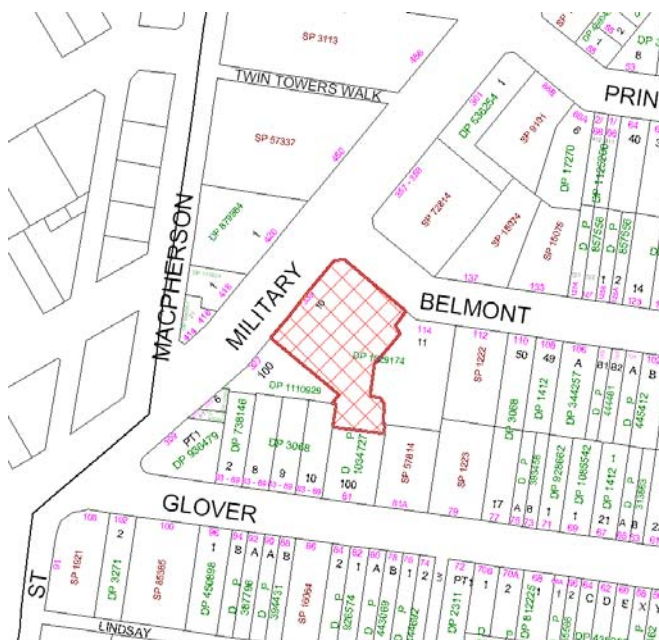


The main issues in the assessment of this application are:

- The proposal is assessed as satisfactory and is recommended for approval subject to conditions.

Locality Plan



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),
- 1 x 1 bedroom (SOHO),
- 45 x 1 bedroom units,
- 14 x 2 bedroom units,
- 1 x 3 bedroom unit.
- 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,
 - 95 car parking spaces (inclusive of a loading bay, 3 accessible spaces and 1 washbay),
 - 4 motorbike spaces,
 - 21 bicycle spaces, and
 - 68 storage spaces.
- Realignment of driveway access from Belmont Road, 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/retail units is not known at this stage.

The applicant has requested that approval be granted to allow a separate early works Construction Certificate to be issued and has requested that conditions prior to the issue of the Construction Certificate be separated into two stages:

1. Early works - demolition and site preparation works; and
2. Building construction above ground level.

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 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 Quality of Residential Flat Development
- Draft State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development
- State Environmental Planning Policy - Building Sustainability Index: BASIX 2004
- Mosman Local Environmental Plan 2012
- Planning Proposal to Amend 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.

No planning agreement exists.

5.0 PUBLIC NOTIFICATION AND SUBMISSIONS

The application was notified between 2 September 2014 and 17 September 2014.

Submissions were received from or on behalf of the following thirty seven (37) properties:

1. 51 Belmont Road	19. 117 Belmont Road
2. 70 Belmont Road	20. 119 Belmont Road
3. 86 Belmont Road	21. 121 Belmont Road
4. 92 Belmont Road	22. 127 Belmont Road
5. 97 Belmont Road	23. 123 Belmont Road
6. 98 Belmont Road	24. 133 Belmont Road
7. 101 Belmont Road	25. 2/11 Glover Street
8. 102 Belmont Road	26. 48 Glover Street
9. 104 Belmont Road	27. 56 Glover Street
10. 106 Belmont Road	28. 72 Glover Street
11. 108 Belmont Road	29. 2 Ellamatta Avenue
12. 100 Belmont Road	30. 7 Fernhurst Avenue
13. 111 Belmont Road	31. 18 Prince Street
14. 7/112 Belmont Road	32. 4 Kardinia Road
15. 8/112 Belmont Road	33. 74 Asquith Street, Silverwater
16. 9/112 Belmont Road	34. 12 Denison Street, Hornsby
17. 114 Belmont Road	35. 43 First Avenue, Willoughby NSW 2068
18. 115 Belmont Road	36. 2 x unknown address

One (1) submission was received from or on behalf of the following property in support of the proposed development:

- 42 Botanic Road

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

- Bulk and scale impacts on the Military Road and Belmont Road streetscape (non-compliance with the building height and floorspace ratio development standards being a major concern);
- The site is not a designated focus centre site and therefore a building of greater height than is permitted should not be allowed;
- Lack of set back to upper floors and non-compliance with the height plane above two storeys;
- Building will appear too dominating and will be ugly and will not be consistent with the character of the area.

Comment: This assessment has found that in the circumstances the proposed built form is reasonable. Refer to sections 6.8 and 7.1 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;
 - Inadequate setback of the residential flat building and The Stables from Alma

Comment: This assessment has found that the proposal will have a reasonable impact on the significance of the neighbouring heritage item Alma. Refer to sections 6.8 and 7.1 of this report for discussion in relation to the impact of the development on Alma and views to and from Alma.

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

Comment: This assessment has found that the proposal will have a reasonable impact on the amenity of the occupants of Alma, subject to the recommended conditions. Refer to sections 6.8 and 7.1 of this report for discussion in relation to amenity impacts on Alma.

- Mature Elaeocarpus shall be planted prior to occupation along the boundary with 114 Belmont Road;

Comment: Council's Landscape Officer has recommended conditions requiring that super advanced species be planted along the boundary with 114 Belmont Road.

- The proposed palisade fencing along the boundary with 114 Belmont Road will impact on privacy given that you will be able to see through it;

Comment: A condition is recommended requiring that all palisade fencing be replaced with solid fencing.

- Relocation of the driveway to within the right-of-carriageway will negatively impact on the use right of carriageway given the conflict of uses;
- Ausgrid benefit from the right-of-carriageway and have identified that the driveway may be blocked on occasion which will prevent access to the basement carpark;
- There is a safety issue associated with 114 Belmont Road using the right-of-carriageway with so many vehicles accessing the driveway;
- A pedestrian pathway crosses the right-of-carriageway, pedestrian safety is an issue; and
- The right-of-carriageway should be extinguished to resolve these issues;
- The right-of-carriageway should be widened over 339 Military Road so that 114 Belmont Road is not limited to using the 'entry' side of the proposed driveway to access their property. The existing right-of-carriageway occupies half of the proposed driveway.

Comment: Following the concerns raised, the applicant's Traffic Engineer was asked to comment specifically on the issues raised in relation to the right-of-carriageway. The applicant's Traffic Engineer has recommended that the proposed arrangement is acceptable given the low traffic generation of the proposal and 114 Belmont Road and the good sightlines. The applicant has indicated that vehicular and pedestrian movements are proposed to be managed with appropriate signage and a convex mirror on the western side of the garage. Council's Engineers have also found the proposed arrangement to be acceptable and have indicated that any extension to the right of way and installation of a convex mirror is a matter between the applicant and 114 Belmont Road. Refer to sections 7.1 and 9.0 of this report for discussion in relation to the right-of-carriageway.

- Impact on the existing significant trees;
 - Inadequate landscaping and green space
-

Comment: Tree protection conditions are recommended. The proposal includes site landscaping and new tree planting in the road reserve. Council's Landscape Designer has not raised concern with the proposed landscape scheme however has recommended conditions requiring additional landscaping on the site.

- Privacy and shadow impacts for 133 Belmont Road;

Comment: 133 Belmont Road is located on the opposite side of Belmont Road approximately 50m to the east of the subject site. The shadow cast from the proposed development will not impact on this property. Given the distance between the two properties privacy impacts will not be unreasonable.

- 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.
- How can visitor parking be included with the commercial parking when we do not know what the commercial use will be.

Comment: This assessment has found the proposal to provide adequate on-site parking subject to the recommended conditions. Refer to section 7.1 of this report for discussion in relation to the provision of on-site parking. Any additional demand for on-street parking would not be significant enough to warrant refusal of the application given the proposal complies with the density provisions applying to the site.

- On-going traffic impacts;
- Amenity impact for Belmont Road residents given additional traffic;
- Additional cars will make it difficult to egress from 133 Belmont Road;
- Cars wanting to turn right from the new driveway will turn down the wrong side of the Belmont Road till they can get around the barrier;
- Vehicular access should be from Military Road not Belmont Road;
- 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 Belmont Road and Glover Street.
- The traffic survey is inadequate as it was done on a Wednesday a known slower day than Monday or Friday, Mondays and Fridays should be included in the survey. Are the traffic flows accurate?
- The traffic survey does not address the impact on Glover Street;
- Safety impact of additional traffic;
- Safety impact given reduced sight lines for drivers in Belmont Road;
- Safety impact of vehicles exiting the driveway.

Comment: Council's Engineers have indicated that the proposal will generate less traffic than the existing commercial development. Refer to sections 7.1 and 9.0 of this report for discussion in relation to traffic impacts of the proposed development. Council's Engineers have not raised any concerns in relation to pedestrian or vehicular safety.

- Traffic impacts during construction;
- No street parking should be lost to a construction zone as it is at a premium.

Comment: A condition is recommended requiring the applicant to submit and have approved by Council a Construction Traffic Management Plan prior to the issue of a Construction Certificate. The plan would detail any necessary construction zones and control traffic impacts during construction.

➤ Waste collection should occur wholly within the site given the sites location in close proximity to the intersection with Military Road which accommodates significant traffic demands. The stopping of vehicles to collect waste in the street will have unacceptable impacts on public road traffic and pedestrian safety and efficiency.

Comment: Council's Traffic Engineers have indicated that in relation to waste pickup on Belmont Road, Council has a service contract in place and the waste collection service will be undertaken similar to other properties in Belmont Road and other similar locations in Mosman.

➤ 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: Conditions are recommended to limit the hours of operation of the commercial units.

➤ 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 does not comply with Councils policy of encouraging social mix;

Comment: The proposed development is for a mixed use development incorporating a range of residential unit sizes, SOHO units and commercial floor space.

➤ Retail in this location would not be viable given its location on the outskirts of Cremorne as a result packaged liquor or small bars might eventuate in this area. Any consent should explicitly exclude this type of use;

Comment: The use of the commercial floor area is not known. Any future use would need to be the subject of a separate application.

- The development will be an improvement compared with the existing building;
- The development is of high quality design; and
- The 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.

6.0 STATE & LOCAL ENVIRONMENTAL PLANNING INSTRUMENTS

6.1 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 \$22,229,700.00.

6.2 State Environmental Planning Policy (Infrastructure) 2007

The development application was referred to Ausgrid as required by SEPP Infrastructure. Ausgrid's comments can be seen at section 9.0 of this report.

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;
- Council's Traffic Engineer has not raised concern in relation to the safety, efficiency and ongoing operation of the classified road as a result of the design of the vehicular access to the land or the nature, volume or frequency of vehicles using the classified road to gain access to the land;
- 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;
- 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.

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 from the roadway is unlikely to impact significantly on amenity.</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>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"> • A condition would be required to ensure concrete pumps, cranes, hoists and winches be used in accordance with the relevant Australian Standards. • Safe access for maintenance would be possible.

	<ul style="list-style-type: none"> • Stormwater is proposed to be directed to the council drainage system. • It is unlikely that objects would be thrown from residential units onto the roadway. • A condition would be required to ensure that external surfaces be treated with anti-graffiti paint or coating materials. • A condition would be required to ensure that outdoor lighting adhere to AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.
Excavation, earthworks and other construction related issues	Extensive excavation is not proposed given the retention of the existing basement car park. A condition is recommended requiring that works be undertaken in accordance with the recommendations within the geotechnical report.

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. A condition is recommended to ensure compliance with the prescribed SEPP Infrastructure LAeq levels.

The development does not constitute traffic generating development pursuant to Clause 104 of SEPP Infrastructure as it has less than 75 dwellings.

6.3 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.

6.4 State Environmental Planning Policy No. 55 - Remediation of Land

The site has previously been used 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.

A report has been submitted which recommends that any contamination would have been removed during the construction of the existing building and as such any historical use of the site is not likely to have any relevance to the current contamination status of the site. The report finds the existing building has been used only for commercial and basement parking neither of which are contaminating activities and the lower basement level has been covered in concrete since construction so there is no direct pathway for contaminants to impact the soils beneath.

Having regard to these recommendations, the land is suitable for the proposed development.

6.5 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. SEPP 65 aims to improve the design quality of residential flat development in New South Wales.

A Design Verification Statement has been submitted in accordance with the *Environmental Planning and Assessment Regulation 2000*.

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

Principle	Comment
Principle 1: Context	<p>The site is located on a prominent corner at one extremity of the Cremorne Junction Business Centre. Having regard for the varied height of developments fronting Military Road in the vicinity of the site and the need to provide separation from Alma, the proposal will have a reasonable fit within the surrounding context.</p> <p>The proposed development satisfies this principle.</p>
Principle 2: Scale	<p>The height proposed is greater than what is permitted pursuant to MLEP 2012.</p> <p>Adequate separation is provided to the neighbouring heritage item Alma with separation increasing with height.</p> <p>A condition is recommended requiring that the setback of the upper level from Belmont Road be increased.</p> <p>Having regard for the varied height of developments fronting Military Road in the vicinity of the site and the need to provide separation from Alma, the proposal will have a reasonable fit within the surrounding context</p> <p>The proposed development satisfies this principle.</p>
Principle 3: Built form	<p>Having regard to the site adjoining Military Road to the west, Belmont Road to the north and a state heritage listed property Alma (which is currently used as a dwelling house) to the east, the proposed built form is appropriate. The built form is proposed to be loaded to the street frontages to provide separation to Alma primarily to provide amenity for the occupants of this dwelling. The built form steps down in height where it adjoins Alma.</p> <p>The proposed development satisfies this principle.</p>
Principle 4: Density	<p>The proposal complies with the floor space ratio development standard pursuant to MLEP 2012 and is consistent with the density of other developments in the Cremorne Junction Business Centre which have been developed pursuant to permitted densities in the business zones.</p> <p>The proposed development satisfies 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 applicable water, energy and thermal comfort targets. A condition is recommended to ensure that the commercial component of the development is provided with energy and water efficient fittings.</p>

	The proposed development satisfies this principle.
Principle 6: Landscape	<p>Subject to the recommended conditions, the proposed landscape design has been found to be acceptable by Council's Landscape Designer. The landscape design includes substantial plantings both on the site and in the public domain which will provide amenity for residents and neighbours. Council's Landscape Designer has required that a minimum of three (3) additional canopy trees be planted on the site and that advanced species be used along the boundary with Alma.</p> <p>Landscaping and changes in levels are proposed to provide definition between public and private spaces throughout the development.</p> <p>The proposed development satisfies this principle.</p>
Principle 7: Amenity	<p>Optimum amenity is not provided in terms of unit size, access to sunlight and natural ventilation, these issues are detailed below in the assessment against the Residential Flat Design Code.</p> <p>Subject to the recommended conditions, adequate amenity will be provided in terms of visual and acoustic privacy, storage and accessibility. Each dwelling is provided with a private open space area.</p> <p>The proposed development partly satisfies this principle.</p>
Principle 8: Safety and Security	<p>Private open space and living areas are orientated toward either the street or the communal open space area which allows for casual surveillance of these areas.</p> <p>Commercial uses are proposed at ground level fronting Military Road and private open space areas are proposed at ground level fronting Belmont Road. The orientation of these uses at ground level will activate the streets.</p> <p>Secure access is proposed to the car park and pedestrian entries.</p> <p>The applicant has advised that high quality architectural lighting will be used throughout the development. No dark and non-visible areas are proposed.</p> <p>The primary pedestrian access to the development is separated from the vehicular access point. A secondary pedestrian access point within the eastern setback area requires users to share the main driveway (including right-of-carriageway). In looking at pedestrian and vehicular safety Council's Engineer has not raised concern with the proposed method of access.</p> <p>Landscaping and changes in levels will provide definition between public and private spaces.</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 (1 bedroom, 2 bedroom, 3 bedroom units and townhouses) and 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>The proposal has a modern contemporary form.</p> <p>To Military Road the development presents a four storey street wall with a fifth level setback from the street with a visually light roof above. The ground floor level is setback from the street and an awning is proposed to extend over the public footpath. Levels 1 - 3 on this façade are proposed to be framed by terracotta cladding and incorporate sliding aluminium louvre</p>

	<p>screens for privacy and sun shading.</p> <p>To Belmont Road the materiality and building form is repeated but steps down in height where it adjoins Alma. The architect has indicated on this frontage the two storey terraces are referenced through the façade articulation. Aluminium is used on Levels 1 - 3 for part of this façade to define the corner of Military and Belmont Roads.</p> <p>The proposed development satisfies this principle.</p>
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Residential Flat Design Code

The following table provides an assessment against the criteria contained within the Residential Flat Design Code:

Primary Development Controls	Guideline	Comments
PART 01 LOCAL CONTEXT		
Building height	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.
Building depth	Apartment building depth of 10-18m is appropriate.	A building depth of up to 21m is proposed.
Building separation	For buildings up to four storeys/12m: (a) 12m between habitable rooms/balconies; (b) 9.0m between habitable rooms/balconies and non-habitable rooms; (c) 6.0m between non-habitable rooms.	Where the development adjoins Alma, building separation increases with height. The part of the building closest to Alma has a height of approximately 10.5 metres. This part of the building is proposed to be separated from Alma by between 8 - 9 metres. Given privacy mitigation measures are incorporated into the elevation facing Alma, and the building height is slightly less than the 12m stipulated, the setback is adequate. A zero setback is proposed to the southern boundary, in the circumstances this is not unreasonable.
Street Setbacks	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.	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 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 nil setback (measured to the balcony edge) and 3.0m setback (measured to the external wall) from Military Road and 1.0m to 3.3m from Belmont Road. The applicant has not identified the envelope on the section plans.
Side & Rear setbacks	Relate side setbacks to existing streetscape patterns. Test site and rear setback with building separation, open space and deep soil zone requirements. Test site and rear setback for overshadowing	There are no applicable side and rear setback controls under MBCDCP. 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.

Primary Development Controls	Guideline	Comments
	of other parts of the development and/or adjoining properties, and of private open space.	<p>The residential flat building is proposed to have a setback of 5.2m from the common boundary with Alma. An access pathway to the townhouses and The Stables is located within this setback area as is a deep soil landscaped strip located immediately adjacent to the boundary.</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>
Floor space ratio	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 complies with the floor space ratio development standard. Refer to discussion under MLEP 2012 for further detail.
PART 02 SITE DESIGN		
Deep soil zones	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>
Open Space	<p>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> <p>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>	<p>This control requires the development provide for 632m² to 758m² of communal open space.</p> <p>The proposed development does not comply as it incorporates 545m² of communal open space and additional areas of external communal circulation space.</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 ² . The minimum preferred dimension in one direction is 4m.	Each of the ground floor units are provided with the 25m ² minimum of private open space. All ground floor unit private open space areas are provided with a minimum width of 4m.
Planting on structures	<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"> Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m³ - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent. 	The proposed development incorporates on-slab planting and planters. Council's Landscape Designer has recommended a condition to ensure all on slab plantings are provided with adequate minimum soil depths to support the plant species.

Primary Development Controls	Guideline	Comments
	<ul style="list-style-type: none"> Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m³ - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent. Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m³ - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent. Shrubs - minimum soil depths 500-600mm Ground cover - minimum soil depths 300-450mm Turf- minimum soil depths 100-300mm Any subsurface drainage requirements are in addition to the minimum soil depths quoted above. 	
Safety	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.
Visual privacy	Refer to Building Separation minimum standards.	Subject to a condition requiring the louvred screens to the private open space areas to units 1.06, 2.06, 3.06 and 4.06 be fixed, reasonable visual privacy will be provided between the units in the residential flat building.
Building entry	Design mail boxes to be convenient for residents and not clutter the appearance of the development from the street.	All letter boxes for the development are to be located outside the main entry foyer fronting Belmont Road, they will not clutter the appearance of the development from the street.
Parking	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 development provides a shortfall of 3 car parking spaces. Having regard to the advice of the applicant's Traffic Engineer the provision of on-site parking is reasonable in the circumstances. Refer to section 7.1 of this report for further detail.
Pedestrian access	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p> <p>Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20% of dwellings in the development.</p>	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.
Vehicle access	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 main pedestrian entry to the residential flat building.
PART 03 BUILDING DESIGN		
Apartment Layout	<p>Single-aspect apartments should be limited in depth to 8m from a window.</p> <p>The back of a kitchen should be no more than 8m from a window.</p> <p>Buildings not meeting minimum standards must demonstrate how satisfactory daylight and natural ventilation can be achieved.</p>	A number of single aspect units have depths greater than 8m from a window with up to 9m proposed and back of some kitchens are more than 8m from a window.

Primary Development Controls	Guideline	Comments
	The Code specifies minimum apartment sizes for both affordable housing and well designed high quality units. As an example a 1 bedroom affordable unit is recommended to have 50m ² and a high quality 1 bedroom single aspect unit is recommended to have an internal area of 63.4m ² .	The majority of units have been designed to comply with the affordable housing unit sizes, despite affordable housing not being proposed.
Apartment Mix	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.
Balconies	Provide primary balconies for all apartments with a minimum depth of 2.0m. Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.	All primary balconies are provided with a minimum depth of 2m.
Ceiling heights	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. <ul style="list-style-type: none"> 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 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. for two storey units, 2.4m minimum for second storey if 50% or more of the minimum wall height at edge 	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.
Ground Floor Apartments	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.	Seven (7) units are provided with separate entries.
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	Each ground floor unit is provided with private open space. None of the ground floor units are provided with a terrace (as defined by the Code) or garden (except for planters).
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> studio apartments 6m³ one bedroom apartments 6m³ two bedroom apartments 8m³ three bedroom apartments 10m³ 	68 storage spaces are provided. No detail is provided on the plans of the volume of the spaces. A condition would be required.
Building Amenity		
Daylight Access	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.	The proposed development does not achieve the requirement that 70% of units receive three hours direct sunlight. The information provided by the applicant in relation to daylight access found that of the 68 units proposed, 36 units would receive the required 3 or more hours and 12 units would

Primary Development Controls	Guideline	Comments
		<p>receive 2 or more and therefore there were 48 complying units or 70.5%.</p> <p>Clarification was sought into a number the units which were deemed to comply with the 3 hour requirement and the applicant subsequently identified that:</p> <ul style="list-style-type: none"> • Units 4.02, 4.04, 4.06, 4.11 and 4.12 rely on skylights over living areas to achieve compliance, and vergolas are now provided above their private open spaces; • Unit 0.14 (The Stables) has a timber deck on its northern side which will receive 3 hours solar access; • Unit 0.11 and 0.12 (townhouses) rely on skylights over staircases to bring sunlight into the dwelling and that one of the two townhouses will receive 1 hour of solar access to its private open space area, the other will not receive any solar access.
	Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed.	Of the 64 units proposed in the residential flat building 25 (39%) are single aspect and face south east or south west. The applicant identifies that there are nil south facing units but does not identify the south east or south west facing units.
Natural Ventilation	Building depths, which support natural ventilation typically range from 10 to 18m.	A building depth of up to 21m is proposed.
	60% of residential units should be naturally cross ventilated.	<p>The information provided by the applicant in relation to natural ventilation found that of the 68 units proposed, 42 units would be naturally cross ventilated (61.7%).</p> <p>Three of the included units are proposed to rely on passive ventilation chimneys to achieve adequate ventilation.</p>
	25% of kitchens should have access to natural ventilation.	30% of units have kitchens with direct access to natural ventilation, other units have kitchens which are within 6.5m of a ventilation source.
Building Performance		
Waste management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	A Waste Management Plan has been provided.
Water conservation	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.

6.6 Draft State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

Draft State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development was exhibited between 23 September 2014 and 31 October 2014 (draft SEPP). The proposal is a residential flat building for the purposes of the draft SEPP.

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

Principle	Comment
Principle 1: Context and Neighbourhood Character	<p>This assessment has found the proposal will have a reasonable fit in terms of neighbourhood character and context.</p> <p>The proposed development satisfies this draft principle.</p>
Principle 2: Built Form and Scale	<p>This assessment has found the built form and scale to be acceptable in the circumstances.</p> <p>The proposed development satisfies this draft principle.</p>
Principle 3: Density	<p>The proposed development complies with the relevant density provisions of MLEP 2012.</p> <p>The proposed development satisfies this draft principle.</p>
Principle 4: Sustainability	<p>Access to sunlight and natural ventilation is not optimal for a number of the proposed dwellings given their single orientation.</p> <p>Given the retention of the existing basement car park there is limited opportunity for deep soil planting across the site.</p> <p>The proposed development partly satisfies this draft principle.</p>
Principle 5: Landscape	<p>The proposed landscape design includes substantial plantings both on the site and in the public domain which will provide amenity for residents and neighbours.</p> <p>Conditions are recommended requiring that a minimum of three (3) additional canopy trees be planted on the site and that advanced species be used along the boundary with Alma</p> <p>Landscaping and changes in levels are proposed to provide definition between public and private spaces throughout the development and will provide opportunities for social interaction and equitable access.</p> <p>The proposed development satisfies this draft principle.</p>
Principle 6: Amenity	<p>Optimum amenity is not provided in terms of unit size, access to sunlight and natural ventilation.</p> <p>Subject to the recommended conditions, adequate amenity will be provided in terms of visual and acoustic privacy, storage and accessibility. Each dwelling is provided with a private open space area.</p> <p>The proposed development partly satisfies this draft principle.</p>
Principle 7: Safety	<p>Private open space and living areas are orientated toward either the street or the communal open space area which allows opportunities for passive surveillance of these areas.</p> <p>Commercial uses are proposed at ground level fronting Military Road and private open space areas are proposed at ground level fronting Belmont Road. The orientation of these uses at this level will activate the streets. Landscaping and changes in levels will provide definition between public and private spaces.</p> <p>Secure access is proposed to the car park and pedestrian entries. The applicant has advised that high quality architectural lighting will be used throughout the development. No dark and non-visible areas are proposed.</p> <p>The proposed development satisfies this draft principle.</p>

Principle 8: Housing Diversity and Social Interaction	<p>The development provides a mix of apartment sizes (1 bedroom, 2 bedroom, 3 bedroom units, townhouses and SOHO units) which will provide housing choice for different demographics, living needs and household budgets. Adaptable housing is also incorporated into the development.</p> <p>A communal open space area is proposed at the rear which will provide opportunities for social interaction amongst residents.</p> <p>The proposed development satisfies this draft principle.</p>
Principle 9: Architectural Expression	<p>Having regard to the site adjoining Military Road to the west, Belmont Road to the north and a state heritage listed property Alma (which is currently used as a dwelling house) to the east, the proposed architectural expression is appropriate. The built form steps down in height where it adjoins Alma. A variety of external materials, colours and textures are proposed. When viewed from the public domain, the development will have the appearance of a well designed contemporary apartment building.</p> <p>The proposed development satisfies this draft principle.</p>

The Apartment Design Guide has been considered as part of this assessment. Having regard to this policy being in draft form no issues are raised that would warrant the refusal of the application.

The exhibition period of the draft SEPP concluded on 31 October 2014. As at the date of this report the Department has not indicated when and if the draft SEPP will be adopted in its current form.

The draft SEPP as exhibited does not include any savings provisions.

6.7 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
Water	40	41
Thermal Comfort	Pass	Pass
Energy	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
Water	40	41
Thermal Comfort	Pass	Pass
Energy	40	41

Conditions are recommended to ensure the fulfilment of the commitments listed in the BASIX certificates.

6.8 Mosman Local Environmental Plan 2012 (MLEP 2012)

Compliance table

Development Standard	Required Target	Proposed	Compliance
Height of buildings	12m	17m - measured to the top of the lift shaft RL100 16.1 measured to the parapet of the residential flat building RL98.8	No (Clause 4.6)
Floor space ratio	2:1	1.98:1	Yes

Aims of the Plan

Aim	Comment
<i>(a) to provide housing opportunities appropriate to environmental constraints while maintaining the existing residential amenity,</i>	The proposal will provide for additional housing within the locality. Subject to the recommended conditions, the proposal will not detrimentally affect residential amenity.
<i>(b) to provide diverse housing choices and opportunities to cater for changing demographics and population needs,</i>	The proposal incorporates a range of residential accommodation types including SOHO units, townhouses, 1 bedroom, 2 bedroom and 3 bedroom units.
<i>(c) to provide business opportunities for a range of uses, including residential, which encourage local employment and economic growth,</i>	The proposal is for a mixed use development, incorporating commercial and residential uses.
<i>(d) to provide for a range of recreational and community service opportunities to meet the needs of residents of and visitors to Mosman,</i>	The proposal does not incorporate recreation or community service facilities for the wider public, these are provided elsewhere in the locality.
<i>(e) to recognise, protect and enhance the natural, visual, environmental and heritage qualities of the scenic areas of Mosman and Sydney Harbour and to protect significant views to and from the Harbour,</i>	Subject to the recommended conditions, the proposal will not negatively impact on the natural, environmental and heritage qualities of the scenic areas of Mosman and Sydney Harbour. No significant view to and from the Harbour will be affected.
<i>(f) to retain views to and from water and foreshore reserves and public areas from streets and residential lots,</i>	No view of the water or foreshore reserves will be affected. Only views of the street (public areas) will be affected. Views to the heritage item Alma are discussed in detail at Section 7.1.
<i>(g) to protect and conserve the natural, built and Aboriginal cultural heritage of Mosman,</i>	Subject to the recommended conditions, the proposal will not negatively impact on the natural, built and Aboriginal cultural heritage of Mosman.
<i>(h) to protect, conserve and enhance the landform and vegetation, especially foreshores or bushland, in order to maintain the landscape amenity of Mosman,</i>	Council's Landscape Designer has not raised concern with the proposed tree removal. Subject to conditions, the proposal will have a reasonable impact on existing vegetation to be retained. Conditions are recommended to ensure replacement plantings occur.
<i>(i) to limit potential for additional traffic on the road system and to reduce car dependence through development that supports public transport, cycling and walking,</i>	Council's Engineers are satisfied that the proposal will have a reasonable impact on the local road network. The site is well located in relation to public transport, cycling and walking.
<i>(j) to manage change in a way that ensures an ecologically and economically sustainable</i>	Subject to the recommended conditions, the proposal will satisfy this aim.

<i>urban environment in which the needs and aspirations of the community are recognised.</i>	
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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.

Objectives of the B2 Local Centre Zone

Objective	Comment
<i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area</i>	Whilst the use of the commercial component of the proposal is not known, the businesses that occupy this floor space will service the needs of the community.
<i>To encourage employment opportunities in accessible locations</i>	The mixed used development incorporates commercial floor space which will satisfy the requirement that employment opportunities be encouraged in accessible locations.
<i>To maximise public transport patronage and encourage walking and cycling</i>	The site is well located in terms of public transport and for encouraging walking and cycling.
<i>To enhance the viability, vitality and amenity of the local centres</i>	The proposal will incorporate an active street front to both Military and Belmont Roads consistent with this objective.
<i>To maintain active uses at street level with a predominance of retail use</i>	Commercial uses are proposed at street level fronting Military Road. Conditions are recommended to ensure shop front clear glazing is used and prohibiting roller shutters.
<i>To allow the amalgamation and redevelopment of land in Spit Junction</i>	This objective is not applicable as the site is not located within Spit Junction.
<i>To encourage residential development as part of the mixed use of sites</i>	Residential uses are proposed.

THE FOLLOWING PROVISIONS OF MLEP 2012 ARE RELEVANT TO THE ASSESSMENT OF THE PROPOSED DEVELOPMENT	
Principal Development Standards	
Subdivision lot size	No
Height of buildings	Yes
Floor space ratio	Yes
Miscellaneous and Local Provisions	
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.

Floor space ratio

The proposed development complies with the floorspace ratio development standard of 2.0:1 and objectives (shown below) at Clause 4.4 of MLEP 2012.

- (b) for development on land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B6 Enterprise Corridor, to ensure that buildings are compatible with the desired future character of the area in terms of building bulk and scale,*
- (c) for development on land in Zone B2 Local Centre or Zone B6 Enterprise Corridor, 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.*

Clause 4.6 Exceptions to Development Standards

Clause 4.6 aims to provide an appropriate degree of flexibility in applying development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

A written exception pursuant to Clause 4.6 has been made requesting variation to the height of buildings development standard prescribed under Clause 4.3 of Mosman Local Environmental Plan 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) The objectives for the height of buildings development standard are listed under Clause 4.3(1)(b) of MLEP 2012, the reasonableness or necessity for compliance with the development standard has been assessed against each of its objectives 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, and*

Comment: The MBCDCP identifies the Cremorne Junction Business Centre as containing a mix of contemporary office buildings up to five storeys high. Development in the vicinity of the site fronting Military Road is varied in height. Having regard to the site adjoining the state heritage item Alma to the east, and the need to provide separation from this property and amenity to its occupants, the design loads the built form to Military and Belmont Roads. This effectively results in a development that is higher to the street than would otherwise occur if the floorspace was more evenly distributed across the site. In the circumstances the additional height to Military and Belmont Road is not unreasonable. The proposed roof form is not inconsistent with other recent contemporary development in the locality.

- (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.*

Comment: Whilst the site is not an identified opportunity site, it is located on a prominent corner at one extremity of the Cremorne Junction Business Centre. Having regard for the varied height of developments fronting Military Road in the vicinity of the site, greater height in this location will not be detrimental. Having regard to the development complying with the floor space ratio development standard, the increase in dwellings on the site is consistent with the Council's residential strategy and will provide opportunities for economic growth consistent with the objective.

- (b) The variation to the height of buildings development standard satisfies the objectives of the B2 Local Centre zone at Part 2 of MLEP 2012 (refer to detailed assessment against the zone objectives under the heading 'Objectives of the B2 Local Centre Zone' above).
- (c) Sufficient environmental planning grounds exist to vary the height of buildings development standard, as described below:
- The proposal will present a high quality architectural form to Military Road and Belmont Roads and includes a range of external finishes and materials;

- A condition is recommended to require an increased setback of the upper level from Belmont Road to reduce the dominance of the development when viewed from Belmont Road;
- Subject to the recommended conditions, the proposal will have a reasonable impact on the heritage significance of the neighbouring heritage item Alma;
- Subject to the recommended conditions, the proposal will not unreasonably impact on the amenity of surrounding residences;
- Council's Engineers have not raised concern with on-going traffic impacts associated with the development;
- Conditions are recommended to ensure vegetation to be retained is adequately protected during construction;
- Conditions are recommended to control the on-going environmental impacts of the development.

In the circumstances of the case, the variation to the development standard satisfies the objectives of the standard and the zone. The Clause 4.6 exemption demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. The concurrence of the Secretary of the Department of Planning and Environment has been obtained.

Miscellaneous and Local Provisions

Heritage conservation

The site adjoins a state heritage item, Alma and the Glover and Nathan's Estate Heritage Conservation Area.

A Statement of Heritage Impact has been submitted with the application which has been considered as part of this assessment.

Council's Heritage Advisor has made the following comments in respect of the proposed development:

"The proposal has been the subject of two previous assessments and a joint meeting with the applicant in relation to amongst other aspects heritage impact on the setting of Alma House which is a state listed heritage item. I am satisfied that the final application has adopted appropriate design resolution to achieve an acceptable degree of impact in this location. The form and materiality of the proposal provides an appropriate response to the proximity of the item and will not in my opinion have an unacceptable impact on its identified level of significance. I therefore support the application for approval in this regard."

Having regard for the comments of Council's Heritage Advisor, the proposed development will have a reasonable impact on the heritage significance of Alma and the Glover and Nathan's Estate Heritage Conservation Area. Refer to discussion under Mosman Business Centres DCP 'Heritage Conservation' for further detail.

6.9 Planning Proposal to Amend Mosman Local Environmental Plan 2012

Under the Planning Proposal to amend Mosman Local Environmental Plan 2012 exhibited between 12 June 2014 to 10 July 2014 (Planning Proposal) the subject site is zoned B2 Local Centre. The works are defined as residential flat building, commercial premises and multi dwelling housing and would be permissible with consent pursuant to the Planning Proposal.

The Planning Proposal as exhibited involves changes to the wall height and number of storeys development standards and landscaped area requirement as they relate to development on residential zone land and not land zoned B2 Local Centre.

The Planning Proposal as exhibited includes a savings provision which would apply to all applications lodged on or before the day the amendments come into effect.

7.0 DEVELOPMENT CONTROL PLANS AND POLICY CONSIDERATIONS

7.1 Mosman Business Centres Development Control Plan (MBCDCP)

Aims of the Plan

Aim	Comment
<i>(a) have an enhanced image for Mosman,</i>	The proposal is a mixed used development of high architectural standard which incorporates a mix of materiality and subject to the recommended conditions will not unreasonably detract from the image of Mosman.
<i>(b) encourage a high level of visual amenity and a pleasant pedestrian environment, and a high standard of residential and commercial amenity,</i>	Commercial uses are proposed fronting Military Road recessed from the boundary. This will give the perception of an increased width public domain. An awning is proposed over the public footpath. In the circumstances there will be a pleasant enough pedestrian environment. Conditions are recommended to ensure adequate amenity for residents.
<i>(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,</i>	The character of the business centre is defined. The proposal is a mixed used development of high architectural standard which incorporates a mix of materiality. This assessment has found that subject to the recommended conditions the proposal will not detract from the streetscape.
<i>(d) optimise the potential for viable retail and commercial activities,</i>	Commercial uses are proposed at ground level fronting Military Road.
<i>(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,</i>	Subject to the recommended conditions, the proposed development will have adequate regard for minimising the effect on adjoining properties and the character of the business centre.
<i>(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>	Council's Heritage Advisor has advised that the proposal represents an acceptable infill development and will not unreasonably detract from the significance of the neighbouring heritage item and heritage conservation area.
<i>(g) enhance the accessibility of spaces and places for people with disabilities or restricted mobility,</i>	The proposal will be accessible, conditions are recommended to ensure the recommendations of the accessibility consultant incorporated into the development.
<i>(h) increase diversity of housing that includes adaptable housing to encourage opportunities for ageing in place,</i>	The proposal includes a range of accommodation options including adaptable housing.
<i>(i) ensure the provision and use of transport, access and parking facilities contribute to a convenient, safe, and sustainable environment.</i>	On-site parking is incorporated into the development. Council's Engineers have found that the proposed development will have a reasonable impact in terms of safety and traffic.
<i>(j) require best-practice environmental</i>	Conditions are recommended to ensure the

<i>performance and management,</i>	proposal will have adequate regard for the environment.
<i>(k) set out specific requirements for notifying proposed development and tree removal.</i>	The application was notified.

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 up to 5 storeys high.
- 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 following is noted in relation to the planning controls for the Cremorne Junction Business Centre:

- The proposal is for a mixed use development with commercial uses at ground level fronting Military Road. The development will be accessible;
- An awning is proposed over the public footpath, and landscaping is proposed within the public domain that will provide pedestrian amenity in the circumstances;
- There will be no change to existing promenades or laneways;
- The ground floor commercial uses will provide for connectedness with the part of the Cremorne Business Centre located in the North Sydney council area;
- Vehicular access is proposed from a secondary road;
- Council's Heritage Advisor has indicated the proposal will have a reasonable impact on the significance of the neighbouring heritage item Alma and heritage conservation area;
- The proposal provides for a greater than 2 storey street wall;
- The site is a corner allotment, the proposal incorporates design features which address the corner. Landscaping is proposed both in the public domain and on the site.
- Subject to the recommended conditions the massing, bulk, scale and façade detail is appropriate in the circumstances;
- The acoustic report makes a number of recommendations to control noise and amenity impacts from Military Road;
- The proposal will have a reasonable impact on neighbouring properties, subject to the recommended conditions;
- The site is not an opportunity site; and
- There will be no change to existing public transport resulting from the proposal.

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 proposed development does not comply with this requirement to both Military and Belmont

Roads. The upper level of the development is proposed to have a nil setback (measured to the balcony edge) and 3.0m (measured to the external wall) from Military Road and 1.0m to 3.3m from Belmont Road. The relevant objective indicates that greater upper storey setbacks will reduce the impression of bulk and provide suitable residential amenity. The proposal does provide a greater setback to neighbouring Alma as height increases. A condition is recommended requiring that the setback of the upper level be increased from Belmont Road by 2.0m. This could be readily achieved by merging a two bedroom and one bedroom unit (4.09 and 4.10) at this level and creating single 3 bedroom unit. The condition also recommends that the balcony to the consolidated unit be setback an additional 2.0m from Belmont Road and a non-trafficable area be located on the outer side of the balustrade. An increased setback to Belmont Road is appropriate given the secondary nature of this street compared with Military Road and the character of development in Belmont Road not being consistent with residential flat buildings that exceed the minimum height requirement and located in close proximity to the street.

A detailed materials board has been submitted with the application. The external finishes include anodised aluminium and terracotta cladding, glazed and steel balustrades, anodised aluminium louvres and dark window frames. The materials selection has been reviewed by Council's Heritage Advisor has not raised concern with the impact of these materials on the significance of the neighbouring heritage item Alma. A detailed condition is recommended to ensure the proposed finishes and colours are incorporated as proposed.

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.

The elevation and section plans identify that an awning is proposed over the Military Road footpath consistent with MBCDCP. The awning is not shown on the site plan. The depth of the awning at 1.6m is limited by the existing trees in the road reserve.

Heritage Conservation

The proposed development satisfies 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:

"The proposal has been the subject of two previous assessments and a joint meeting with the applicant in relation to amongst other aspects heritage impact on the setting of Alma House which is a state listed heritage item. I am satisfied that the final application has adopted appropriate design resolution to achieve an acceptable degree of impact in this location. The form and materiality of the proposal provides an appropriate response to the proximity of the item and will not in my opinion have an unacceptable impact on its identified level of significance. I therefore support the application for approval in this regard."

The proposed development will affect some views to and from Alma given the additional building bulk to Belmont Road compared with the existing development. The extent of the impact is not significant enough to warrant refusal of the application as the majority of the views will be retained.

The external finishes of the proposed development have been selected so as to not negatively impact on the heritage significance Alma.

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. Council's Landscape Designer has recommended conditions requiring that landscaping along the boundary with Alma be planted at a super advanced size so that the new landscape scheme can achieve a similar outcome.

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.

MBCDCP requires that seven (7) adaptable units be provided. The following seven (7) adaptable units are provided: 0.08, 2.12, 3.02, 4.03, 4.05, 4.07 and 4.10.

Conditions are recommended to ensure the recommendations within the access report are incorporated into the development.

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 proposed development (including residential flat building) 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.

In terms of solar access, amenity within The Stables and townhouse components of the proposed development will be fair. Optimum levels of solar access will not be obtained for three of the four dwellings proposed. The applicants solar access consultant was asked to confirm how the private open space area of 0.14 (The Stables) will achieve the required level of solar access and how either of the living rooms and private open space areas of the townhouses 0.11 and 0.12 will achieve the required level of solar access. The following justification was provided in response:

- The POS of unit 0.14 includes a timber deck to the north side of the principal living area. This deck will receive full direct sun at floor level from before 11am and after 1.30pm (over 2 hours).
- Townhouses 0.11 and 0.12 rely of oversize skylights over staircases which will bring direct and reflected sunlight into the interior between 9am till approximately 1pm. Townhouse 0.12 will receive 1.5hrs direct sun to conventional glazing from approximately 11.15am.
- Townhouse 0.12 has sun to POS for approximately 1 hour at ground level. It is acknowledged that on 21 June both townhouses POS areas are substantially overshadowed by the proposed main building.

The proposed development relies on landscaping to provide privacy between units 0.11 and 0.12 and 0.12 and 0.13. Provided this landscaping is installed in accordance with the landscape plan, reasonable visual privacy will be achieved between these dwellings.

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

Privacy mitigation measures including fixed aluminium louvres and terracotta baguette screens are proposed on the elevation of the residential flat building facing Alma to provide visual privacy to this property. In addition to the measures shown on the plans, it is recommended that units 2.15 and 3.14 also be provided with terracotta baguette screens on this elevation.

The recommendation includes the requirement that units 4.09 and 4.10 be consolidated and the setback of Level 4 from Belmont Road increased by 2.0 metres. No screen is proposed to the balcony at this level facing Alma which will service the consolidated unit. A condition is recommended requiring that the trafficable area of this balcony be reduced to 1.0m in depth, this will reduce the useability of the space and reduce the potential for overlooking of both

Alma and the private open spaces areas of units 3.12 and 3.14 located directly beneath the subject balcony.

The applicant has submitted a section drawing (shown below) which demonstrates that overlooking of Alma from the two balconies on Level 3 of the residential flat building will not be unreasonable.

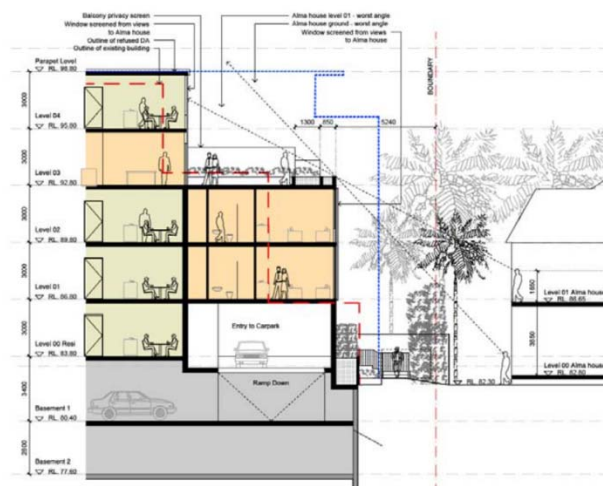


Figure 5: Image showing sightlines from Levels 3 and 4 toward Alma

Impacts of visual privacy from The Stables to Alma could be mitigated with additional landscaping and solid fencing. The main private open space of dwelling 0.14 is adjacent to the Alma pool house and given the height of the pool house will not overlook Alma. The *Elaeocarpus eumundi* proposed along the common boundary to Alma extends adjacent to the secondary private open space area on the northern side of The Stables of dwelling 0.14. A condition is recommended that one additional *Elaeocarpus eumundi* be planted to the south of the main area of private open space of dwelling 0.14. This will provide some mid level planting between the palms to be retained and the low level plantings shown on the landscape plan. Overlooking from the upper level of The Stables to Alma will not be unreasonable given the low usage rooms (bedrooms and bathrooms) proposed at this level.

Landscaping proposed along the common boundary will mitigate overlooking between the townhouses and Alma.

The proposed development is unlikely to impact on the visual privacy of other nearby residential properties.

Refer to discussion under the Residential Flat Design 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.

Despite being identified in the assessment of Development Application 8.2014.42.1, the acoustic report contains a typographical error in the 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

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

MBCDCP 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 arborist report identifies that 20 trees are proposed to be removed across the site, including one street tree (Tree 12) which is required to facilitate vehicular access to the site. Council's Landscape Designer has not raised concern with the proposed tree removal and has recommended conditions to ensure that trees to be retained are adequately protected for the duration of works. Two additional street trees are proposed to be planted along the Belmont Road frontage.

A number of existing trees currently provide an important vegetative screen between the existing development and Alma, this is depicted in Figure 6. Whilst these trees are proposed to be removed, the landscaping proposed along the boundary with Alma will assist to soften the visual impact of the development when viewed from Alma. It is however noted that Ausgrid require that all existing trees situated within the substation easement area are to be removed. Council's Landscape Designer has recommended the following condition:

"To provide privacy for the neighbouring heritage property (Alma House), screen planting shall be provided along the boundary which will attain a minimum mature height of 5.0m. The screen planting shall be planted at minimum 1.5m spacings and at a minimum pot size of 100 litres. They shall be provided with a minimum 1.2m width garden bed."



Figure 6: Photograph showing the existing landscaping between Alma and the site

In relation to other landscaping across the site, Council's Landscape Designer has indicated that the overall landscape quality seems good, assuming soil depths are realistic to support plant growth.

Subject to the recommended conditions, the proposed development will satisfy relevant objectives and planning controls relating to landscaping and preservation of trees or vegetation.

Transport, access and parking

Vehicular access to the site is proposed from Belmont Road, consistent with the DCP. The driveway is proposed to be located as far as is practical from Military Road. The application was referred to the RMS who did not raise concern with the impact of the proposal on the road network. Council's Engineers have reviewed the proposed development, including submissions and the applicant's traffic report and have indicated that the proposed development would generate less traffic than the existing commercial development and would therefore not result in additional traffic.

Following the concerns raised in relation to conflict within the right-of-carriageway, the applicant's Traffic Engineer was asked to comment specifically on this issue. The applicant's Traffic Engineer has recommended that the proposed arrangement is acceptable given the low traffic generation of the proposal and 114 Belmont Road and the good sightlines. The applicant has indicated that vehicular and pedestrian movements are proposed to be managed with appropriate signage and a convex mirror on the western side of the garage. Council's Engineers have found the proposed arrangement to be acceptable and have indicated that any extension to the right-of-carriageway and installation of a convex mirror is a matter between the applicant and 114 Belmont Road.

Council's Engineer has recommended a condition requiring that the internal driveway and parking areas comply with the relevant Australian Standard.

The compliance of the proposed development with the car parking rates in the Business Centres Development Control Plan is shown in the table below:

Commercial	DCP Control	Required	Proposal
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GFA of 2 units 130sqm	1 per 16sqm	8	22 visitor 1 loading bay 1 washbay / visitor
Residential	DCP Control	Required	Proposal
3 x SOHO 1 bed 2 bed 3 bed	(1 space) (1 space) (1.2 spaces) (1.5 spaces)	3 46 18 6 <hr/> 73	71
Visitor	1 space per 4 dwellings	17	Proposed to be shared with commercial spaces
Total		98	95

There is an overall shortfall in the required number of car parking spaces by 3 spaces.

The applicants Traffic Engineer has argued that whilst the DCP provides a discounted parking rate for the residential component of development on properties less than 200m from Military Road, the same discount is not applied to residential visitor parking. In comparison, the RMS Guidelines provide a similar to discount for residential visitor parking with 1 visitor space per 5 units reducing to 1 visitor space per 7 units for sites located in close proximity to public transport. The applicant argues that it is appropriate to apply a rate of 1 space per 5 dwellings in this circumstance, resulting in the need for 14 visitor spaces rather than the 17 required by the DCP.

The plans identify that 23 visitor spaces (including one space shared with a wash bay) are proposed. A separate loading bay is also proposed. The Statement of Environmental Effects identifies that the visitor spaces will be shared between the retail tenancies and visitor parking. Having regard to the RMS requirement that 14 visitor spaces be incorporated into the development and the sharing of the retail and visitor parking, 22 spaces are in fact required. The applicant argues that shared visitor and retail parking is acceptable on the basis that they will experience different peak demand patterns. Whilst the future use of the commercial units it is unclear, sharing the spaces is appropriate in the circumstances provided the use of these spaces is managed with appropriate signage.

Conversely, there is a shortfall of 2 spaces to be allocated to the residential units. A condition is recommended to control the allocation of parking throughout the various uses. This includes the requirement that 2 car parking spaces be allocated to each of the commercial units and the remainder of the spaces be visitor parking.

The commercial floor area of the SOHO units (approximately 145sqm) has not been included towards the generation of parking in the table above. Accordingly, a condition requiring the creation of a restriction as to user is recommended limiting the use of the SOHO commercial floor area to only the occupant of the dwelling. Additional on-site parking would be required otherwise.

The proposed development provides for the required number of accessible car parking spaces, bicycle and motorcycle parking spaces.

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

The proposed development does not provide the required number of car wash bays with the DCP requiring 1 wash bay per 12 dwellings, one wash bay is proposed which is also designated as a visitor space.

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 recommended conditions requiring that stormwater be directed to the street gutter and existing easement via a rainwater re-use system or onsite detention and that the stormwater system be designed to comply with Council's *"Guidelines for Stormwater Drainage Systems"*.

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 separate commercial and residential waste rooms. Bins are proposed to be taken to Belmont Road for collection.

Council's Waste Officer has reviewed the proposal including the Waste Management Plan prepared by Elephants Foot Recycling Solutions. Initial concerns have now been resolved to the satisfaction of Council's Waste Officer.

A number of conditions are recommended to ensure adequate on-going waste management and to ensure demolition and construction waste is handled in accordance with the Site Waste Minimisation and Management Plan.

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

7.2 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.

8.0 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 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.

9.0 COMMENTS FROM COUNCIL DEPARTMENTS OR STATE AUTHORITIES

Council's Heritage Advisor made the following comments:

"The proposal has been the subject of two previous assessments and a joint meeting with the applicant in relation to amongst other aspects heritage impact on the setting of Alma House which is a state listed heritage item. I am satisfied that the final application has adopted appropriate design resolution to achieve an acceptable degree of impact in this location. The form and materiality of the proposal provides an appropriate response to the proximity of the item and will not in my opinion have an unacceptable impact on its identified level of significance. I therefore support the application for approval in this regard."

Council's Engineers made the following comments:

"I refer to your memorandum in regard to traffic matters associated with the proposed mixed used residential development at 339 Military Road. Reference is also made to Roads and Maritime Services (RMS) letter dated 22 September 2014 and the applicant's Traffic Engineer's report dated August 2014. I've reviewed the submitted documents and as requested, comments are provided below:

- It is noted that the site is currently occupied by a commercial building with access onto Belmont Road. Belmont Road is a two way road with the posted speed limit of 50km/h. There is a median island on Belmont Road in the vicinity of the site, which prevents right turn access to and from the site.*
- It is considered that the existing commercial development (if fully occupied) would generate 82 vehicle trips per hour during peak times. Based on the RMS land use traffic generation guide, the proposed 68 residential units and 130m² of retail and SOHO floor area would generate some 44 vehicles per hour during peak times. This means that the proposed development would generate less traffic than the existing commercial development. Therefore the proposed development would not result in additional traffic.*

I have reviewed the revised plans for the basement carpark, the designs generally conform to AS2890.1-2004. With regards to the existing right of way the applicant should be requested to provide details on how to manage pedestrians and vehicular traffic in this area."

Following the additional information provided by the applicant in relation to the right-of-carriageway Council's Engineers made the following comments

"I am satisfied with the proposed access arrangements therefore the relocation of the substation and extension to the right of way is considered to be a matter between the applicant and 114 Belmont Road.

In relation to the waste pickup on Belmont Road, Council has a service contract in place and the waste collection service will be undertaken similar to other properties in Belmont Road and other similar locations in Mosman."

Council's Landscape Designer made the following comments:

"There are 20 trees proposed for removal, yet only 10 replacement trees. I would like to see more replacement canopy trees and shall condition these at super advanced pot sizes, as the landscape plan does not provide this.

Screening shrubs along the southern boundary with heritage item Alma House should be planted at super-advanced pot sizes.

The proposed removal of the Lophostemon street tree, as well as the impact of the construction on retained street trees will need to be assessed by Council's Arborist through the Tree Permit process.

I have not assessed landscaped area, nor read residents submissions.

Overall landscape quality seems good, assuming soil depths are realistic to support plant growth (I haven't looked closely at sections)"

Council's Property Officer made the following comments:

"It appears from the plans that the parts of the building proposed in the refused DA have been removed from the road reserve in this DA. However there appears to be some structure encroaching upon the road reserve on the ground floor level entrance plaza. This will either need to be removed from the road reserve or retained subject to a Section 138/139 Roads Act consent as proposed in the refused DA referral."

Comment: The plans do not show an encroachment in the road reserve on the ground floor level and therefore there is no requirement for Roads Act approval. A condition is recommended requiring that the development be constructed wholly within the property boundaries.

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

Council's Building Surveyor raised no objection subject to conditions.

Council's Waste Officer made the following comments:

"The domestic waste and recycling is stored in the a waste room accessed off Belmont Road, the waste and recycling is collected once per week, so from a waste handling and logistics point of view it is the optimum collection point.

The commercial waste bins are indicated to be stored in the a waste room accessed off Belmont Road, so from a waste handling and logistics point of view it is the optimum collection point.

In regard to concerns of nuisance of the commercial collection vehicles affecting the traffic and amenity of Belmont Road, based on the advice in the Waste Management Plan on page 14 which indicates a weekly collection for commercial waste. I do not consider a once weekly collection of commercial waste and recycling within the limited hours stated to be onerous for Belmont Road. This would be better than having trucks attempting to access bins placed on Military Road. You may wish to have this verified by the traffic section."

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

Ausgrid made the following comments:

"Ausgrid has no objection to the matter proceeding at this stage subject to the following conditions: -

- *Unimpeded access is to remain available to our existing substation easement and associated right of way, 24 hours per day, 7 days per week.*
- *Our existing right of way is to remain suitable for heavy vehicle / crane access. The finished ground levels within the Ausgrid right of way are to remain essentially unchanged. The difference in levels that currently exists between the 339 Military Rd loading dock and the neighbouring 114 Belmont Rd driveways is not to be increased. The finished ground levels of the proposed pedestrian footpath immediately south-east of the proposed driveway is to match that of the driveway so that a continuous even surface is provided for heavy vehicle / crane access. The proposed pedestrian footpath and driveway is to be of a suitable construction to withstand heavy vehicle / crane loadings.*
- *Access to the substation must not be fenced or enclosed unless approval is given in writing by Ausgrid and the conditions listed in the approval are complied with on an ongoing basis by the site owner. No other obstructions such as bollards or planting are to be established within our existing easement and right of way that will restrict substation access.*
- *In the event of a substation equipment failure or planned maintenance Ausgrid may require the short-term closure of the proposed driveway and therefore access to/from the basement car park for heavy vehicle / crane operations within the right of way, so as to ensure the safety of Ausgrid personnel and that of the general public during such operations.*
- *An assessment from a certified and practicing structural engineer is to be provided prior to the commencement of any construction work to certify that the substation will not be adversely affected both during construction and also long term once the new building has been established.*
- *All existing trees situated within the substation easement area are to be removed and the ground immediately surrounding the substation re-levelled to ensure that all substation doors are accessible and can be fully opened.*
- *The proposed development must comply with fire segregation clearance requirements from the adjacent substation, as per Ausgrid's Network Standard NS141 (available on our website). The following clearances, in particular, must be adhered to:*
 - *Clearance of 3 metres from the substation to any glass windows or panels on the building*
 - *Clearance of 6 metres from the substation to any building ventilation inlets/outlets*
 - *Clearance of 10 metres from the substation to any fire hydrant installations*
 - *Any portion of the building within 3 metres of the substation must have an FRL of 120/120/120"*

10.0 LIKELY IMPACTS OF THE DEVELOPMENT

The proposal will have no detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

11.0 SUITABILITY OF THE SITE

The site is suitable for the proposal.

12.0 PUBLIC INTEREST

The proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

13.0 CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant, the submissions and the provisions of:

- Environmental Planning and Assessment Act 1979,
- Environmental Planning and Assessment Regulation 2000,
- 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 Quality of Residential Flat Development,
- Draft State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development,
- State Environmental Planning Policy - Building Sustainability Index: BASIX 2004,
- Mosman Local Environmental Plan 2012,
- Planning Proposal to Amend Mosman Local Environmental Plan 2012,
- Business Centres Development Control Plan,
- Mosman Section 94A Development Contributions Plan 2012, and
- Other relevant policies.

The assessment concludes that the proposal does not result in any unreasonable impacts on surrounding properties or the public domain, subject to the conditions recommended.

Accordingly, the application is recommended for approval subject to conditions.

11.0 APPLICATION DETAILS

The applicant is Mr Andre Bali C/- Centuria Funds Management Ltd. The owners are BNY Trust Company of Aust Ltd C/- Century Funds Mgmt Ltd. The estimated value of works is \$22,229,700.00.

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

RECOMMENDATION

- A. That the Clause 4.6 variation to the development standard relating to the height of buildings development standard within Clause 4.3 of Mosman Local Environmental Plan 2012 is well founded, and in this case varying the standard to permit the proposed development is acceptable for the following reasons:
- (a) A written request from the applicant has been submitted which justifies the contravention of the development standard; and
 - (b) The proposal is in the public interest as it meets the objectives of the development standard and the objectives for development within the B2 Local Centre zone; and
 - (c) The concurrence of the Secretary of the Department of Planning and Environment has been obtained; and
 - (d) Requiring compliance with the standard would unreasonably constrain the development and the design response; and
 - (e) There are sufficient environmental planning grounds to justify contravening the development standard.
- B. That the Joint Regional Planning Panel grant Development Consent to Development Application No. 8.2014.162.1 subject to the following conditions:

APPROVED PLANS AND DOCUMENTATION

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

Drawing Nos.	Date of drawing	Prepared by
Site Plan DA01.01(04) Revision 04	18 August 2014	Bates Smart
Basement 01 DA03.B1(12) Revision 12	6 November 2014	Bates Smart
Basement 02 DA03.B2(10) Revision 10	18 August 2014	Bates Smart
Ground 00 DA03.00(09) Revision 09	6 November 2014	Bates Smart
Level 01 DA03.01(08) Revision 08	6 November 2014	Bates Smart
Level 02 DA03.02 (08) Revision 08	6 November 2014	Bates Smart
Level 03 DA03.03 (06) Revision 06	18 August 2014	Bates Smart
Level 04 DA03.04 (08) Revision 08	18 August 2014	Bates Smart
Stables Ground 00 & First 01 DA03.10(06) Revision 06)	6 November 2014	Bates Smart
Roof Plan DA03.20(07) Revision 07	6 November 2014	Bates Smart

Elevations DA07.01(07) Revision 07	6 November 2014	Bates Smart
Elevations DA07.02(07) Revision 07	6 November 2014	Bates Smart
Elevations DA07.03(02) Revision 02	6 November 2014	Bates Smart
The Stables - Elevations DA07.10(01) Revision 01	18 August 2014	Bates Smart
Sections DA08.01(06) Revision 06	18 August 2014	Bates Smart
Sections DA08.02(07) Revision 07	6 November 2014	Bates Smart
Sections DA08.03(04) Revision 04	6 November 2014	Bates Smart
Sections DA08.04(03) Revision 03	6 November 2014	Bates Smart
Adaptable Units DA11.00(04) Revision 04	18 August 2014	Bates Smart
Landscape Plans L-DA-2, L-DA-3, L-DA-4, L- DA-5, L-DA-6, L-DA-7, L-DA-8 and L-DA-9 All Issue E	5 November 2014	Turf
Survey Plan Sheet 1 of 2 and 2 of 2 Reference 53676 Issue C	18 September 2013	Hill & Blume Consulting Surveyors

Reference Documentation	Date of document	Prepared by
Statement of Environmental Effects	August 2014	JBA Planning
Urban Design Study	August 2014	Bates Smart
Statement of Heritage Impact and Heritage Peer Review	August 2014 and 14 August 2014 respectively	OCP Architects Pty Ltd and GML Heritage
Arboricultural Impact Appraisal	12 August 2014	Naturally Trees
Preliminary Desktop Geotechnical Report	10 February 2014	Douglas Partners Pty Ltd
Residential Amenity and SEPP 65 Peer Review	18 August 2014	Steve King Consultant Architect
Waste Management Plan (Revision F)	November 2014	Elephants Foot Recycling Solutions
Accessibility Report	3 November 2014	Phillip Chun Accessibility
Acoustic Impact Report	25 July 2014	Acouras Consultancy
Traffic Impact Assessment and associated letter	August 2014 and 7 November 2014	Colston Budd Hunt and Kafes Pty Ltd
Site Contamination Assessment	22 July 2014	Douglas Partners Pty Ltd

BCA Report	19 August 2014	Phillip Chun Building Code Consulting
BASIX Certificate 564987M_02 and 564906M_02	20 August 2014	ESD Synergy Pty Ltd

Compliance with Other Authority Requirements

2. The development must be carried out in compliance with the following:

Other Authority	DA Tracker Reference	Dated
Ausgrid	Referral Response from Ausgrid 339 Military Road 8.2014.162.1	9 October 2014
Roads and Maritime Services	Referral response from Roads and Maritime Services 339 Military Road 8.2014.162.1	22 September 2014

For a copy of the above referenced documents, please see Council's DA Tracker at www.mosman.nsw.gov.au.

PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE: STAGE 1 (DEMOLITION AND SITE PREPARATION WORKS)

The following conditions must be satisfied prior to the release of the Construction Certificate for demolition and site preparation works.

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

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

Geotechnical Endorsement

3. All works are to be carried out in accordance with the recommendations of the Geotechnical Consultant. Strict adherence to inspections and further assessment as required by the Douglas Partners Report 73851 of 10 February 2014 and any subsequent report are to be abided by.

Dilapidation Report – Council Assets

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

Dilapidation Report – Private Assets

5. The applicant shall supply Council with a dilapidation report for the adjoining properties at 114 Belmont Road, 327 Military Road and 81 Glover Street, 81A Glover Street and 83-89 Glover Street which documents and photographs the condition of buildings and improvements on those properties. The dilapidation report shall be submitted as a PDF in Adobe format or in A4 format. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of nominated properties. Council shall be provided with a list of owners to whom a copy of the report has been provided.

Excavation, Backfilling and Support for Neighbouring Buildings

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

Excavation, Backfilling and Support for Neighbouring Buildings

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

Drainage

8. Stormwater shall be directed to the street gutter and easement. Detailed drainage plans must be submitted with the Construction Certificate application and certified as complying with Council's "Stormwater Management in Mosman" by a Civil Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field.

Drainage

9. To ensure drainage connection/s are properly completed, the applicant shall complete an "Application to Connect to Council's Stormwater Pipelines or Gully Pits" and or a "Road Opening Permit" and pay the applicable fees prior to the issue of the Construction Certificate. Both forms are available from Council.

Rainwater Re-Use System/Onsite Detention

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

Alternatively the applicant has the option to utilise rainwater reuse tanks in lieu of or in conjunction with on-site detention tanks. Rainwater reuse tanks can be used to offset the volume requirements of the onsite detention tanks in accordance with Council's policy for Stormwater Management in Mosman. The offset ratio for OSD to rainwater tanks is: 1 cubic meter of OSD is equivalent to 3 cubic meters of rainwater storage. It

should be noted that these tanks are to be at a minimum connected to the toilet and washing machine to achieve this offset.

Sydney Water

11. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au or telephone 13 20 92 for:

- Water Quick Check Agent Details – see Plumbing, Building and Developing then Quick Check Agents; and
- Guidelines for Building Over or Next to Assets – see Plumbing, Building and Developing, then Building Over or Next to Assets.

Long Service Levy

12. In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant shall pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Mosman Municipal Council for any work costing \$25,000 or more. To pay the levy online go to <https://levy.lspc.nsw.gov.au/>. To pay the levy in person at either the Long Service Payments Corporation or Mosman Municipal Council you will need to complete the Levy Payment Form available from Council or online at <https://levy.lspc.nsw.gov.au/>.

Security Deposit

13. A cash deposit or bank guarantee to the value of \$111,148.50 in favour of Council shall be provided for the making good of any damage caused to Council property and to ensure the satisfactory completion of any works required to be undertaken outside the property boundary. The value of the Security Deposit is based on Council's estimate of the cost of works and will not be varied. A request for a refund of unused funds (less an inspection fee) may be made following the completion of all works, both inside and outside the property boundary, and an inspection of the site by Council.

Where an Accredited Certifier has been appointed as the Principal Certifying Authority this deposit may also be used to recover some of Council's costs from inspections arising from complaints about building works in accordance with Section 118G of the *Environmental Planning and Assessment Act 1979*. A fee of \$180 will be deducted from the security damage deposit on each occasion where an inspection is necessary because an issue has arisen from the conduct of the building works.

Section 94 Contribution

14. Pursuant to Section 94A of the Environmental Planning & Assessment Act 1979, a monetary contribution must be paid to Council for the purpose of purchasing and embellishing public open space if the value of works exceeds \$100,000.00.

To enable Council to determine whether a contribution is payable and if so what amount, a 'Cost Summary Report' form must be completed if the value of work is less than \$1,200,000.00 or a 'Detailed Cost Report' form completed by a member of the Australian Institute of Quantified Surveyors if the value of work is \$1,200,000.00 or greater. Copies of these forms are attached to this consent and can also be obtained from the 'Policies and Forms' section of Council's website at

www.mosman.nsw.gov.au.

Contribution rates may be indexed by use of the Consumer Price Index.

This condition is imposed under Mosman Municipal Council's Mosman Section 94A Development Contributions Plan 2012. The Plan may be inspected at Council's offices within the Civic Centre, Mosman Square, Mosman.

Tree Permit Assessment

15. Prior to the issue of a Construction Certificate, a valid Tree Permit Assessment must be obtained from Council for the removal of the tree on public land. The works the subject of the Tree Permit Assessment cannot commence until a Construction Certificate has been issued.

Structural Certification

16. Certification shall be provided from a qualified practicing Structural Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field that all parts of the existing building that are shown to be retained on the approved plans, can be retained, and that these components will withstand the proposed additional loads.

Waste Management

17. To allow for sustainable waste management, a completed Site Waste Minimisation and Management Plan (SWMMP) shall be submitted in accordance with the Mosman Waste Minimisation Policy 2012. A copy of the Mosman Waste Minimisation Policy 2012 including a SWMMP template can be found on Council's web site www.mosman.nsw.gov.au.

Erosion and Sedimentation Control Plan

18. An erosion and sedimentation control plan in accordance with the NSW Government's policy Managing Urban Stormwater: Soils and Construction (also known as The Blue Book) is to be submitted and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

Details of Site Arborist

19. Prior to the issue of the Construction Certificate, Council's Tree Management Officer shall be provided with the name and contact details of the Site Arborist. Should the Site Arborist change prior the issue of an Occupation Certificate, Council's Tree Management Officer shall be provided with details of the new Site Arborist.

Acoustic

20. To ensure reasonable acoustic amenity for surrounding properties is maintained during construction of the building, certification from a qualified acoustic consultant must be submitted to Council prior to Construction Certificate being issued. The certification is to give consideration to the requirements of NSW Interim Construction Noise Guideline for building sites.

Construction Traffic Management Plan

21. To minimise disruption to and ensure reasonable safety for surrounding public and private property during site works, a Construction Traffic Management Plan shall be submitted to and approved by Council's Traffic Committee. The plan is to address matters raised in Council's Guide for Construction Traffic Management Plans which is available on Council's website at www.mosman.nsw.gov.au.

Notes:

- (a) An application fee of \$600 per site for Construction Traffic Management Plans applies. When assessment is required within 7 days, the required fee is \$1,700 per site; and
- (b) Fees will be indexed by use of the Consumer Price Index and the actual amount to be paid will be determined at the date of payment. You may contact Council on 9978 4000 prior to payment to confirm current figures.

PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE: STAGE 2 (BUILDING CONSTRUCTION)

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

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

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

Construction Certificate Application Plans

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

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

Fire Engineered Alternate Solutions are required to justify the deviations from the Deemed to Satisfy provisions of the Building Code of Australia prior to the issue of the Construction Certificate.

Where Council is nominated as the Principal Certifying Authority, two copies of the architectural and structural engineer's plans must be submitted and for applications involving alterations and additions, one set of plans should be coloured which indicate the extent of new works.

Amended Plans

23. The Construction Certificate plans shall detail the upper level having a greater setback from Belmont Road so as to reduce the visual bulk of the building to Belmont Road. The setback of the balcony and external wall of part the building at Level 4 shall be
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increased from Belmont Road by 2.0m. This shall be achieved by merging a two bedroom and one bedroom unit (units 4.09 and 4.10) at this level and creating a single 3 bedroom unit. This would also reduce the demand for parking. A non-trafficable area shall be located on the outer side of the balustrade adjacent to the consolidated unit.

Amended Plans

24. In accordance with the Residential Amenity and SEPP 65 Peer Review prepared by Steve King dated 18 August 2014, units 0.08, 1.12 and 2.12 within the residential flat building shall be provided with a passive ventilation system to achieve adequate ventilation. Any protrusion above the roof associated with this system shall not exceed RL99.4 (600mm). Details to be shown on the Construction Certificate Plans.

Amended Plans

25. In accordance with the Residential Amenity and SEPP 65 Peer Review prepared by Steve King dated 18 August 2014 units 0.11 and 0.12 (townhouses) shall be provided with oversize skylights above open staircases to allow sunlight into the interior of these units. Details to be shown on the Construction Certificate Plans.

Amended Plans

26. The louvred screens to the private open space areas to units 1.06, 2.06, 3.06 and 4.06 within the residential flat building shall be fixed so as to provide reasonable visual privacy to other units within the development. Details to be shown on the Construction Certificate Plans.

Amended Plans

27. Terracotta baguette screens (identified as reference 2a on the Materials Legend on architectural plans) shall be provided on the south eastern side of the private open space areas of units 2.15 and 3.14 within the residential flat building, so as to provide reasonable visual privacy to 114 Belmont Road. Details to be shown on the Construction Certificate Plans.

Amended Plans

28. One (1) additional *Elaeocarpus eumundi* shall be planted to the south of the main area of private open space of unit 0.14 within The Stables, so as to provide reasonable visual privacy to 114 Belmont Road. Details to be shown on the Construction Certificate Plans.

Amended Plans

29. The trafficable area of the balcony on the south eastern side of unit 4.10 in the residential flat building shall be reduced to 1.0m in depth to reduce the likelihood for overlooking into the private open space area of units 3.12 and 3.14. Details to be shown on the Construction Certificate Plans.

Amended Plans

30. The fencing along the boundary with 114 Belmont Road shall be solid so that it cannot be seen through. Details to be shown on the Construction Certificate Plans.

Retaining Walls

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

Driveway

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

Driveway

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

Driveway

34. Detailed plans of the internal driveway and parking area shall be certified as complying with *Australian Standard 2890.1-2004* by a Civil Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field. Plans should also demonstrate that the visibility requirements of Clause 3.2.4 of *Australian Standard 2890.1-2004* are met for vehicles exiting the site on Belmont Road.

Planting on Slab

35. To ensure the landscaping thrives, the on slab planters shall be appropriately designed. All on slab plantings are to be provided with adequate minimum soil depths to support the plant species (refer to the relevant Development Control Plan), include adequate draining provisions and permanent irrigation complying with Sydney Water irrigation restrictions for water conservation. Details shall be submitted with the Construction Certificate application.

Accessibility

36. To provide suitable access for people with disabilities, the development shall comply with Disability (Access to Premises – Buildings) Standards 2010. Details demonstrating compliance must be submitted with the Construction Certificate application.

Accessibility

37. The Construction Certificate plans shall include all recommendations contained within the Accessibility Report prepared by Phillip Chun Accessibility dated 3 November 2014 including the requirement that the following seven (7) adaptable units are provided in accordance with Australian Standard 4299 and the Building Code of Australia. These shall be units 0.08, 2.12, 3.02, 4.03, 4.05, 4.07 and 4.10 within the residential flat building.

Accessibility

38. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1, shall be provided between the entrance to the premises and any disabled car parking space. Details demonstrating compliance must be submitted with the Construction Certificate.

Fire Safety

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

Screen Planting

40. To provide privacy for the neighbouring heritage property (Alma House), screen planting shall be provided along the boundary which will attain a minimum mature height of 5.0m. The screen planting shall be planted at minimum 1.5m spacings and at a minimum pot size of 100 litres. These plants shall be provided within a minimum 1.2m width garden bed. Details to be shown on the Construction Certificate plans.

Tree Planting

41. In order to soften the visual impact of the development, a minimum of three (3) additional canopy trees with a growth height of >10 metres shall be planted on the site. They shall be planted at a minimum 200 Lt pot size. Details to be shown on the Construction Certificate plans.

Works on Council Property Application

42. A Works on Council Property Application is to be lodged to Council and approved by Council prior to the issue of the Construction Certificate. This is to detail all works at the on Council property at the frontage of the property. Council's Asset Inspector should be contacted for a site inspection prior to any plans being lodged to ensure compliance with Council's Specifications. These works should include:
- Repaving the property frontage on Military Road and Belmont Road in accordance with Council Specification.
 - Street tree planting in accordance with requirement of Council's Tree Management Officer.
 - Porous paving in tree surrounds.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

43. A certifying authority must not issue a construction certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

BASIX Certificate

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

The applicant must include copies of any relevant BASIX certificates as part of the application for a Construction Certificate, and all items nominated in the BASIX certificates must be specified on the plans submitted with the application.

Acoustic

45. That a Noise Impact Statement must be prepared under the supervision of a certified Acoustic Consultant who will certify the content of the report which is to be submitted to Council for approval. The report should contain but not be limited to the following matters:
- a. the identification of sensitive noise receivers potentially impacted by the proposal;
 - b. the quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and in accordance with the relevant Australian Standards and the NSW EPA requirements)
 - c. details of any acoustic control measures that will be incorporated into the proposal;
 - d. the formulation of suitable assessment criteria;
 - e. the identification of all noise that is likely to emanate from items of plant and other movable equipment including gates roller doors security items ventilation system/air conditioning system and the subsequent prediction of resultant noise at the identified sensitive receiver locations from the operation of the premises;
 - f. a statement certifying that the development is capable of operating without causing a nuisance.

PRIOR TO THE COMMENCEMENT OF SITE WORKS

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

Notice of Intent to Commence Site Works

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

Construction Hoarding or Fencing

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

then the site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

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

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

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

Erosion and Sedimentation Control Plan

48. Erosion and sedimentation controls shall be installed prior to commencement of any works on the site (site works) in order to prevent the discharge of sediment from the site. The controls shall be installed in accordance with the Erosion and Sedimentation Control Plan for the site and the NSW Government's policy Managing Urban Stormwater: Soils and Construction (also known as The Blue Book).

Erosion and Sedimentation Controls

49. To limit the tracking of material onto the street from vehicles and plant equipment, a site access driveway shall be provided prior to the commencement of site works consisting of 40mm aggregate made from either recycled concrete, blue metal or quartzite gravel. The layer of aggregate material shall be a minimum of 150mm deep, 2m wide and 5m long.

Public Liability Insurance

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

Tree Protection - In Accordance with Arborist Report

51. To limit the potential for damage to the trees to be retained, tree protection measures are to be installed prior to the commencement of site works in accordance with the recommendation/s in the arborist report prepared by 'Naturally Trees' dated 12th August 2014.

Tree Protection - Detailed Measures

52. To limit the potential for damage to the tree to be retained (including trees on neighbouring properties), tree protection measures are to be installed in accordance with Australian Standard 4970–2009 Protection of Trees on Development Sites prior to the commencement of site works, in accordance with the following:
- (a) No construction or excavation (including trenching for drainage) shall occur within the structural root zone of any retained and protected tree.
 - (b) The building contractor shall ensure that at all times during site works no activities, storage or disposal of materials shall take place within the tree protection zone of trees to be retained.
 - (c) Landscape works in the vicinity of the trees must be sympathetic to tree retention and existing ground levels within the tree protection zone must remain unchanged. Where tree roots are uncovered that are between 20-50mm diameter they shall remain in place until they are cleanly pruned and treated with a root hormone compound by a qualified arborist.
 - (d) All pruning works including the removal of deadwood is to be undertaken in accordance with Australian Standard AS 4373-1996 Pruning of Amenity Trees and the work is to be undertaken by an experienced and qualified arborist.

DURING SITE WORKS / CONSTRUCTION

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

Compliance with the Building Code of Australia

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

Asbestos Material

54. Where asbestos material shall be removed or disturbed as a result of any proposed demolition, alteration or addition, all work must be carried out by a person licensed under Chapter 10 of the Occupational Health and Safety Regulation 2001 and undertaken in accordance with the requirements of clause 29 of the Protection of the Environment Operations (Waste) Regulation 2005. All asbestos to be removed must be disposed of at a tip recommended by the NSW Environment Protection Authority and under no circumstances shall be re-used or sold.

Construction within Boundary

55. The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto the public way.

Signs for Building and Demolition Sites

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

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

Where council is the nominated PCA, these signs may be purchased from council's offices for a fee of \$35.

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

Site Work Hours

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

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

Protection of Public Places

58. The work site shall be kept lit between sunset and sunrise if it is likely to be a source of danger to persons using a public place or upon instruction by Council to enhance the safety and security of the area in which the work is located.

Shoring and Adequacy of Adjoining Property

59. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must at the person's own expense:
- (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.

Shoring and Adequacy of Adjoining Property

60. All excavations and backfilling shall be limited to that required in accordance with the approved plans only and must be executed safely and if necessary properly guarded in accordance with appropriate professional standards to prevent them from being dangerous to life or property. At least 7 days before excavating, give notice of an intention to excavate to the adjoining owner and furnish particulars to the owner of the proposed work.
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Erosion and Sedimentation Controls

61. Erosion and sedimentation controls must be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Erosion and Sedimentation Controls

62. All construction vehicles shall be washed prior to exiting the site to remove site material on the vehicle and prevent it from entering the stormwater system in the surrounding road network. All polluted water must be retained on site for sediment extraction before it is discharged in to the stormwater system.

Erosion and Sedimentation Controls

63. All stormwater runoff must be intercepted and diverted from areas susceptible to erosion through temporary earth banks or other drainage methods. The diversion is not to direct waters onto adjoining properties.

Dust Control

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

Waste Management

65. Waste management during the construction phase shall be undertaken in accordance with the Site Waste Minimisation and Management Plan and in accordance with the Mosman Waste Minimisation Policy 2012. A copy of the Mosman Waste Minimisation Policy. 2012 can be found on Council's web site www.mosman.nsw.gov.au.

Council Property

66. The land and adjoining areas shall be kept in a clean and tidy condition at all times. No construction vehicles, building materials, waste, machinery or related matter shall be stored on the road or footpath for the duration of works unless separate approval has been obtained from Council's Traffic Committee for the establishment of a Construction Zone. Under no circumstances will any person be allowed to mix or dispose of concrete, mortar or slurry within Council property.

Council Property

67. Any works carried out to Council owned property or infrastructure as a result of this consent are to be undertaken in accordance with Council specifications; i.e "Specification For Concrete Kerb & Gutter, Footpaths, Vehicle and Kerb Crossings & Concrete Converters", "Public Domain Improvement Program", "Specification For Brick Paving", "Specification For Stormwater Drainage Construction" or "Specification For Asphalt Pavement Construction".

Council Property

68. All works on Council property approved as part of the “*Works on Council Property Application*” are to be undertaken. All costs associated with these works are to be borne by the applicant.

Construction Traffic Management Plan

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

Drainage

70. Stormwater shall be directed and treated as per Stormwater Concept Plan approved as part of the Construction certificate stage. All drainage works shall be constructed in accordance with Council's “*Guidelines For Stormwater Drainage Systems*”.

Partial Demolition

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

Utility Services

72. To maintain the visual amenity of the area, no house service poles (A-poles) shall be erected. Where such structures would otherwise be required by Ausgrid, the service shall be located underground. Any street poles required as a consequence by Ausgrid must be located in a position that does not unreasonably interfere with public amenity.

Driveway

73. The redundant driveway shall be reinstated with kerb, footpath and suitably landscaped. Materials must be in accordance with Mosman Council's “*Specification For Concrete Kerb & Gutter, Footpaths, Vehicle and Kerb Crossings & Concrete Converters*”.

Driveway

74. The levels at the boundary alignment of the property along the Belmont Road and Military Road frontages shall be defined by the existing levels.

Car Parking

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

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

Materials and Finishes

76. External materials and colour finishes shall be in accordance with the samples submitted to Council and must consist of:

Reference (as shown on the approved plans)	Material	Colour/Specifications
1	Aluminium Cladding	Anodised Stainless Grey
2	Terracotta Panel	Tempio Terracotta Tile Finish: Natural Colour: Rojo R05-05 Tile: FK-L 2/16 1200w x 300h 2 x horizontal grooves
2a	Terracotta Baguette	Tempio Terracotta Baguette Finish: Natural Colour: Rojo R05-05 B-5x5 50w x 50h <1800mm length
3	Windows	Anodised Satin Black
5	Balustrade	Anodised Charcoal Grey
6 + 6a	Louvres	Anodised Silver Grey
7	Render finish to The Stables	Resene Quarter Pravda BR75-013-078
Unidentified	Paint finish to spandrels (courtyard)	Resene Stonehenge BR61-012-073

The external materials and colours finishes shall not be varied under any circumstance except with the consent of Council.

Where appropriate the external finishes shall be treated with anti-graffiti paint or coating.

Protection of Landscape Features

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

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

Tree Preservation

78. All street trees and trees on private property that are protected under Clause 5.9 of Council's Local Environmental Plan 2012 and the Residential Development Control Plan, shall be retained except where Council's prior written consent has been obtained, or where after approval of the relevant Construction Certificate, trees stand within the envelope of approved buildings or within the alignment of approved permanent paved vehicular access roads and parking areas.

Leighton Green Cypress

79. To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity, Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, shall not be planted on the site for the life of the development. Further information on Leightons Green Cypress may be obtained from Council or

viewed on its web site at <http://www.mosman.nsw.gov.au> and then under “Environment” and “Trees”. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Energy Efficiency

80. To promote energy efficiency, the following measures shall be incorporated into the commercial component of the development:
- doors, windows and exhaust outlets should be fitted with seals, covers, shutters, dampers or similar devices to prevent the escape of thermal energy;
 - thermostats must be used with all central heating and cooling systems;
 - power factor correction shall be incorporated into the design specifications and installation of the electricity supply;
 - energy efficient light fittings such as high efficiency reflectors, fluorescent lighting, motion detectors and light switches with time switches in common areas must be used;
 - the use of AAA rated water efficient appliances.

Siting and Height

81. All wall locations, finished floor levels and roof levels must be in accordance with that approved under this consent.

The Principal Certifying Authority may require a compliance certificate from a registered surveyor to verify compliance.

Construction Hoarding or Fencing

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

Plant and Equipment

83. No plant and equipment shall be placed on the roof other than as shown on the approved plans. All plant and equipment including telecommunication facilities and services shall be sufficiently concealed from public view as far as practicable.

Lighting

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

Acoustic

85. The recommendations within the Acoustic Report prepared by Acouras Consultancy dated 25 July 2014 shall be adopted into the design.

Acoustic

86. The development shall be designed 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.

Site Facilities

87. The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

Commercial Waste and Recycling Storage Area

88. For safety, amenity and maintenance reasons, the waste and recycling storage area must be constructed to the following standards:
- Designed to accommodate separate general waste bins and recycling bins which are of sufficient volume to contain the quantity of waste generated between collections;
 - Designed so that bins for recyclable materials are kept separate from (but close to) general waste bins - so that the potential for contamination of recyclable materials is minimised;
 - The gradient of the floors and the gradient of any associated access ramps must be sufficiently level for the purpose of emptying containers;
 - The floor must be graded so that any water is directed to a Sydney Water approved drainage connection located upon the site;
 - Designed to prevent vermin from entering;
 - Doors/gates must be durable, openable from both inside and outside and must be wide enough to allow for the easy passage of waste/recycling containers. There must be a sign adjacent to the door/gate that indicates that the door/gate is to remain closed when not in use;
 - Must have a smooth, durable floor and be enclosed with durable walls/fences that extend to the height of any containers which are kept within;
 - Must be serviced by hot and cold water provided through a centralised mixing valve. The hose cock must be protected from the waste containers and must be located in a position that is easily accessible when the area is filled with waste containers; and
 - Designed with signage that clearly describes the types of materials that can be deposited into recycling bins and general garbage bins.

Approved Plans

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

Critical Stage Inspections

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

- prior to covering any stormwater drainage connections, and
- after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

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

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

Rainwater Re-Use System

91. The rainwater re-use system shall be installed in accordance with the following requirements:
- For safety purposes, the tank and the fittings must be labelled "RAINWATER, NOT SUITABLE FOR DRINKING".
 - To ensure stormwater and drainage objectives continue to be achieved and to promote awareness of the rainwater re-use system, a plaque measuring no less than 400mm by 200mm shall be permanently attached and prominently displayed within the immediate vicinity of the rainwater tank advising occupiers of the existence of the rainwater tank and that the device is not be altered without prior approval from Mosman Council.
 - For health reasons, a first-flush-by-pass device must be installed allowing the first 1mm of initial runoff to bypass the tank.

Arborist Inspections

92. The applicant must engage a suitably qualified and experienced arborist (Australian Qualification Framework level 5 or above) to assess the impact of the proposed works and employ best practices (e.g. minimise compaction, soil build up and or excavation within tree protection zone*) to ensure the longevity of trees to be retained. The arborist is to attend on site during critical stages of excavation and construction works within the vicinity of trees to be retained and is to record the following information;
- the methods of excavation or construction used to carry out works;
 - any damage sustained by the tree/s as a result of the works;
 - any subsequent remedial works required to be carried out by the arborist as a result of the damage; and
 - any future or on-going remedial work required to be carried out to ensure the long term viability of the tree/s.

*tree protection zone = 12 x Trunk diameter 1400mm from ground level (measured as a radius from the trunk)

BASIX Certificate

93. To promote energy efficiency, the development is to be carried out in accordance with the commitments contained in the following BASIX Certificates:

Certificate Number	Date
564987M_02	20 August 2014

564906M_02

20 August 2014

Air Conditioning

94. Air intakes for the air conditioning units shall be sited as far as practicable from Military Road.

Use of Equipment During Construction

95. Concrete pumps, cranes, hoists and winches shall be used in accordance with the relevant Australian Standards.

PRIOR TO THE RELEASE OF THE OCCUPATION CERTIFICATE

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

Where a condition of consent is precedent to the issue of an Occupation Certificate in either part or full that condition shall be satisfied prior to the issue of the certificate.

Record of Inspections Carried Out

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

The record must include details of:

- the development application and construction certificate number;
- the address of the property at which the inspection was carried out;
- the type of inspection;
- the date on which it was carried out;
- the name and accreditation number of the certifying authority by whom the inspection was carried out; and
- whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

Car Parking

97. Car parking spaces shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

Residential	73 spaces
Commercial	4 spaces (2 spaces shall be allocated to each tenancy)
Visitors	18 spaces
Spaces for persons with a disability	3 spaces

Car parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or sign posted to indicate the unit/tenancy to which it is allocated.

Visitor car parking must be permanently available and clearly marked/signposted.

Tandem parking spaces must be allocated to the one unit.

For the purpose of car space allocation, the car parking required for the SOHO units shall be as per residential requirements.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Visitor Parking Sign

98. A sign legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Bicycle and Motorcycle Parking

99. Twenty one (21) bicycle parking spaces and four (4) motorcycle parking spaces provided shall be provided, made accessible and maintained at all times.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Loading

100. One (1) of the visitor spaces shall be sign posted as a loading space during the hours of 7.00am - 6.00pm Monday to Friday.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Easements, Covenants and Restrictions on Title

101. A restriction on the use of land shall be created under Section 88B of the *Conveyancing Act 1919* requiring that the use of the commercial component of each of four (4) SOHO units within the residential flat building be limited to the occupant of that dwelling only. The purpose of this restriction is to ensure additional car parking demand is not generated by the use of the commercial floor space associated with the four (4) SOHO units. Mosman Municipal Council shall be identified as the authority able to modify, vary or release the restriction. Evidence that the restriction on the use of land has been registered with the Land and Property Information branch of the Department of Lands is to be provided to Council.

A fee applies for the checking, approval and execution of the restriction on the use of land by Council and must accompany the restriction on the use of land when lodged with Council. For details refer to Council's current Pricing Policy at the time of lodgement.

Storage

102. Sixty eight (68) storage units shall be provided within the basement car park. One storage unit shall be allocated to each dwelling. The storage units shall have the following minimum size and shall be allocated accordingly:
-

Studio and One bedroom dwellings	6m ³
Two bedroom dwellings	8m ³
Three bedroom dwellings	10m ³

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

BASIX Completion Receipt

103. Before issuing a final occupation certificate for a building or for part of a building, the certifying authority must apply to the Director-General for a BASIX completion receipt with respect to that building or part, in accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000.

Sydney Water

104. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au see Building and Developing, then Developing your Land, Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development or release of the Subdivision Certificate, whichever occurs first.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

105. A certifying authority must not issue an occupation certificate to authorise a person to commence occupation or use of residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

Certification of External Finishes

106. A Certifying Authority must not issue an Occupation Certificate unless the Certifying Authority has received written certification from a qualified designer that the finishes of the building are in accordance with the conditions of this consent.

Fire Safety

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

Waste Management

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

Accessibility

109. Written certification shall be provided from a suitably qualified person that the recommendations included in the Accessibility Report prepared by Phillip Chun Accessibility dated 3 November 2014 have been incorporated into the development including the requirement that seven (7) adaptable units be provided.

Adaptable Unit Car Parking

110. Two conjoined car parking spaces shall be provided for each of the seven (7) adaptable units. These shall not be tandem spaces.

Street Numbering

111. The premises shall be identified by street numbering. Street numbering for the property shall be 339 Military Road and the units shall be numbered as follows.
- 1 and 2/339 Military Road (commercial units); and
 - 3 through to 70/339 Military Road (residential units).

Acoustic

112. Written certification shall be provided from a suitably qualified person that the operation of plant and equipment in use on the premises achieves the noise criteria stipulated within this consent and that the recommendations included within the Acoustic Report prepared by Acouras Consultancy dated 25 July 2014 have been incorporated into the development.

On-Site Detention/Rainwater Re-use System

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

On-Site Detention/Rainwater Re-use System

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

A fee applies for the checking, approval and execution of the Positive Covenant by Council and must accompany the Positive Covenant when lodged with Council. For

details refer to Council's current Pricing Policy at the time of lodgement.

The terms of the positive covenant shall read:

- (i) In this Positive Covenant "detention system or rainwater reuse system" shall mean the detention system or rainwater re use system approved by Mosman Council pursuant to Development Consent No. 8.2014.162.1 or any modification thereof approved by Mosman Council in writing.
- (ii) The Registered Proprietors will at their own expense well and sufficiently maintain and keep in good and substantial repair and working order any detention system/rainwater re use system which exists from time to time on the land.
- (iii) The Registered Proprietors shall not remove the detention system/rainwater reuse system without the prior consent of Mosman Council.
- (iv) The Registered Proprietors hereby agree to indemnify Mosman Council from and against all claims, demands, actions, suits, causes of action, sum or sums of money, compensation damages, costs and expenses which Mosman Council or any other person may suffer or incur as a result of any malfunction or non-operation of any such detention system/ rain water re use system arising from any failure of the Registered Proprietors to comply with the terms of this Covenant.
- (v) The term "Registered Proprietors" shall include the Registered Proprietors of the land from time to time and all their heirs, executors, assigns and successors in title to the land and where there are two or more registered proprietors of the land the terms of this covenant shall bind all those registered proprietors jointly and severally.

Follow-up Arborist's Report

115. As part of the ongoing assessment of the trees to be retained, the arborist engaged by the applicant is to assess their health and any impacts suffered by them as a result of the proposed approved development. Findings are to be compiled in a detailed report to be provided to Council at the completion of construction and prior to the release of the Occupation Certificate which documents the following:
- the methods of excavation or construction used to carry out works;
 - any damage sustained by the tree/s as a result of the works;
 - any subsequent remedial works required to be carried out by the arborist as a result of the damage; and
 - any future or on-going remedial work required to be carried out to ensure the long term viability of the tree/s.

Services Shared with Neighbour Property

116. Any services shared with the neighbouring property 114 Belmont Road shall be separated prior to the issue of an Occupation Certificate.

DURING OCCUPATION

The following condition must be satisfied during occupation of the development.

Landscape Maintenance

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

Shopfront Appearance

118. To preserve the streetscape, roller shutters are not to be placed over the entrance to the commercial premises. The SOHO units shall be provided with shop front clear glazing to Military Road.

Trading Hours

119. To ensure reasonable neighbourhood amenity, trading hours of the commercial units are restricted to the following times:

Monday to Saturday	7.00am - 6.00pm
Sundays and Public Holidays	No operation

Trading Hours

120. Deliveries of goods or services and the collection of any waste (excepting emergency services) shall not take place between 10.00pm and 7.00am on any day. An emergency service for the purpose of this condition means the delivery of any goods or services required for the maintenance of safe operating conditions upon the site.

Acoustic

121. That the use of the premises shall not give rise to:

- (a) Transmission of 'offensive noise' to any place of different occupancy, and,
- (b) A sound pressure level at affected premises that exceeds the background (LA90) noise level in the absence of the noise consideration by more than 5dBA. The source noise level shall be assessed as an Leq, 15 min and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content, and,
- (c) A sound pressure level at any affected premises that exceeds the recommended planning levels outlined in the NSW, EPA Industrial Noise Policy.

Acoustic

122. To ensure reasonable acoustic amenity for surrounding properties is maintained, the level of noise emanating from the premises (LAeq measured for at least 15 minutes) shall not exceed the background level (LA₉₀) by more than 5dB(A) when measured at all property boundaries in the absence of that noise source. This condition does not apply to noise generated during demolition and construction activities.

Acoustic

123. Noise associated with mechanical plant must not give rise to any one or more of the following:
- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.

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

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

Car Parking

124. Parking and manoeuvring areas shall be used solely for such purposes.

Advertising Signs

125. No advertisement shall be erected on or in conjunction with the development without prior development consent unless the advertisement is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Fire Safety

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

Fire Safety

127. Fire safety measures provided within the building must be maintained in good working order.

Waste Management

128. Waste contractors shall move the bins to the street and then return them to the bin storage area to minimise the extent of time the bins are on the road.

Waste Management

129. Commercial tenants must be prevented (via signage, door locks and any other necessary means) from using the residential waste/recycling bin room and vice versa.

Waste Management

130. Residential and commercial bin collection shall be serviced from Belmont Road. Waste contractors shall move the bins to the street and then return them to the bin storage area.

Plant and Equipment

131. No plant and equipment shall be placed on the roof other than as shown on the approved plans. All plant and equipment including telecommunication facilities and services shall be sufficiently concealed from public view as far as practicable.

ADVICE TO APPLICANTS

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

- i. Headings such as “Prior To The Release Of The Construction Certificate” together with bolded notes that immediately follow, form part of this Notice of Determination. Conditions under the respective headings shall be read in the context of the heading and note.
- ii. Section 82A of the Act provides for an applicant to request Council to review its determination excepting applications made on behalf of the Crown or applications in respect of designated development, integrated development or a complying development certificate. The request for review must be made and determined within 6 months of the date of determination. A decision on a review may not be further reviewed under section 82A.
- iii. If you are unsatisfied with this determination, Section 97 of the Act gives you the right of appeal to the Land and Environment Court within 6 months of the determination date.
- iv. The applicant shall consult with relevant public utility providers and meet any costs imposed by those providers for alterations to mains or services required as a consequence of this approval.
- v. Other public authorities may have separate requirements and should be consulted in the following respects:
 - a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
 - b. AGL Sydney Limited for any change or alteration to gas line infrastructure;
 - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
 - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.
- vi. This decision does not ensure compliance with the Commonwealth Disability Discrimination Act 1992. Applicants may wish to investigate their potential for liability under that Act.
- vii. Failure to comply with the relevant provisions of the Act and/or the conditions of this consent may result in the serving of penalty notices or legal action through the Land and Environment Court.
- viii. In accordance with section 81A of the Act, the person benefiting from this consent is notified that if Council is engaged as the Principal Certifying Authority, critical stage inspections to be carried out will include those listed under the sub-heading “Critical

Stage Inspections” in this consent. If additional inspections are required, further notice will be provided.

- ix. All references to “the Act” under this consent relate to the Environmental Planning and Assessment Act 1979.
- x. Occupants of all new dwellings approved since 1998 are not eligible to participate in Council’s residential parking scheme. If a parking scheme exists in front of the property, occupants must either rely on off street parking or abide by signed parking restrictions.
- xi. When private certifiers are registering Part 4A Certificates with Council, it is requested that plans be lodged in PDF format.
- xii. Following the issue of the Occupation Certificate an inspection fee of \$145.00 (per inspection) is to be paid at the Cashier’s desk at the Civic Centre to ledger number 1040210.3207.028 in order to release the footpath security deposit.

Note: Fees will be indexed by use of the Consumer Price Index and the actual amount to be paid will be determined at the date of payment. For details refer to Council’s current Pricing Policy at the time of lodgement.

- xiii. To ensure adequate waste receptacles are provided prior to the occupation of the development Mosman Council Waste Services shall be contacted on Ph. 9978 4076 or council@mosman.nsw.gov.au.
- xiv. Sydney Water have specific requirements for the design of residential vehicle wash bays. The vehicle wash bay shall be designed in accordance with these requirements. Contact Sydney Water at www.sydneywater.com.au for further detail.
- xv. Dial Before You Dig is a free referral service for information on underground pipes and cables anywhere in Australia. Using Dial Before You Dig can prevent damage, disruption, injury and even death. Lodge your enquiry online at <http://www.1100.com.au> or call 1100 during business hours.
- xvi. A permit from Council will be required where a crane will be used as part of the construction works that will swing, hoist or lift goods across or over any part of a public road (including building sites).
- xvii. This consent does not authorise the carrying out of any of the following activities which require the separate approval of Council under Section 68 of the Local Government Act 1993:
 - a. Place a waste storage container in a public place
 - b. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

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

- xviii. Where an Accredited Certifier has been appointed as the Principal Certifying Authority, a fee of \$180 will be deducted from the security damage deposit on each occasion where Council, because of a complaint about the conduct of the building works inspects the premises. In obtaining a Construction Certificate the person paying the security damage deposit acknowledges this cost may be recovered from the security damage deposit.

