

## EXECUTIVE SUMMARY

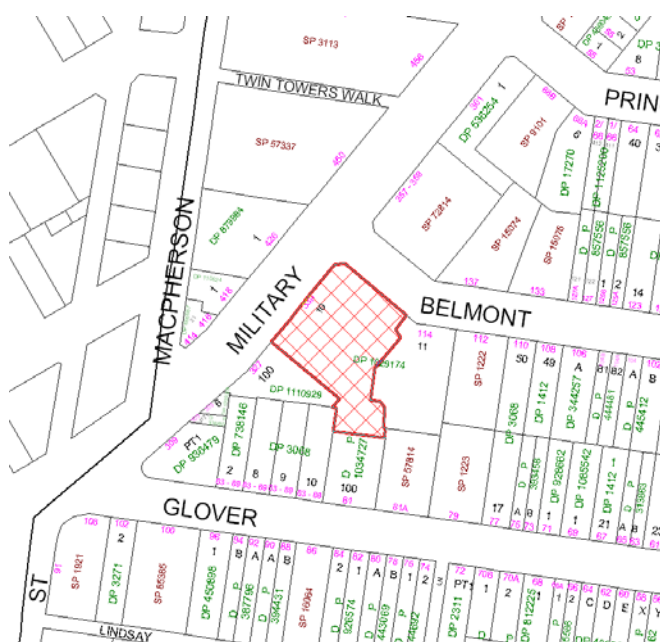
The main issues in the assessment of this application are:

- Inappropriate impact on the heritage significance of the neighbouring state heritage item Alma;
- Excessive bulk and scale resulting from non-compliances with the height and floor space ratio development standards; and
- Inadequate provision of parking.

The proposal is assessed as unsatisfactory and is recommended for refusal.

## REPORT

### Locality Plan



### 1.0 DESCRIPTION OF THE LOCALITY AND THE SITE

The subject site is located on the south-eastern side of Military Road. The site comprises one allotment legally known as Lot 10 in DP 1029174. The site is irregular in shape with frontages of 36.798m to Belmont Road and 45.675m to Military Road and has an area of 2528 square metres. The land falls gently away from the road frontages to the south. A number of easements exist over the site.

The site is presently used for commercial purposes and contains a four storey building with two levels of basement car parking accessed from Belmont Road and a two storey building known as The Stables located to the rear.

The neighbouring property to the east (114 Belmont Road) is a state heritage item known as Alma. Historically this property has been used for both residential and commercial purposes and is currently used as a dwelling house. Alma is zoned B2 Local Centre.

Surrounding development to the south and west of the site within the Cremorne Business Centre comprises commercial premises and some mixed use residential of varying heights.

81 Glover Street is a three storey residential flat building which adjoins the site to the rear (closest to The Stables).

The neighbouring property to the south is a vacant block which is zoned B2 Local Centre.

The property on the opposite side of Belmont Road (357 Military Road) is used for commercial purposes and is four storeys in height.

Other development in Belmont Road comprises single storey dwellings, multiple dwellings and residential flat buildings of varying heights.



**Figure 1:** Photographs showing the existing building from Military Road

## **2.0 BACKGROUND**

Council's records indicate that the development history of the site is as follows:

- Prior to the construction of the existing building in the mid to late 1980s, the site was used as a car sales yard with workshop facilities.
- The site once formed part of a larger allotment that included 114 Belmont Road. The subdivision into two lots was approved on 28 January 1993.
- The existing development was approved as part of Development Application 208/86. Council's records indicated that this development (including The Stables) had a gross floor area of 4050 square metres and accommodated 106 car parking spaces within the basement car park. Note the definition of gross floor area has changed and the figure identified would be based on the definition at the time the application was lodged.

## **3.0 DESCRIPTION OF THE PROPOSAL**

The proposal consists of:

- Demolition of the 4 storey commercial building and retention of part of the basement car park;
- Construction of a five storey mixed use building comprising commercial/retail and residential uses. This building is proposed to contain:
  - 2 x ground level commercial units,
  - 3 x ground level studios (SOHO),
  - 49 x 1 bedroom units,

- 3 x 2 bedroom terrace houses, and
- 18 x 2 bedroom units.
- Construction of a two storey building comprising of 1 x 2 bedroom and 1 x 3 bedroom dwellings;
- Refurbishment and conversion of the two storey Stables building into 2 x 3 bedroom dwellings;
- Alterations to the basement car park to provide over two levels:
  - New ramps,
  - 96 car parking spaces (inclusive of a loading bay and 2 accessible spaces),
  - 4 motorbike spaces,
  - 19 bicycle spaces,
  - 1 washbay, and
  - 71 storage spaces.
- Realignment of driveway access from Belmont Road,
- Modification to services including relocation of a substation; and
- Landscaping works including tree removal.



**Figure 2:** Photomontage of the proposed development, as viewed from Military Road



**Figure 3:** Photomontage of the proposed development, as viewed from Belmont Road

The applicant has advised that the SOHO units provide the opportunity for specialty home based businesses which have direct street frontage similar to a small shop frontage.

The use of the commercial units is not known at this stage.

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 79C assessment and form the basis of the Section 5.0 Planning Assessment:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 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 2012
- Mosman Business Centres Development Control Plan
- Mosman Section 94A Development Contributions Plan 2012

No coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*) exists.

## **5.0 PLANNING ASSESSMENT**

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

#### **5.2.1 State Environmental Planning Policy (State and Regional Development) 2011**

In accordance with the requirements of State Environmental Planning Policy (State and Regional Development) 2011, the application is referred to the Joint Regional Planning Panel as the development has a capital investment value of more than \$20,000,000. The Development Application is accompanied by a quantity surveyors certificate which nominates the value of the development as \$22,185,500.

#### **5.2.2 State Environmental Planning Policy (Infrastructure) 2007**

The proposed development involves the removal of an existing substation and construction of a new substation. The development application was referred to Ausgrid as required by SEPP Infrastructure. Ausgrid have recommended conditions which would be included in the event of an approval.

Military Road is a classified road and as such Clause 101 of SEPP Infrastructure provides relevant matters for consideration. In this regard it is noted:

- Vehicular access to the development is proposed by means other than the classified road;
- Whilst Council's Engineer has raised some concern with the traffic report not addressing the traffic impact of the development on Glover Street/Glover Lane, no concern has been raised in relation to the safety, efficiency and ongoing operation of the classified road as a result of the proposed development;
- The residential and commercial use of the site is unlikely to result in emission of smoke or dust; and
- The applicant has submitted an acoustic report prepared by Acouras Consultancy which makes a number of recommendations for the treatment of the building to ensure the development complies with the prescribed SEPP Infrastructure LAeq levels.

As the proposed development is a building for residential use and Military Road has an annual average daily traffic volume of more than 40,000 vehicles, Clause 102 of SEPP Infrastructure is applicable. Clause 102 requires the consent authority to consider the following:

- any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette;
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- that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
  - (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
  - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The Development Near Rail Corridors and Busy Roads – Interim Guideline has been considered as part of this assessment. The objectives of this guideline are to protect the safety and integrity of key transport infrastructure from adjacent development and ensure that adjacent development achieves appropriate acoustic amenity. The following table provides an overview of the proposal having regard to the relevant components of the guideline.

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| Noise and vibration  | <p>An acoustic report has been submitted with the development application which makes a number of recommendations to ensure the development complies with the LAeq levels required by SEPP Infrastructure.</p> <p>The development is proposed to be constructed from concrete. Vibration impacts on amenity from the roadway is unlikely to be significant.</p>  |
| Air quality near busy roads                                  | <p>All units within the development will be mechanically ventilated. To improve air quality within the development a condition would be required to ensure air intakes be sited as far as practicable from Military Road.</p> <p>Whilst the issue of air quality alone would not warrant refusal of the application, it is noted that the guideline identifies that setting back the upper storeys of multi-level buildings can assist to avoid urban canyons that reduce air dispersion.</p>  |
| Safety and design issues                                     | <p>Relevant matters as follows:</p> <ul style="list-style-type: none"> <li>• A condition would be required to ensure concrete pumps, cranes, hoists and winches be used in accordance with the relevant Australian Standards.</li> <li>• Safe access for maintenance would be possible.</li> <li>• Stormwater is proposed to be directed to the council drainage system.</li> <li>• It is unlikely that objects would be thrown from residential units onto the roadway.</li> <li>• A condition would be required to ensure that external surfaces be treated with anti-graffiti paint or coating materials.</li> <li>• A condition would be required to ensure that outdoor lighting adhere to AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.</li> </ul> |
| Excavation, earthworks and other construction related issues | <p>Extensive excavation is not proposed given the retention of the existing basement car park. In the event of an approval a condition would be required to ensure the Construction Certificate plans be endorsed or countersigned by a qualified practicing Geotechnical Engineer.</p>  |

The acoustic report prepared by Acouras Consultancy provides an assessment against the relevant provisions of SEPP Infrastructure and makes a number of recommendations for the treatment of the building to ensure the development complies with the prescribed SEPP

Infrastructure LAeq levels. In the event of an approval, conditions would be required to ensure compliance with the prescribed SEPP Infrastructure LAeq levels.

Clause 104 of SEPP Infrastructure is applicable as the proposed development is traffic generating development, being a residential flat development containing more than 75 dwellings and more than 50 motor vehicles with access to a road that connects to a classified road (within 90m). With regard to the relevant matters for consideration under Clause 104:

- The development application was referred to RMS. RMS have recommended conditions which would be included in the event of an approval.
- Vehicular access to the site is proposed from Belmont Road at the furthest point from Military Road. A loading bay is proposed within the basement. The site is in close proximity to shops, services and public transport.
- Council's Engineer has raised concern with the detail provided in the applicant's Traffic Impact Assessment on the basis that it does not identify when the traffic counts were undertaken and does not sufficiently address the impact of the additional traffic generated by the development on the local road network.

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

The 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 SEPP have been considered and the application is consistent with these aims.

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

The Statement of Environmental Effects does not address SEPP 55.

Having regard to the previous use of the site as a car sales yard with workshop facilities (a use listed in Table 1 of the contaminated land planning guidelines) pursuant to Clause 7 of the SEPP, the applicant is required to provide a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines and that Council must consider that report before determining an application for consent to carry out development that would involve a change of use.

No such report has been submitted.

### **5.2.5 State Environmental Planning Policy No. 65 - Design of Residential Flat Development (SEPP 65)**

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

The Design Verification Statement submitted by the architect includes a typographical error in the name of the SEPP and states that the proposed design **is capable** of achieving the

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design quality principles. Pursuant to Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000* the designer must state that the design quality principles are achieved for the residential flat development.

Following is an assessment against the SEPP 65 design quality principles:

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| Principle 1: Context                               | <p>The design of the proposed development does not respond nor contribute to its context. The development is proposed with inadequate separation from the neighbouring state heritage item Alma which will affect the heritage significance of the item and views to and from the item.</p> <p>Further, the proposed development does not sufficiently incorporate setbacks from both Belmont and Military Roads that increase with height. This results in the development presenting a greater building bulk to the street which is not sympathetic to the streetscape character.</p> <p>The proposed development does not satisfy this principle.</p> |
| Principle 2: Scale                                 | <p>The height proposed is greater than what is permitted pursuant to MLEP 2012. The scale of the proposed development is greater than surrounding buildings. It will overwhelm the neighbouring state heritage item Alma to an extent that the heritage significance of the property would be affected. The scale of the proposed development as it presents to both Military and Belmont Roads will not positively contribute to either streetscape.</p> <p>The proposed development does not satisfy this principle.</p>   |
| Principle 3: Built form                            | <p>The proposed built form does not adequately respond to the neighbouring state heritage item Alma and the streetscape. It will affect views from the street to Alma.</p> <p>No issues are raised in relation to the external materials proposed.</p> <p>The proposed development does not satisfy this principle.</p>  |
| Principle 4: Density                               | <p>The floor space proposed is greater than what is permitted pursuant to MLEP 2012. Having regard to the impacts on the neighbouring state heritage item Alma and the streetscape it is not appropriate to vary this development standard.</p> <p>The proposed development does not satisfy this principle.</p>   |
| Principle 5: Resource, energy and water efficiency | <p>Limited detail is provided in relation waste management during construction. Conditions would be required to ensure appropriate recycling of materials during demolition and construction.</p> <p>The BASIX certificates for the residential components of the development confirm that the development is capable of achieving the water, energy and thermal comfort targets.</p> <p>The proposed development satisfies this principle.</p>  |
| Principle 6: Landscape                             | <p>The landscape documentation submitted with the application lacks sufficient detail and contains inconsistent information. Council's Landscape Officer has raised concern with the proposed tree removal. Full detail of the issues relating to landscaping are provided under MBCDCP.</p> <p>The proposed development does not satisfy this principle.</p>  |
| Principle 7: Amenity                               | <p>This assessment has found that a large number of units fail to comply with relevant amenity related provisions including natural ventilation, visual privacy, storage, indoor and outdoor space. Insufficient information has been submitted to determine if adequate access to sunlight is provided throughout the development.</p> <p>The two storey townhouses located at the rear are located to the south of</p>   |

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|  | <p>the 5 storey residential flat building and will be overshadowed and overlooked by a large number of units. The amenity of this component of the proposed development is not ideal. This part of the site would be better utilised as open space and deep soil planting which would likely improve amenity.</p> <p>The proposed development does not satisfy this principle.</p>  |
| Principle 8: Safety and Security                         | <p>The application was not accompanied by a formal Crime Risk Assessment as required by the RFDC.</p> <p>The development provides secure pedestrian access which is separated from the vehicular access point. Units have balconies and windows which provide passive surveillance over Military and Belmont Roads.</p> <p>The proposed development satisfies this principle.</p>   |
| Principle 9: Social dimensions and housing affordability | <p>The proposed development will provide additional housing that is accessible to services and facilities. The development provides a reasonable mix of accommodation options and with the exception of part of the Military Road frontage, includes an active street front with the commercial and SOHO units. Adaptable housing is incorporated into the development.</p> <p>The proposed development satisfies this principle.</p> |
| Principle 10: Aesthetics                                 | <p>In relation to aesthetics the proposed development will have a negative impact. As already identified the building is too tall and too dense and represents an over development of the site and does not respond to the streetscape or the heritage significance of the neighbouring state heritage item Alma.</p> <p>The proposed development does not satisfy this principle.</p>  |

### Residential Flat Design Code

The following table provides an assessment against the criteria contained within the 'Residential Flat Design Code' (RFDC) as required by the SEPP.

| Primary Development Controls | Guideline   | Comments   |
|------------------------------|---|--|
| <b>PART 01 LOCAL CONTEXT</b> |   |  |
| <b>Building height</b>       | Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.   | The proposed development fails to comply with the height development standard. Refer to discussion under MLEP 2012 for further detail.   |
| <b>Building depth</b>        | Apartment building depth of 10-18m is appropriate.  | A building depth of up to 21m is proposed.   |
| <b>Building separation</b>   | <p>For buildings up to four storeys/12m:</p> <p>(a) 12m between habitable rooms/balconies;</p> <p>(b) 9.0m between habitable rooms/balconies and non-habitable rooms;</p> <p>(c) 6.0m between non-habitable rooms.</p> <p>For buildings five to eight storeys/up to 25m:</p> <p>(a) 18m between habitable rooms/balconies;</p> <p>(b) 13m between habitable rooms/balconies and non-habitable rooms;</p> <p>(c) 9m between non-habitable rooms.</p> | <p>The proposed development does not incorporate building separation that increases with height. The development is proposed to be separated from the adjoining dwelling house (Alma) by between 6 - 7 metres where the development has a height of 13m. The separation proposed is not consistent with the separation outlined in the code.</p> <p>Aside from the levels of building separation outlined in the code, Alma is a state listed heritage item and compliance with the minimum requirements may not be adequate in the circumstances.</p> |



| Primary Development Controls    | Guideline  | Comments  |
|---------------------------------|--|---|
| <b>Street Setbacks</b>          | Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls. Test street setbacks with building envelopes and street sections.   | <p>MBCDCP requires that street setbacks increase with height and stipulates a building envelope measured at 45 degrees drawn from the top of the second storey walls.</p> <p>The proposed development does not comply with this requirement to both Military and Belmont Roads. The fifth level of the development is proposed to have a setback of 0.025m (measured to the balcony edge) and 2.975m (measured to the external wall) from Military Road and 0.235m to 0.8m from Belmont Road.</p> <p>The applicant has not identified the envelope on the section plans.</p>  |
| <b>Side &amp; Rear setbacks</b> | <p>Relate side setbacks to existing streetscape patterns.</p> <p>Test site and rear setback with building separation, open space and deep soil zone requirements.</p> <p>Test site and rear setback for overshadowing of other parts of the development and/or adjoining properties, and of private open space.</p>                      | <p>There are no applicable side and rear setback controls under MBCDCP.</p> <p>The residential flat building proposes a nil setback from the neighbouring property on Military Road (327 Military Road) which is not unreasonable in the circumstances.</p> <p>The residential flat building proposes a setback of between 2-3m from the common boundary with Alma. Given the proposed building height in this location of 16.1m, this setback is inadequate. The main access pathway to the townhouses and The Stables is located within this setback area leaving limited room for landscaping.</p> <p>Alma is provided with generous setbacks from its side boundaries.</p> <p>The proposed development will result in additional overshadowing of Alma. However, it is noted the proposed development will allow for compliant levels of solar access to this property in accordance with MBCDCP.</p> |
| <b>Floor space ratio</b>        | Test the desired built form outcome against the proposed floor space ratio to ensure consistency building height, building footprint, the building envelope and open space requirements.   | The proposed development fails to comply with the floor space ratio development standard. Refer to discussion under MLEP 2012 for further detail.   |
| <b>PART 02 SITE DESIGN</b>      |  |   |
| <b>Deep soil zones</b>          | A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building. | <p>With exception of the landscaping around The Stables building and to the east of the pedestrian access pathway, the development does not provide for any deep soil landscaping.</p> <p>The development is capable of satisfying the provision of integrated stormwater treatment measures within the design of the development subject to conditions.</p>  |
| <b>Open Space</b>               | The area of communal open space required should generally be at least between 25% and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.  | <p>This control requires the development provide for 632m<sup>2</sup> to 758m<sup>2</sup> of communal open space.</p> <p>The applicant claims that 22% of the site or 556 square metres of communal open space</p>  |

| Primary Development Controls  | Guideline  | Comments  |
|-------------------------------|--|---|
|                               | Where developments are unable to achieve the recommended communal open space, use as dense urban areas, they must demonstrate that residential amenity is provided in the form on increase private open space and/or in a contribution to public open space.   | <p>is provided. The applicant has argued this is adequate given the sites location in a dense urban area and given private balconies are provided.</p> <p>It is unclear what areas the applicant has included. The area of the communal courtyard is approximately 350m<sup>2</sup> which is 13.8% of the site. It is noted a number of private open space areas are undersized and do not meet the recommended dimensions.</p>   |
|                               | The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as a podium or car park is 25m <sup>2</sup> . The minimum preferred dimension in one direction is 4m.  | None of the ground floor units are provided with the 25m <sup>2</sup> minimum of private open space. Units 0.09 and 0.10 do not satisfy the minimum dimension in one direction of 4m.   |
| <b>Planting on structures</b> | <p>In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity.</p> <p>The following are recommended as minimum standards for a range of plant sizes:</p> <ul style="list-style-type: none"> <li>• Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m<sup>3</sup> - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent.</li> <li>• Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m<sup>3</sup> - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent.</li> <li>• Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m<sup>3</sup> - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent.</li> <li>• Shrubs - minimum soil depths 500-600mm</li> <li>• Ground cover - minimum soil depths 300-450mm</li> <li>• Turf- minimum soil depths 100-300mm</li> <li>• Any subsurface drainage requirements are in addition to the minimum soil depths quoted above.</li> </ul> | The proposed development incorporates on-slab planting and planters. Insufficient detail is provided in relation to soil depths to determine if the landscaping proposed is adequate.   |
| <b>Safety</b>                 | Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.   | A formal crime risk assessment has not been provided.   |
| <b>Visual privacy</b>         | Refer to Building Separation minimum standards.  | <p>No privacy screen is shown on the plans between the private open space areas of units 0.01, 0.02, 0.03 and 0.04 located at ground level. In the absence of screens for these units reasonable levels of visual privacy will not be achieved.</p> <p>Concern is also raised in relation to privacy impacts between the ground level units and the common area. The common area is raised above the level of four of the units. Insufficient detail is provided (in relation to soil depths and mature heights of species) to determine if the landscaping proposed will allow for visual privacy for these units.</p> |

| Primary Development Controls   | Guideline  | Comments  |
|--------------------------------|--|---|
| <b>Building entry</b>          | Design mail boxes to be convenient for residents and not clutter the appearance of the development from the street.  | No detail is provided of the location of the letter boxes for the residential flat building, townhouses or The Stables.   |
| <b>Parking</b>                 | Determine the appropriate car parking space requirements in relation to the developments proximity to public transport, the density of the development and local area and the sites ability to accommodate car parking.  | The proposed development fails to provide the required number of parking spaces pursuant to MBCDCP.   |
| <b>Pedestrian access</b>       | Identify the access requirements from the street or car parking area to the apartment entrance.<br><br>Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.<br><br>Provide barrier free access to at least 20% of dwellings in the development.   | An access report has been submitted which makes a number of recommendations to ensure access is provided for within the development. A condition would be required in the event of an approval.   |
| <b>Vehicle access</b>          | Generally limit the width of driveways to a maximum of 6.0m.   | The driveway width is less than 6m.   |
|                                | Locate vehicle entries away from main pedestrian entries and on secondary frontages  | The vehicle entry is proposed from Belmont Road and is separate from the pedestrian entry.  |
| <b>PART 03 BUILDING DESIGN</b> |  |   |
| <b>Apartment Layout</b>        | Single-aspect apartments should be limited in depth to 8m from a window.<br><br>The back of a kitchen should be no more than 8m from a window.<br><br>Buildings not meeting minimum standards must demonstrate how satisfactory daylighting and natural ventilation can be achieved.   | A number of units do not comply with the depth requirements, with up to 9m proposed. These units include 1.02, 1.03, 1.04, 1.05, 1.06, 1.07, 1.08, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 3.08, 3.09, 4.02, 4.04 and 4.06. |
| <b>Apartment Mix</b>           | To provide a diversity of apartment types  | The proposed development incorporates a range of dwelling types including studio, 1 bedroom, 2 bedroom and 3 bedroom options.   |
| <b>Balconies</b>               | Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.<br><br>Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed. | Units 1.12, 2.12, 3.12 and 4.10 are not provided with balconies with a minimum depth of 2m.   |

| Primary Development Controls   | Guideline  | Comments  |
|--------------------------------|--|---|
| <b>Ceiling heights</b>         | <p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <ul style="list-style-type: none"> <li>in mixed use buildings: 3.3m minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use</li> <li>in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</li> <li>for two storey units, 2.4m minimum for second storey if 50% or more of the minimum wall height at edge</li> </ul> | No finished ceiling levels are provided on the plans and therefore it cannot be accurately determined if the ceiling heights comply. It appears that the first floor does not comply with the 3.3m minimum ceiling height.  |
| <b>Ground Floor Apartments</b> | Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.   | The SOHO and terrace units are provided with separate entries.  |
|                                | Provide ground floor apartments with access to private open space, preferably as a terrace or garden.  | None of the ground floor units are provided with a terrace (as defined by the Code) or garden.  |
| <b>Storage</b>                 | <p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> <li>studio apartments 6m<sup>3</sup></li> <li>one bedroom apartments 6m<sup>3</sup></li> <li>two bedroom apartments 8m<sup>3</sup></li> <li>three bedroom apartments 10m<sup>3</sup></li> </ul>  | 71 storage spaces are provided, where 77 are required. No detail is provided of the volume of the spaces. Additional storage would be required.   |
| <b>Building Amenity</b>        |  |   |
| <b>Daylight Access</b>         | Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.   | No diagrams have been provided to support the applicants claim that the living rooms and private open space areas of 52 of the 77 units will receive 3 hours direct sunlight between 9am and 3pm in mid winter. It is unclear how this is achieved given the orientation of a number of the units. Further information would be required. |
|                                | Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed.   | Of the 73 units proposed in the residential flat building 26 (35%) are single aspect and face south east or south west. The applicant identifies that there are 10 south facing units however it is not clear which units this refers to.   |
| <b>Natural Ventilation</b>     | Building depths, which support natural ventilation typically range from 10 to 18m.   | Unit depths are up to 9m.   |
|                                | 60% of residential units should be naturally cross ventilated.   | 16.4% of units are naturally cross ventilated.  |
|                                | 25% of kitchens should have access to natural ventilation.   | 16% of units have kitchens with direct access to natural ventilation, other units have kitchens which are within 10m of a ventilation source.   |
| <b>Building Performance</b>    |  |   |
| <b>Waste management</b>        | Supply waste management plans as part of the development application submission as per the   | A Waste Management Plan has been provided.  |

| Primary Development Controls | Guideline  | Comments   |
|------------------------------|--|--|
|                              | NSW Waste Board.   |  |
| <b>Water conservation</b>    | Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris. | The development would be provided with guttering. No lead or bitumen-based paints would be used. |

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

State Environmental Planning Policy (Building Sustainability Index: Basix (BASIX) applies to the residential component of the proposed development. The application was accompanied by a BASIX certificate for the residential flat building which indicates the development will achieve the following:

| Commitment             | Required Target | Proposed |
|------------------------|-----------------|----------|
| <b>Water</b>           | 40              | 41       |
| <b>Thermal Comfort</b> | Pass            | Pass     |
| <b>Energy</b>          | 30              | 30       |

The application was accompanied by a BASIX certificate for the multiple dwellings (The Stables and townhouses) which indicates the development will achieve the following:

| Commitment             | Required Target | Proposed |
|------------------------|-----------------|----------|
| <b>Water</b>           | 40              | 41       |
| <b>Thermal Comfort</b> | Pass            | Pass     |
| <b>Energy</b>          | 40              | 40       |

In the event of an approval conditions would be required to ensure the fulfilment of the commitments listed in the BASIX certificates.

### 5.2.7 Mosman Local Environmental Plan 2012 (MLEP 2012)

The proposed development fails to comply with the following aims of the plan identified at Clause 1.2:

- (a) *to provide housing opportunities appropriate to environmental constraints while maintaining the existing residential amenity,*
- (g) *to protect and conserve the natural, built and Aboriginal cultural heritage of Mosman,*
- (h) *to protect, conserve and enhance the landform and vegetation, especially foreshores or bushland, in order to maintain the landscape amenity of Mosman.*

### Permitted or Prohibited Development

The proposed development is defined as residential flat building, commercial premises and multi dwelling housing and is permissible with Council's consent in the B2 Local Centre zone pursuant to the land use table. The proposed development fails to comply with the following zone objectives:

- *To enhance the viability, vitality and amenity of the local centres.*
- *To maintain active uses at street level with a predominance of retail use.*

**THE FOLLOWING PROVISIONS OF MLEP 2012 ARE RELEVANT TO THE ASSESSMENT OF THE PROPOSED DEVELOPMENT**

| <b>Principal Development Standards</b>     |     |
|--|-----|
| Subdivision lot size                       | No  |
| Height of buildings                        | Yes |
| Floor space ratio                          | Yes |
| <b>Miscellaneous and Local Provisions</b>  |     |
| Heritage                                   | Yes |
| Aboriginal places of heritage significance | No  |
| Acid sulfate soils                         | No  |
| Natural watercourses                       | No  |
| Foreshore building line                    | No  |
| Scenic protection                          | No  |

The relevant provisions are assessed below.

## **Principal Development Standards**

### Height of buildings

The proposed development fails to comply with the height of buildings development standard and objectives at Clause 4.3 of MLEP 2012. The proposal has a building height of 17m (measured to the top of the lift shaft RL100) which exceeds the development standard of 12m in Clause 4.3 of MLEP 2012 by 5m or 41%. The majority of the residential flat building has a height of 16.1 metres (RL98.8) which exceeds the development standard by 4.1m or 34%.

A written exception pursuant to Clause 4.6 has been made requesting variation to the height of buildings development standard. The applicant has provided the following justification to vary the development standard:

- The building will result in the delivery of a new mixed use development with active ground floor uses and residential above, thus providing an outcome that is consistent with the desired future character as set out in the Mosman Business Centre's DCP.
- The building will facilitate the creation of a landmark building on a prominent corner site and in doing so provide a clearly defined gateway entrance point into Cremorne Junction Business Centre.
- The building will support greater cohesion by improving visual and physical links with the Cremorne Junction Business Centre, which is characterised by a number of buildings that are 5 storeys and above.
- The building is strong in its presentation and address to the street and in this regard will help frame Military and Belmont Road and contribute to the creation of a cohesive, active and well defined streetscape that is appropriate to its role and function as a major transport route.
- The building will replace an existing contemporary and unsympathetic five storey glass office building with a new high quality mixed use building of a similar height and mass, but which fosters a greater sense of place, brings development closer to the street edge and promotes a more intimate and active environment along Military and Belmont Road.
- The building has been designed to provide greater relief to Alma House in parts whilst retaining a similar scale relationship to that of the existing building.
- The building will not result in an unacceptable overshadowing impact on the adjacent building compared to both a height compliant building form and the existing building are minor.
- The site is a prominent corner site with frontages to Military Road and Belmont Road. It is therefore a highly suitable and appropriate location for a building to accommodate additional height without any or minimal impact on the streetscape and surrounding area.

- The proposed mixed use development will make a substantial contribution to delivering new housing and provide opportunities for economic growth with the inclusion of ground floor non-residential floor space. The proposed development is therefore consistent with the LEP objective.

The variation to the height of buildings development standard fails to satisfy the objectives of the height of buildings development standard at Clause 4.4 of MLEP 2012, as described below:

- (i) *to ensure that new buildings are compatible with the desired future character of the area in terms of building height and roof form and will produce a cohesive streetscape,*
  - The proposed development does not sufficiently incorporate setbacks from both Belmont and Military Roads that increase with height. This results in the development presenting a greater building bulk to the street which is not sympathetic to the streetscape character.
  - The proposed development will have a negative impact on the heritage significance of the neighbouring state heritage item Alma given the height and inadequate separation that is provided between the two buildings.
- (ii) *to provide opportunities for buildings of a greater height than existing development in suitable locations to achieve the Council's residential strategy and provide opportunities for economic growth,*
  - Given the development currently proposed, the site is not a suitable location to allow a building of a greater height than existing development.
  - The proposed development does not appropriately respond to the streetscape and the heritage significance of the neighbouring state heritage item Alma.
  - Under the provisions of MLEP 2012 certain sites are permitted to have building heights of up to 15 metres. The subject property is not identified as one of these sites and has been allocated with a maximum 12m height.
  - The site is not identified as an opportunity site at Section 4.3(4) of Mosman Business Centres Development Control Plan.

Insufficient environmental planning grounds exist to vary the height of buildings development standard.

In the circumstances of the case, the variation to the development standard does not satisfy the objectives of the standard and the zone.

The Clause 4.6 variation does not demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are insufficient environmental planning grounds to justify contravening the development standard.

#### Floor space ratio

The proposed development fails to comply with the floorspace ratio development standard and objectives at Clause 4.4 of MLEP 2012. The proposal has a gross floor area of 5550 square metres and a floor space ratio of 2.2:1 which exceeds the development standard of 2:1 in Clause 4.4 of MLEP 2012 by 494 square metres or 9.7%.

A written exception pursuant to Clause 4.6 has been made requesting variation to the floorspace ratio development standard. The applicant has provided the following justification to vary the development standard:

- Many buildings that currently frame the site's local context are five-storeys or taller. These include taller buildings of 7 to 16 storeys which are generally mid-late 20th century tower block developments, as well as more recent five to six storey buildings within the Cremorne Junction Business Centre (generally within the North Sydney LGA). These buildings set the context for the centre and its likely future built form character.
- There is currently a clear built form disparity across Cremorne where the Council LGA's meet. North Sydney Council planning controls cover the majority of Cremorne and permit 5-6 storey buildings within the centre while Mosman Council's planning controls only allow for a maximum of 4-storey buildings within the centre.
- The proposed development will replace an existing contemporary and unsympathetic five storey glass office building which already has a maximum height of 17m. The proposed new high quality mixed use building is of a similar height and mass, but in contrast to the existing building will foster a greater sense of place, bring development closer to the street edge and promote a more intimate and active environment along Military and Belmont Road.
- The Mosman Business Centres DCP states that the design of current buildings mean that they present as stand-alone structures which alienate pedestrians. The proposed building therefore is unashamedly built to the boundary, the intention being to create a new landmark building on a prominent corner site. The street wall design will create a more intimate pedestrian friendly environment along Military Road and provides a clear gateway entrance point into Cremorne Junction Business Centre.
- The proposed building will greatly improve the visual and physical cohesion with the rest of Cremorne Junction Business Centre which is already characterised by buildings that are 5 storeys and above.
- The building will not result in an unacceptable overshadowing or visual impacts on the adjacent buildings when compared to both a height compliant building form and the existing building are minor.
- The site is located in the Cremorne Junction Business Centre and the B2 Local Centre Zone. It is a prominent corner site with frontages to Military Road and Belmont Road and is therefore a highly suitable and appropriate location for a building of greater scale. The proposed mixed use development will also make a substantial contribution to delivering new housing in the local area as well as provide opportunities for economic growth with the inclusion of ground floor non-residential floor space. The proposed development is therefore consistent with this LEP objective.

This assessment finds that the variation to the floor space ratio development standard fails to satisfy the objectives of the floorspace ratio development standard at Clause 4.4 of MLEP 2012, as described below:

(b) *to ensure that buildings are compatible with the desired future character of the area in terms of building bulk and scale,*

- The proposed development does not sufficiently incorporate setbacks from both Belmont and Military Roads that increase with height. This results in the development presenting a greater building bulk to the street which is not sympathetic to the streetscape character.
- The proposed development will have a negative impact on the heritage significance of the neighbouring state heritage item Alma given the building bulk and inadequate separation that is provided between the two buildings.



(c) *to provide opportunities for buildings of a greater scale than existing development in suitable locations to achieve the Council's residential strategy and provide opportunities for economic growth,*

- Given the development currently proposed, the site is not a suitable location to allow a building of a greater scale than existing development.
- The proposed development does not appropriately respond to the streetscape and the heritage significance of the neighbouring state heritage item Alma.
- Under the provisions of MLEP 2012 certain sites are permitted to have floor space ratios of up to 2.5:1 and 3:1. The subject property is not identified as one of these sites and has been allocated with a maximum 2:1m FSR.
- The site is not identified as an opportunity site at Section 4.3(4) of Mosman Business Centres Development Control Plan.

The Clause 4.6 variation does not demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are insufficient environmental planning grounds to justify contravening the development standard.

## **Miscellaneous and Local Provisions**

### Heritage conservation

The proposed development will have a negative impact on the heritage significance of the neighbouring state heritage item, Alma. The proposed development does not satisfy objectives (a) and (b) shown below:

- (a) *to conserve the environmental heritage of Mosman, and*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.*

Refer to discussion under Mosman Business Centres DCP 'Heritage Conservation' for further detail.

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

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

#### Aims of the Plan

The proposed development does not comply with the following aims of the MBCDCP at Clause 1.5:

- (a) *have an enhanced image for Mosman,*
- (b) *encourage a high level of visual amenity and a pleasant pedestrian environment, and a high standard of residential and commercial amenity,*
- (c) *define the character for each business centre, and encourage good quality design outcomes consistent with the existing streetscape and planning controls specific to each centre,*
- (d) *optimise the potential for viable retail and commercial activities,*
- (e) *ensure that the effect of development on adjoining properties and the character for the business centre are key considerations in the preparation and assessment of development proposals,*
- (f) *provide for the conservation and restoration of the unique Federation and Inter-War commercial buildings and heritage conservation areas, and sympathetic infill development consistent with the area's heritage values,*

- (i) *ensure the provision and use of transport, access and parking facilities contribute to a convenient, safe, and sustainable environment.*

### Cremorne Junction Business Centre

The site is located within the Cremorne Junction Business Centre. In summary, the MBCDCP describes the Cremorne Junction Business Centre as:

- Containing a mix of contemporary office buildings.
- There is not a strong sense of place, partly because of the diversity in building form and materials which contributes to a lack of cohesion in the centre, partly because the business centre is at the tail end of the main part of the centre located in North Sydney council area, and partly because of the strong influence of Military Road which creates a major barrier between the northern and southern sides of the centre.
- Some of the contemporary buildings appear as stand alone structures, quite disconnected and separate from the Cremorne Junction centre, and their bulk, scale and deeper setbacks tend to further alienate the pedestrian, whose experience is already greatly affected by the volume of traffic along Military Road.

The proposed development does not satisfy the following planning controls relevant to the Cremorne Junction Business Centre:

- (b) *Encourage improved pedestrian amenity and vibrancy of the area, particularly development to address the relationship of building form to the street and the public domain. This may be achieved by building design, landscaping and providing interesting and/or active street level uses, particularly on sites between Spofforth Street and Glover Street (91 Spofforth Street and 309 Military Road).*
- (f) *Encourage development that is compatible with nearby heritage buildings and conservation area.*
- (i) *Encourage buildings that are appropriate to the local context including massing, bulk, scale and façade detail. Building elements such as windows, doors, recessed walls and other architectural features should be used to minimise large expanses of blank walls and glazed areas.*
- (k) *For sites adjoining residential uses, encourage appropriate setbacks and building design to minimise overshadowing and overlooking.*

The site is not an 'opportunity site' as identified in the planning controls for the Cremorne Junction Business Centre.

### Arterial Business Centres

The proposed development does not provide for a two storey street wall, however in the circumstances this is not inappropriate.

MBCDCP requires that street setbacks increase with height and stipulates a building envelope measured at 45 degrees drawn from the top of the second storey walls. The applicant has not identified the envelope on the section plans. The proposed development does not comply with this requirement to both Military and Belmont Roads. The fifth level of the development is proposed to have a setback of 0.025m (measured to the balcony edge) and 2.975m (measured to the external wall) from Military Road and 0.235 to 0.8m from Belmont Road. The proposed development does not satisfy the objective that requires that greater upper storey setbacks be provided to reduce the impression of bulk and to provide suitable residential amenity.

A part of the four upper levels is proposed to encroach into the road reserve near the corner of Military and Belmont Roads. Whilst Council's Property Officer has identified that this could

be the subject of a lease under the Roads Act given this is a new development and there is no sound reason why the whole of the building envelope cannot be located within the property boundaries this element of the building should be relocated.

The external finishes schedule identifies that a range of materials are proposed included paint and render, brick, terracotta, anodised aluminium and glazed and steel balustrades. The schedule does not identify what colour paint is proposed to be used.

Some concern is raised in relation to the SOHO units and their ability to comply with the MBCDCP requirement that there be a continuity of active business uses at street level. A condition would be required that at ground level the commercial uses (including SOHO units) have shopfront clear glazing.

Seven metres of the ground floor level fronting Military Road is proposed to be dedicated to servicing and does not satisfy the objective and planning controls that require that active business uses at street level are enhanced.

No awning over the footpath is proposed contrary to MBCDCP. The ground floor level has a 2 metre setback from the Military Road boundary which will provide some shelter for pedestrians accessing the commercial units. An awning should be provided in accordance with the DCP that is designed to allow for the retention of the existing street trees in Military Road.

### Heritage Conservation

The proposed development will have an unacceptable impact on the adjoining state heritage item at 114 Belmont Road (Alma) and fails to comply with the objective and planning controls of the DCP which require that new development is compatible with and respects the architectural character of the heritage item and not dominate or overwhelm the heritage item.

The Statement of Significance for Alma identifies that:

*"Alma is historically significant for its association with the establishment of substantial residences in Mosman in the 1880's and also with its use as an early nursing school. It is aesthetically significant as a good example of Italianate architecture with sympathetic additions, and is prominent in the streetscape."*



**Figure 4:** View of Alma from Belmont Road

Council's Heritage Advisor has identified that:

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*"While the existing development is not sympathetic to the State Heritage Item 'Alma House' it does step back on the Glover Street frontage and has a very light appearance as a result of the extensive use of glass in the façade treatment. I have no issues in regard to the potential visual impacts on Military Road but consider that the bulk of the façade to Belmont Road and the relationship to Alma House has not taken the opportunity to improve the setting of the heritage item or to enhance public views to it. The south eastern corner of the new development creates a very hard edge to the site and does not form a sympathetic transition to the now reduced curtilage of the heritage item.*

*I would consider a proposal that reduced the visual impact and intrusion of the south east corner of the proposed development on the setting of the heritage item to improve its visual and extended curtilage."*

The proposed development will affect views to and from Alma given the additional building bulk to Belmont Road compared with the existing development. This is a further negative aspect of the proposed development.

Landscaping is currently provided between the existing building on the subject property and Alma which helps to soften the visual impact of the development when viewed from the heritage item. The proposed landscaping will unlikely achieve a similar result.

The proposed development is not compatible with nor respects the architectural character of the neighbouring heritage item and will dominate and overwhelm the heritage item contrary to the DCP.

#### Advertising and signage

No advertising or signage is proposed.

#### Accessible buildings and adaptable housing

The access report prepared by Philip Chun Accessibility makes a number of recommendations to ensure the development complies with the Building Code of Australia, Disability (Access to Premises - Building) Standards 2010 and applicable Australian Standards. In the event of an approval conditions would be required to ensure these recommendations were implemented.

MBCDCP requires that 8 adaptable units be provided. The access report identifies that 8 adaptable units are proposed and identifies these as units: 0.01, 0.10, 2.16, 3.16, 4.03, 4.05, 4.07 and 4.16.

The adaptable units identified are not consistent with the plans as units 2.16 & 3.16 are not identified as adaptable on the plans and unit 4.16 does not exist on the plans (though it is likely this is a typographical error and was meant to refer to unit 4.14 which is identified as adaptable).

#### Residential development in business centres

This section of the DCP is applicable to The Stables and townhouse component of the proposed development. Refer to SEPP 65 assessment for assessment against the principles of the SEPP. The following issues are identified:

- Of the four section drawings provided none provide a section through either The Stables building or the townhouses, therefore it is not possible to identify what the floor to ceiling levels are.
-

- There will be poor levels of visual privacy between units 0.12 and 0.13 with the main areas of private open space 1.5m apart with no apparent screening.
- There will be poor levels of visual privacy between The Stables and Alma. There is limited opportunity to provide screen landscaping given the location of the deck to unit 0.14.
- Insufficient information has been submitted identifying that the units will receive solar access in accordance with the minimum requirement.
- The size of the private open space of unit 0.14 is approximately 2 square metres less than the minimum requirement.
- There is an overall short fall in the provision of storage spaces.

The proposed development will result in additional overshadowing of the neighbouring property Alma. Detailed plan and elevation shadow diagrams have been submitted with the development application which identify that the proposed development will allow for compliant levels of solar access to this property in accordance with MBCDCP.

#### Energy efficiency

BASIX certificates have been submitted for the residential components of the development. Conditions would be required to ensure that the commercial component complies with the energy efficiency planning controls of MBCDCP.

#### Visual and acoustic privacy

Eight residential units are located within 2-3 metres of the common boundary and have the potential to overlook Alma. Seven of these units rely on louvred screens on the balconies to mitigate overlooking. The plans do not identify if these screens are fixed or operable. The eighth unit located on the upper level has a balcony that relies on a planter to mitigate overlooking. No detail is provided of the soil depth or proposed species. In the absence of this detail, the proposed development does not comply with the planning controls and objective relating to visual privacy. The proposed development is unlikely to impact on the visual privacy of other nearby residential properties.

Refer to discussion under the Code in relation to privacy impacts within the residential flat building component of the development.

Acoustic privacy has been addressed under SEPP (Infrastructure). Conditions would be required to ensure the recommendations within the acoustic report are implemented and that noise levels within the development comply with the relevant standards.

In regard to the acoustic impact on neighbours, the use of the commercial units is not known at this stage. It would be appropriate to limit by condition the hours of operation of the commercial units until the use is known. Loading will be undertaken within the basement car park and is unlikely to have an acoustic impact on neighbours.

It is noted that the acoustic report contains a typographical error in its conclusion as it refers to the development complying with the City of Canada Bay DCP.

#### Crime prevention

No concerns are raised in relation to compliance with the objectives and planning controls relating to crime prevention. In the event of an approval conditions would be required to control external lighting and its impact on neighbouring properties.

#### View sharing

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No submissions have raised concern with view loss. It is noted that the DCP identifies that a reference to views is a reference to water views and views of significant landmarks (e.g. The Heads, Opera House and Harbour Bridge). The proposed development complies with the objectives and planning controls relating to view sharing.

It is noted that some submissions identify an issue with views to and from Alma being affected by the proposed development. This issue is discussed under the heading 'Heritage Conservation'.

#### Landscaping and Preservation of trees or vegetation

MBDCP requires that existing street trees which contribute to the amenity of the area should be retained and incorporated into the landscape design where reasonable. The proposed development involves the removal of some street trees (the exact number is not clear given discrepancies between the arborist report and the plans). Council's Landscape Officer has requested that the Eucalypts along Military Road (Trees 2 and 3) be retained and protected, given it is difficult to plant and establish trees in this location.

The arborist report identifies that 29 trees are proposed to be removed across the site. A number of these trees currently provide an important vegetative screen between the existing development and Alma, this is depicted in Figure 5. Given the scale of the development proposed it is imperative that an effective landscape buffer be provided along this boundary. A more detailed landscape plan (1:50) for this area of the site would be required along with a landscape elevation which shows the mature heights of the landscaping proposed in the context of the building proposed.



**Figure 5:** Photograph showing the existing landscaping between Alma and the site

Council's Landscape Officer has raised a number of issues including the proposed tree removal, impact on existing trees proposed to be retained, the level of detail provided within the arborist report and landscape plan. The issues are summarised as:

- Insufficient detail is provided for the landscaping proposed between the development and Alma. A detailed drawing (1:50) which includes super advanced screening shrubs to replace the trees proposed to be removed is required.
- There are inconsistencies between the arborist report and the plans as to which trees are proposed for removal.

- The arborist report is misleading as it uses a red dashed circle symbol as a tree protection zone symbol. This symbol is usually used to indicate a tree to be removed. This may result in trees being accidentally removed.
- All new trees along Belmont Road (including the replacement for tree No. 12) should be Jacarandas.
- Insufficient detail is provided of the soil depths of the planter boxes and other on slab planting areas.
- All existing and proposed trees should have mature canopy spreads shown.
- A tree protection plan / landscape plan clearly showing the extent of excavation & the deep soil planting areas. This should show the trees to be retained and protected with accurate canopy's shown, as well as SRZ, TPZ and % incursion accurately depicted (particularly for tree 13). The plan should show landscaped area, and differentiate using colour) between deep soil areas and on slab planting.
- Insufficient detail is provided of the mature heights of the proposed landscaping.

Having regard to the landscape issues identified, the proposed development should not be approved until such time as these issues have been satisfactorily resolved.

#### Transport, access and parking

The proposed development fails to provide adequate car parking for both the residential and commercial uses as shown in the table below:

|                              | <b>Control</b>          | <b>Required</b> | <b>Proposal</b>                              |
|------------------------------|-------------------------|-----------------|--|
| <b>Commercial</b>            | 1 per 16sqm             |                 |  |
| GFA of 2 units 130sqm        | 1 per 16sqm             | 8               | 16   |
| GFA of SOHO commercial 95sqm | 1 per 16sqm             | 6               | (1 loading bay is also proposed)             |
| <b>Residential</b>           |                         |                 | 79   |
| 3 x SOHO                     | (1 space)               | 3               |  |
| 1 bed                        | (1 space)               | 49              |  |
| 2 bed                        | (1.2 spaces)            | 26.4            |  |
| 3 bed                        | (1.5 spaces)            | 4.5             |  |
| Visitor                      | 1 space per 4 dwellings | 19.25           | Proposed to be shared with commercial spaces |
| <b>Total</b>                 |                         | <b>122.45</b>   | <b>96 (26.45 space shortfall)</b>            |

The applicant has applied a rate of parking different from the MBCDCP for the residential and commercial uses on the basis that the site is in close proximity to Military Road and public transport facilities. It is however noted that the MBCDCP also provides a lesser parking requirement for multiple dwellings less than 200 metres from Military Road and it is these parking rates that have been applied in the table above. Further the applicant has not provided for the commercial floor area of the SOHO units in their calculation of the required parking.

The plans do not identify how the parking will be allocated between the different uses, however the Statement of Environmental Effects identifies that 11 visitor parking spaces will be shared with the retail parking and argues that this is acceptable on the basis that they will experience different peak demand patterns. Without knowing the future use of the commercial units it is unclear how this can be known.

The proposed development does not provided the required number of accessible parking spaces. MBCDCP requires that 2 spaces in addition to the requirement within the premises standards (1 space) be provided. Whilst 4 spaces are shown on the plans, as indicated by

the applicant only 2 of these spaces meet the criteria of an accessible parking space. Overall there is a shortfall of 1 accessible parking space.

The proposed development does not provided the required number of bicycle spaces with a short fall of 1 space as only 19 spaces are shown on the plans.

One loading (car parking sized) space is proposed which is appropriate given that is it not possible to unload directly in front of the site in either Military or Belmont Roads.

The proposed development does not provided the required number of car wash bays with the DCP requiring 1 wash bay per 12 dwellings, one wash bay is proposed.

Council's Engineer has identified that the driveway and internal ramp gradients fail to comply with the relevant Australian Standard.

Council's Engineer has also raised concern with the detail provided in the applicant's Traffic Impact Assessment on the basis that it does not identify when the traffic counts were undertaken and does not sufficiently address the impact of the additional traffic generated by the development on the local road network.

#### Site facilities

The proposal includes screening of the air conditioning condensers on the roof consistent with the MBCDCP requirement that site facilities be concealed from public view as far as possible. A condition would also be required that no further plant and equipment be placed on the roof.

#### Stormwater management

Council's Engineer has reviewed the concept stormwater plans and has raised concern that the design is not satisfactory in that no on-site detention is proposed and that the rainwater tank size is insufficient. The rear part of the site is proposed to drain to an easement. A condition would be required that evidence be provided that the site benefits from the drainage easement.

#### Excavation and site management

Conditions would be required to ensure compliance with the relevant site management and excavation planning controls.

#### Waste management

The proposed development incorporates a refuse chute, compactor and waste room and will rely on waste caretakers to ensure the efficient operation of the system proposed. Within the waste room provision is made for a separate lockable cage for the commercial waste.

Council's Waste Officer has reviewed the proposal including the waste management plan prepared by Elephants Foot Recycling Solutions and has raised no concern.

It is unclear in the documentation provided where the waste will be collected from. At the recommendation of Council's Waste Officer a condition would be required to ensure all waste is collected from Belmont Road.

Conditions would also be required to ensure compliance with the DCP requirements in relation to demolition and construction waste.

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### Use of footpaths for outdoor dining and display of goods

No use of the footpath for outdoor dining or display of goods is proposed as part of this application.

### Food premises

A food premises is not proposed as part of this application.

### Utility infrastructure

The proposed development involves the relocation of the existing substation. The substation is proposed to be located within the building envelope and will not be visible from the public domain.

Power lines are already undergrounded. In the event of an approval conditions would require that all new services also be placed underground.

## **5.3.2 Development Contributions**

Mosman Section 94A Development Contributions Plan 2012 applies to this development as the site is within the plan catchment. A condition requiring payment of the contribution would be required in the event of an approval.

## **5.3.3 Other Issues**

The following additional issues have been identified with the proposed development / documentation lodged:

- The proposed development does not have regard for a right of carriageway that exists over the site to the benefit of 114 Belmont Road. There are alterations in levels that would adversely affect the use of the right of way and structures including a fence, gate and wall that obstruct the right of carriageway.
- No sanitary facilities are provided for the 2 commercial units as required by the Building Code of Australia. This would need to be addressed within a BCA report.
- The following issues have been identified with the plans:
  - The plans do not show any part of The Stables building to be retained, this is inconsistent with the applicants description of the development which states that the stables building will be refurbished.
  - The SE elevation of the townhouse is obscured by The Stables (Drawing No. DA07.02(02)).
  - The elevations of The Stables are difficult to read and should be redrawn clearly showing the four sides of the building.
  - Units 2.15, 3.15 and 4.13 are labelled on the plans as 2 bed but are only provided with 1 bed.
  - Level 01: Unit 1.11 is identified as a 2 bed terrace but is only a 1 bed unit and one of the units at this level does not have a unit number.
  - The landscape and architectural plans are inconsistent with regard to the ground treatment around The Stables.

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

Unless elsewhere identified as an issue, 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

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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 Heritage Advisor made the following comments:

*"While the existing development is not sympathetic to the State Heritage Item 'Alma House' it does step back on the Glover Street frontage and has a very light appearance as a result of the extensive use of glass in the façade treatment. I have no issues in regard to the potential visual impacts on Military Road but consider that the bulk of the façade to Belmont Road and the relationship to Alma House has not taken the opportunity to improve the setting of the heritage item or to enhance public views to it. The south eastern corner of the new development creates a very hard edge to the site and does not form a sympathetic transition to the now reduced curtilage of the heritage item.*

*I have read the assessment undertaken by OCP Architects in relation to potential impact but cannot agree that the impact would be acceptable in this location.*

*I would consider a proposal that reduced the visual impact and intrusion of the south east corner of the proposed development on the setting of the heritage item to improve its visual and extended curtilage.*

*In view of these comments I could not support the application as it stands."*

Council's Landscape Designer made the following comments:

*"There are a number of trees proposed for removal that form an important buffer from the neighbouring Heritage item 'Alma House' (#17, #18, #19, #20,) which should be replaced by super advanced screening shrubs.*

*The existing Eucalypts along Military Road should be retained and protected, as it is difficult to plant and establish trees in this location.*

*There are inconsistencies between the arborist report & the plans as to which trees are proposed for removal. The symbols on the arborist diagram are misleading. He has used a dashed circle red symbol (usually used as a tree to be removed) as a Tree protection zone symbol. This should be amended as trees could easily be accidentally removed. The proposed trees along Belmont Road on the landscape plan, & to replace tree #12 should be Jacarandas.*

*A tree protection plan / landscape plan clearly showing the extent of excavation & the deep soil planting areas. This should show the trees to be retained and protected with accurate canopy's shown, as well as SRZ, TPZ and % incursion accurately depicted (particularly for tree 13). The plan should show landscaped area, and differentiate using colour) between deep soil areas & on slab planting.*

*Details of the planter boxes & other on slab planting areas showing soil depths. All trees existing & proposed should have mature canopy spreads shown. Mature heights of proposed trees should be shown."*

Council's Engineer made the following comments:

### **"Right of Carriage**

*The DA plans currently show driveway/ramp and pedestrian pathway alignment over:*

- *Right of way and easement for electrical purposes (Vide E715498)*
- *Right of Carriageway (Vide DP1029174) for Alma House*

*No allowance has been made for the above right of ways and there appears to be alterations in levels that would adversely affect the use of the right of way.*

### **Carpark Ramp Grades**

Traffic report for Proposed Residential Development 339 Military Road, Mosman (Colston Budd Hunt & Kafes, 2014) notes that access/internal circulation and layout will be compliant with AS2890.1-2004. However, the following non-compliances are noted:

- Access driveway max grade shall be 1 in 20 for the first six metres. Plans show only the first four metres is 1 in 20.
- Ramp between the two basement levels to have a maximum grade of 1 in 5. Plans show that a section of the ramp is 1 in 4.

### **Parking Spots**

The RMS and Mosman Council DCP require a total of 103 parking spaces. Plans have only allowed for 96 spots. This is due to 2 spaces being assigned as share space for residential visitors and retail. The other 5 spots are due to the applicant deviating from 1.2 car spaces for 2 bedroom apartments (they are only providing 1.0).

### **Traffic Impact Assessment**

No assessment has been made on the developments impact on Glover Street/Glover Lane. Vehicles departing the proposed development will only being able to turn left from Belmont Road onto Military Road and the following effect of cars departing the proposed development that want to travel to the north east (e.g. to Spit Junction/Manly) or east into Mosman. This needs to be addressed.

### **Traffic Count**

Traffic report for Proposed Residential Development 339 Military Road, Mosman (Colston Budd Hunt & Kafes, 2014) does not specify the date of traffic count. Given the report is dated February 2014, if the counts were done during January 2014, they may not have taken into account the effects of school students requiring transport to schools, as well as some commuters being on leave. This needs to be addressed.

### **Construction Traffic**

There is no assessment of impact on traffic during construction. They will require a construction traffic management plan.

### **Drainage**

The proposed drainage for a portion of the lot is via an easement. Evidence will be required that the easement exists and also require an 'Application to Connect to Council Stormwater' to be made to assess the connection. There is no evidence supplied with the current documents.

### **OSD**

Currently no OSD is proposed and rainwater tank sizing is insufficient."

Council's Building Surveyor made the following comments:

"Exit travel distances in car park Basement 01 and basement 02 do not appear to comply with the Building Code of Australia.

Distance between alternative exits on Level 01, Level 02, Level 03 and Level 04 do not appear to comply with the Building Code of Australia.

Recommend the applicant submit a Building Code of Australia report prepared by a Building Professionals Board Accredited Certifier."

Council's Property Officer made the following comments:

"The plans show encroachment of the northern corner of the proposed building onto the road reserve at the splayed corner of Belmont and Military Roads. There is an unspecified yet minor encroachment along part of the length of the splay corner boundary on basement levels 01-02 and a triangular encroachment at ground 00, levels 01-04 and roof extending 570mm over the splay corner boundary.

*No objection to the proposal is raised provided the structures on, in or over Council's road reserve being subject to a consent being granted under Sections 138/139 of the Roads Act 1993. The applicant is to submit an application for Roads Act consent for the structures on Council property and is to meet all costs in the matter. Any Roads Act consent will be subject to Council's 'conditions of consent for use of public land' and the applicant submitting an application for works on Council property and gaining approval."*

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

Council's Waste Officer raised no objection subject to conditions.

The NSW Transport Roads and Maritime Services raised no objection subject to conditions.

Ausgrid made the following comments:

*"Ausgrid has no objections to the development at this stage. This is conditional upon the developer meeting Ausgrid's requirements for the supply of electricity to the site. These requirements will include the decommissioning and removal of existing electricity substation S.6617 from the premises. Due to the proximity of the proposed building to the substation it is anticipated that the substation will require decommissioning and removal prior to the commencement of construction.*

*The future supply of electricity to the proposed development will be dependant upon the proposed maximum demand of the development and the existing electrical loading of the surrounding area, and should not be assumed to be available until confirmed by Ausgrid. Note that a new electricity substation may need to be established on the premises to supply the proposed development. The developer is advised to submit a Connection Application for the development as soon as their maximum demand has been determined.*

*This notice is valid for a period of 12 months from the date of this letter and our full requirements are subject to change following receipt of a formal Connection Application from the developer."*

## **7.0 PUBLIC NOTIFICATION AND SUBMISSIONS**

The application was notified between 24 March 2014 and 8 April 2014.

Forty four (44) submissions were received from or on behalf of the following properties:

|   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• 51 Belmont Road</li> <li>• 70 Belmont Road</li> <li>• 86 Belmont Road</li> <li>• 92 Belmont Road</li> <li>• 96 Belmont Road</li> <li>• 97 Belmont Road</li> <li>• 98 Belmont Road</li> <li>• 101 Belmont Road</li> <li>• 102 Belmont Road</li> <li>• 104 Belmont Road</li> <li>• 108 Belmont Road</li> <li>• 100 Belmont Road</li> <li>• 111 Belmont Road</li> <li>• 7/112 Belmont Road</li> <li>• 8/112 Belmont Road</li> <li>• 9/112 Belmont Road</li> <li>• 114 Belmont Road</li> </ul> | <ul style="list-style-type: none"> <li>• 2/11 Glover Street</li> <li>• 40 Glover Street</li> <li>• 46 Glover Street</li> <li>• 48 Glover Street</li> <li>• 56 Glover Street</li> <li>• 72 Glover Street</li> <li>• 78 Glover Street</li> <li>• 7/81A Glover Street</li> <li>• 90 Glover Street</li> <li>• Mosman Historical Society</li> <li>• 29A Awaba Street</li> <li>• 36 Kardinia Road</li> <li>• 2 Ellamatta Avenue</li> <li>• 7 Fernhurst Avenue</li> <li>• 25 Killarney Street</li> <li>• 18 Prince Street</li> <li>• 4 Kardinia Road</li> </ul> |
|---|--|

|  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• 115 Belmont Road</li> <li>• 117 Belmont Road</li> <li>• 119 Belmont Road</li> <li>• 121 Belmont Road</li> <li>• 123 Belmont Road</li> </ul> | <ul style="list-style-type: none"> <li>• 74 Asquith Street, Silverwater</li> <li>• 1/44 West Street, Balgowlah</li> <li>• 22 James Place, Sinnamon Park, Qld</li> <li>• 2 x unknown</li> </ul> |
|--|--|

Fourteen (14) submissions were received from or on behalf of the following properties in support of the proposed development:

|   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Doran Commercial, Cremorne</li> <li>• Edney Ryan Group, Cremorne</li> <li>• Siborg Café, Cremorne</li> <li>• Toni Curtis Hair Design, Cremorne</li> <li>• Pizza Hut, Cremorne</li> <li>• Café Bolle, Cremorne</li> <li>• 4 Bertha Road, Neutral Bay</li> </ul> | <ul style="list-style-type: none"> <li>• 24 Ruby Street</li> <li>• 5 Myahgah Road</li> <li>• 8/182 Raglan Street</li> <li>• 151 Raglan Street</li> <li>• 357 Military Rod (one of the Doctors)</li> <li>• 2 x unknown</li> </ul> |
|---|--|

One additional letter of support was submitted, however the owner of the property from which the letter purports to have originated from has contact Council and has indicated that he did not write the submission. Council has not been contacted by any of the other submitters in relation to the legitimacy of their submissions.

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

- Bulk and scale impacts on the streetscape (non-compliance with the building height and floorspace ratio development standards being a major concern);
- Lack of set back to upper floors;

Comment: Refer to sections 5.2.5, 5.2.7 and 5.3.1 of this report for discussion in relation to the appropriateness of the built form.

- Impact on the heritage significance of the adjoining state heritage item 114 Belmont Road 'Alma' including views to and from the building;

Comment: Refer to sections 5.2.5, 5.2.7 and 5.3.1 of this report for discussion in relation to the impact of the development on Alma.

- Impact on the amenity and health of the occupants of the adjoining state heritage item 114 Belmont Road 'Alma', in terms of visual bulk, privacy, views and solar access;

Comment: Refer to sections 5.2.5, 5.2.7 and 5.3.1 of this report for discussion in relation to the impact of the development on the amenity of Alma.

- Impact on the existing right of carriageway;
- Conflict between the pedestrian pathway and the right of carriageway;

Comment: Refer to sections 5.3.3 and 6.0 of this report for discussion in relation to the impact of the development on the right of carriageway.

- Impact on the existing significant trees;

Comment: Refer to section 5.3.1 of this report for discussion in relation to the proposed tree removal.

- Insufficient car parking is provided within the development;
- This development will add additional demand in Belmont Road for on street parking, it is already difficult to get an on street parking space.

Comment: Refer to section 5.3.1 of this report for discussion in relation to the provision of on site parking.

- Inadequate landscaping;

Comment: Refer to sections 5.3.1 and 6.0 of this report for discussion in relation to the landscaping of the proposed development.

- Light spill and impact on Alma;

Comment: In the event of an approval conditions would be required to ensure the development complies with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.

- Ongoing traffic impacts;
- The no right hand turn onto Belmont Road from the site and no right hand turn onto Military Road from Belmont Road result in additional traffic impacts on Glover Street, Glover Lane, Cabramatta Road, Belmont Road, Bardwell Road and Lyndsay Lane.
- Other developments have recently been completed in the area which also add additional traffic in Glover Street.
- The traffic survey is inadequate as it does not identify when the counts were undertaken and does not address the impact on all affected streets and does not address weekend impacts.
- Safety impact of additional traffic.
- Safety impact of vehicles exiting the driveway.

Comment: Refer to sections 5.3.1 and 6.0 of this report for discussion in relation to traffic impacts of the proposed development.

- Traffic Impacts during construction;

Comment: In the event of an approval, the applicant would be required to submit and have approved by Council a Construction Traffic Management Plan prior to the issue of a Construction Certificate.

- The development does not identify what the use of the commercial component of the development will be. How do we know what the impact will be if we don't know the use;

Comment: In the event of an approval conditions would limit the hours of operation.

- Air pollution for residents and air pollution for neighbours during construction;
- Air pollution from additional cars;

Comment: The impact of air pollution on residents of the development is addressed in the assessment under SEPP Infrastructure. In the event of an approval, conditions would be required to ensure appropriate measures were implemented to minimise impacts of air pollution on neighbours. Air pollution from additional cars is unlikely to be significant and would not warrant refusal of the application.

- Overshadowing of properties in Belmont Road and Glover Street;
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Comment: Refer to section 5.3.1 of this report for discussion in relation to overshadowing impacts of neighbouring properties.

- The documentation lodged with the development application is misleading;

Comment: This issue has been noted and taken into consideration in the assessment of the application.

- The development will provide additional customers to our businesses and add vibrancy to the area;
- Will be an improvement compared with the existing building
- High quality design
- Site is appropriate for this type of development given proximity to public transport

Comment: The issues raised in support of the proposed development have been noted and taken into consideration in the assessment of the application.

## **8.0 CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy (Infrastructure) 2007, Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 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 2012, Business Centres Development Control Plan and other relevant policies.

This assessment has found that the proposed development represents an over development of the site. The proposed development seeks variation to the primary development standards of MLEP 2012 however is not satisfactorily resolved in relation to minimising the impact on the heritage significance of the neighbouring state heritage item, Alma. The development will dominate the streetscape. The proposed development fails to comply with a number of relevant provisions which seek to maintain good levels of amenity to the residential units. Further, the development is unable to provide the required car parking to meet the demand created.

Accordingly, the application is recommended for refusal.

## **9.0 APPLICATION DETAILS**

The applicant is Mr Andre Bali C/- Centuria. The owners are BNY Trust Company of Aust Ltd C/- Century Funds Mgmt Ltd. The estimated value of works is \$22,185,500.

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

## **REPORTING OFFICER'S RECOMMENDATION**

### **RECOMMENDATION ENDORSED BY MANAGER DEVELOPMENT SERVICES**

That Development Application No. 8.2014.42.1 be refused on the following grounds:

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1. A report dealing with the issue of contamination has not been submitted in accordance State Environmental Planning Policy No. 55 - Remediation of Land.
  2. The Design Verification Statement provided is inadequate as it does not provide the information required by Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000*.
  3. The proposed development does not have adequate regard to the following design quality principles of State Environmental Planning Policy No 65 (Design of Residential Flat Development):
    - Context
    - Scale
    - Built form
    - Density
    - Landscape
    - Amenity
    - Aesthetics
  4. The proposed development does not comply with the Residential Flat Design Code in relation to:
    - Building depth
    - Building separation
    - Street setbacks
    - Side & rear setbacks
    - Floor space ratio
    - Deep soil zones
    - Open space
    - Planting on structures
    - Safety
    - Visual privacy
    - Apartment layout
    - Balconies
    - Ceiling heights
    - Ground floor apartments
    - Storage
    - Daylight access
    - Natural ventilation
  5. Insufficient information has been submitted to demonstrate that the residential component of the development will received adequate solar access.
  6. The proposed development does not satisfy aims (a), (g) and (h) at Clause 1.2 Aims of the Plan of Mosman Local Environmental Plan 2012.
  7. The proposed development does not satisfy the objectives of the B2 Local Centre zone which require that development enhance the viability, vitality and amenity of the local centres and that active uses at street level be maintained with a predominance of retail use within Mosman Local Environmental Plan 2012.
  8. The proposed development does not comply with the objectives and development standard relating to height in the B2 Local Centre zone at Clause 4.3 of Mosman Local Environmental Plan 2012.
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9. The proposed development does not comply with the objectives and development standard relating to floor space ratio in the B2 Local Centre zone at Clause 4.4 of Mosman Local Environmental Plan 2012.
  10. The proposed development does not satisfy objectives (a) and (b) at Clause 5.10 of Mosman Local Environmental Plan 2012 as it will negatively impact on the heritage significance of the neighbouring state heritage item, Alma.
  11. The proposed development does not satisfy aims (a), (b), (c), (d), (e), (f) and (i) at Section 1.5 of the Mosman Business Centres Development Control Plan.
  12. The proposed development does not satisfy planning controls (b), (f), (i) and (k) relevant to the Cremorne Junction Business Centre at Section 4.3(4) of Mosman Business Centres Development Control Plan.
  13. The proposed development is inconsistent with objective O5 and planning control P9 at Section 5.1 of Mosman Business Centres Development Control Plan in that upper levels of the development are not appropriately set back from Military and Belmont Roads.
  14. The proposed development is inconsistent with objective O8 and planning control P22 and P23 at Section 5.1 of Mosman Business Centres Development Control Plan in that it does not sufficiently allow for active business uses at street level.
  15. The proposed development is inconsistent with objective O9 and planning control P27 at Section 5.1 of Mosman Business Centres Development Control Plan in that it does not provide pedestrian shelter along the footpath to Military Road.
  16. The proposed development is inconsistent with objective O6 and planning controls P24 and P25 at Section 6.1 of Mosman Business Centres Development Control Plan as it will negatively impact on the heritage significance of the neighbouring state heritage item, Alma.
  17. The proposed development is inconsistent with objective O3 and planning control P3 at Section 6.3 of Mosman Business Centres Development Control Plan in that it is unclear whether the development provides the required number of adaptable units.
  18. The proposed development is inconsistent with objectives O3, O4, O6, O7 and planning controls P4, P8, P9, P10, P15 and P18 at Section 6.4 of Mosman Business Centres Development Control Plan which seek to provide amenity for residential development.
  19. The proposed development is inconsistent with objective O1 and planning controls P1 and P2 at Section 6.6 of Mosman Business Centres Development Control Plan in that it will not allow for adequate visual privacy levels for residents and neighbours.
  20. The proposed development is inconsistent with objective O1, O2 and O3 and planning controls P1, P2 and P4 at Section 6.9 of Mosman Business Centres Development Control Plan in that it proposes unacceptable removal of street trees and insufficient detail is provided in relation to soil depths above slab and within planters.
  21. The proposed development is inconsistent with objective O1 at Section 6.10 of Mosman Business Centres Development Control Plan in that it proposes unacceptable tree removal.
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22. The proposed development does not provide for the minimum number of car parking spaces required by Section 6.11 of Mosman Business Centres Development Control Plan.
  23. The proposed development is inconsistent with objective O5 and planning controls P12 and P13 at Section 6.11 of Mosman Business Centres Development Control Plan in that it does not provide for the required number of accessible car parking spaces.
  24. The proposed development is inconsistent with objective O8 and planning control P17 at Section 6.11 of Mosman Business Centres Development Control Plan in that it does not provide for the required number of bicycle parking spaces.
  25. The proposed development does not comply with Australian Standard AS1428 Parking Facilities in that the access driveway ramp grade and the ramp grade between the two basement levels exceeds the requirement.
  26. The Traffic Impact Assessment does not identify when the traffic counts were undertaken and does not address the impact of the additional traffic generated by the development on the affected local road network.
  27. The proposed development does not comply with the Building Code of Australia in relation to exit travel distances and provision of sanitary facilities. No Building Code of Australia report has been provided by a Building Professionals Board Accredited Certifier.
  28. The proposed development encroaches into the road reserve near the corner of Military and Belmont Roads. The whole of the building envelope should be located within the property boundaries.
  29. The plans contain a number of issues that make it unclear what is proposed. In particular, the labelling of the units, the elevations of the townhouses and The Stables.
  30. The plans and the Statement of Environmental Effects are inconsistent in relation to whether The Stables is being reconstructed or refurbished.
  31. The proposed development does not have regard for a right of carriageway that exists over the site to the benefit of 114 Belmont Road. There are alterations in levels that would adversely affect the use of the right of way and structures including a fence, gate and wall that obstruct the right of carriageway.
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