA02/P3 – Amendment P3, HDA03/P3 – Amendment P3, HDA04/P3 – Amendment P3, HDA05/P3 – Amendment P3, HDA06/P3 – Amendment P3, HDA07/P3 – Amendment P3, and HDA08/P3 – Amendment P3.	21 December 2010	Wipps – Wood Consulting

<b>Document title</b>	<b>Date of document</b>	<b>Prepared by</b>
Planning Report	December 2010	Ingham Planning Pty Ltd.
Design Verification Statement	21 December 2010	Peter Conley – PCA Architects
Arborists Assessment	October 2010	Botanics, Tree Wise People Pty Ltd.
BCA Capability Report	16 December 2010	Vic Lilli & Partners
BASIX Assessment	20 December 2010	Efficient Living Pty Ltd

Document title	Date of document	Prepared by
Assessor Certificate	20 December 2010	Association of Building Sustainability Assessors (ABSA)
BASIX Certificate	20 December 2010	Efficient Living Pty Ltd
Letter from Colston Budd Hunt & Kafes Pty Ltd	8 December 2010	Colston Budd Hunt & Kafes Pty Ltd
CPTED – Update Report	December 2010	Elton Consulting
Traffic Noise Assessment – Version A	November 2010	Wilkinson Murray (Sydney) Pty Ltd
Waste Management Plan	21 December 2010	Mark Monk

### Car Parking

2. To ensure an appropriate distribution of car parking, seven (7) 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.

### Access, Mobility & Adaptable Housing

19. To provide accommodation suitable for people with disabilities, dwellings G04, 104 and 204 (as nominated on the plans) must be designed as adaptable dwellings in accordance with Australian Standard 4299 and the Building Code of Australia.

### Section 94 Contribution

24. Pursuant to Section 94 of the Environmental Planning & Assessment Act 1979, a monetary contribution of \$403,795.00 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.

### 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 October 2010, in particular.
  - 3.1 All site access and storage shall be limited to the existing car park and floor slabs of the development. This will limit compaction of the soil profile and reduce the chances of contaminants leaching into the soil profile.
  - 3.1.2 The installation of tree protection fencing is not considered practical in this instance as it would interfere with pedestrian traffic and be of limited benefit considering the site and its application.

- 3.1.3 Trunk and lower limb protection should be undertaken with the installation of battens strapped together over a suitable padding or underlay. This should be done to a minimum height of 1.8m.
- 3.1.4 The installation of the scaffolding to allow construction should be designed to minimise pruning. Where this is unavoidable pruning must be detailed by the site arborist and done in accordance with AS 4373-2007 for the pruning of amenity trees.
- 3.1.5 Given the existing site conditions compaction of the CRZ in association with the installation of the scaffolding is not considered to be a significant issue and will not need to be addressed.

### **Protection of Landscape Features**

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 October 2010 are to be maintained in good order.

### **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 December 20, 2010.

### **Acoustic**

66. To ensure reasonable acoustic amenity is maintained, all recommendations made in the acoustic report prepared by Wilkinson Murray Pty Ltd dated November 2010 accompanying the application which require specialised acoustic treatment of the building shall be complied with and maintained.

### **Car Parking**

81. 2 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 car washing, 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 7 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*.

### **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 29/100 Glover Street (inclusive).



## **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 2010 accompanying the application which require specialised acoustic treatment with which the use must operate shall be complied with.

A3. Addition of the following conditions:

## **Roofing**

- 2A To reduce discrepancies between the elevation plans and the roof/site plan, the extent of the roofing shall be constructed in accordance with Plan No. S96.01 – Issue C, dated 22 March 2011, noting the required reduction of roof extent in conditions 2B and 2C. Details are to be included in the Construction Certificate application.

## **Reduced Extent of Roofing**

- 2B. The eastern overhanging roof for dwelling 301 (as nominated on the plans) shall be reduced from 2.7m to 1.75m in the area north of the eastern dining room column (i.e. reduced to a width of 1.75m to the confluence of timber decking and paved area). Details are to be included in the Construction Certificate application.
- 2C. The eastern overhanging roof for dwelling 304 (as nominated on the plans) shall be reduced from 2.7m to 1.1m in the area south of the eastern dining room column (i.e. reduced to a width of 1.1m to the confluence of the timber decking and paved area). Details are to be included in the Construction Certificate application.

## **Waste Storage Area**

- 2D. To provide for safe and amenable garbage disposal by waste contractors the refuse room (as nominated on the plans) shall be amended to provide at-grade access to the Lindsay Lane footpath. Details are to be included in the Construction Certificate application.

## **Stop Sign and Speed Hump**

- 2E. To provide for reasonable vehicle and pedestrian safety the vehicular access ramp is to contain a stop sign adjacent to its south eastern corner. In addition the access ramp is to contain a speed hump for vehicles exiting the site. This speed hump is to be located directly adjacent to the ramps boundary with Lindsay Lane. Details are to be included in the Construction Certificate application.

## **Council Property**

- 6A. Two copies of Structural Engineer's plans, 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, must be submitted with the Construction Certificate application for any proposed retaining wall/s which provide structural support to Council's road. The design load of the retaining wall shall consist of the following:
- a minimum surcharge load (UDL) of 5.0 kPa;
  - a minimum point load of 31 kN acting on an area of 0.025 m<sup>2</sup> at a maximum distance of 0.5 m from the site boundary.

The plans are also to demonstrate adequate shoring works during all stages from the removal of the existing structural support until the construction of the new wall is complete.

### **Driveway**

- 16A. To ensure the vehicle crossing is properly completed, the applicant shall complete and pay applicable fees for an application under Mosman Council's *Construction of Vehicle Crossing By Contract*.

### **Security Deposit**

- 23A. A cash deposit or bank guarantee to the value of \$20,000 in favour of Council shall be provided for the completion of any retaining wall that supports Council's road / road embankment. A request for a refund of unused deposit or guarantee funds may be made following the submission of a Structural Engineer's certificate which certifies that the wall has been completed in accordance with approved Construction Certificate plans or where any variation has been made, that the wall will provide adequate structural support for Council's property.

### **Council Property**

- 74A. Upon the completion of any retaining wall supporting Council's road or road reserve and prior to further works progressing or the release of the Occupation Certificate, a work as executed plan must be provided to Council together with a Structural Engineer's certificate that states the Structural Engineer has inspected the work during the course of construction and that such work complies with the design and specification submitted to and approved with the Construction Certificate application, or where any difference exists, details shall be highlighted and certified as being structurally sound and consistent with the minimum design loads required under this consent.

### **Private Waste Contractor**

- 91A. To reduce the impacts on traffic flows in Lindsay Lane during waste collection, a private waste contractor employed by the applicant or the owners of 100 Glover Street shall provide for the site's waste removal services. The vehicle which provides in this service is to park within the boundaries of the site when undertaking garbage collection.

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## **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**