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## **Bayside Planning Panel**

**8/08/2017**

Item No	5.3
Application Type	Development Application – Mixed Use Development (Residential and Commercial Building)
Application Number	DA-2016/101
Lodgement Date	29 June 2016
Property	<b>228C and 230 Bunnerong Road, Hillsdale - Lot C and D in DP 393861</b>
Owner	George Mavrocordatos Kylin and Khim An Chy
Applicant	ARC Architects
Proposal	Integrated Development for the demolition of the existing structures, excavation and construction of a four storey mixed use development comprising of 21 apartments, three levels of car parking and two commercial tenancies.
No. of Submissions	Nil
Cost of Development	\$7,660,396
Report by	Angela Lazaridis, Senior Development Assessment Planner

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## **Officer Recommendation**

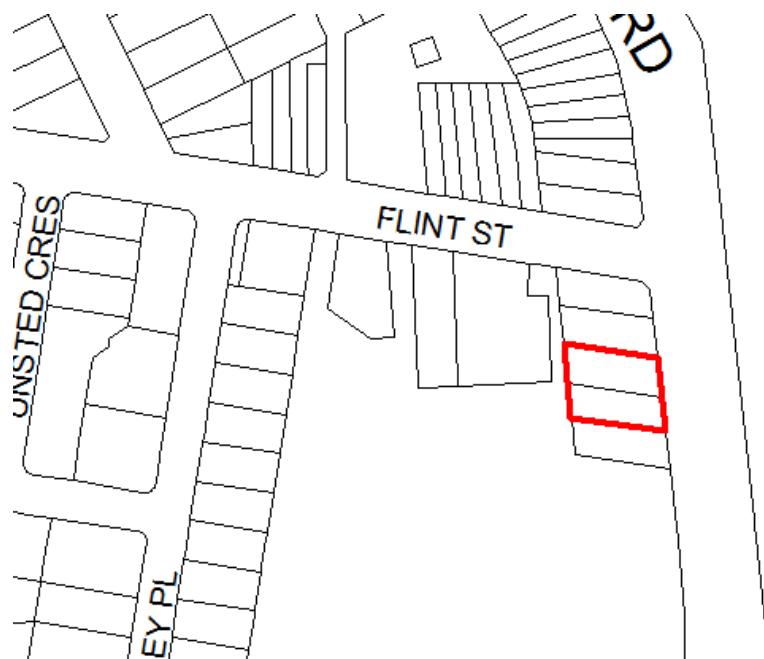
- 1 That Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the Height Standard and the objectives for the B2 Local Centre zone.
  - 2 That Development Application No. 16/101 for the demolition of the existing structures, excavation and construction of a four storey mixed use development comprising of 21 apartments, three levels of car parking and two commercial tenancies at 228C and 230 Bunnerong Road, Hillsdale be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
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## **Attachments**

- 1 Planning Assessment Report;
- 2 Apartment Schedule;
- 3 Clause 4.6 variation to height;
- 4 Location Plan
- 5 Site Plan
- 6 Roof Plan
- 7 Elevations
- 8 Elevations
- 9 Section

- 10 Section
  - 11 Section
  - 12 Street Elevation
  - 13 Demolition Plan
  - 14 Site Analysis Plan
  - 15 Finishes Schedule
  - 16 Sun Angles from 228B Bunnerong Road
  - 17 Sun Angle Projections to shopping centre
  - 18 Shadow Diagram Mid-Winter 9am
  - 19 Shadow Diagram Mid-Winter 12noon
  - 20 Shadow Diagram Mid-Winter 3pm
  - 21 Shadow Diagram Equinox 9am
  - 22 Shadow Diagram Equinox 12noon
  - 23 Shadow Diagram Equinox 3pm
  - 24 Survey Plan
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## Location Plan



**Figure 1:** Locality Plan

# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	2016/101
<b>Date of Receipt:</b>	29 June 2016
<b>Property:</b>	228C and 230 Bunnerong Road, Hillsdale Lot C and D in DP 393861
<b>Owners:</b>	George Mavrocordatos Kylin and Khim An Chy
<b>Applicant:</b>	ARC Architects
<b>Proposal:</b>	Integrated Development for the demolition of the existing structures, excavation and construction of a four storey mixed use development comprising of 21 apartments, three levels of car parking and two commercial tenancies.
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$7,660,396.00
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	21 July 2017

### Key Issues

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The former City of Botany Bay received Development Application No. 16/101 on 29 June 2016 seeking consent the demolition of the existing structures, excavation and construction of a four storey mixed use development comprising of 24 apartments, three levels of car parking and two commercial tenancies at 228C and 230 Bunnerong Road, Hillsdale.

The application is classified as Integrated Development in accordance with Section 138 of the Roads Act, as the development is located on a classified road. As such the application was referred to the Road and Maritime Services.

The application was placed on public exhibition for a thirty (30) day period from 20 July to 20 August 2016. No objections were received.

Key issues in the assessment of the development application include departure from the building height, non-compliances with unit mix, family friendly apartments, first floor ceiling heights, deep soil, car parking and loading and site isolation. The building height is predominantly contributed to the lift overrun for access to the rooftop garden. The building parapet slightly exceeds the building height requirement however the majority of the building is contained below the LEP height requirement. A clause 4.6 variation has been submitted and is well founded. In regards to deep soil and ceiling height for the first floor, these are minor non-compliances attributed to the basement extending across the whole site and that the first floor is utilised for residential. These departures are accepted.

The reduction of retail car parking by two spaces is considered to be reasonable as the subject site is well serviced by public transport (i.e. bus stop located directly in front of the premise) and the smaller scale retail use is unlikely to generate a significant demand for car parking or onsite servicing. Loading and unloading has been conditioned to allow for SRV access and waste management will be collected on the street which is similar to the arrangement at 228B Bunnerong Road. In regards to unit mix, the development proposes 28.6% 1 bedroom units which exceeds the 25% requirement. This was originally 50% one bedrooms and 50% 2 bedrooms however the applicant has amended the number of units from 24 to 21 and changed the unit mix proposed. The exceedance is minor and acceptable as the predominant unit mix for the site is 2-bedroom units. The proposal also has considered the site isolation principle for the site at 236 Bunnerong Road which is currently used as the Hillsdale Community Centre. The applicant had made an offer to Council and has provided evidence of this. Therefore, the applicant has addressed the site isolation requirements. Finally, the development does not comply with the family friendly controls relating to a separate living area on the site. Considering the size of the two/three bedroom units and the amount of space within the living and dining areas, this issue has been resolved.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended for approval, subject to conditions of consent.

## Recommendation

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As per attached cover page.

## Background

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### History

Development Application No. 09/215 was approved at 230 Bunnerong Road Hillsdale on 6 April 2009 for ground floor additions to the rear of the property.

#### Development Application History

On 9 August 2016, Council sent an additional information letter addressing concerns regarding to unit mix, storage, car parking requirements, GFA calculations, landscaping, contamination, solar analysis, ceiling heights, waste management and servicing and minor design details. The amended plans were received on 9 and 10 January 2017.

On 22 December 2016, the applicant and Council had a meeting to discuss the waste servicing and loading arrangement of the site. The outcome of the meeting result in a redesign of the car parking level to have the garbage holding room located towards the front of the site to allow for waste collectors to remove the bins from the room to the street and return them immediately after.

On 13 January 2017, a site inspection was carried out on the site. It was noted that 228B Bunnerong Road was under construction.



On 15 February 2017, Council and the applicant held a meeting to discuss the issue of site isolation, unit mix and garbage collection. Subsequently, the applicant made an offer to purchase the adjoining site at 236 Bunnerong Road.

On 19 July 2017, the applicant provided amended plans reducing the total number of units from 24 to 21 units to reduce the unit mix of 1 bedrooms. On 21 July 2017, the applicant further provided written evidence relating to efforts made on the offer to purchase the Hillsdale Community Centre which was rejected by Council.

## Proposal

The development application, in its amended form, seeks consent for the demolition of the existing structures, excavation and construction of a four storey mixed use development comprising of 21 apartments, three levels of car parking and two commercial tenancies.

The proposed 21 units comprise of the following:

- 6 x 1 bedroom apartments
- 12 x 2 bedroom apartments
- 3 x 3 bedroom apartments

The proposed development is described in detail below:

### Car Parking and Parking Allocation

The car parking proposed is over three levels and contains 45 spaces. There are two basement levels and one level at grade. The plans do not allocate the number of spaces for each individual apartment however comprises of 36 spaces for residential (within the basement), 5 visitor spaces and 4 retail spaces (located at grade). Four of the residential spaces have been dedicated as disabled parking spaces.

Additionally, the car parking levels contain the following items:

- Driveway ramp access;
- 1 lift;
- 1 fire-rated staircase;
- 21 separate storage areas for residents located in basement level B2;
- 2 motorcycle spaces;
- 8 bicycle spaces;
- On-site detention tank;
- Plant room and building services;
- Residential and commercial waste holding rooms at grade car parking level.

### Residential Flat and Commercial Component

The following table provides a summary of the residential component of the development:

Level	Unit	Type	Internal Area (sqm)	Private Open Space	Storage (m3 approx.)	Solar Access
Level 1	1.1	2 Bed	88	13	20.5	Nil
	1.2	2 Bed	80	23	20.5	2 hours
	1.3	3 Bed	112	15	25.1	Nil

Level	Unit	Type	Internal Area (sqm)	Private Open Space	Storage (m3 approx.)	Solar Access
	1.4	2 Bed	84	12	23.8	2 hours
	1.5	1 Bed	51	11	19.9	2 hours
	1.6	1 Bed	53	12	19.5	2 hours
	1.7	2 Bed	92	10	20.5	2 hours
Level 2	2.1	2 Bed	88	13	20.5	Nil
	2.2	2 Bed	80	23	20.5	2 hours
	2.3	3 Bed	112	15	25.1	Nil
	2.4	2 Bed	84	12	23.8	2 hours
	2.5	1 Bed	51	11	19.9	2 hours
	2.6	1 Bed	53	12	19.5	2 hours
	2.7	2 Bed	92	10	20.5	Nil
Level 3	3.1	2 Bed	88	13	20.5	2 hours
	3.2	2 Bed	80	23	20.5	2 hours
	3.3	3 Bed	112	15	25.1	2 hours
	3.4	2 Bed	84	12	23.8	2 hours
	3.5	1 Bed	51	11	19.9	2 hours
	3.6	1 Bed	53	12	19.5	2 hours
	3.7	2 Bed	92	10	20.5	2 hours

Each one bedroom apartment consists of one bedroom, one bathroom, laundry space, living room, dining room, kitchen and access to one balcony.

Each two/three bedroom apartment consists of two bedrooms (one with ensuite), one bathroom, laundry space, kitchen, dining room and living room and has access to one balcony. The Level 1 apartments have access to a courtyard.

Landscaping works are proposed within Level 1 courtyards and planter beds to the balconies as well as on the rooftop garden. A communal terrace is located on the rooftop and will contain vegetable gardens, seating, pergolas, and solar panels.

The ground floor contains two commercial tenancies fronting Bunnerong Road. Retail R1 has a total GFA of 78sqm and Retail R2 has a total GFA of 55sqm. The tenancies contain an accessible toilet within the car park.

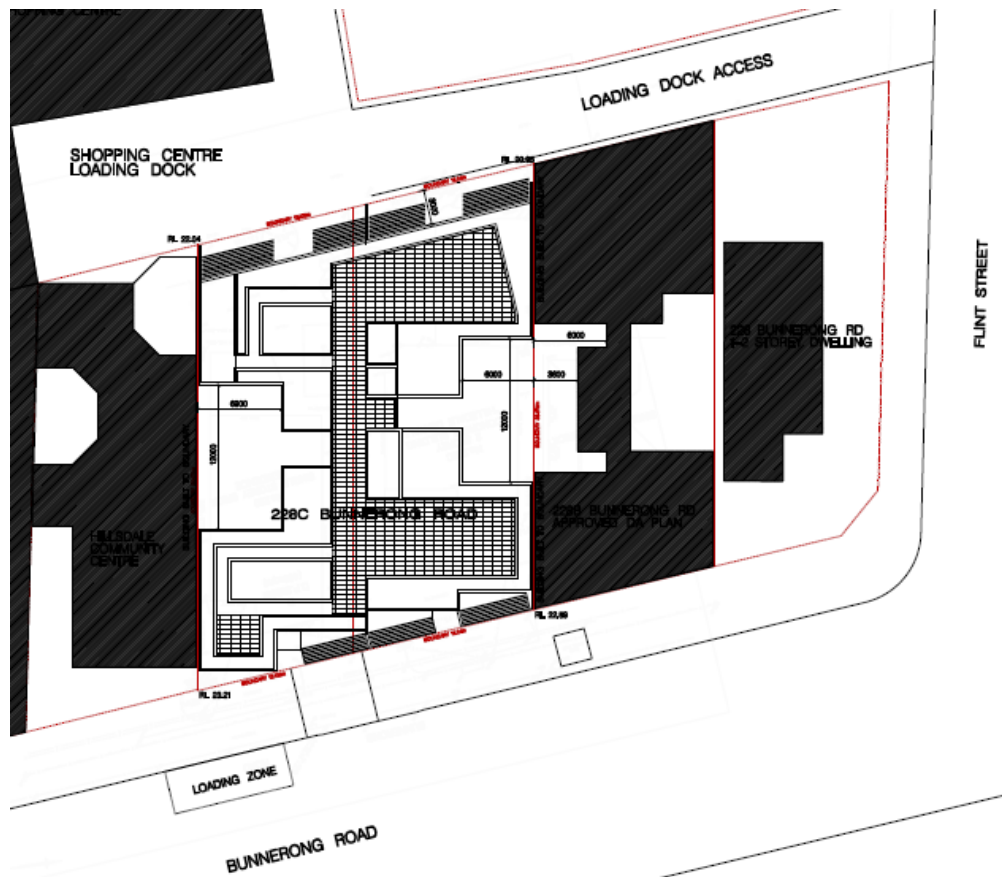


Figure 1. Proposed Roof Plan

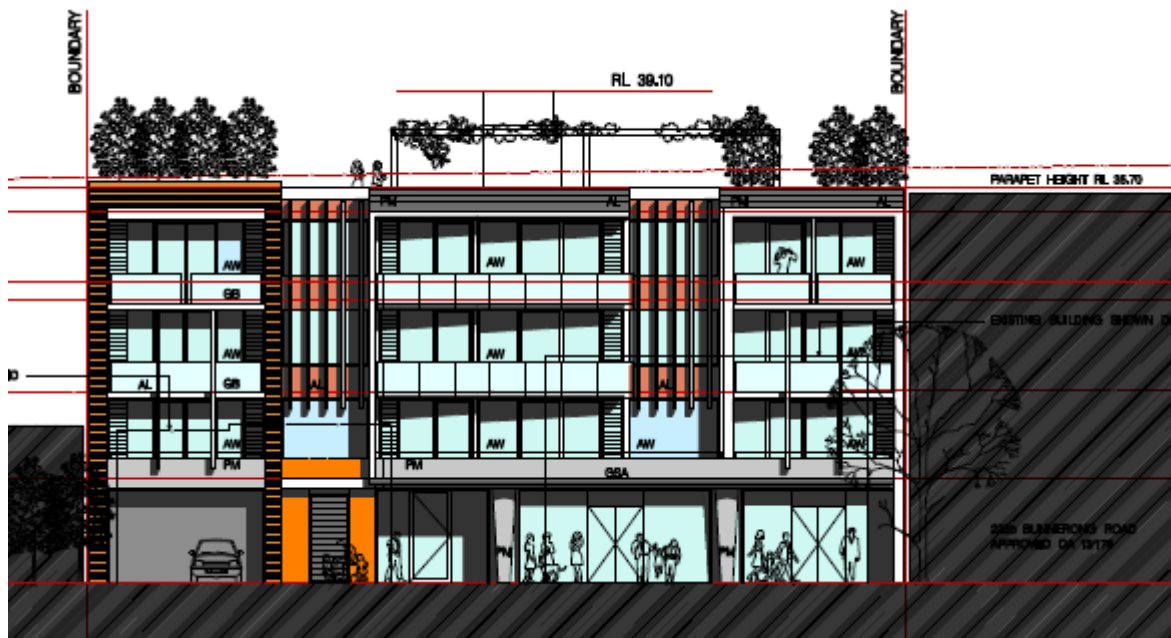
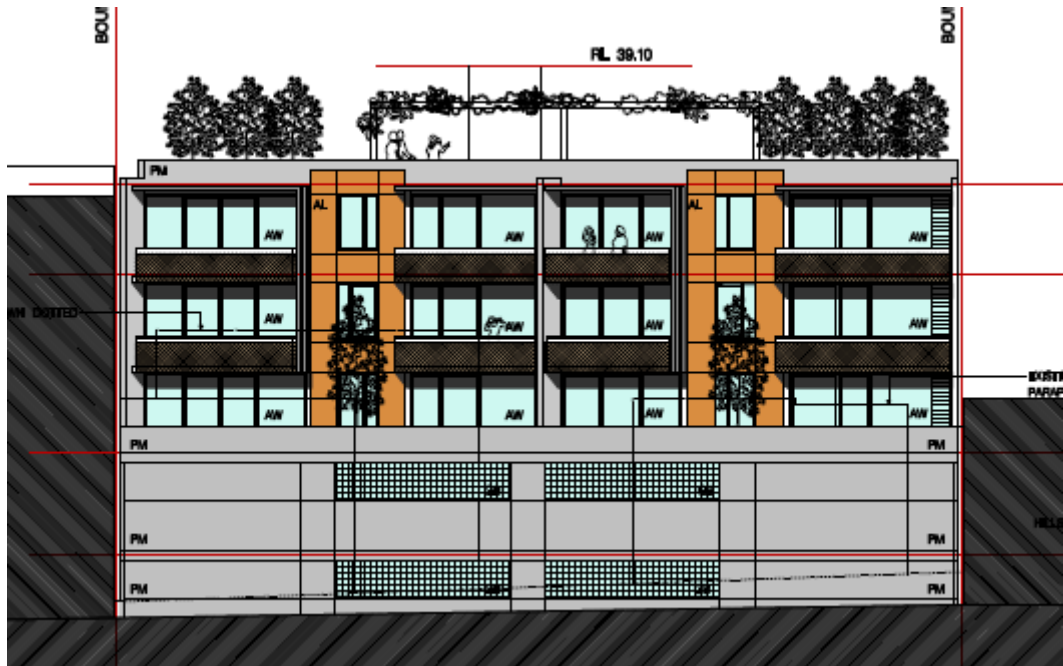


Figure 2. Proposed Eastern Elevation



**Figure 3. Proposed Western Elevation**

### Key Controls

The key controls relevant to the proposal are provided below:

Control	Required	Proposal	Complies (Yes/No)
<b>Site Area</b>	-	Site Area: 1,008sqm	N/A
<b>SEPP 65 – ADG</b>			
<b>Dwelling Size</b>	Minimum internal areas as follows: Studio: 35sqm 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	1 bed units: 51 – 53sqm 2 bed units: 80 – 92sqm 3 bed units: 112sqm	Yes Yes Yes
<b>Ceiling Height</b>	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor	Habitable rooms: 2.7m Non-habitable rooms: 2.4m Mixed Use (GF): 3.3m First floor does not comply	Yes Yes No, first floor does not comply <b>Refer to Note 1</b>
<b>Deep Soil</b>	Objective 3E-1 requires 7% of the site (for sites between 650sqm and 1,500sqm) as deep soil area with min.	The site does not provide any deep soil. All planting is located at the rear of the site on Level 1 and on the rooftop.	<b>No- Refer to Note 2</b>

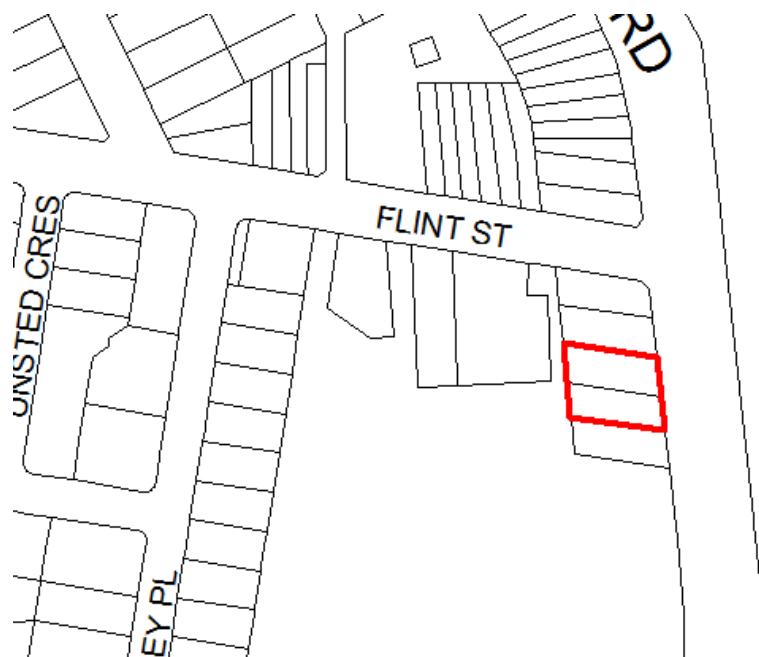
Control	Required	Proposal	Complies (Yes/No)
	dimensions of 3m		
<b>Communal Open Space</b>	25% of site (252sqm)	59% (595sqm)	Yes
<b>Solar Access</b>	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter Note: Part 4C requires that COS receives 3 hours in winter.	More than 50% of COS receives greater than 2 hours of sun due to its location of the rooftop terrace.	Yes
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	71.4% (15/21) of apartments will receive at least two hours of sunlight during June 21 <sup>st</sup>  Hillsdale Community Centre to the south will be overshadowed. The residential component of Southpoint Shopping Centre will receive the minimum 2 hours of sunlight to its northern elevation.	Yes
<b>Building Depth</b>	Use a range of appropriate maximum apartment depths of 12-18 metres	The building has a maximum 14 metre depth.	Yes
<b>Building Separation</b>	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	<b>Eastern Boundary:</b> <u>Ground Level:</u> Nil (street frontage) <u>Level 1 to 3:</u> Nil (balcony); 1.5m to 4m (fronting street or rear lane) <b>Western Boundary:</b> <u>Ground Level:</u> 3 metres <u>Level 1 to 3:</u> 3 metres; 1 metre (balconies) <b>Northern and Southern Boundary:</b> <u>Ground:</u> Nil <u>Level 1 to 3:</u> Nil to 11 metres 11 metres (blank walls proposed at boundary)	<b>No-Refer to Note 3</b>
<b>Balcony Sizes</b>	1 bed: 8sqm 2 bed: 10sqm 3 bed: 12sqm Ground Floor: 15sqm	1 bed: 8-15sqm 2 bed: 10-23sqm 3 bed: 15-27sqm Ground Floor: No ground floor apartments	Yes Yes Yes N/A
<b>Cross Ventilation</b>	60%	100%	Yes
<b>Storage</b>	1 bed: 6m <sup>3</sup> 2 bed: 8m <sup>3</sup> 3 bed: 10m <sup>3</sup>	1 bed: 3m <sup>3</sup> -4.9m <sup>3</sup> (units) 2 bed: 4-7.3m <sup>3</sup> (units) 3 bed: 5.4m <sup>3</sup>	Yes

Control	Required	Proposal	Complies (Yes/No)
		Basement: 5m3- 9.5m3 The combined unit and basement storage complies Storage within the basement has not been allocated to individual units however the sizes of each comply with the ADG requirements	
<b>BBLEP 2013</b>			
<b>Zone</b>	B2	Mixed Use/Shop top housing (Residential Flat Building and Commercial tenancy)	Yes
<b>FSR</b>	2:1 under BBLEP 2013	2:1	Yes
<b>GFA</b>	2,016sqm (maximum) calculated based on permissible FSR under BBLEP 2013	2,010sqm (1.99:1)	Yes
<b>Height</b>	14 metres (maximum)	Lift overrun- 16.55m Stair hood- 15.55m Rear balustrade/parapet- 14.88m	<b>No- Refer to Note 4</b>
<b>BBDGP 2013</b>			
<b>Car Parking</b>	<u>Residential</u> 1 space/ studio or one bedroom 2 space/ 2 + bedrooms 1 visitor space/ 5 units Total: 41 car spaces required  <u>Commercial (shop)</u> 1 space / 25sqm (6 req.)  <u>Service Bays</u> 1/50 units (1 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays  <b>Total car parking required: 47 car parking spaces</b>	<u>Residential</u> 36 residential car spaces provided 5 visitor spaces Total residential: 41 spaces  <u>Commercial</u> 4 car parking spaces  <u>Service Bays</u> Service vehicle: Nil (however space within driveway)  <b>Total car parking spaces provided: 45 car spaces</b>	<b>No – Refer to Note 5</b>
<b>Bicycle Parking</b>	In every new building, where the floor space exceeds 600m² GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as	Eight (8) bicycle spaces provided	Yes

Control	Required	Proposal	Complies (Yes/No)
	required in Table 1 shall be provided. <b>Total required: 4.7</b> (based on 47 car spaces)		
<b>Landscaped Area</b>	35% minimum landscaped area (302.4sqm req)	456sqm (45%)	Yes
<b>Dwelling Layout and Family Friendly Apartment Buildings</b>	Satisfy the Family Friendly controls	Refer to Part 4C.4.2	<b>Refer to Note 6</b>
<b>Unit Mix</b>	25% one bedroom (5 max)	6 x 1-bedroom apartments (28.6%)	<b>No – Refer to Note 7</b>

### Site Description

The subject site is made up of two individual allotments legally known as Lot C in DP 393861 (228C Bunnerong Road) and Lot D in DP 393861 (230 Bunnerong Road). The site is located on the western side of Bunnerong Road between Flint Street to the north and Devitt Place to the south. The sites have an east-west orientation, with east being the front of the site (Bunnerong Road) and west being the rear.



**Figure 4. Locality Plan**





**Figure 5. Aerial Map of the subject site**

The site is irregular in shape and is located within the B2 Local Centre zone. The site (when consolidated) will have a street frontage and rear boundary width of 28.345 metres and a northern and southern boundary length of 36.575 metres. The site has a total area of 1,008sqm. The site is generally flat with a 1.3 metre slope from the rear of the site to the front and a 1.1 metre slope from the southern side to the northern side of the site.

228C Bunnerong Road comprises of a two storey dental surgery while at 230 Bunnerong Road consists of a single storey brick detached dwelling house with carport to the northern boundary. There are a number of palm trees located at the rear of the site.



**Figure 6. Subject site at 228C and 230 Bunnerong Road**





**Figure 7. Rear lane accessed by Southpoint shopping centre**



**Figure 8. Existing vehicular crossing off Bunnerong Road**

#### Description of the Surrounding Development

Development surrounding the area comprises of Southpoint shopping centre which is located within 50 metres to the south of the subject site. The shopping centre is located in

the first three levels and then the storeys above are all residential units. Access to the car park is off Flint Street. Private access to the loading dock of Southpoint shopping centre is directly behind the subject site.

Directly across the site is Heffron Park which is a large park which contains soccer fields, netball courts, gym and other facilities.

Directly to the north of the site at 228B Bunnerong Road is a vacant block of land that is currently under construction for a four storey mixed use development consisting of 11 units, ground floor commercial and car parking level.

Directly to the south of the site at 236 Bunnerong Road is Hillsdale Community centre which is owned by Bayside Council.

## Referrals

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### Internal

The development application was referred to Council's development engineer, landscape architect, building surveyor, environmental health scientist and traffic engineer. Appropriate comments have been provided relating to the stormwater management, waste collection, noise impacts, landscaping management and construction details.

### External

The development application was referred to RMS and Water NSW for comments. The geotechnical report has stated that the development will not intercept the groundwater therefore the application is not integrated with Water NSW and it was not necessary to receive approval. RMS has provided conditions in relation to access off Bunnerong Road.

## Statutory Considerations

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An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **S.79C(1) - Matters for Consideration – General**

#### **S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

**Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development**

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development applications.

The development application is Integrated Development in accordance with the Roads Act 1993, as application proposes vehicle access from a classified road, being Bunnerong Road. In a letter dated 15 August 2016, the RMS has advised that it has no objection to the proposed development, subject to conditions.

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

The site is located along a classified road, and the application was referred to the RMS. The application is accompanied by a Traffic Impact Assessment Report prepared by McLaren Traffic Engineering, dated 7 June 2016.

As stated above the RMS has raised no objection to the development application, subject to conditions.

The site is affected by traffic noise and as such Clause 102 relating to the impact of road noise has been considered in the assessment of the application. The application is accompanied by an Acoustic Report prepared by Acoustic Logic, dated 7 March 2016 which demonstrates that the proposed development will meet the minimum indoor noise requirements subject to acoustic attenuation measures implemented in the design of the building. Appropriate conditions are recommended to comply with the recommendations of the acoustic report. Accordingly, the proposal is considered to comply with Clause 102, and is satisfactory with regard to potential impacts on the development resulting from traffic noise.

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 722284M prepared by Efficient Living committing to environmental sustainable measures.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development involves excavation for a basement car park. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant provided a Phase 1 report to Council which was prepared by EIS. The report stated that the site can be made suitable for the proposed development provided that the following recommendations are implemented to address the data gaps:

1. Undertake a Hazardous Materials Assessment (Hazmat) for the existing buildings prior to the commencement of demolition work;
2. After the buildings have been demolished, undertake a Stage 2 ESA to address the suitability of the site.

On this basis, the site is considered suitable in its present state for the proposed mixed use development. No further investigations of contamination are considered necessary. Necessary conditions as required above have been recommended as conditions of consent

in the attached Schedule. Therefore, SEPP 55 has been considered in the assessment of the proposal and is acceptable.

### **State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building**

The provisions of State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Building' have been considered in the assessment of the Development Application.

Prior to the lodgement of the development application, the applicant submitted the proposal to the DRP for consideration. The meeting was held on 28 January 2016. The Design Review Panel supported the pre-DA design in principle and requested that the following matters be addressed in the submitted DA:-

- modulation and detailing of blank side walls;
- maximisation of street activation at ground level;
- further refinement, modulation and articulation of the facades;
- a clearly legible common entry with canopy;
- a comprehensive landscape design.

The development incorporated a majority of the recommendations listed above.

### **Design Quality Principles and Apartment Design Guide**

Clause 28(2) stipulates that development consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has demonstrated adequate regard has been given to the design quality principles and objectives specified in the ADG for the relevant design criteria. An assessment against the significant non-compliances is provided in detail below.

Clause 30(1) of SEPP 65 states that if a development application satisfies the following design criteria, the consent authority cannot refuse an application because of those matters. These are car parking, internal area of each apartment and ceiling heights.

The key points of non-compliance with the ADG are discussed below:

#### **Note 1 – Ceiling Heights**

Part 4C of the ADG requires that 3.3m ceiling heights be provided for the ground and first floor for developments located within mixed use areas. The proposal provides a 3.3m ceiling height to the ground floor commercial unit and a 2.7m ceiling height for the first floor units. Given that compliance with the minimum ceiling height control would increase the height limit of the proposal and the first floor will be used for residential and not commercial use, it is not possible to provide increased ceiling heights to first floor. Additionally, the applicant has provided the following justification for the ceiling height departure:

*“We have reviewed the submitted plans of the adjoining property at 228B Bunnerong Road and note they have a ground floor level of RL 22.50. The existing boundary level between the 2 properties is RL22.55 - RL 22.59, so we have reduced our floor level from RL 22.80 to RL 22.60, to give a better fit between the adjoining floor levels. This also provides a 3.5m floor to floor height on the ground floor, enabling a 3.3m height to the underside of the slab. We consider this to be the best option for the floor levels as we want to maintain the overall height of the building to align with the height of the already approved building at 228B Bunnerong Road.”*

Therefore, based on the assessment and justification above, the non-compliance is acceptable.

## **Note 2 – Deep Soil**

Objective 3E-1 of the ADG requires sites between 650sqm to 1,500sqm to have a minimum deep soil zone of 7% with a minimum dimension of 3 metres. The overall deep soil provision is non-existent as the basement car park extends across the site. The location of the site is within an area undergoing redevelopment and earmarked for amalgamation for large mixed use developments located within Hillsdale Local Centre in which Part 5 of the BBDCP 2013 does not make provision for minimum landscaped or deep soil area. The design partly alleviates the amount of deep soil area by providing ample landscaping (31.7%) on the rooftop. Additionally there is landscaping in the form of planter beds at Level 1 (11%). These areas however are not within the deep soil zone. The minimal provision is considered acceptable as there is sufficient landscaped area provided on the site and its close proximity to the reserve opposite the site at Heffron Park which is easily accessible and usable to residents.

## **Note 3 – Building Separation**

Objective 3F-1 of the ADG requires separation between windows and balconies to ensure that visual privacy is achieved. This requires the building to have a 6 metre separation distance between habitable rooms and 3 metres for non-habitable rooms up to 12 metres in height. The development proposes the following breakdown of building setback:

### **Eastern Boundary:**

- Ground Level: Nil (street frontage)
- Level 1 to 3: Nil (balcony); 1.5m to 4m (fronting street or rear lane)

### **Western Boundary:**

- Ground Level: 3 metres
- Level 1 to 3: 3 metres; 1 metre (balconies)

### **Northern and Southern Boundary:**

- Ground: Nil
- Level 1 to 3: Nil to 11 metres
  - 11 metres (blank walls proposed at boundary)

The proposal has oriented the apartments to have an east-west outlook with no windows proposed along the side elevations. The proposal is built to the boundary so that any future redevelopment of the adjacent sites could meet with the development while still achieving appropriate sunlight by having articulation within the centre of the development. Additionally, a majority of the private open space in the form of balconies have been located at the western or eastern side of the site to allow for greater sunlight and ventilation. Along the eastern and western elevations, the site is fronting onto the street (Bunnerong Road) and to a private rear lane way that is used to access the loading bay at Southpoint Shopping

Centre. Therefore, there will be no developments built on either side therefore the non-compliance in building separation distances is acceptable in this instance.

### Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned B2 Local Centre zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as shop top housing and commercial tenancies is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the B2 Local Centre: <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ To encourage employment opportunities in accessible locations.</li> <li>▪ To maximise public transport patronage and encourage walking and cycling.</li> </ul>
Does Schedule 1 – Additional Permitted Uses apply to the site?  If so what additional uses are permitted on the site?	N/A	Schedule 1 does not apply to the site.
What is the height of the building?  Does the height of the building comply with the maximum building height?	-  <b>No – Refer to Note 4</b>	A maximum height of 14 metres applies to the subject site.  Lift overrun- 16.55m Stair hood- 15.55m Rear balustrade/parapet- 14.88m  The maximum height of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		variation was provided with the application and is discussed in Note 4 below.
What is the proposed Floor Space Ratio?  Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	-  Yes	The maximum Floor Space Ratio requirement is 2:1.  GFA: 2,010sqm FSR: 1.99:1  The Floor Space Ratio of the development complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m <sup>2</sup> min and maximum height of 22 metres and maximum Floor Space Ratio of 1.5:1?	N/A	The site is not located within the R3 Medium Density Residential or R4 High Density Residential zone.
Is the site within land marked "Area 3" on the Floor Space Ratio Map?  If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A	The site is not located in an Area 3 zone.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply— <ul style="list-style-type: none"> <li>6.1 – Acid Sulfate Soils</li> <li>6.2 – Earthworks</li> <li>6.3 – Stormwater Management</li> </ul>	N/A  Yes  Yes	The site is not located within an Acid Sulfate Soil zone.  The proposal includes excavation of two basement levels. The development will not encounter the groundwater table.  The proposed development has provided an on-site detention tank located within at grade car parking level. The proposal has

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise</li> <li>6.15 – Active Street frontage</li> </ul>	<p>N/A</p> <p>Yes</p>	<p>been reviewed by Council's Development Engineer who has no objection subject to conditions in the consent.</p> <p>The site falls outside the 20 ANEF Contour.</p> <p>The proposal is in area where active street frontage is required. The development will have two retail spaces on the ground floor which is shared with the vehicular access and foyer.</p>

#### **Note 4 – Clause 4.6 variation relating to height variance**

The applicant has provided a Clause 4.6 variation to the maximum permissible building height of 14 metres pursuant under Clause 4.3 of the BBLEP 2013. The proposal has a maximum building height of 16.55 metres, a breach of 2.55m.

A breakdown of the heights proposed is as follows:

- Lift overrun- 16.55m
- Stair hood- 15.55m
- Rear balustrade/parapet- 14.88m

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a variable height limit of 32-44 metres. The proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP definition of building height.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

*(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...*

*(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

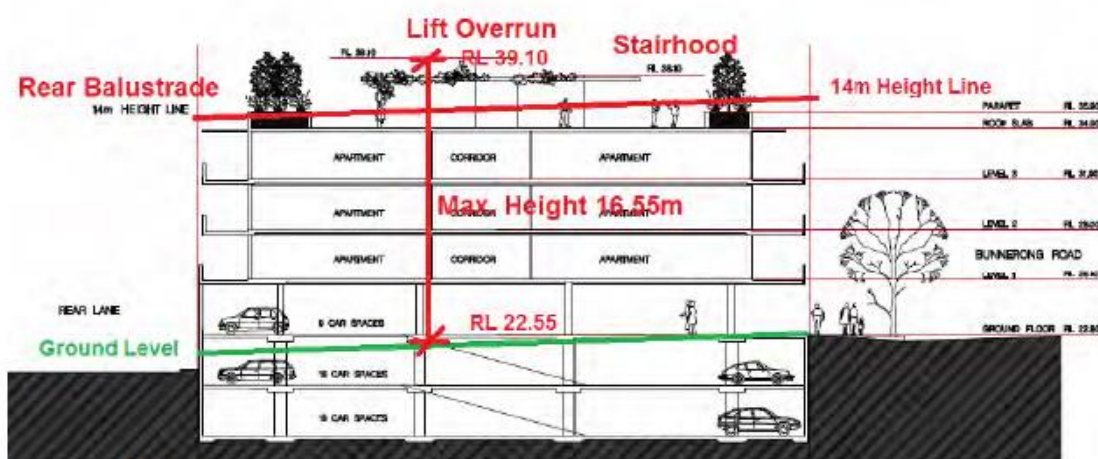
*(b) That there are sufficient environmental planning grounds to justify contravening the development standard.*



The Applicant has provided a Clause 4.6 variation to justify contravening the height standard. Their justification is provided below:

*“The non-compliances with the height controls are limited to the lift overrun at 16.55m, stairhood at 15.55m the northern part of the rear balustrade/ parapet that is at maximum 14.88m high. The building’s degree of non-compliance with the height standard is illustrated in the below table and extract from the architectural plans.*

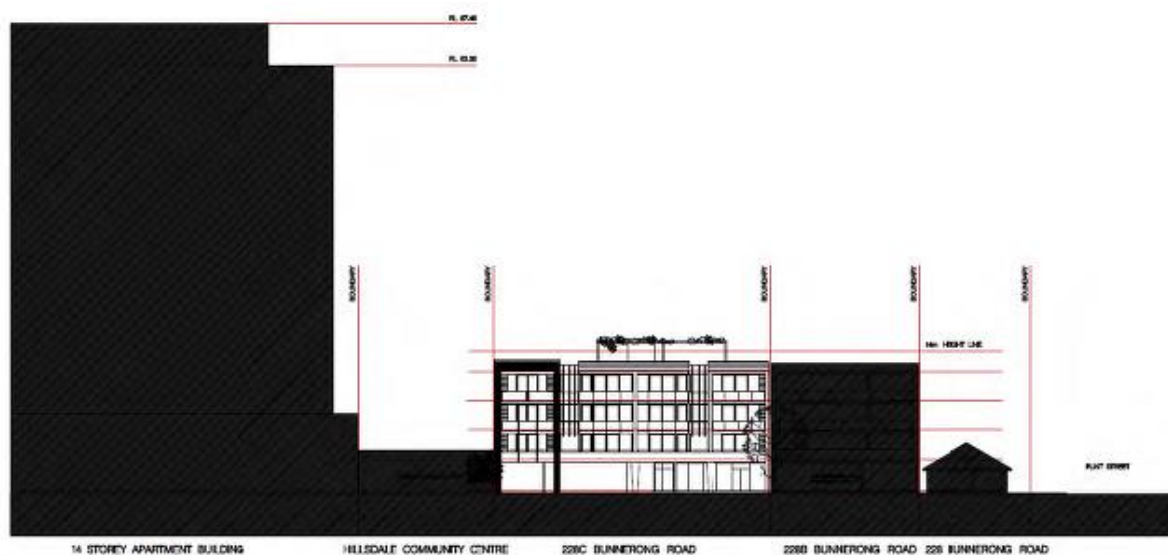
Element	Height /Metres over 14m control	% non-compliance
Lift overrun	16.55m/ 2.55m	18%
Stairhood	15.55m/ 1.55m	11%
Rear balustrade/ parapet	Max. 14.88m/ 880mm	6%



Pursuant to Clause 4.6(3), the non-compliance with the height standard is justifiable because:-

- the non-compliance with the 14m height limit is limited to secondary elements of the building the stair hood, lift overrun and a small portion of the rear balustrade (the main building is well under the 14m height control);
- the non-compliant elements of the building are well setback from the site boundaries or to the rear (these elements of the building are not visible from the Bunnerong Road street frontage);
- the objectives of the height standard (see Section 5.5.4 above) are satisfied notwithstanding the non-compliances which are proposed;
- the objectives of the B2 Local Centre zone are satisfied notwithstanding the non-compliances which are proposed;
- the built form of the proposal is consistent with the desired future character for the Hillsdale Local Centre;
- The non-compliance is in part linked to ensuring the proposed building fits into its emerging streetscape and has a comparable scale and massing as the building underway on the adjoining site to the north (see DA 176/2013); and
- Therefore, it is unreasonable in the circumstances of the case for the proposal to have to comply with the 14m height standard.

*The height of the proposed building is also very appropriate in this locality in as much as it respects the primacy of the adjoining 14 storey Southpoint tower that has a maximum RL 67.46 (noting the maximum RL to the proposed building is RL 39.10 – 28.3m below). As demonstrated in the diagram provided below, the proposed building will maintain the hierarchy of building heights in the Hillsdale Local Centre ensuring that the Southpoint tower dominates.*



*Pursuant to Clause 4.6(4)(a):-*

*The consent authority can be satisfied that this written request has addressed the requirements of Clause 4.6(3) in relation to both the FSR standard and the height standard. The proposal is in the public interest because it does not raise any inconsistencies with either the objectives of the height standards or the objectives for development in the B2 Local Centre zone (see previous discussion of objectives at Sections 5.6.2 and 5.6.4 of this SEE).*

*Pursuant to Clause 4.6(4)(b):-*

*The concurrence of the Director-General is considered to be delegated to the relevant consent authority in this instance which is the Council*

*Pursuant to Clause 4.6(5)(a):-*

*The contravention of the development standard is in this instance minor and does raise any issues of State or regional environmental planning.*

*Pursuant to Clause 4.6(5)(b):-*

*There is no public benefit in maintaining the standard in this instance, as the non-compliance is without unreasonable environmental impacts and arbitrary compliance with this standard would mean this development would be unable to have a roof terrace area for the enjoyment of its future occupants. The proposed roof terrace is in the public interest on both residential and architectural amenity grounds.*

*Pursuant to Clause 4.6(5)(c):-*

*There are no other matters that warrant consideration in this instance.*

## **Conclusions**

*The objectives of Clause 4.6 of the LEP are:-*

*“(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,  
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

*The proposal is consistent with the objectives of Clause 4.6, the height control and land use objectives for the site. The additional height has an acceptable impact on the street presentation of the building, indeed the additional height is not able to be viewed from the adjoining Bunnerong Road footway. There are generally no shadowing impacts on the public domain or adjoining properties as a result of the additional height sought (the portion of the rear balustrade casts a small additional shadow and the lift overrun and stairhood only cast shadows on the building).*

*In terms of overall building height, the proposed building's bulk and scale and presence in its locality is consistent with the 14m height control.*

*This clause 4.6 Request has also been prepared cognisant and in accordance with recent Court decisions on the proper consideration of such requests as outlined in the Four2Five Pty Ltd v Ashfield Council decision and its recent judicial review (see [2015] NSWLEC 90). In this case the Court considered that the justification under clause 4.6(3) (b) required 'particular reference to the circumstances of the proposed development'. In practice, this means a request needs a site specific justification. In this instance, the site's location on a main street (Bunnerong Road) and the context of existing and emerging development to the north of similar 4 storey mixed use buildings is a compelling argument for the acceptance of this minor noncompliance with the height control.*

*Also in this context there are limited adjoining site's zoned B2 Local Centre capable of similar redevelopment and the degree of variation sought is so minor as not to set an undesirable precedent for future adjoining development. The unique site specific justifications for this Clause 4.6 Request are the minor nature of the variation sought, contextual appropriateness and lack of impact. There is an absence of environmental harm associated with the non-compliance with the height development standard in this instance.*

*Having regard to the above, it can be concluded that compliance with the height standard is unreasonable and unnecessary in the circumstances of the case, that there are sufficient environmental planning grounds to justify the non-compliance and that the proposal is in the public interest because it is consistent with the objectives of both the height standard and Clause 4.6, lacks impact and is part of an orderly development of this site.”*

## **Officers Comment:**

The Clause 4.6 variation to the building height development standard has been assessed in accordance with the BBLEP 2013.

The majority of the height departure is a result of the lift overrun due to access to the rooftop communal open space, and not because of the building itself. The building height is consistent with the approved development at 228B Bunnerong Road and does not dominate the surrounding uses.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and enforcing the development standard in these cases would be unreasonable and unnecessary and would not allow the orderly and economic development of this site.

The Clause 4.6 request is considered to be well-founded and the departure to the development standards is not contrary to the public interest. On this basis, it is recommended that the development standard relating to the building height for the site be varied in the circumstances as discussed above.

### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

#### **Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016**

The draft State Environmental Planning Policy (Infrastructure) 2016, has been considered in the assessment of the Development Application. The proposed use of the mixed development meets the objectives of the draft Infrastructure SEPP and thus satisfies the requirements of the said instrument.

### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

#### **Botany Bay Development Control Plan 2013**

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

#### *Part 3A –Parking and Access*

<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>3A.2. Parking Provisions of Specific Uses</b>	<u>Residential</u> 1 space/ studio or one bedroom 2 space/ 2 + bedrooms 1 visitor space/ 5 units Total: 41 car spaces required  <u>Commercial (shop)</u> 1 space / 25sqm (6 req.)  <u>Service Bays</u> 1/50 units (1 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays  <b>Total car parking required:</b>	<u>Residential</u> 36 residential car spaces provided 5 visitor spaces Total residential: 41 spaces  <u>Commercial</u> 4 car parking spaces  <u>Service Bays</u> Service vehicle: Nil (however space within driveway)  <b>Total car parking spaces provided: 45 car spaces</b>	<b>No – Refer to Note 5</b>

Part	Control	Proposed	Complies
	<b>47 car parking spaces</b>		
<b>3A.3.1 – Car Park Design</b>	<b>C13</b> Pedestrian entrances and exits shall be separated from vehicular access paths.	The plans demonstrate that there is separate entry and exists within the car park level for vehicles and pedestrians. Pedestrians can access the basement from the primary lift within the building. Access to the basement car park is via the proposed car park ramp on the south eastern side of the site.	Yes
	<b>C15</b> Vehicle access points of the property should not be located: <ul style="list-style-type: none"> <li>a) In places with high traffic volumes, such as classified or arterial roads;</li> <li>b) Close to intersections as outlined in Section 3.2.3 of AS2890.1;</li> <li>c) Where there is heavy or constant pedestrian movements along the footpath;</li> <li>d) Opposite to other traffic generating developments;</li> <li>e) Where traffic using the driveways interferes with or blocks the operations of bus stops, taxi ranks, loading zones or pedestrian crossings;</li> <li>f) Adjacent to or at the sag point of the street; and</li> <li>g) In places where sight distance requirements outlined in Section 3.2.4 of AS2890.1 cannot be complied with.</li> </ul>	<p>The site has one street frontage off Bunnerong Road. The development is not a traffic generating development with only 21 apartments proposed. Bunnerong Road is a classified however as there is only one street frontage for the site, access will be required off Bunnerong Road. The application was referred to RMS for comments who did not have any objections subject to conditions.</p> <p>There is a bus stop located directly outside 230 Bunnerong Road is temporarily positioned in the current location as a result of the consent issued for 228B Bunnerong Road. The bus shelter was originally located in front of the neighbouring site and will be provided back in its original location prior to the issue of the occupation certificate for 228B Bunnerong Road.</p>	Yes
	<b>C28</b> The minimum width of the access driveway at the property boundary shall be:- <ul style="list-style-type: none"> <li>• For other residential developments: 5.5 metres (two way);</li> <li>• The width must be extended for at least the first 6 metres of the circulation roadway within the</li> </ul>	The development has a minimum driveway width of approximately 5.5 metres and is located on the south eastern corner of the site.	Yes

Part	Control	Proposed	Complies
	property boundary.		
	<b>C40</b> The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.	Waste collection and garbage holding rooms are located within the Ground Floor of the development. Collection of bins will be via a garbage holding room with access directly from the street frontage where waste collectors could open the door and collect the bins. The car parking levels cannot accommodate for off-street garbage collection.	Yes
<b>3A.3.2</b> Bicycle Parking	<b>C1-C5</b> To comply with AS2890.3 and AUSTROADS (i.e. 10% of the required amount of car parking = 4)	The plans demonstrate that eight bicycle spaces are provided as part of the development.	Yes
<b>3A.3.4</b> On-site Loading and Unloading	<b>C1-C11</b> 1 service bay/50 dwellings	There is no separate area of loading for MRV within the car parking levels. There is room forward of the roller shutter to the car parking level to allow for some opportunity for loading. Compliance with the control would increase the height of development. This arrangement has been reviewed by Council's Development Engineer who had no objection subject to conditions.	<b>No – Refer to Note 5</b>

### Note 5 – Car parking and loading/unloading

Pursuant to Council's car parking rates the proposed development requires the provision 2 retail spaces. The application proposes 1 space within the basement to be allocated for retail parking.

The residential component of the development complies with the number of spaces however the retail premises do not. The retail shops have a combined GFA of 133sqm and are likely to be occupied for the purpose of a café or smaller scale retail shop and therefore would be unlikely to generate a significant requirement for car parking. The subject site is well serviced by public transport, by virtue of a bus stop located directly in front of the site, and workers are likely to utilise this service. Furthermore, the retail space is likely to operate during standard business hours while the visitor car parking would also be available and therefore has the ability to share any of the 2 visitor spaces during daytime hours. Additionally, the site is located in close proximity to Southpoint Shopping Centre which contains ample parking. It is assumed that many of the clientele of the Shopping Centre would expand to the site. On this basis the retail parking provision is acceptable in this

circumstance and the proposal is unlikely to result in any significant adverse impacts to the locality by way of car parking.

The applicant has provided the following justification for the departure in 2 car parking spaces and departure for the loading bay:

*“the development requires a total of 47 car parking spaces. The site provides a total of 45 car parking spaces, a numerical shortfall of two parking spaces from the requirements of Council’s DCP. It should be noted that the shortfall of two spaces results from Council’s stipulation that fractional parking requirements (in this case 1.4 spaces) for individual land-uses must be rounded up individually.*

*Considering the differing peak usage times of the Retail and Residential Visitor spaces, is it proposed that 50% of these spaces be shared, such that visitors to the Retail and Residential components both have sufficient car parking available at their respective peak times. Residential visitor parking demand peaks on Friday and Saturday evenings, typically outside of commuter and commercial peak hours. This would result in a total of 7 spaces available to visitors to the residential and retail components at their specific, separate peak times and is considered a satisfactory outcome, as only 6 and 5 are required by the DCP for retail and residential visitors at any given time.”*

In regards to loading and unloading on the site, there is no separate area of loading for MRV within the car parking levels. There is room forward of the roller shutter to the car parking level to allow for some opportunity for loading. To contain an MRV vehicle within the premise would increase the height of the development. The applicant has proposed a smaller scale SRV that can be accommodated within the site. This arrangement has been reviewed by Council’s Development Engineer who had no objection subject to conditions.

The car parking and loading/unloading issues have been justified and Council is satisfied with this arrangement.

Directly outside the site, there is a bus stop located close to the boundary between 230 and 236 Bunnerong Road. The original location of the bus stop was outside 228B Bunnerong Road and a condition was imposed in the approved consent DA-13/176 to temporarily relocate the bus shelter during construction and have it placed back in its original location prior to the issue of the Occupation Certificate. Therefore, the bus shelter is temporary.

#### *Part 3G – Stormwater Management*

The development application was accompanied by Stormwater Management Plans that were prepared by Portes Civil and Structural Engineers. The plans demonstrate that a 17m<sup>3</sup> on-site detention system will be installed in the ground car parking level. The application was referred to Council’s Development Engineer for comment who had no objection to the proposal subject to the recommendation of conditions within the consent.

#### *Part 3K – Contamination*

Refer to the discussion above in State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land section of the report addressing contamination.

#### *Part 3L – Landscaping*

The proposal provides ample amount of landscaped area on the communal rooftop area as well as within the private 1<sup>st</sup> floor courtyards. There is no deep soil areas proposed due to the extent of the basement car parking levels as well as there is no requirement under Part 5

of the Botany Bay DCP. The application was reviewed by Council's Landscape Architect and Council's Arborists. Following amendments to the plans (dated 9 January 2017), the landscape architect provided appropriate conditions relating to tree protection, tree removal and private and public domain.

### *Part 3N – Waste Minimisation and Management*

Originally, the proposed development relied on on-street garbage collection. As the site proposes more than 20 apartments, off-street garbage collection is a requirement. The applicant had a meeting with Council in regards to this issue. It was agreed that the car parking level would be re-designed so that the garbage and recycling holding bays would be located closer to the front of the site and would have direct access to the street frontage accessible by lock and key. Come collection day, the waste collectors would access the holding room and wheel the bins out for collection. This solution was preferred as the car parking level does not allow for adequate head clearance for garbage trucks into the site. The original waste management plan detailed the amount of bins to be provided for both residential and commercial waste and is acceptable. The commercial and residential waste areas are separated. Therefore, waste management is acceptable in this instance.

### *Part 4C.4.2 – Family Friendly Apartments*

4C.2.4 Landscaped Area and Deep Soil Planting		
<b>C1</b> A residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.	The amount of landscaping provided on the site is 456sqm (45%).  The amount of unbuild upon area does not exceed 20%.	Yes
4C.4.1 Dwelling Mix and Layout		
<b>Apartment Size and Mix</b> <b>C1</b> Developments of ten or more apartments are to provide a range of apartment sizes, including studio, 1, 2, and 3+ apartments so as to meet the needs of residents and accommodate a range of household types.	The development proposes a mix of one, two and three bedroom units.	Yes
<b>C2</b> For development with ten or more apartments, the following unit mix control will apply: (i) A maximum of 25% of apartments are to be Studio and 1 Bedroom; (ii) All 2 Bedroom apartments are to satisfy the amenity controls for Family Apartments; and (iii) All 3+ Bedroom apartments are to satisfy the amenity controls for Family Apartments.	The proposal provides the following: 1 bed – 28.6% 2 bed – 57.1% 3 bed- 14.3% The number of 1 bedroom apartments exceeds 25%.  For a response to the family friendly controls, please refer to Note 11.	<b>No – Refer to Note 7</b>  <b>Refer to Note 6</b>
4C.4.2 Family Friendly Apartment Buildings		



<b>C1</b> Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.	The two and three bedroom apartments have generally been designed in accordance with the below controls.	Yes
<b>C2</b> Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child	None of the two and three bedroom apartments contain a study or a study nook.	<b>No – Refer to Note 6</b>
<b>C3</b> Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan	Given the size of the apartments, there is considered to be sufficient space in a secondary bedroom for a bed and desk.	Yes
<b>C4</b> The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet	To be conditioned within the consent.	Yes- Conditioned
<b>C5</b> Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision	All two and three-bedroom apartments include two bathrooms with one easily accessible off the primary corridor. At least one bathroom in all apartments includes a bathtub.	Yes
<b>C6</b> The private outdoor space is to be clearly visible from the kitchen	All apartments have POS clearly visible from the kitchen.	Yes
<b>C7</b> The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing	There is considered to be sufficient space in entry areas for storage. As discussed a condition is to be recommended providing greater storage within the apartments.	Yes
<b>C8</b> The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment	The amount of storage provided within the apartments is acceptable.	Yes

#### **Note 6 – Family Friendly Apartments**

Control C2 requires a study in all family apartments- None of the 2/3 bedroom apartments have a separate study room or nook. 100% are a required to.

Notwithstanding the above, this does not imply that there is not sufficient space within the open-plan living area or in bedrooms to provide a desk so that parents can monitor children while working from home. All 2/3 bedroom apartments exceed the ADG minimum apartment size by 11 to 22sqm. This indicates that there is sufficient size within the apartment to accommodate a desk within the open plan living area and that there is sufficient size to support the separation of conflicting activities within the living spaces. This satisfies Objective O2 and O3 which state:

*O2 To ensure that apartments are designed with appropriate amenity and space so that apartments can support the separation of conflicting activities within the living spaces.*

*O3 To encourage applicants to consider the varying needs of families and to design apartments accordingly.*

While it is considered that there is sufficient size for the location of a nook or desk within the open-plan living area, a condition has been recommended that amended plans be submitted showing compliance with this requirement by indicating that within each 2/3 bedroom apartment, there is either a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area.

### **Note 7 – Unit Mix**

In accordance with Part 4C.5.1 of the BBDCP 2013, the total number of studio and one bedroom apartments must not exceed 25% of the total apartments within the development. The development proposes 6 out of 21 units as 1 bedroom apartments. This is equivalent to 28.6%.

The ADG recommends that an appropriate unit mix is appropriate and should take into consideration the distance to public transport, employment, and education centres, the current market demands and projected future demographic trends and the demand for social and affordable housing.

The proposed departure is considered minor with one apartment pushing over the maximum requirement. As the predominant unit mix is 2 bedroom apartments and 3 bedroom apartments are proposed, the non-compliance is supported.

Compliance with the unit mix requirement would necessitate significant changes to the floor plate of the building, including the reduction of floor areas and height below what is allowable under the BBLEP 2013. This is likely to result in a less satisfactory outcome for the redevelopment of the site that would not be consistent with the desired future character and built form envisaged for the northern extension of the Hillsdale Local Centre, which is for a four storey building with a continuous street edge along Bunnerong Road.

Furthermore, the subject site is located within a local centre, in close proximity to services, employment opportunities and public transport. As such the site is well disposed to the provision of a higher number of residential units and therefore the proposed development would be consistent with the objectives of the Draft Metropolitan Strategy for Sydney. On this basis, the proposal is considered to be acceptable in the circumstances and the departure from Clause 4C.5.1 is not considered to be sufficient grounds for the refusal of the application.

It should be further noted that unit sizes comply with the Council's minimum unit sizes in Botany Bay DCP 2013 and are expected to provide a good level of internal amenity to future occupants.

## Part 5 – Business Centres

The site is located within the Hillsdale Local Centre. The objectives of the Centre that apply to the site under Part 5.2.2.9 of the BBDCP is as follows:

Objective	Response
<b>O1</b> To encourage a viable and attractive Local Centre by improving the public domain and the public/private interface	The proposal includes two retail tenancies on the ground floor that provides for an active street frontage.
<b>O2</b> To retain existing trees and provide additional landscaping within the streetscape	The site contains a number of palm trees located at the rear of 230 Bunnerong Road. These trees are proposed for removal. There is also one pear tree within the front setback. The proposal was referred to the landscape architect who had no objection to the removal. Landscaping is proposed within Level 1 and on the communal rooftop. There is limited area on the streetscape for planting as the ground floor has active street frontage.
<b>O3</b> To allow reasonable redevelopment and to improve the architectural quality of building stock	The proposal will replace two buildings and consolidate two sites to provide for a larger development as per the desired future character of the Hillsdale area. The architectural stock is gradually being converted from low density residential and commercial to mixed use development which was envisaged at time of rezoning of the site.
<b>O4</b> To retain a coherent streetscape with a consistent street wall and parapet line	The development will align with the approved development at 228B Bunnerong which is consistent in street height, setbacks and frontage.
<b>O5</b> To improve and extend the pedestrian environment and to encourage appropriate outdoor uses with good solar access, such as cafes;	The ground floor proposes two retail spaces facing the street. The spaces could accommodate a café if necessary and would have appropriate outlook to the park directly opposite and the morning sunlight due to its orientation.
<b>O6</b> To ensure that dwellings within a mixed use development provide passive surveillance, resident interaction and address the street	The apartments all have balconies facing the street or the carpark and allows for adequate surveillance. The foyer has been designed in a way to allow interaction between the residents and the ground floor retail will also provide this.
<b>O7</b> To encourage development of awnings as balconies for residential and commercial units above (to improve amenity for unit dwellers and promote passive surveillance of streets);	An awning is provided over the footpath and the ground floor apartments. Balconies are proposed for each apartment and are either facing the street or are facing the rear over Southpoint shopping centre carpark. The balconies provide for adequate surveillance.
<b>O8</b> To encourage site consolidation.	The development proposes to consolidate two sites at 228C and 230 Bunnerong Road in accordance with the requirement within Figure 29. The consolidated site provides a total area of 1,008sqm.

The following controls apply to the Hillsdale Local Centre and are as follows:

Control	Proposed	Complies
<b>5.2.2.9 Hillsdale Local Centre</b>		
<b>C1</b> Development must provide landscaping, street trees, decorative fencing, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with <b>Figure 28</b> .	The development proposes an awning to provide weather protection for pedestrian and public domain improvements will be implemented such as new footpath treatments.	Yes
<b>C2</b> Pedestrian amenity and connectivity must be enhanced in conjunction with new development.	The pedestrian amenity has been considered within the proposal and is acceptable.	Yes
<b>C3</b> Redevelopment is encouraged through logical lot consolidation of sites and infill development in accordance with <b>Figure 29</b> . Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.	The site will consolidate two existing allotments into one to accommodate the development. The proposal is in line with the recommended amalgamation map within Figure 29. However, the site between the subject site and the Southpoint shopping centre at 236 Bunnerong Road (Hillsdale Community Centre) will be an isolated site as a result of the proposal.	<b>See Note 8 below</b>
<b>C4</b> The design of development must be generally consistent with the Desired Future Character of the centre identified in Figure 28	The proposal complies and has been designed to reflect Figure 28 within the Desired Future Character section of the DCP.	Yes
<b>C5</b> A maximum height of 14 metres applies under BBLEP 2013. Building height at the street frontage is a maximum of two storeys with Level 3 and 4 to be setback from the front and rear boundary, subject to a detailed site analysis at Development Application stage	The development exceeds the maximum building height for the area. The exceedance is attributed to the lift overrun which allows access to the rooftop garden. The exceedance in height is discussed in Note 4 above.	<b>No – Refer to Note 4</b>
<b>C6</b> A building setback along Flint Street is required to provide landscape planting along the front boundary to improve the visual amenity of the low density residential area opposite. This planting could also provide an attractive outlook for active uses such as outdoor dining which could adjoin the landscaped frontage.	The development is not located near Flint Street.	N/A
<b>C7</b> Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead	The architectural merit of the development has been considered in the assessment of the application. The proposal is well designed and utilises a range of materials and finishes. The	Yes

to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the suburb.	site to the north has been approved with similar setbacks, materials and treatment which has been adopted within the proposal to achieve consistency.	
<b>C8</b> Buildings must address the street and their entries are to be readily apparent from the street. Developments on sites with two or more frontages must address both frontages, to promote, add prominence and diversity to the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and often overlook adjoining properties	The building addresses Bunnerong Road with the foyer to the residential component, vehicular access and retail available from the street.	Yes
<b>C9</b> Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.	The site proposes an awning that will be continuous to the one that was approved at 228B Bunnerong Road.	Yes
<b>C10</b> Shop top housing must have windows and/or verandahs/balconies facing the street to encourage passive surveillance of the street.	The units facing the street all propose one balcony to allow for surveillance onto Bunnerong Road and the Heffron Park.	Yes
<b>C11</b> Developments must be designed to:  (i) Promote uses that attract pedestrian traffic along the ground floor street frontages; (ii) Provide an active street edge; (iii) Provide opportunities for active uses such as outdoor dining; and (iv) Improve the safety and amenity of the Business Centre.	The ground floor has active street frontage in the form of two retail spaces. This will provide for improvement of the safety and amenity of the business centre.	Yes
<b>C12</b> A street number for the property is to be clearly identifiable from the street.	Street numbering will be a condition of consent.	Yes
<b>C13</b> Existing street trees must be retained and supplemented with new planting where required by Council's Landscape Officer.	There are no street trees in front of the site to be retained.	N/A
<b>C16</b> Vehicular access to the	Access to the development is via Bunnerong	Acceptable

development sites in Bunnerong Road is preferred from the existing carriageway at the rear of the properties or alternatively from Flint Street. This may require negotiation with the adjoining Southpoint Shopping Centre.	Road as the owner has attempted to negotiate for alternate access. The site has an existing vehicular crossing for both sites. The application was referred to RMS and they have found this arrangement acceptable subject to conditions.		
<b>C17</b> Where a rear laneway exists loading and unloading must occur from the laneway. All loading and unloading is to be carried out on the site.	The site has access off Bunnerong Road and can accommodate for a SRV within the site. There is potential for loading and unloading to be carried out within the space forward of the garage door. Loading/unloading arrangements have been discussed above in Note 5.	<b>Refer to Note 5</b>	
<b>5.3 General Controls</b>			
5.3.1.1 Floor Space Ratio	<b>C2</b> In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse impacts on adjoining dwellings or the streetscape in terms of loss of privacy, overshadowing, loss of views, visual amenity and increased traffic generation.	<p>The maximum permissible FSR for the subject site is 2:1 (2,016sqm).</p> <p>An FSR of 1.99:1 (2,010sqm) is proposed and complies with the development standard.</p>	Yes
5.3.1.2 Height	C1 The maximum height of buildings must comply with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	<p>A maximum height of 14 metres applies to the subject site.</p> <p>Lift overrun- 16.55m Stair hood- 15.55m Rear balustrade/parapet- 14.88m</p> <p>The maximum height of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation was provided with the application and is discussed in Note 4 above.</p>	<b>No – Refer to Note 4 above</b>
	C2 & C3 In addition to C1, new buildings must also consider and respond to the predominant and characteristic height of buildings within the Centre; and consider the topography and shape of the site. In this regard, the maximum number of storeys must not exceed the maximum number of storeys identified in the relevant character statement for	The proposal complies with the desired future character relating to street setbacks as demonstrated within Figure 28.	Yes

	each Business Centre as set out in Part 5.2 - Character Statements for the Business Centres. If the maximum number of storeys is not identified in the Character Precinct, the maximum number of storeys must be consistent with the characteristic building height.		
5.3.1.3 Street Setbacks	C1 Buildings are to be aligned along the street frontage to create a consistent street wall no higher than two storeys. A variation to the two storey street wall height along the street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys. In this instance, the applicant is to submit a written justification to Council for this variation and will be considered by Council on its merits.	As discussed above, the development complies with the street setbacks prescribed within the Hillsdale desired future character.	Yes
5.3.1.4 Side and Rear Setbacks and Building Separation	C1 Where a site adjoins residential development appropriate rear or side setbacks must be provided to ensure that potential impacts on adjoining or surrounding residential properties are minimised in terms of loss of privacy, sunlight and daylight access and visual amenity.	<p>The development has a northern and southern setback as follows:</p> <p style="text-align: center;"><u>Ground:</u> Nil  <u>Level 1 to 3:</u> Nil to 11 metres  11 metres (blank walls proposed at boundary)</p> <p>The side setbacks that are in line with the boundary will be blank walls. Along the northern side, the development will sit next to 228B Bunnerong Road which was approved with similar setbacks. Greater setbacks are provided within the centre to allow for greater solar amenity.</p>	Yes
	C2 Development to which SEPP 65 applies are to adhere to the Apartment Design Guide for building separation.	The applicant has provided a SEPP 65 compliance report and ADG checklist with the development application. Building separation is appropriate in this case.	Yes
5.3.1.5 Built Form and Streetscape	C2 Building must have a consistent street wall height and provide a continuous	The development will have a consistent street wall height with the approved development at	Yes

	street frontage and awning height along the street frontage where appropriate.	228B Bunnerong Road.	
5.3.2.1 Design Excellence	C2 The Development Application must identify how design excellence will be achieved in the proposed development.	The applicant has provided a SEPP 65 Design Verification Statement with the development application. The document addressed the design excellence of the proposed development.	Yes
5.3.2.2 Building Design	C2 All development applications that contain residential development or are adjacent to residential development must provide a design statement addressing privacy and overshadowing of residential dwellings from the business component.	The applicant has provided a SEPP 65 Design Verification Statement with the development application.	Yes
	C4 If residential dwellings are proposed as part of a mixed use development, balconies, private open space area and communal open space areas must be screened to address any privacy impacts on adjoining residential properties.	Balconies along the western and eastern side of the site have been appropriately treated for visual privacy through the installation of privacy screens or solid walls. The communal open space is located on the rooftop and will not create any negative overlooking.	Yes
	C7 A schedule of external finishes and materials must be submitted at development application stage to articulate the building's design complements the Business Centre.	A Schedule of Colours and Finishes has been provided with the development application.	Yes
5.3.2.3 Reflectivity	C3 The solar reflectance value of building materials must not exceed 20%.	The development does not incorporate any materials that exceed the solar reflectance value by 20%.	N/A
5.3.2.4 Awnings and Verandahs	C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.	The development proposes an awning on the ground floor along the entire length of the site.	Yes
5.3.2.5 Public Domain Interface at Ground Level	C1 Development must comply with the Desired Future Character objectives and controls identified in Part 5.2 - Character Statements for the Business Centres.	This is discussed above in the report.	Acceptable
	C2 Development must be designed so that it has a clearly definable entry and	The building addresses Bunnerong Road with both its front entrance, vehicle entry to the	Yes



	addresses the street.	basement and active street frontage available from the street.	
	C3 For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.	All apartments are located on Level 1 and above and private open space is via balconies. The two bedroom apartments on Level 1 also have access to private courtyards within the centre of the development.	Yes
	C4 The visual and physical connection between the building frontage and the public domain must be considered in all development applications to ensure that the interface at ground level promotes a high level of pedestrian amenity.	Council's Landscape Architect has conditioned that a Public Domain Plan is required prior to the Construction Certificate. The front of the site proposes adequate landscaped area which integrates with the built form and active street frontage.	Yes
5.3.2.6 Active Street Frontages	C1 Development is to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street Frontages under BBLEP 2013.	The development proposes two commercial tenancies measuring 133sqm. The shops are located at the front of the site directly adjacent to the front entrance to the building.	Yes
5.3.2.8 Interface between Business Zones and Adjoining Landuses	C1 Clear boundaries between the public and private domain must be created to enhance security, privacy and safety.	Clear boundaries are demonstrated by separate entries to the residential and commercial components as well as to the basement car park.	Yes
	C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and 3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable.	The site has an east to west orientation therefore a majority of the shadow cast by the proposed development will be to Hillsdale Community Centre to the south. The applicant has provided shadow diagrams demonstrating the proposed development and a compliant development. The shadow diagrams show that the development will not overshadow the residential properties above the southpoint development. As the property to the south is a community centre, this is acceptable.	Yes
5.3.2.9 Landscaped Area	C1 Residential setbacks from streets and parks are to support planting, at a scale that allows passive surveillance of the public domain. This requirement	There is no residential on the ground floor. Level 1 along the western elevation contains planters. There is no planting along the street frontage due to active frontages.	Acceptable

	may vary with each block		
	C3 Provide a sufficient depth of soil on podium areas in accordance with the Councils Technical Guideline for Landscape in Development Sites.	There is no deep soil planting proposed due to the basement covering the entire site. The lack of deep soil is discussed in Note 2 above.	<b>No - Refer to Note 2 above</b>
5.3.2.10 Private Open Space and Communal Open Space	C1 The primary area of outdoor private open space must not be located at grade on the street frontage.	There is no residential proposed at grade. All private open space is off either a balcony or within private communal areas.	Yes
	C2 Communal open space can be provided at grade or on podiums and roof tops. The space must be appropriately landscaped and provided with a recreational facilities or features, for example BBQ area, seating, children's play area, landscape features or the like and must include pedestrian scale lighting, to be shown in the detailed landscape plan.	The communal open space is located on rooftop and will be appropriately landscaped as well as providing for a vegetable garden, seating and planter beds.	Yes
	C3 More than 70% of the communal open space area must be capable of growing plants, grasses and trees.	As the site is located on the rooftop, the space will receive full sunlight.	Yes
5.3.2.11 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade is to accompany all Development Applications involving building works	A Schedule of Colours and Finishes has been provided with the development application.	Yes
5.3.2.12 Servicing	C1 New commercial or mixed use buildings must provide a loading dock on-site. Where this is not viable loading and unloading may be permitted from to a rear lane or side street subject to Council's engineer approval.	A condition will be imposed that one space within the basement carpark will be shared as a loading/unloading space for a small van. The space could be also be used as a visitor car space.	Yes, conditional
5.3.2.14 Access and Mobility	C1 Development must comply with Part 3C – Access and Mobility  ▪ Residential flat buildings (RFB), conversion of non-residential buildings into RFBs, shop top housing, multi dwelling housing and	An Access Report has been prepared and provided with the development application.	Yes

	<p>live/work buildings – Statement of consistency lodged.</p> <ul style="list-style-type: none"> <li>▪ In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B. Refer to AS4299 Class B.</li> <li>▪ Appropriate access for all persons through the principal entrance of a building and access to all common facilities. Refer to BCA and AS1428.1.</li> <li>▪ In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings with a preference for AS4299 designs for at least 80% of the accessible spaces and a maximum of 20% of spaces complying with AS2890.6.</li> </ul>	<p>The development proposed four adaptable units.</p> <p>Appropriate access through the front entrance and through the building is provided.</p> <p>The development proposes four (4) adaptable parking spaces located within B2 Basement Level.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
5.3.3.1 Acoustic Privacy	<p>C1 Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.</p>	<p>The site is located outside of the ANEF Contour area however is located on Bunnerong Road which is a busy road. An acoustic report prepared by Acoustic Logic accompanied the application.</p>	<p>Yes</p>
5.3.3.2 Visual Privacy	<p>C1 In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures:</p> <ul style="list-style-type: none"> <li>(i) Fixed screens of a reasonable density (min 75% block out);</li> <li>(ii) Fixed windows with translucent glazing (providing natural ventilation is not compromised);</li> <li>(iii) Appropriate screen planting or planter boxes.</li> </ul>	<p>The development does not propose any windows along the northern and southern elevation walls, rather having them as blank walls. The balconies, particularly at the rear of the site, comprise of privacy screens to mitigate any overlooking to the neighbouring properties. The development will not create any adverse overlooking impacts onto the neighbouring properties.</p>	<p>Yes</p>

5.3.3.5 Solar Access & Shadow	<p>C1 Development must demonstrate:</p> <p>(i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and</p> <p>(ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.</p>	<p>Directly to the south contains Hillsdale Community centre therefore there is no residential component directly impacted by the development. There are residential units located above southpoint shopping centre.</p> <p>The private open space of the neighbouring developments will continue to receive 50% sunlight due to its location due to the distance between the sites.</p> <p>The communal open space is located on the rooftop and will receive full sun during June and March/September.</p>	Yes
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#### Note 8 – Site Isolation

While Figure 29 relating to Control C3 of Part 5.2.2.9 of the BBDCP 2013 has been demonstrated within the subject site by amalgamating 228C and 230 Bunnerong as one site, the amalgamation leaves the property at 236 Bunnerong Road (Hillsdale Community Centre) isolated with the property to its south being Southpoint Shopping Centre and unlikely to be redeveloped. Therefore, the planning principle for site isolation established within *Karavellas v Sutherland Shire Council [2004] NSWLEC 251* has been considered in the application.

The key points that have been adopted from *Melissa Grech v Auburn Council [2004] NSWLEC 40* and *Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189* read as follows:

*“Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*

*Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*

*Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.”*

*“The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.*

*To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.*

*The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.”*

It is noted that attempts were made by the owners of the subject site to acquire 236 Bunnerong Road however these attempts have been rejected. The applicant of the subject site has provided two valuations as well as schematic drawings which demonstrate that the adjacent site can be developed in a manner that is similar to the proposed development and will not be constrained by the proposed amalgamation. The conceptual plans demonstrate a possible residential flat building incorporating the same setbacks proposed in the subject application with the top 2 floors setback from the southern boundary. Should the neighbouring property adopt this design or something similar, the development could comply with Council's controls and controls under SEPP 65 and the ADG.

### **S.79C(1)(a)(iv) - Provisions of regulations**

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

### **S.79C(1)(b) - Likely Impacts of Development**

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

### **S.79C(1)(c) - Suitability of the site**

The site is not known to be affected by any site constraints or other natural hazards likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long-standing use of the land for residential purposes, onsite investigation is not warranted.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the relatively small scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

### **S.79C(1)(d) - Public Submissions**

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a thirty (30) day period from 20 July to 20 August 2016. No objections were received.

### **S.79C(1)(e) - Public interest**

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

### **Section 94 Contributions**

The Section 94 Contributions, as calculated within the Section 94 Contributions Plan 2016, for the proposed development are calculated as follows:

The construction of a five storey mixed use development containing a total of 21 dwellings and one commercial tenancy at 133sqm:

#### Residential

PROPOSED	Proposed	Contribution per dwelling	Total payable
1 bed	6	\$8,654.53	\$51,927.18
2 bed	12	\$14,239.60	\$170,875.20
3 bed	3	\$18,609.44	\$55,828.32
<b>TOTAL</b>	<b>21</b>		<b>\$278,630.70</b>

#### Commercial

As the proposal lies outside of the Mascot Station Precinct, no contributions are payable for commercial development under the *Section 94 Development Contributions Plan 2016*. Contributions for commercial development in this location would be calculated under the *Section 94A Development Contributions Plan 2016* plan. However, only one of the plans can be applied to any given application. The contribution under the Section 94A plans would be significantly less than that available under the Section 94 plan, and it is therefore appropriate to require payment in accordance with the plan requiring the highest contribution.

#### Credit

The Application is entitled to a Section 94 credit based on historic residential use of the land. Part 2.16 of the *Section 94 Development Contributions Plan 2016* outlines situations in which a credit is available. The credit for the subject proposal is available as follows:

*“Where existing dwelling houses or dwellings are to be replaced by new dwellings on the site, the applicant will be entitled to a credit for one existing dwelling and the new dwelling/s will be charged at the applicable occupancy rate under the Plan. The credit will apply to the smaller of the new dwellings. Where subdivision is involved, the credit will apply to the lot, not the dwelling”.*

Accounting for the credit for the one existing dwelling, the following Section 94 contributions are payable:

PROPOSED	Proposed	Contribution per dwelling	Total payable
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1 bed	6	\$8,654.53	\$51,927.18
2 bed	12	\$14,239.60	\$170,875.20
3 bed	2	\$18,609.44	\$37,218.88
TOTAL	20		\$260,021.26

Therefore the total contribution payable for the proposal is **\$260,021.26**. A breakdown of the figure is provided in the condition of consent.

## Conclusion

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Development Application No. 16/101 was received on 29 June 2016 for the demolition of the existing structures, excavation and construction of a four storey mixed use development comprising of 21 apartments, three levels of car parking and two commercial tenancies.

The application is classified as Integrated Development in accordance with Section 138 of the Roads Act, as the development is located on a classified road. As such the application was referred to the Road and Maritime Services who had no objections to the proposed development subject to conditions.

The development departs from the height requirement (16.55 metres). The applicant has provided a Clause 4.6 variation to address this issue and it is considered that the variation is well founded.

Other key issues relating to first floor ceiling height, deep soil, car paring/loading and unloading, site isolation, unit mix and family friendly apartments have been addressed in the report above and have been found to be acceptable when considering the aspects of the site.

The development is suitable for the site as apartments will receive the minimum solar amenity requirement, the site will provide active street frontage, and ample private open space and communal area. The area is serviced by ample public transport with a bus stop within 10 metres to the site. The proposed development generally complies with the future character of the Hillsdale Local Centre and provides a built form that is desirable in the street and is not considered to contribute to excess bulk and scale. The amount of landscaped area provided on the site balances out the built form which is desirable. For these reasons, the development application is recommended for approval subject to conditions of consent.

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## Attachment

### Schedule 1 – Conditions of Consent

Premises: 228C and 230 Bunnerong Road, Hillsdale

DA No: 16/101

### SCHEDULE OF CONSENT CONDITIONS

#### GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing No.	Author	Date Received
DA-00 Issue A-Location Plan	Arc Architects	Dated 29 April 2016; Received 29 June 2016
DA-01 Issue A- Site Plan (with the exception of the loading bay on Bunnerong Road)		Dated 6 June 2016; Received 29 June 2016
DA-02 Issue A- Car park Plans		Dated 6 June 2016; Received 9 January 2017
DA-03 Issue B- Ground and Level 1 Floor Plan		Dated 19 July 2017; Received 19 July 2017
DA-04 Issue B- Level 2 and 3 Floor Plans		Dated 19 July 2017; Received 19 July 2017
DA-05 Issue B- Roof Garden and Roof Plan		Dated 19 July 2017; Received 19 July 2017
DA-06 Issue B- Elevations		Dated 19 July 2017; Received 19 July 2017
DA-07 Issue A- Elevations		Dated 6 June 2016; Received 29 June 2016
DA-08 Issue A- Section A- A		Dated 6 June 2016; Received 29 June 2016
DA-09 Issue A- Section B- B and C-C		Dated 6 June 2016; Received 29 June 2016
DA-10 Issue A- Streetscape Elevation		Dated 6 June 2016; Received 29 June 2016
DA-11 Issue B- Section D- D- Section through retail- commercial		Dated 19 July 2017; Received 19 July 2017
DA-18 Issue A- Solar Accessible Apartments		Dated 27 July 2017; Received 27 July 2017
DA- 19 Issue A- Solar Access and Cross Ventilation Plan		Dated 27 July 2017; Received 27 July 2017
DA-20 Issue A- Landscape Plans		Dated 26 May 2016; Received 9 January 2017
DA-21 Issue A- Demolition Plan		Dated 6 June 2016; Received 29 June 2016
DA-22 Issue C- Gross Floor Area		Dated 27 July 2017; Received 27 July 2017
DA-23 Issue A- Site Analysis Plan		Dated 6 June 2016; Received 29 June 2016
DA-24 Issue A- Finishes Schedule		Dated 29 April 2016; Received 29 June 2016
SD-01- Shadow Diagram Mid-Winter 9AM		Dated 27 May 2016; Received 29 June 2016
SD-02- Shadow Diagram Mid-Winter 12PM		Dated 27 May 2016; Received 29 June 2016
SD-03- Shadow Diagram Mid-Winter 3PM		Dated 27 May 2016; Received 29 June 2016



SD-04- Shadow Diagram Equinox 9AM		Dated 27 May 2016; Received 29 June 2016
SD-05- Shadow Diagram Equinox 12PM		Dated 27 May 2016; Received 29 June 2016
SD-06- Shadow Diagram Equinox 3PM		Dated 27 May 2016; Received 29 June 2016
FD-100- Rev A- Sun Angles from 228B Bunnerong Road		Dated 27 July 2017; Received 27 July 2017
FD-101- Rev A- Sun Angle Projections to shopping centre		Dated 27 July 2017; Received 27 July 2017
E1 Issue A- Erosion Control Plan	Portes Civil and Structural Engineering	Dated 3 June 2016; Received 29 June 2016
D1 Issue A- Notes and Details		Dated 3 June 2016; Received 29 June 2016
D2 Issue A- Predevelopment Layout Plan		Dated 3 June 2016; Received 29 June 2016
D3 Issue A- Stormwater Layout Plan Basement B2		Dated 3 June 2016; Received 29 June 2016
D4 Issue A- Stormwater Layout Plan Basement B1		Dated 3 June 2016; Received 29 June 2016
D5 Issue A- Ground Floor Stormwater Layout Plan		Dated 3 June 2016; Received 29 June 2016
D6 Issue A- Stormwater Layout Plan		Dated 3 June 2016; Received 29 June 2016
D7 Issue A- Roof Stormwater Layout Plan		Dated 3 June 2016; Received 29 June 2016
D8 Issue A- Site Layout Plan Notes and Details		Dated 3 June 2016; Received 29 June 2016
Survey Plan showing detail and levels Lots C and D in DP 393861	Rygate Surveyors	Dated 8 October 2015; Received 29 June 2016

Reference Document(s)	Author	Date Received
Clause 4.6 variation to height	BBC Consulting	Dated 9 June 2016; Received 29 June 2016
Justification for on-site loading assessment of mixed use development	McLaren Traffic Engineering	Dated 16 November 2016; Received 17 November 2016
Justification for not having a substation	Proton Electric Co. Pty Ltd	Dated 22 August 2016 Received 9 January 2017
Phase 1 Contamination Report	Environmental Investigation Services	Dated 31 March 2016 Received 29 June 2016
Accessibility Report	Arc Architects	Dated 9 May 2016; Received 29 June 2016
NSW Subsection J(A) Report- NCC 2014 Issue 1- Energy Efficient Analysis and Report	Efficient Living	Dated 29 April 2016; Received 29 June 2016
Building Code of Australia Report	Arc Architect	Dated 15 May 2016; Received 29 June 2016

Traffic and Parking Impact Assessment of Mixed Use Development	McLaren Traffic Engineering	Dated 7 June 2016; Received 29 June 2016
Geotechnical Report	JK Geotechnics	Dated 30 March 2016; Received 29 June 2016
DA Environmental Noise Impact Assessment	Acoustic Logic	Dated 7 March 2016; Received 29 June 2016
BASIX Certificate No. 722284M	Prepared by Efficient Living	Dated 29 April 2016; Received 29 June 2016
Design Verification Statement	Arc Architects	Dated 14 May 2016; Received 29 June 2016
SEPP 65 ADG Compliance table	Arc Architects	Dated 6 June 2016; Received 29 June 2016
Construction and Environmental Management Plan	Arc Architects	Dated 6 June 2016; Received 29 June 2016
Waste Management Report	Arc Architects	Dated 9 May 2016; Received 29 June 2016
Pedestrian Wind Environmental Statement	Windtech	Dated 27 June 2016; Received 29 June 2016
Letter regarding to site isolation	Arc Architects	Dated 21 July 2017; Received 21 July 2017
Apartment Schedule	Arc Architects	Received 27 July 2017

2.

- a) This Consent relates to land in Lot C and D in DP 393861, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
- b) Separate development applications must be lodged with Council for the use of the individual retail tenancy and associated signage.

3.

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
- b) All plumbing stacks, vent pipes and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
- c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2;
- d) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) – Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans; and

4. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the approved BASIX Certificate/s for the development are fulfilled.
  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
6. The consent given does not imply that works can commence until such time that: -
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent: -
    - i) Has appointed a principal certifying authority; and,
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

#### **CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES**

7. The following conditions imposed by **RMS** are as follows:
  - a) The redundant driveway on Bunnerong Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the new kerb and gutter crossing on Bunnerong Road shall be in accordance Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- b) All vehicles are to enter and exit the site in a forward direction.
- c) All vehicles are to be wholly contained on site before being required to stop.
- d) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124  
Telephone 88492114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner's of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- e) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:  
They Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- f) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Bunnerong Road.
- g) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.

8. The following conditions imposed by **Ausgrid** are as follows:

- a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site).
- b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
  - i) Changes in electrical load requirements
  - ii) Changes to Ausgrids infrastructure (ie. asset relocations, decommissioning substations etc.)
  - iii) Works affecting Ausgrids easements, leases and/ or right of ways
  - iv) Changing the gradients of any roads or paths
  - v) Changing the level of roads or foot paths
  - vi) Widening or narrowing of roads
  - vii) Closing roads or laneways to vehicles
  - viii) In all cases Ausgrid is to have 24 hour access to all its assets
- c) Any work undertaken near overhead power lines needs to be done in accordance with:
  - i) Workcover Document ISSC 23 “Working Near Overhead Power Lines”
  - ii) Ausgrids Network Standard
  - iii) Ausgrids Electrical Safety Rules
- d) The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

9. The following conditions imposed by **Sydney Water** are as follows:

- a) The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.
- b) *The Sydney Water [Tap in™](#) online self-service replaces our Quick Check Agents as of 30 November 2015.*
- c) The [Tap in™](#) service provides 24/7 access to a range of services, including:
  - i) building plan approvals
  - ii) connection and disconnection approvals

- iii) diagrams
  - iv) trade waste approvals
  - v) pressure information
  - vi) water meter installations
  - vii) pressure boosting and pump approvals
  - viii) changes to an existing service or asset, e.g. relocating or moving an asset.
- d) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that applicants apply early 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

#### **PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK**

10. Prior to commencement of any works on-site, a dilapidation report of the adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council and to the subject property owners. The report shall include records and photographs of the following area that will be impacted by the development:

- a) All properties adjoining the site; and
- b) Bunnerong Road

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the excavation, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense. In addition, the following issues shall also be complied with:

- i) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
- ii) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, the subject adjoining property owners and public utilities authorities and all adjoining properties owners;

- iii) It is a condition of consent that should demolition, site clearing and site remediation works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored.;

**Note:** Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to the owners and to Council.

11. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - c) the Development Approval number;
  - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - e) any such sign is to be removed when the work has been completed.
12. In order to ensure that one (1) Pear tree (approximately 4m in height) in front of Hillsdale Community Centre at the southwest boundary of the site is retained and protected during construction, and it's health and structural stability ensured, the following is required:
  - a) All trees to be retained and removed shall be shown on all plans.
  - b) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
  - c) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground.
  - d) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
  - e) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).

- f) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- g) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- h) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- i) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- j) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- k) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- l) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- m) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- n) Care shall be taken with construction work in the primary root zone of any existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
- o) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

13. The Applicant has permission to remove one (1) Pear tree (approximately 3m in height in front of 228C Bunnerong Road. **Note: Trees are not permitted to be removed until the Construction Certificate has been issued.**



14. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:

- a) A qualified Arborist with their own public liability insurance must be engaged.
- b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
- c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

15. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;

- j) Working hours, in accordance with this Development Consent;
  - k) Confinement of demolished materials in transit;
  - l) Proposed truck routes, in accordance with this Development Consent;
  - m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
  - n) Sewer – common sewerage system ad08.
16. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.
17. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
  - c) Permit to install temporary ground anchors in public land,
  - d) Permit to discharge ground water to Council's stormwater drainage system,
  - e) Permit for roads and footways occupancy (long term/ short term),
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
  - h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - i) Permit to use any part of Council's road reserve or other Council lands.
18. An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.

19. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
20. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
21. Prior to excavation works, a Stage 2 Detailed Site Investigation shall be completed by a suitably qualified and experienced environmental consultant in accordance with:
  - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

Following completion of the Stage 2 Detailed Site Investigation, if required a Stage 3 Remedial Action Plan shall be prepared and remediation of the site shall be carried out. Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to and approved by Botany Bay City Council, in accordance with Section 80(A)2 of the Environmental Planning and Assessment Act 1979 prior to the commencement of any excavation or building works onsite.

22. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
23.
  - a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority; and
  - b) The demolisher shall comply with Australian Standard 2601 - 1993 "*Demolition of Structures*".

- Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

26. The required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
27. The applicant must prior to the release of the Construction Certificate, pay the following fees:
  - a) Development Control Fee \$5,250.00
  - b) Builder's Security Deposit \$85,035.00 (see below)
  - c) Section 94 Contributions \$260,021.26 (see below)

28. Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the *City of Botany Bay Section 94 Contributions Plan 2016*, a contribution of **\$260,021.26** is to be paid to Council prior to the issue of the first Construction Certificate.

Community Facilities – Citywide	\$44,618.88
Recreation Facilities- Citywide	\$193,815.35
Transport Management- Citywide	\$18,261.77
Administration	\$3,325.21

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

29. Prior to the issue of the Construction Certificate, amended plans are to be submitted to Council demonstrating the following:
- a) The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained within two bedroom apartments.
  - b) Each 2 bedroom apartment is to have a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area
30. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$85,035.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
31. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
32. A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase,

- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

33. A detailed Traffic Management Plan for the pedestrian and traffic management of the site and Bunnerong Road during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

*Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.*

34. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements,
  - b) For multi-unit developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure,
  - c) The applicant shall provide 36 resident carparking spaces that must be clearly linemarked and signposted,
  - d) The applicant shall provide 5 visitor carparking spaces that must be clearly linemarked and signposted,
  - e) A minimum of one (1), 3.5m wide carwash bay with the appropriate drainage systems shall be provided for residents.
35. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) A minimum 4 disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6 and Council requirements, and
  - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
36. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
- Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.
37. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i) The additional load on the system, and
    - ii) The relocation and/or adjustment of the services affected by the construction.

- c) As part of this development, the Ausgrid power pole on Bunnerong Road at the front of the development site will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,
- d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

38. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

*(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)*

The plans shall incorporate but not be limited to the following:

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and **permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition**,
- b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- e) The submission of detailed calculations including computer modelling where required supporting the proposal.



39. The **private domain landscape** areas shown on the plan by Architecture Urban Design Plans DA-20 Issue A (dated 06 January 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Construction. The landscape documentation is to be prepared by a suitably qualified landscape architect and shall include, but not be limited to:
- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
  - b) Evergreen trees are to be used extensively within the landscaped areas. Minimum pot size 75L. Planters are required to be of adequate depth and soil volume to accommodate both small and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
  - c) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting small to medium canopy trees.
  - d) Existing retained trees outside the Hillsdale Community Centre are required to be shown on all plans.
  - e) Seating is required to be incorporated within the Roof Garden to improve amenity.
40. A detailed **public domain landscape plan** shall be submitted to and approved by the Bayside Council Landscape Architect prior to Construction. The landscape documentation is to be prepared by a suitably qualified Landscape Architect and shall include, but not be limited to:
- a) The clear delineation of all public domain areas.
  - b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
  - c) Street trees are required along Bunnerong Road to match those proposed at 280B Bunnerong Road. Species: *Harpulia pendula*.
  - d) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Street trees are to be a minimum litreage of 400 litre.
  - e) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
  - f) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Existing footpath paving shall be lifted, cleaned and re-laid over a concrete base, and incorporate banding to match adjacent treatments.

- g) Details of all other hardscape landscape elements such as street furniture and bins. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
  - h) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
41. The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.
42. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
43. The building shall be designed in accordance with the *Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy'*, and shall also meet the criteria recommended as "Satisfactory" in Table 1 of Australian Standard AS 2107-2000. Details shall be submitted to Principal certifying authority prior to the release of the Construction Certificate.
44. Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:
- a) identify each item of plant and equipment;
  - b) the following additional criteria adopted by City of Botany Bay Council:
    - i) The operation of all plant and equipment shall not give rise to an equivalent continuous ( $L_{Aeq}$ ) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background  $L_{A90}$  level (in the absence of the noise under consideration).
    - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds  $L_{Aeq}$  50dB(A) day time and  $L_{Aeq}$  40 dB(A) night time.
    - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds  $L_{Aeq}$  65dB(A) day time/night time.
    - iv) For assessment purposes, the above  $L_{Aeq}$  sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

**Note** "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

45. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the Construction certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
46. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
47. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
48. Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
49. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
  - a) The rooms for the storage of garbage and recyclable materials shall be:
    - i) fully enclosed;
    - ii) adequately ventilated;
    - iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
    - iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
    - v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
50. Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
51. The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council or PCA approval.
52. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the

Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

### **CONDITIONS TO BE SATISFIED DURING WORKS**

53. If the work involved in the construction of a building:
- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
  - b) involves the enclosure of a public place:
    - i) a hoarding or fence must be erected between the work site and the public place.
    - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
    - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
    - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
  - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
54. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
55. Throughout the demolition and construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
56. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
57. The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
58. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
59. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

60. As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- i) Protect and support the adjoining premises from possible damage from the excavation, and
  - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
  - iii) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.
61. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
62. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
63. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
64. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas, inclusive of the street tree pits in Bunnerong Road. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
65. The public footpaths on Bunnerong Road shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
66. New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure

during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.

67. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
  - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
  - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
68. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
69. Vibration levels induced by the demolition activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
70. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the *Protection of the Environment Operations Act 1997*.

**a) Level Restrictions**

Construction period of 4 weeks and under:

the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

the  $L_{10}$  sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

**b) Time Restrictions**

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

**c) Silencing**

All possible steps should be taken to silence construction site equipment.

71. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

b) Each toilet provided:

i) must be standard flushing toilet; and,

ii) must be connected:

1 to a public sewer; or

2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

72. Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

73. Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

74. Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.

75. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

a) The Soil and Water Management Plan if required under this consent;

- b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
  - c) Protection of the Environment Operations Act 1997.
- 76. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- 77. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 78.
  - a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
  - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
  - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
  - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 79. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 80. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
  - a) Must preserve and protect the building/ fence from damage; and,
  - b) If necessary, underpin and support such building in an approved manner;
  - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;

Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or



underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

If the soil conditions required it:

- a) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
  - b) Adequate provision must be made for drainage.
81. During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
82. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
83. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
84. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Erosion and Sediment Control Plan;
  - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
  - c) Protection of the Environment Operations Act 1997.

#### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

85. All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
86. Prior to the issue of the Occupation Certificate, the existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. The applicant will bear the cost of the new installation and the first 12 months of additional street light charges.
- 87.
- a) A notice of requirement shall be obtained from the Water Board;

- b) A Certificate under Section 73 of the Water Board (Corporation) Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

88. Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
89. The Applicant is to submit payment for a Public Works Defects Liability Bond of \$25,000.00 for all hard structures, paving, drainage and so on within the public domain. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the public domain work by Council. If rectification or maintenance work is required within this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
90. Prior to the issue of the Occupation Certificate, The applicant is to submit payment of a Street Tree Maintenance Bond of \$2,500.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
91. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.
92. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
93. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

94. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
95. Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
96. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
- a) On Bunnerong Road, adjacent to development, reconstruct existing paved footpath for the full length of the property in accordance with Council's Specifications.
97. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
98. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
  - b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
- The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*
99. Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
100. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval.
101. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
102. The 45 car parking spaces shall be made available to permanent occupants, visitors and retail parking at all times, with such spaces being clearly marked and signposted prior to issue of any Occupation Certificate.

103. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

**CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

104. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
105. Ongoing maintenance of the road verges and footpaths in Bunnerong Road shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
106. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
107. No roller shutters are to be installed to any of the commercial shopfronts that front Gardeners Road.
108. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
109. Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 110.
- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
  - b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
  - c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times.
111. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise,

vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

112. That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
113. A sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
114. Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
115. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
116. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - b) Before 7 am or after 10 pm on any other day.
117. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
118. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/101 dated as 29 June 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

[illegible]

The proposal provides for 2 retail premises to Bunnerong Road that comprise more than 50% of the site frontage and above that balconies off units address Bunnerong Road.

Once built this building will have an active street frontage with residential units looking down from above and 2 retail premises addressing Bunnerong Road.

## 5.7 Clause 4.6 – written request to vary height standard

Clause 4.6 of the LEP relevantly states as follows:-

### ***“4.6 Exceptions to development standards***

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development*

*within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Director-General has been obtained.*

*(5) In deciding whether to grant concurrence, the Director-General must consider:*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

*(b) the public benefit of maintaining the development standard, and*

*(c) any other matters required to be taken into consideration by the Director-General before granting concurrence."*

This following text constitutes the Applicant's "written request" to vary the height development standards.

The height control for the site is at clause 4.3 of the LEP and for this site it is 14m (see **Figure 4B**).

The non-compliances with the height controls are limited to the lift overrun at 16.55m, stairhood at 15.55m the northern part of the rear balustrade/ parapet that is at maximum 14.88m high.

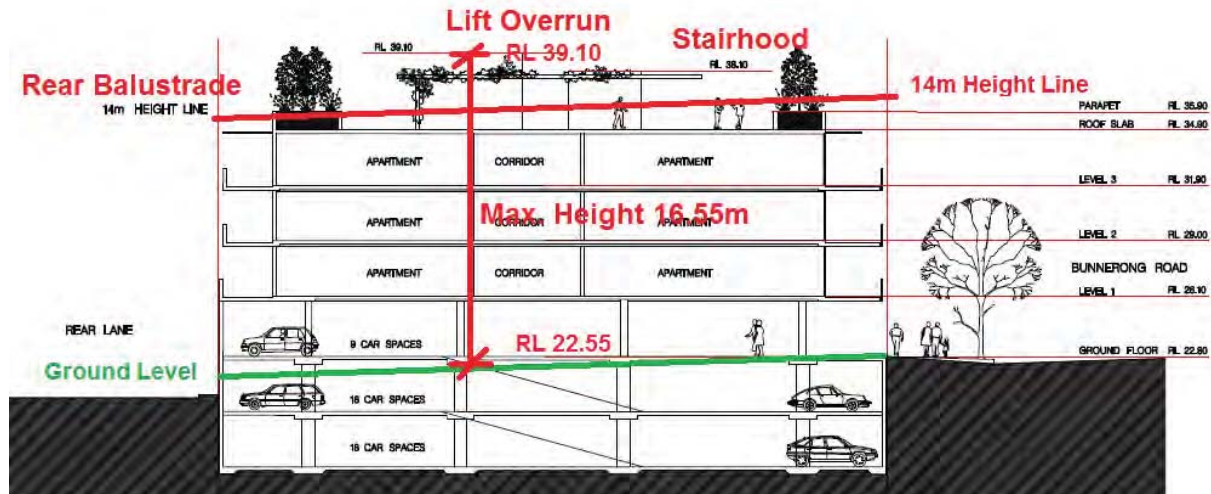
The building's degree of non-compliance with the height standard is illustrated in the below table and extract from the architectural plans overleaf.

**Table 1 – Building Height Non-compliance**

Element	Height /Metres over 14m control	% non-compliance
Lift overrun	16.55m/ 2.55m	18%
Stairhood	15.55m/ 1.55m	11%
Rear balustrade/ parapet	Max. 14.88m/ 880mm	6%



**Diagram 5 – Height Non-compliance**



Source: ARC Architects

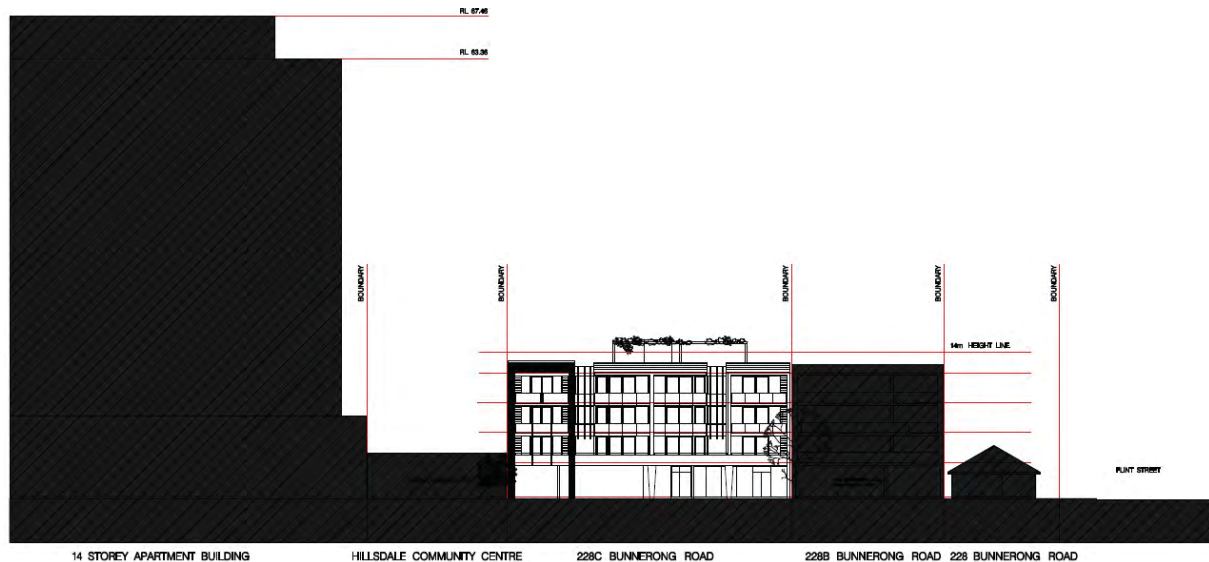
Pursuant to Clause 4.6(3), the non-compliance with the height standard is justifiable because:-

- i. the non-compliance with the 14m height limit is limited to secondary elements of the building the stair hood, lift overrun and a small portion of the rear balustrade (the main building is well under the 14m height control);
- ii. the non-compliant elements of the building are well setback from the site boundaries or to the rear (these elements of the building are not visible from the Bunnerong Road street frontage);
- iii. the objectives of the height standard (see Section 5.5.4 above) are satisfied notwithstanding the non-compliances which are proposed;
- iv. the objectives of the B2 Local Centre zone are satisfied notwithstanding the non-compliances which are proposed;
- v. the built form of the proposal is consistent with the desired future character for the Hillsdale Local Centre;
- vi. The non-compliance is in part linked to ensuring the proposed building fits into its emerging streetscape and has a comparable scale and massing as the building underway on the adjoining site to the north (see DA 176/2013); and
- vii. therefore, it is unreasonable in the circumstances of the case for the proposal to have to comply with the 14m height standard.

The height of the proposed building is also very appropriate in this locality in as much as it respects the primacy of the adjoining 14 storey Southpoint tower that has a maximum RL 67.46 (noting the maximum RL to the proposed building is RL 39.10 – 28.3m below). As demonstrated in the diagram provided overleaf, the proposed building will maintain the

hierarchy of building heights in the Hillsdale Local Centre ensuring that the Southpoint tower dominates.

**Diagram 6 – Height of Adjoining Structures**



Source: ARC Architects

Pursuant to Clause 4.6(4)(a):-

The consent authority can be satisfied that this written request has addressed the requirements of Clause 4.6(3) in relation to both the FSR standard and the height standard.

The proposal is in the public interest because it does not raise any inconsistencies with either the objectives of the height standards or the objectives for development in the B2 Local Centre zone (see previous discussion of objectives at Sections 5.6.2 and 5.6.4 of this SEE).

Pursuant to Clause 4.6(4)(b):-

The concurrence of the Director-General is considered to be delegated to the relevant consent authority in this instance which is the Council

Pursuant to Clause 4.6(5)(a):-

The contravention of the development standard is in this instance minor and does not raise any issues of State or regional environmental planning.

Pursuant to Clause 4.6(5)(b):-

There is no public benefit in maintaining the standard in this instance, as the non-compliance is without unreasonable environmental impacts and arbitrary compliance with this standard would mean this development would be unable to have a roof terrace area for the enjoyment of its future occupants. The proposed roof terrace is in the public interest on both residential and architectural amenity grounds.

Pursuant to Clause 4.6(5)(c):-

There are no other matters that warrant consideration in this instance.

### 5.7.1 Conclusions

The objectives of Clause 4.6 of the LEP are:-

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

The proposal is consistent with the objectives of Clause 4.6, the height control and land use objectives for the site. The additional height has an acceptable impact on the street presentation of the building, indeed the additional height is not able to be viewed from the adjoining Bunnerong Road footway. There are generally no shadowing impacts on the public domain or adjoining properties as a result of the additional height sought (the portion of the rear balustrade casts a small additional shadow and the lift overrun and stairhood only cast shadows on the building).

In terms of overall building height, the proposed building's bulk and scale and presence in its locality is consistent with the 14m height control.

This clause 4.6 Request has also been prepared cognisant and in accordance with recent Court decisions on the proper consideration of such requests as outlined in the *Four2Five Pty Ltd v Ashfield Council* decision and its recent judicial review (see [2015] NSWLEC 90). In this case the Court considered that the justification under clause 4.6(3) (b) required 'particular reference to the circumstances of the proposed development'. In practice, this means a request needs a site specific justification. In this instance, the site's location on a main street (Bunnerong Road) and the context of existing and emerging development to the north of similar 4 storey mixed use buildings is a compelling argument for the acceptance of this minor non-compliance with the height control.

Also in this context there are limited adjoining site's zoned B2 Local Centre capable of similar redevelopment and the degree of variation sought is so minor as not to set an undesirable precedent for future adjoining development. The unique site specific justification for this Clause 4.6 Request are the minor nature of the variation sought, contextual appropriateness and lack of impact.

There is an absence of environmental harm associated with the non-compliance with the height development standard in this instance.

Having regard to the above, it can be concluded that compliance with the height standard is unreasonable and unnecessary in the circumstances of the case, that there are sufficient environmental planning grounds to justify the non-compliance and that the proposal is in the public interest because it is consistent with the objectives of both the height standard and Clause 4.6, lacks impact and is part of an orderly development of this site.





# DEVELOPMENT APPLICATION

## MIXED USE DEVELOPMENT

228C & 230 BUNNERONG ROAD, HILLSDALE NSW 2036

### BASIX REQUIREMENTS

Thermal Comfort Specifications	
Glazing Doors/windows	Aluminium framed single clear glazing to all units: U-Value: 6.57 (equal to or lower than)    SHGC: 0.74 (±10%) Given values are NFRC, total window values
Roof	Concrete roof with no insulation -Default light colour
Ceiling	Plasterboard ceiling with an R2.5 insulation where exposed roof above Plasterboard ceiling with no insulation where neighbouring units are above Note: Loss of ceiling insulation due to penetrations from down lights has been accounted for in accordance with BCA Technical Note 2 and assume non-ventilated LED down lights.
External wall	75mm Hebel Power Panel with metal stud frame and plasterboard lining R1.5 bulk insulation to all external walls Default medium colour modelled
Inter tenancy walls	Double stud walls with acoustic plasterboard
Walls within dwellings	Plasterboard on studs with no insulation
Floors	Concrete no insulation Concrete between levels no insulation
Floor coverings	Carpet to bedrooms, tiles to bathrooms and timber elsewhere

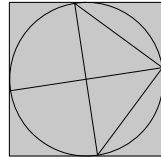
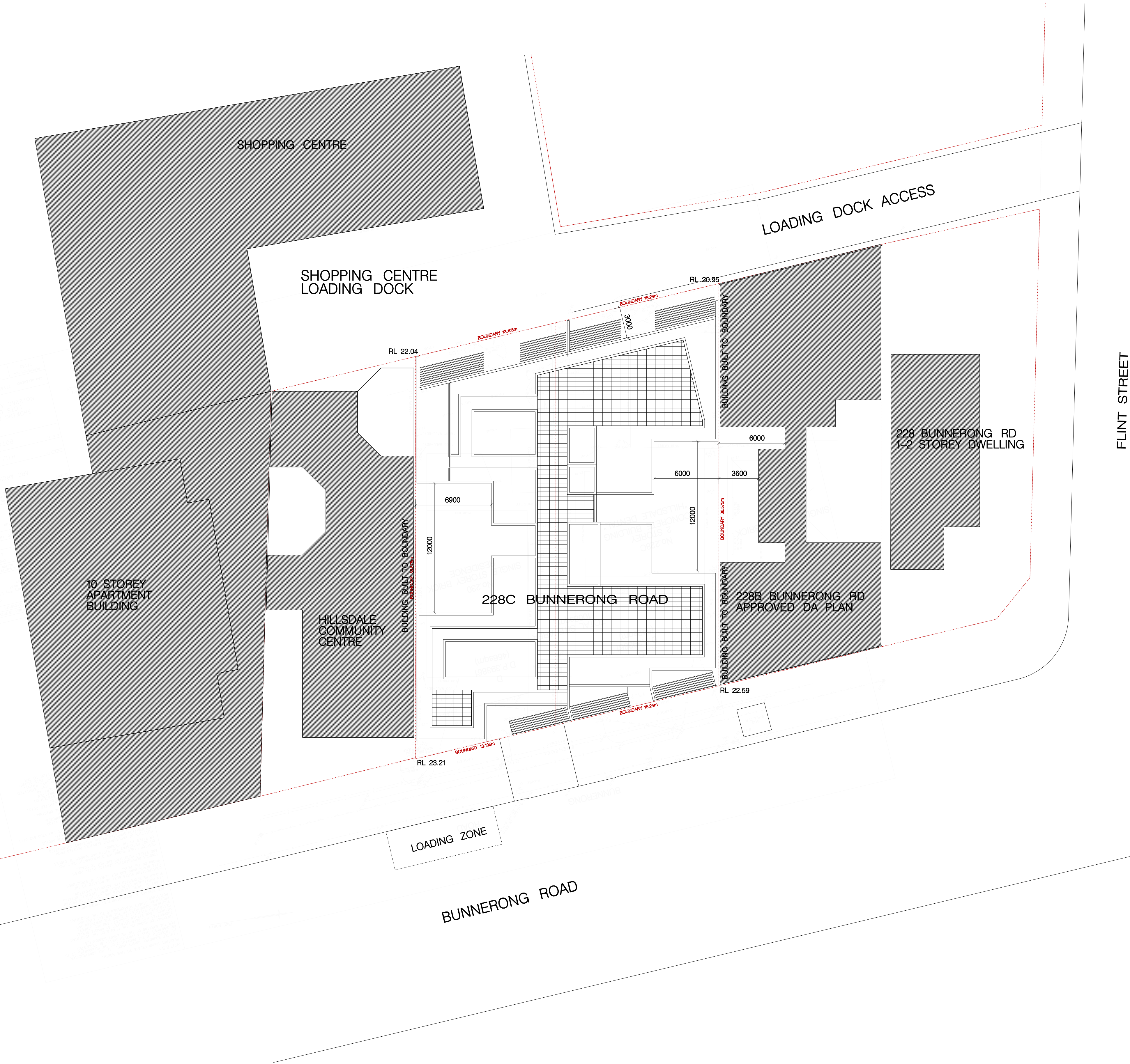


SITE AREA CALCULATIONS	
GROUND	180sqm
LEVEL 1	604sqm
LEVEL 2	604sqm
LEVEL 3	604sqm
TOTAL	1992sqm
SITE AREA 1008sqm	
FSR PERMITTED	2:1 (2016sqm)
FSR PROPOSED	1.97:1 (1992sqm)

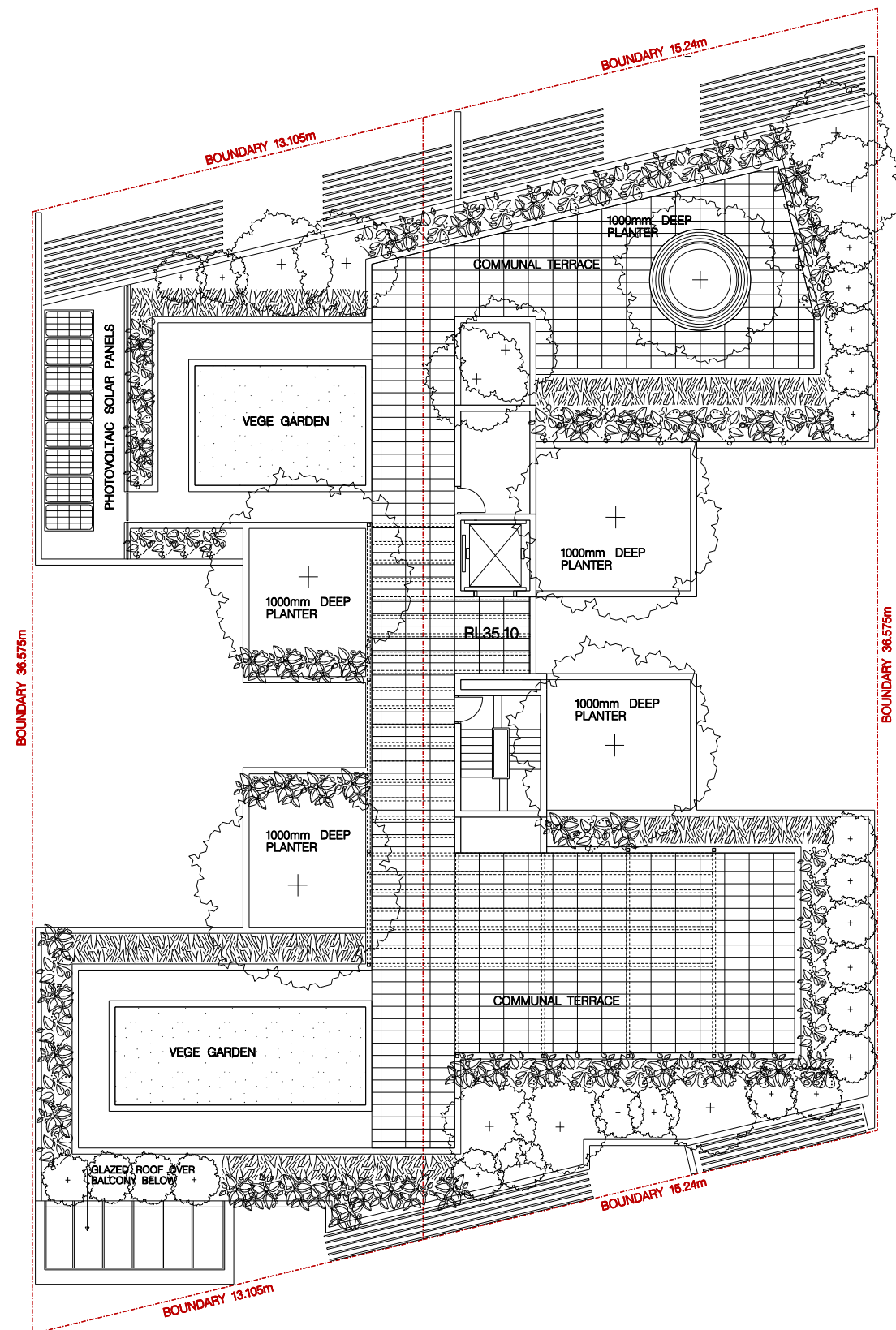
APARTMENT AREAS	
1 BED APARTMENTS	
6 x 51sqm	
6 x 53sqm	
2 BED APARTMENTS	
3 x 85sqm	
3 x 86sqm	
3 x 89sqm	
3 x 93sqm	

CARPARKING - 24 APARTMENTS	
12 x 1 BED	12 (1 /UNIT)
12 x 2 BED	24 (2 /UNIT)
ACCESSIBLE SPACES(includ	4
COMMERCIAL	5 (1 /25sqm)
VISITORS	5 (1 /5 UNITS)
TOTAL REQUIRED	46 CAR SPACES
TOTAL PROVIDED	46 CAR SPACES

COMMUNAL OPEN SPACE	
SITE AREA	1008 sqm
REQUIRED OUTDOOR AREA	252 sqm(25%)
PROVIDED OUTDOOR AREA	591 sqm(58%)



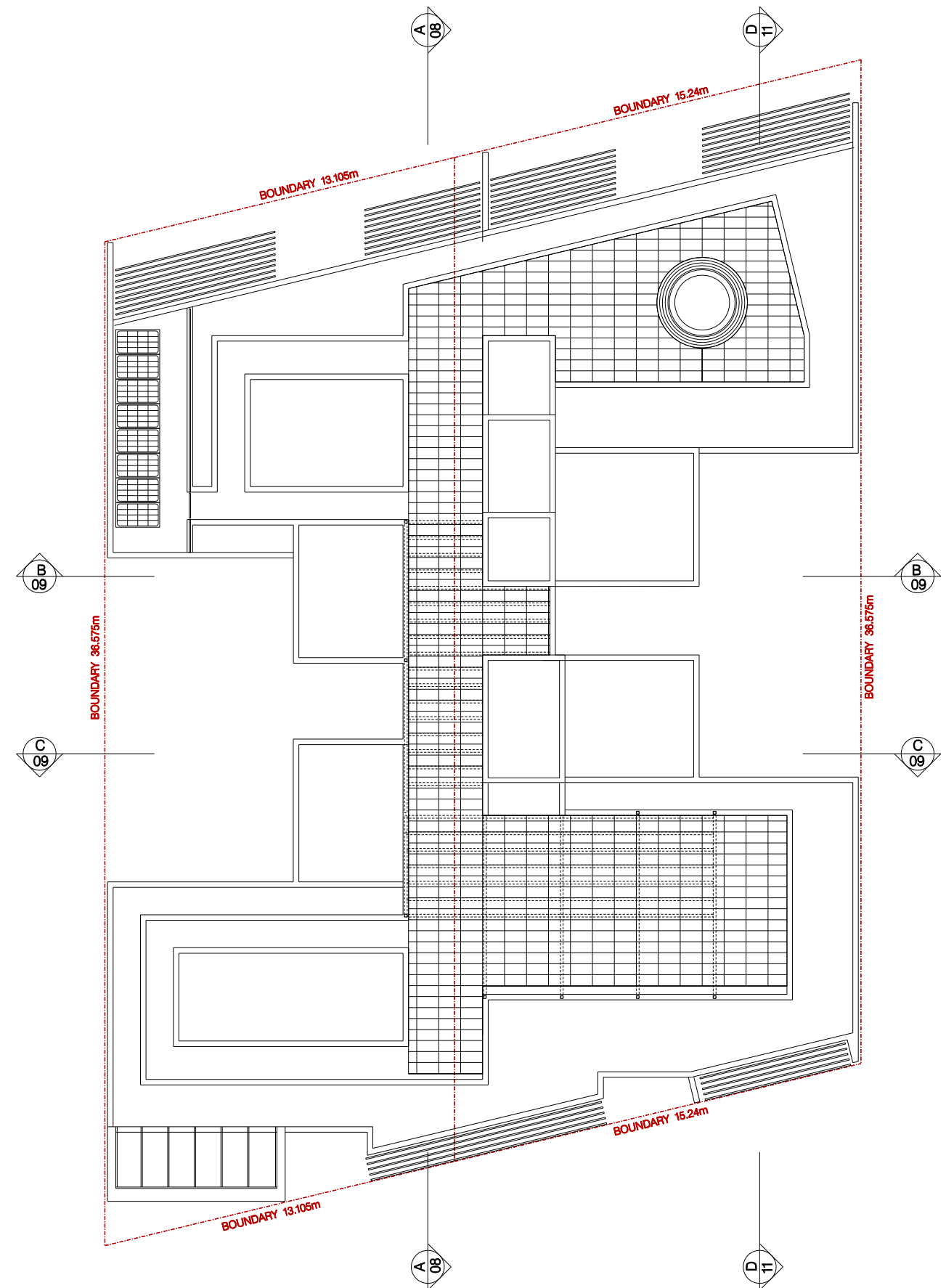




### ROOF GARDEN PLAN

COMMUNAL GARDEN AREA  
595sqm (59% SITE AREA)

NOTE:  
TREE PLANTERS TO BE 1000mm DEEP  
SHRUB PLANTERS TO BE 800mm DEEP  
WITH METAL HANDRAIL ON TOP



ROOF PLAN

REV B 19.07.2017 APARTMENT MIX AMENDED  
REV A 06.01.2017 PLANS AMENDED

PROPOSED MIXED USE DEVELOPMENT  
228C & 230 BUNNERONG ROAD  
HILLSDALE NSW 2036

## ROOF GARDEN AND ROOF PLAN

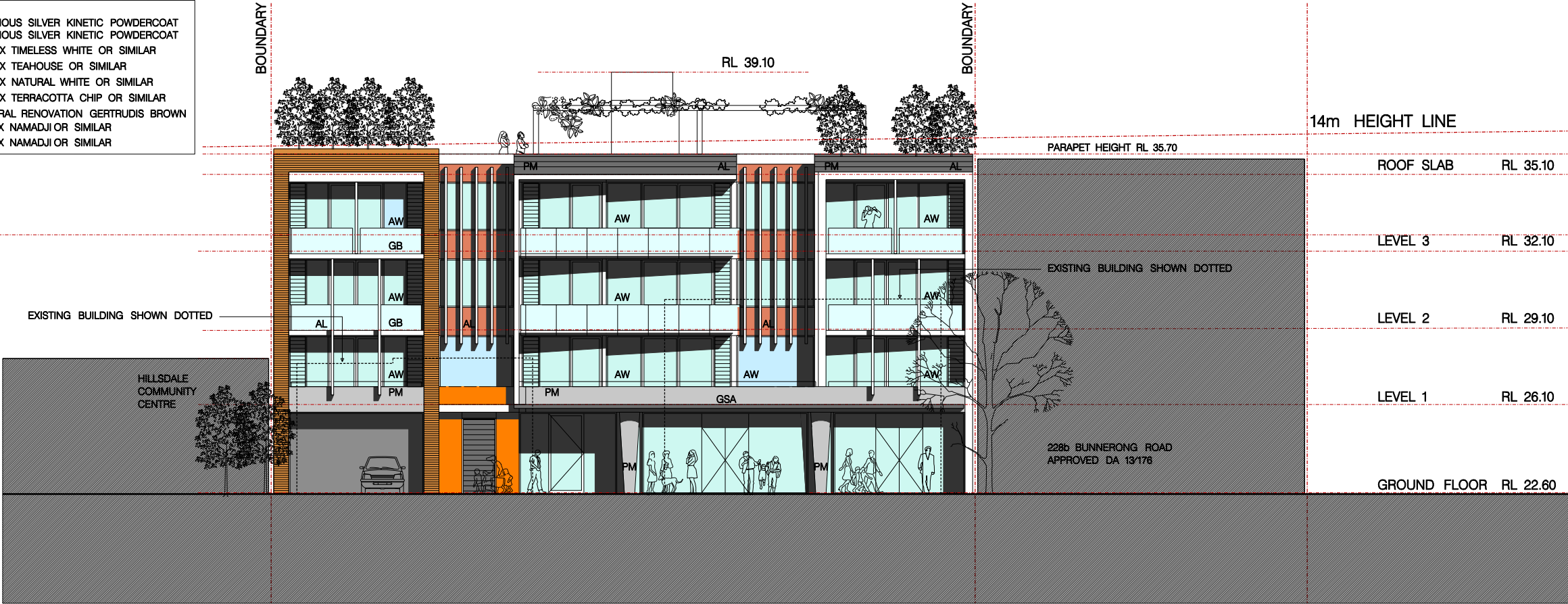
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SCALE	1:200(A3)

ISSUE B  
DATE 06.06.2016

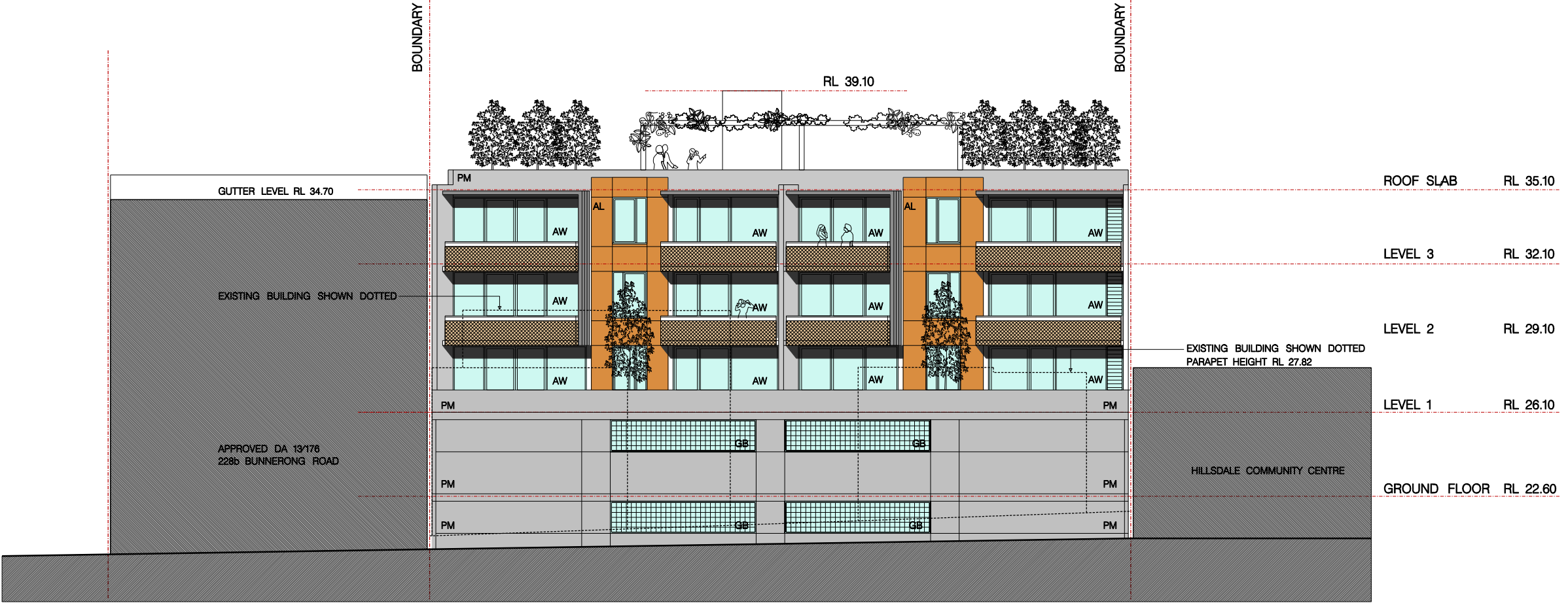
**ARCHITECTURE URBAN DESIGN PLANNING**  
LEVEL 7 90 PITT STREET SYDNEY 2000  
T:(02)92230280 F:(02)92230283  
e:mail@arcarchitects.com.au



LEGEND		
AW	ALUMINIUM FRAMED WINDOW	PRECIOUS SILVER KINETIC POWDERCOAT
AL	ALUMINIUM LOUVRES - FINS	PRECIOUS SILVER KINETIC POWDERCOAT
PM	PAINTED MASONRY	DULUX TIMELESS WHITE OR SIMILAR
PM	PAINTED MASONRY	DULUX TEAHOUSE OR SIMILAR
PM	PAINTED MASONRY	DULUX NATURAL WHITE OR SIMILAR
PM	METAL PANELS	DULUX TERRACOTTA CHIP OR SIMILAR
FB	FACE BRICKWORK	AUSTRAL RENOVATION GERTRUDIS BROWN
GB	GLAZED BALUSTRADE WITH STEEL FRAME	DULUX NAMADJI OR SIMILAR
GSA	GLASS AND STEEL AWNING	DULUX NAMADJI OR SIMILAR



EAST ELEVATION - BUNNERONG ROAD



WEST ELEVATION - REAR LANE ACCESS

REV B 19.07.2017 APARTMENT MIX AMENDED  
REV A 10.01.2016 EAST ELEVATION CARPARK ENTRY RELOCATED

PROPOSED MIXED USE DEVELOPMENT 228C & 230 BUNNERONG ROAD HILLSDALE NSW 2036			ELEVATIONS		arc	
DRAWING NO. DA-06		ISSUE B	ARCHITECTURE URBAN DESIGN PLANNING			
SCALE 1:200(A3)		DATE 06.06.2016	LEVEL 7 90 PITT STREET SYDNEY 2000 T:(02)92230280 F:(02)92230283 e:mail@arcarchitects.com.au			



LEGEND

AW	ALUMINIUM FRAMED WINDOW	PRECIOUS SILVER KINETIC POWDERCOAT
AL	ALUMINIUM LOUVRES – FINS	PRECIOUS SILVER KINETIC POWDERCOAT
PM	PAINTED MASONRY	DULUX TIMELESS WHITE OR SIMILAR
PM	PAINTED MASONRY	DULUX TEAHOUSE OR SIMILAR
PM	PAINTED MASONRY	DULUX NATURAL WHITE OR SIMILAR
PM	METAL PANELS	DULUX TERRACOTTA CHIP OR SIMILAR
FB	FACE BRICKWORK	AUSTRAL RENOVATION GERTRUDIS BROWN
GB	GLAZED BALUSTRADE WITH STEEL FRAME	DULUX NAMADJIOR SIMILAR
GSA	GLASS AND STEEL AWNING	DULUX NAMADJIOR SIMILAR

PARAPET RL 35.90  
ROOF SLAB RL 35.10

LEVEL 3 RL 32.10

LEVEL 2 RL 29.10

BUNNERONG ROAD

LEVEL 1 RL 26.10

GROUND FLOOR RL 22.80

RL 22.80

228B BUNNERONG ROAD  
SHOWN HATCHED

EXISTING BUILDING SHOWN DOTTED

SHOPPING CENTRE  
ACCESS LANE

RL 20.56

NORTH ELEVATION

PARAPET RL 35.90  
ROOF SLAB RL 35.10

LEVEL 3 RL 32.10

LEVEL 2 RL 29.10

LEVEL 1 RL 26.10

SHOPPING CENTRE  
LOADING DOCK

GROUND FLOOR RL 22.80

RL 21.02

EXISTING BUILDING SHOWN DOTTED

HILLSDALE COMMUNITY CENTRE  
SHOWN HATCHED

RL 22.80

BUNNERONG ROAD

SOUTH ELEVATION

PROPOSED MIXED USE DEVELOPMENT  
228C &230 BUNNERONG ROAD  
HILLSDALE NSW 2036

ELEVATIONS

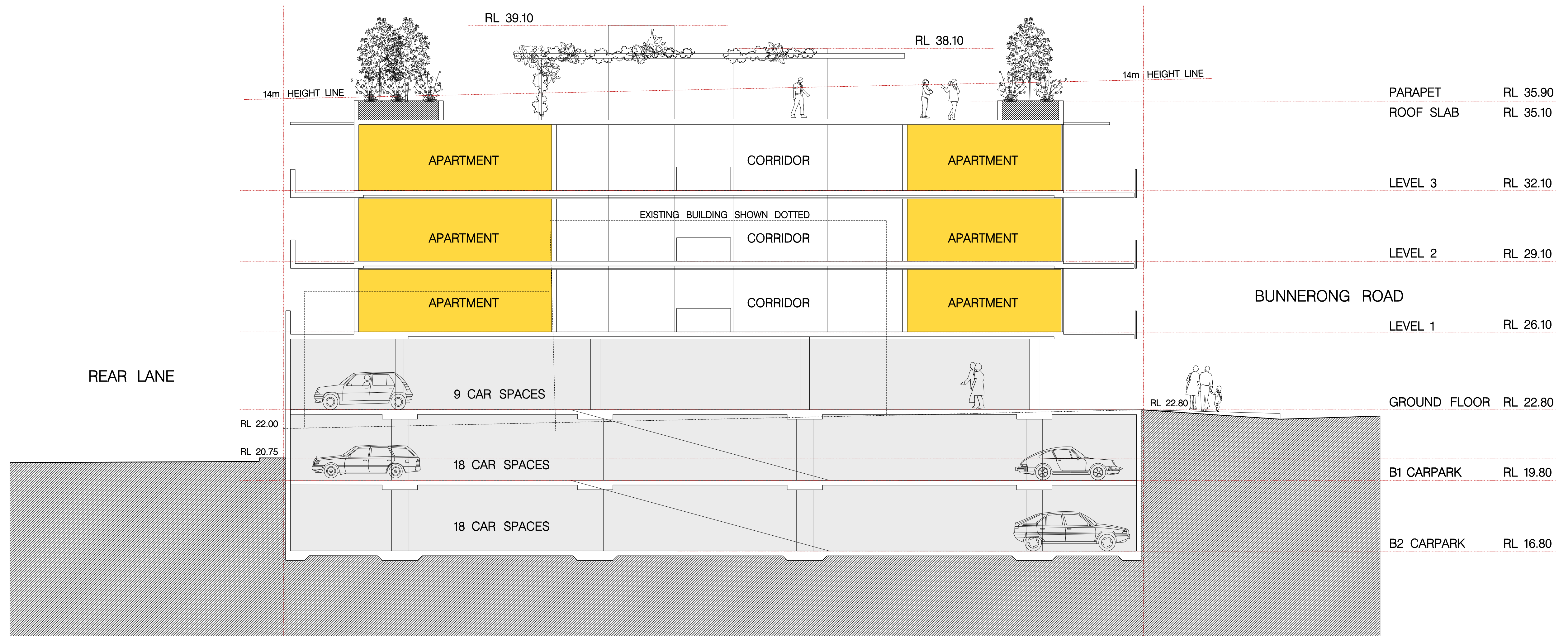
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ISSUE  
DATE 06.06.2016

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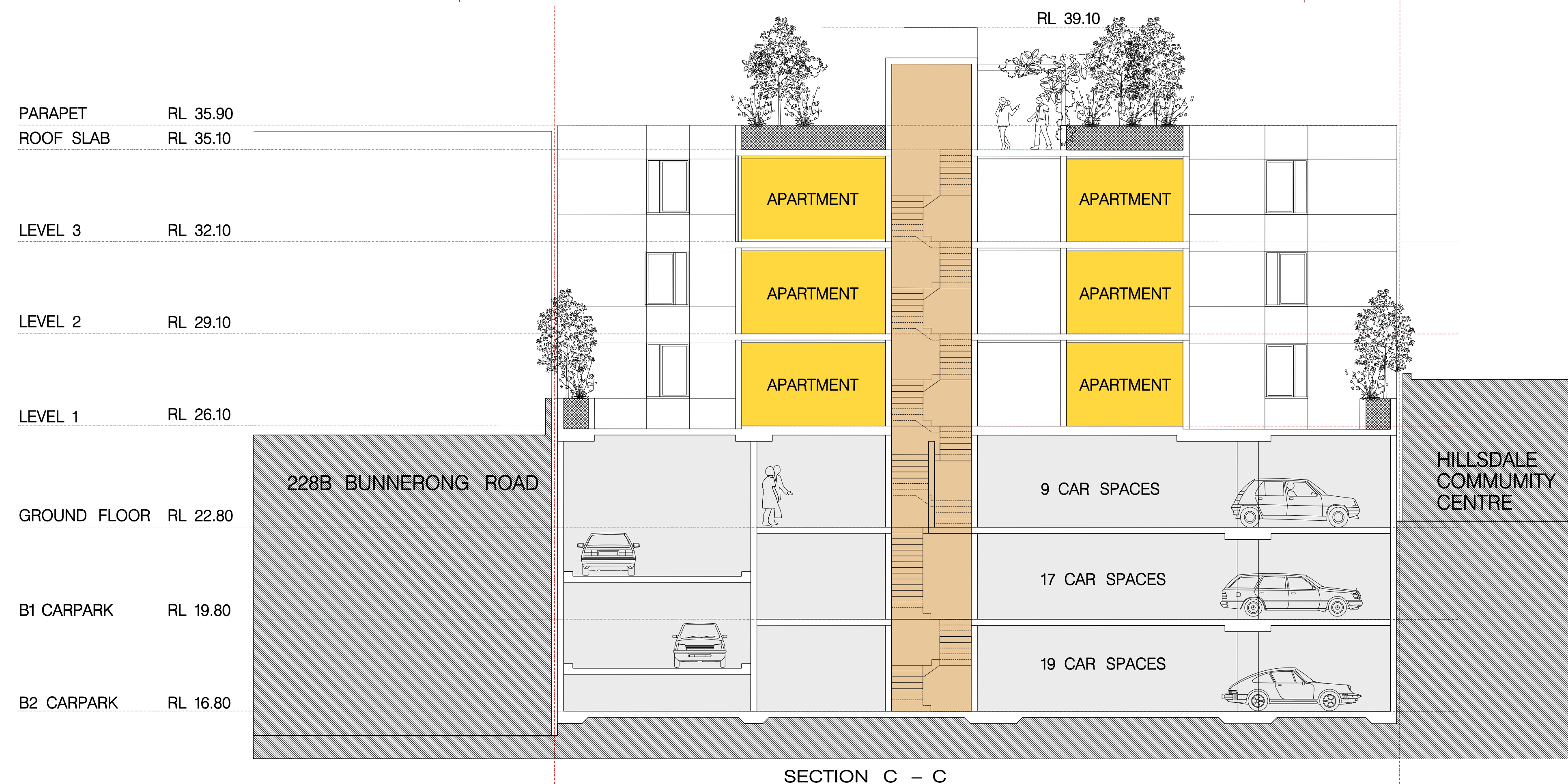
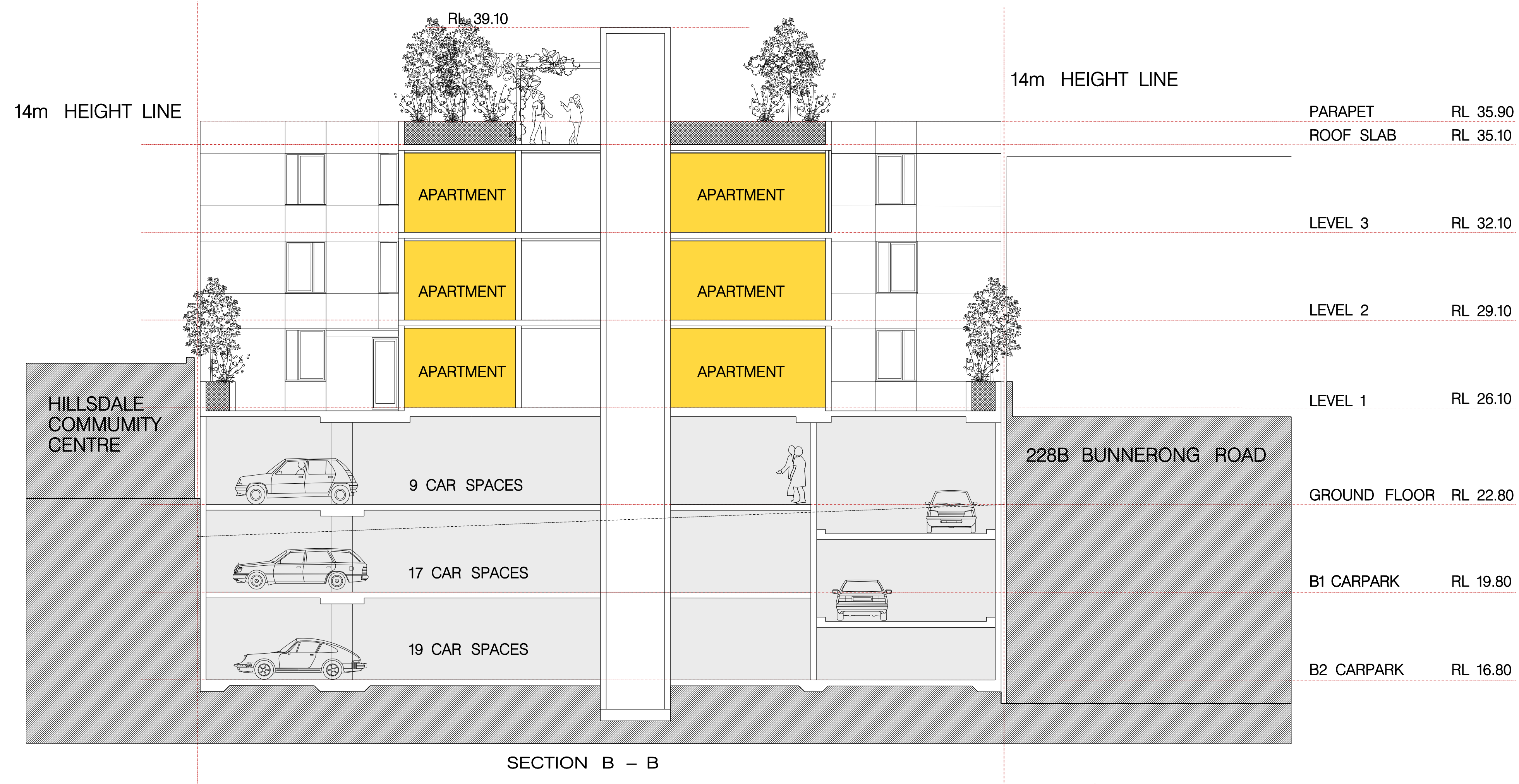






SECTION A – A





PROPOSED MIXED USE DEVELOPMENT  
228C & 230 BUNNERONG ROAD  
HILLSDALE NSW 2036

SECTIONS B - B, C - C

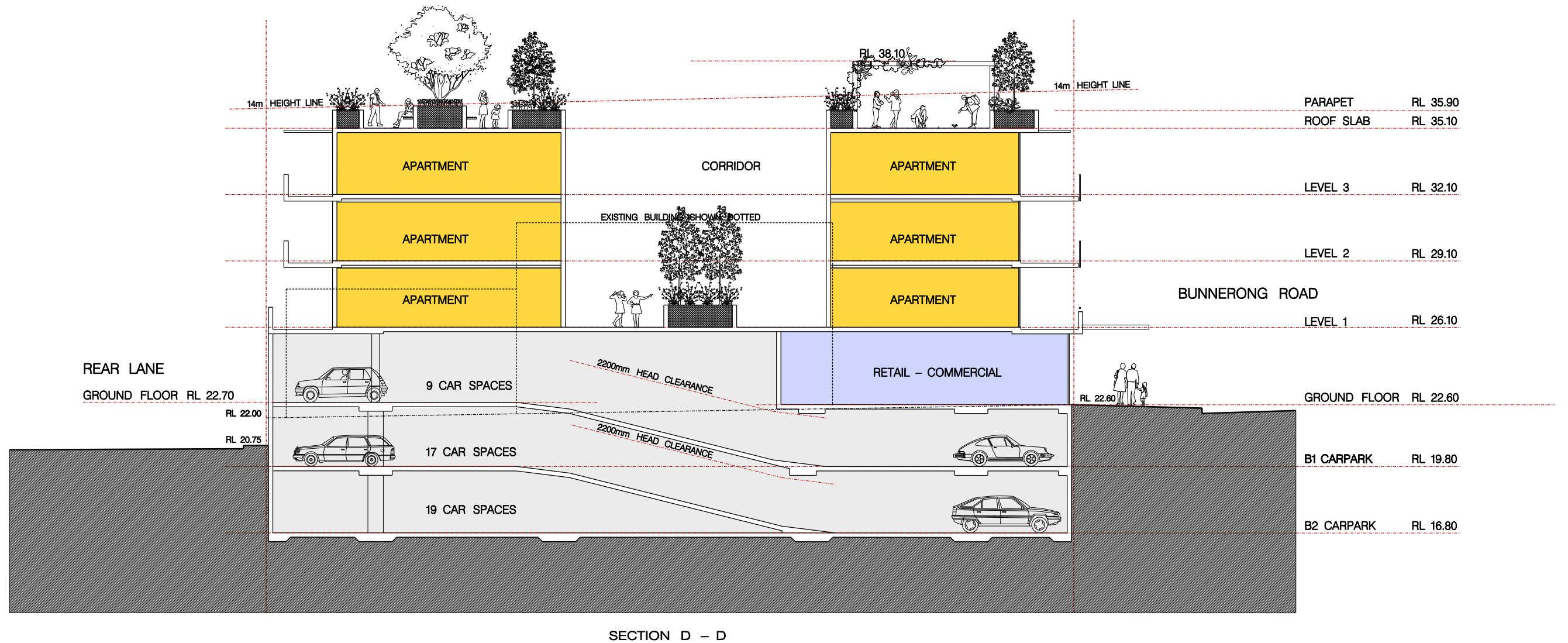
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T:(02)92230280 F:(02)92230283  
e:mail@arcarchitects.com.au







REV B 19.07.2017 APARTMENT MIX AMENDED  
REV A 06.06.2016 SECTION THROUGH RETAIL - COMMERCIAL

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HILLSDALE NSW 2036

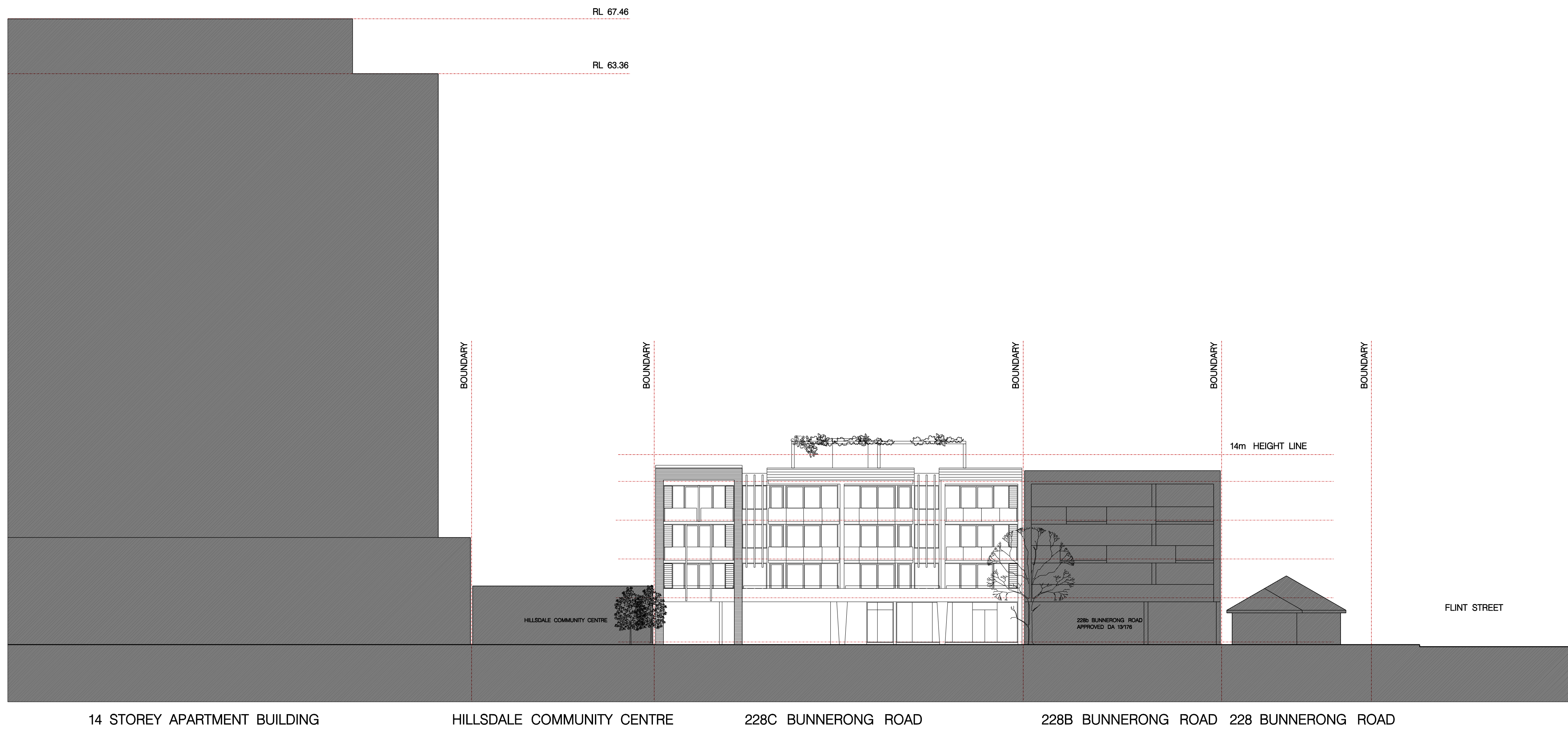
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T:(02)92230280 F:(02)92230283  
e.mail@arcarchitects.com.au





PROPOSED DEVELOPMENT  
228C BUNNERONG ROAD  
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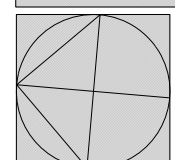
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ISSUE  
DATE 06.06.2016

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T:(02)92230280 F:(02)92230283  
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PROPOSED MIXED USE DEVELOPMENT  
228C & 230 BUNNERONG ROAD  
HILLSDALE NSW 2036

DEMOLITION PLAN

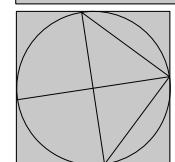
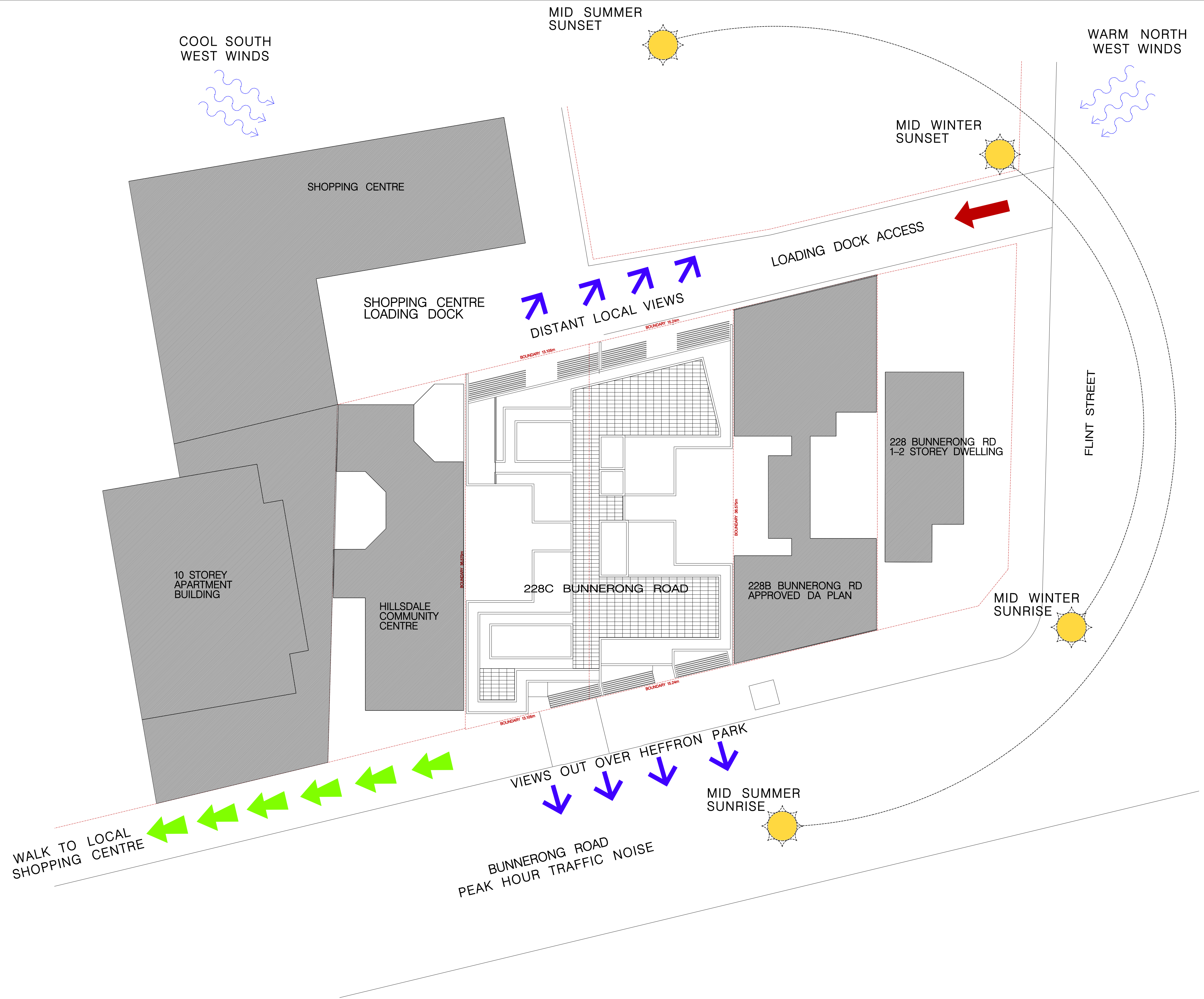
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HILLSDALE NSW 2036

SITE ANALYSIS PLAN

DRAWING NO. DA-23  
SCALE 1:200(A1) 1:400(A3)  
ISSUE DATE 06.06.2016

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LIDCO ANNOXIDISED SUNSHADING



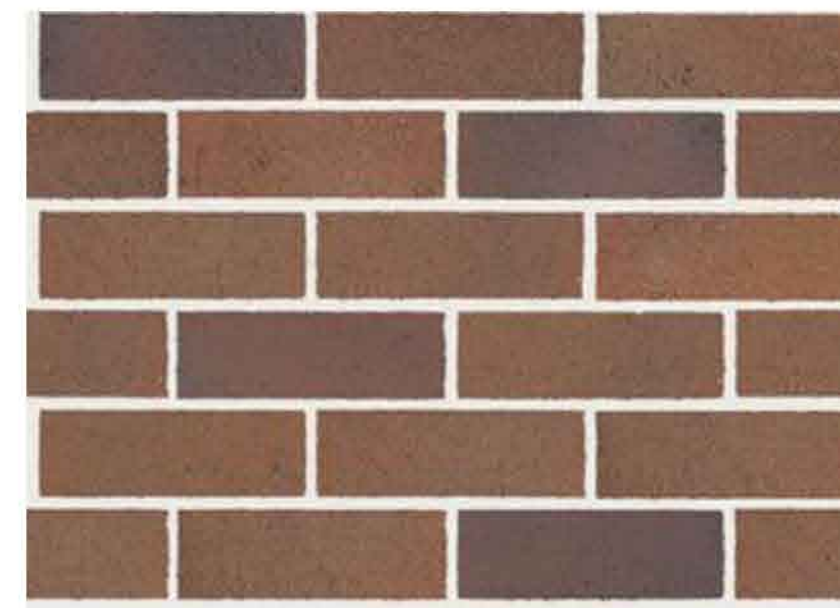
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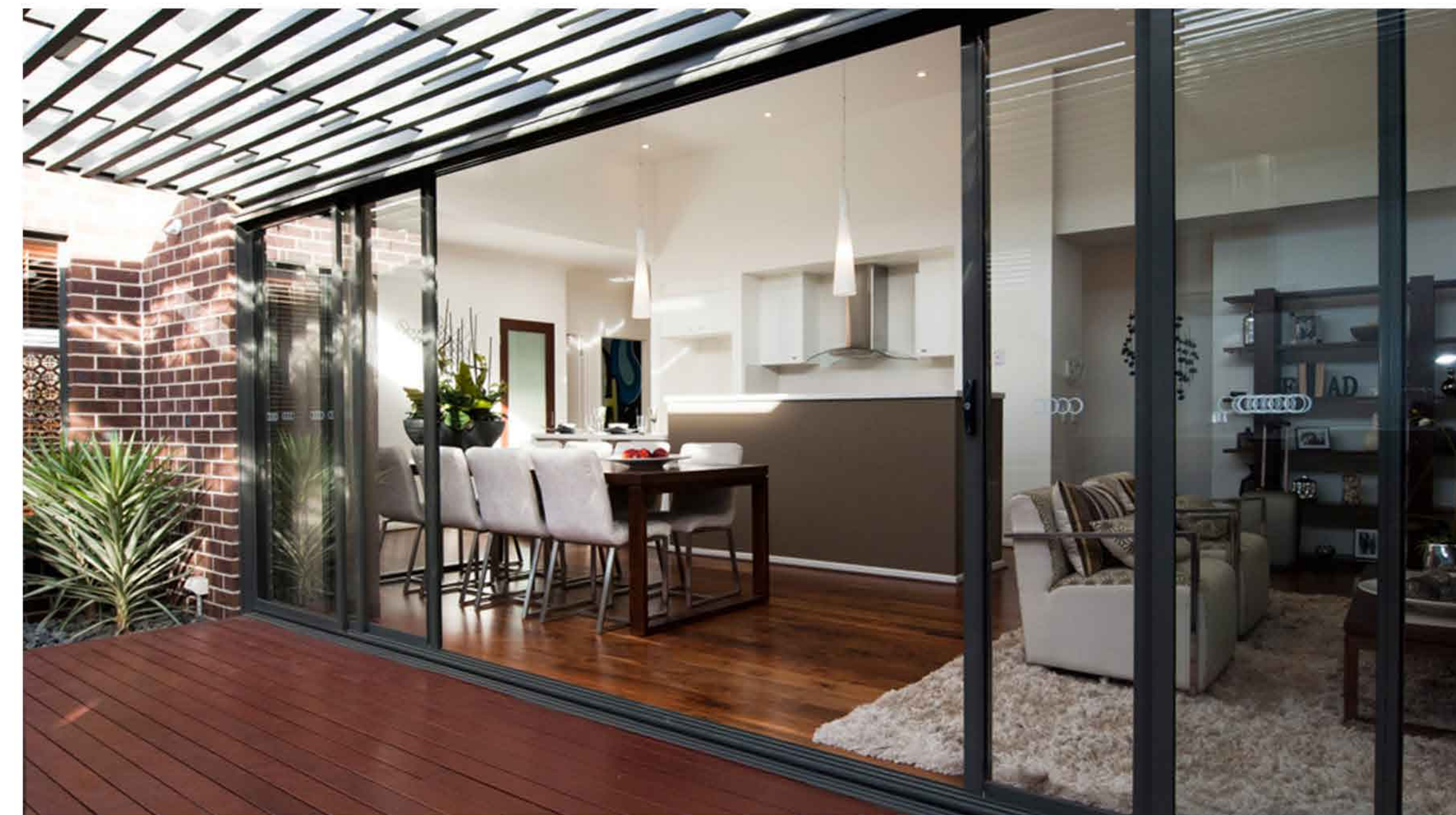
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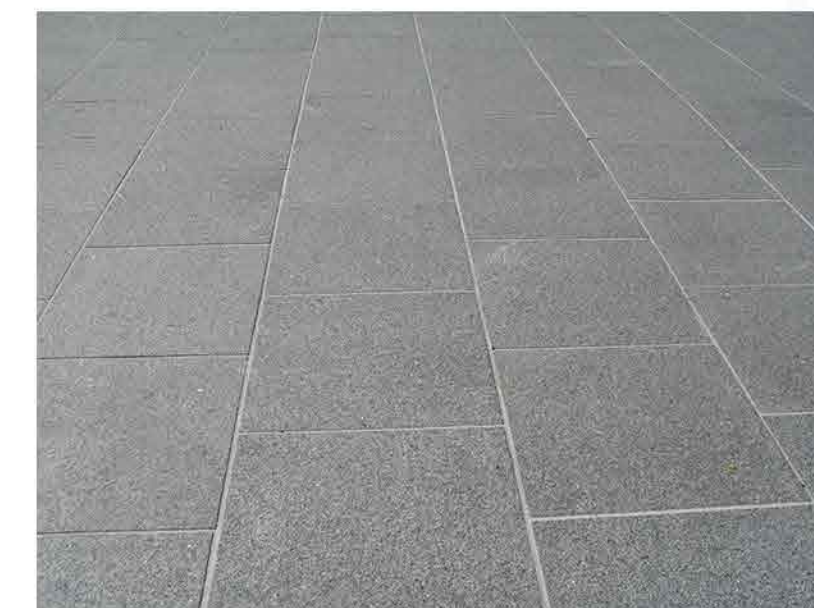
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DULUX NATURAL WHITE OR SIMILAR



FACE BRICKWORK  
AUSTRAL RENOVATION GERTRUDIS BROWN



ALUMINIUM FRAMED WINDOW  
PRECIOUS SILVER KINETIC POWDERCOAT

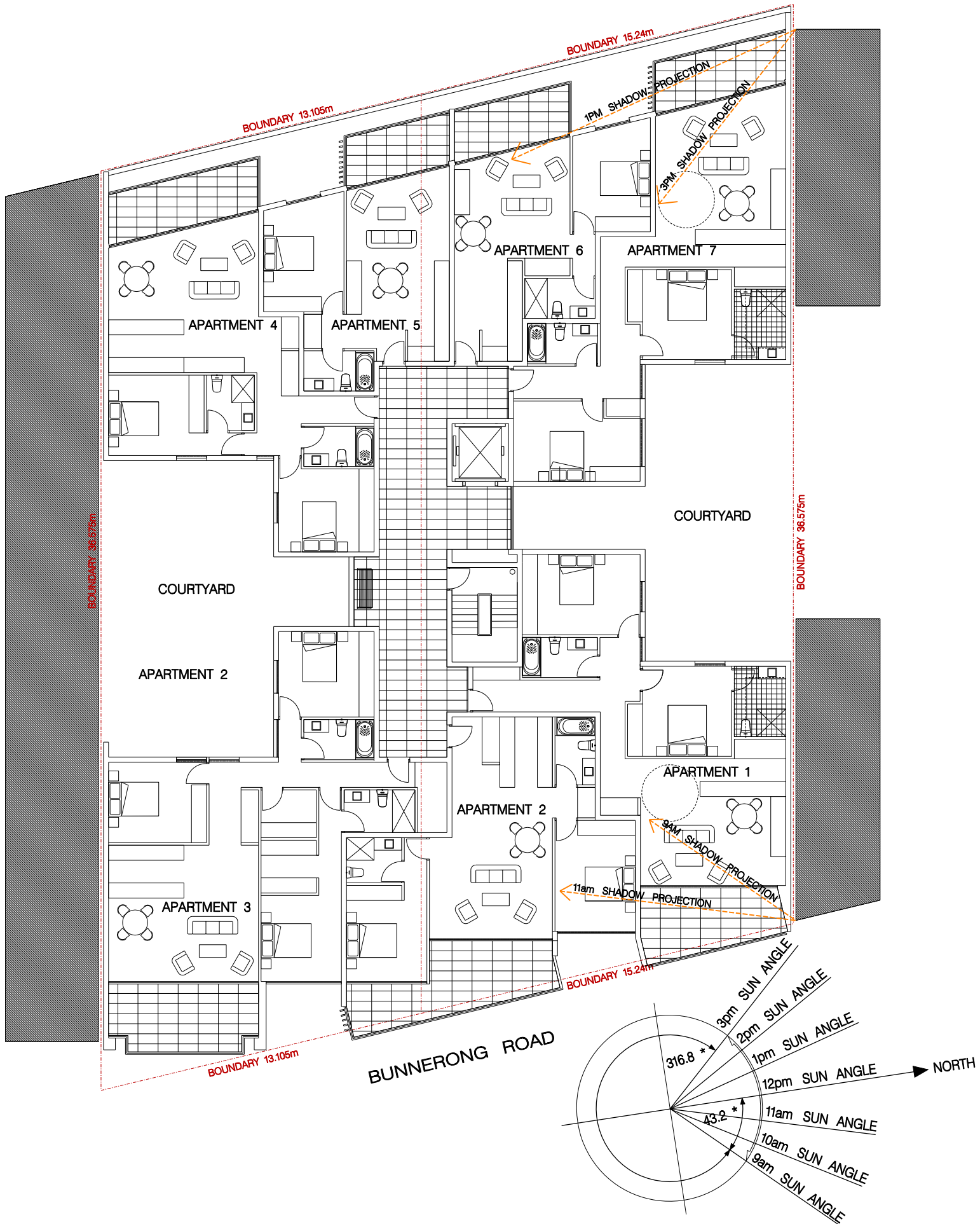


GRANITE PAVERS



VIRIDIAN BODYTINT COMFORT PLUS GREEN TINT GLAZING





PROPOSED MIXED USE DEVELOPMENT

228C & 230 BUNNERONG ROAD  
HILLSDALE NSW 2036

REV A 27.07.2017 APARTMENT PLANS AMENDED

SUN ANGLES FROM 228B BUNNERONG ROAD

DRAWING NO. FD-100  
SCALE 1:200(A3)

ISSUE A  
DATE 06.06.2016

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e: mail@arcarchitects.com.au



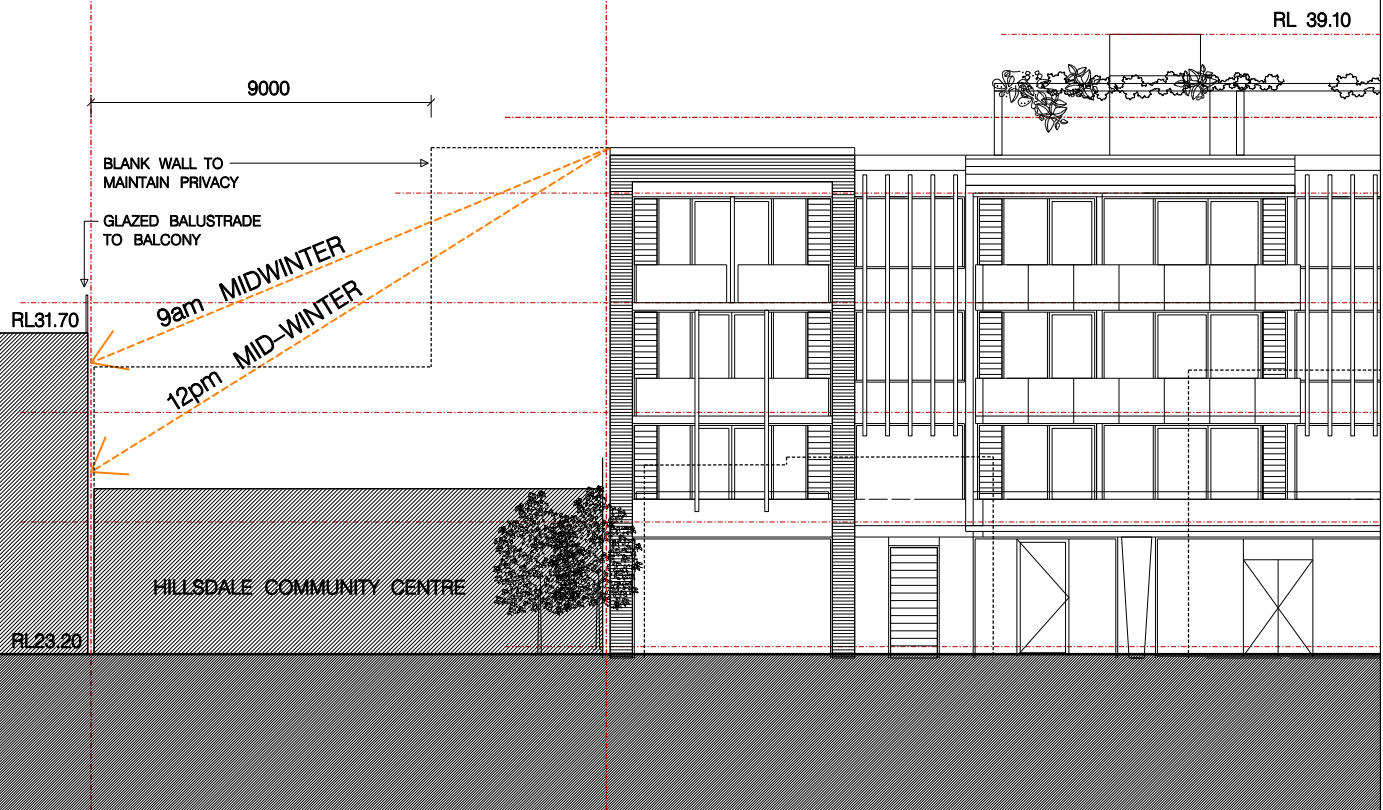


RL 63.36

## SOUTHPOINT SHOPPING CENTRE

BOUNDARY

BOUNDARY



HILLSDALE COMMUNITY CENTRE

228C BUNNERONG ROAD

REV A 27.07.2017 APARTMENT PLANS AMENDED

PROPOSED DEVELOPMENT  
228C BUNNERONG ROAD  
HILLSDALE NSW 2036

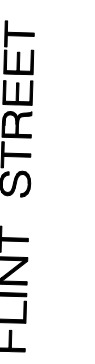
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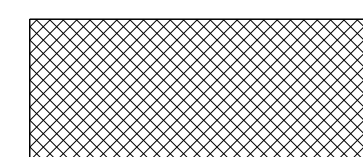
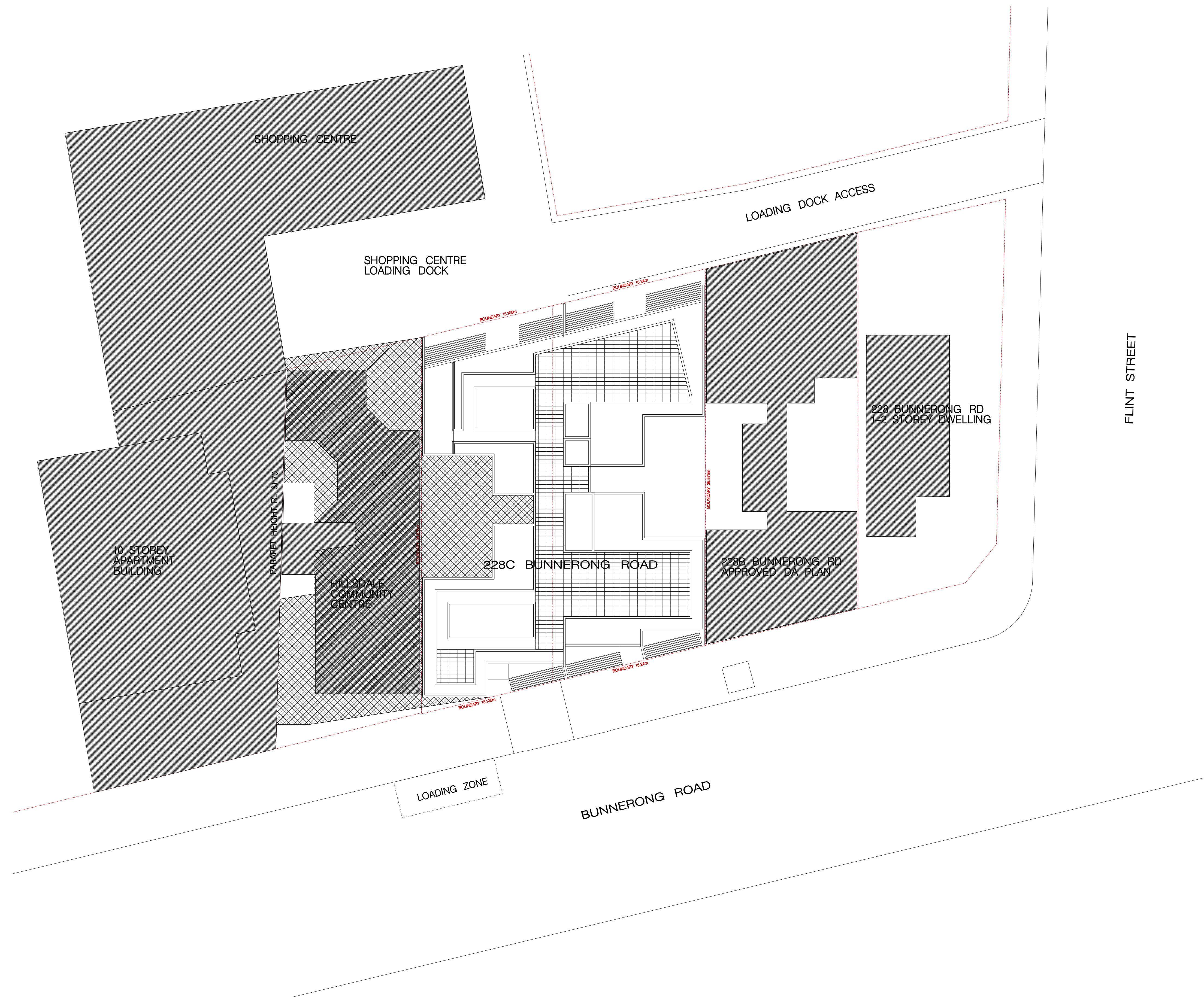
ISSUE A  
DATE 06.06.2016

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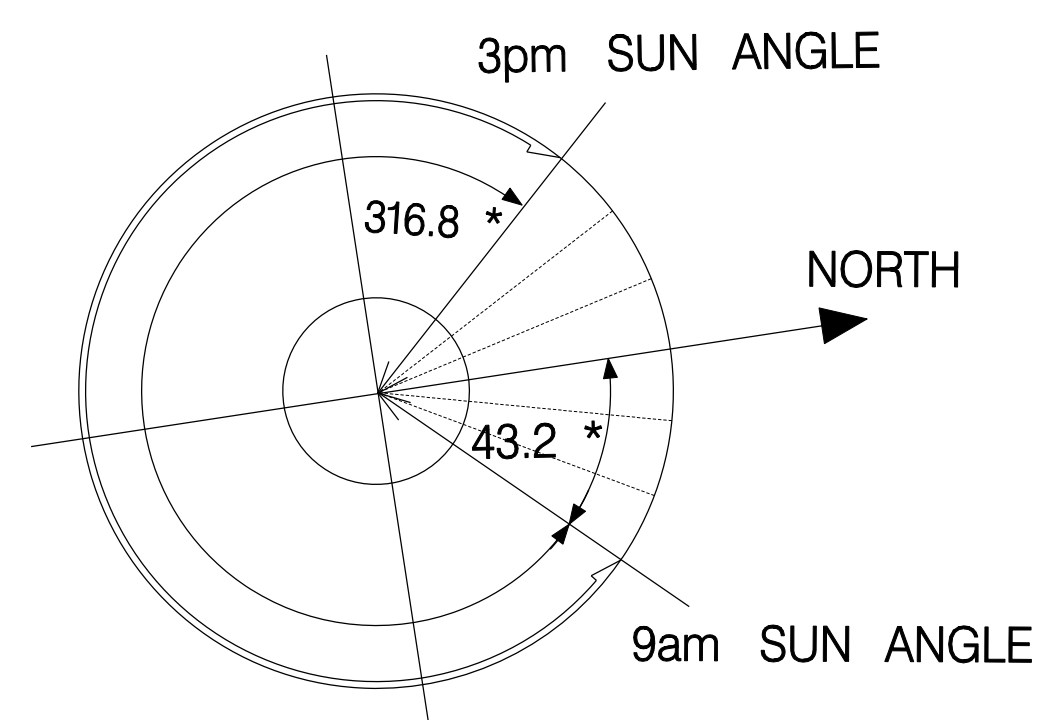








12 PM



MID-WINTER SUN ANGLES

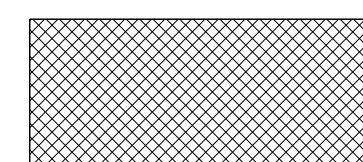
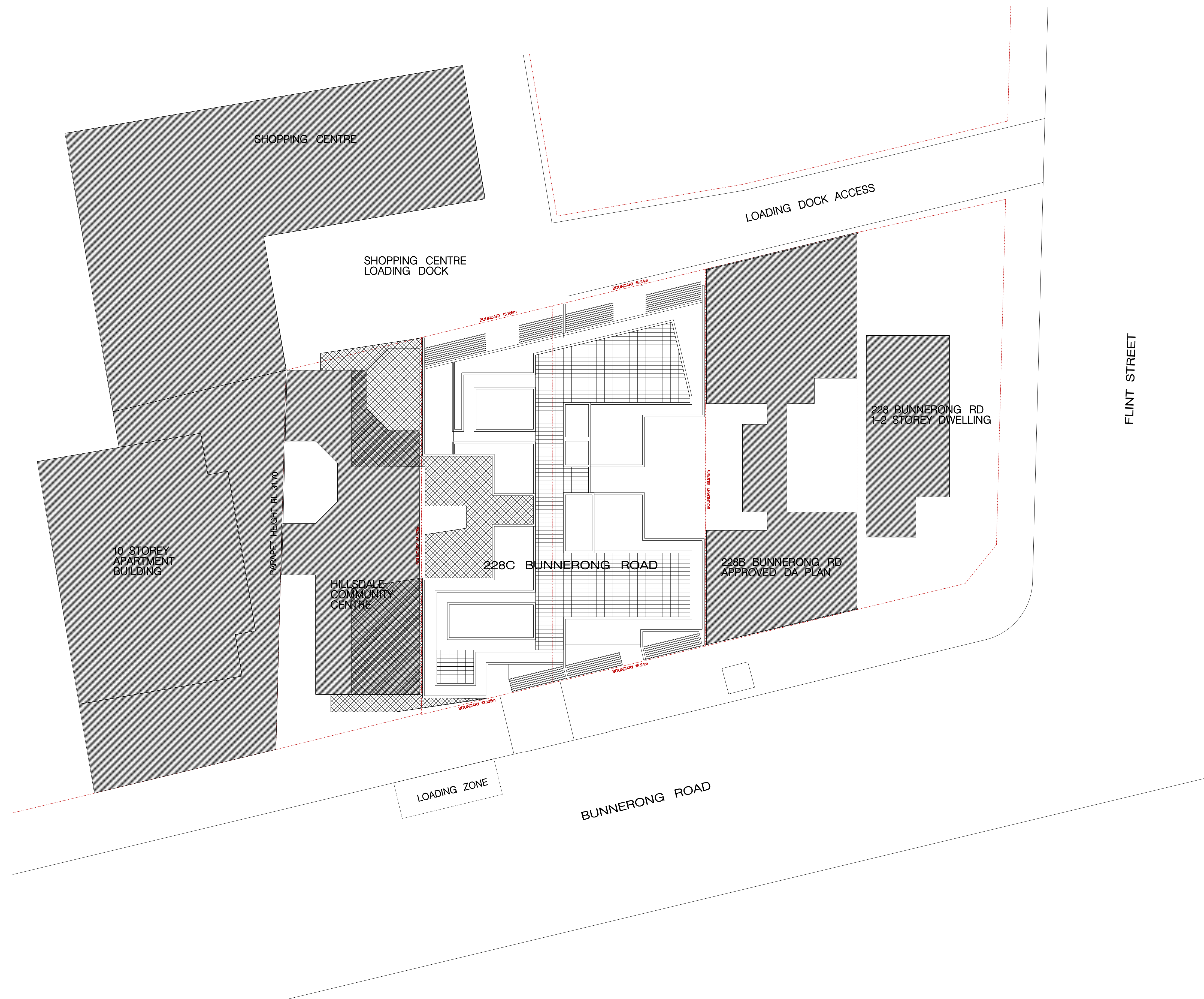




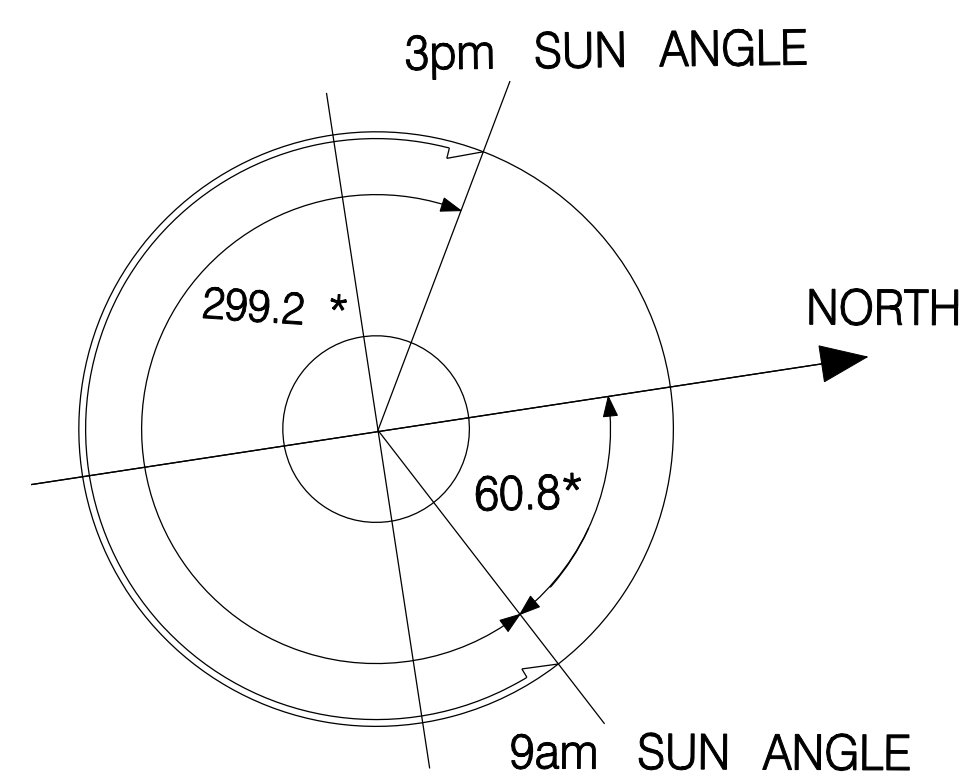




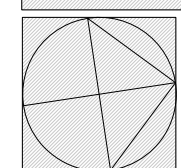




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EQUINOX SUN ANGLES



PROPOSED MIXED USE DEVELOPMENT  
228C & 230 BUNNERONG ROAD  
HILLSDALE NSW 2036

SHADOW DIAGRAM EQUINOX 12PM  
DRAWING NO. SD-05  
SCALE 1:200(A1) 1:400(A3)  
ISSUE DATE 27.05.2016

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LEVEL 7 90 PITT STREET SYDNEY 2000  
T: (02) 92230280 F: (02) 92230283  
e: mail@arcarchitects.com.au









# Portes Project & Services Pty Ltd

CIVIL & STRUCTURAL CONSULTING ENGINEERS

## STORMWATER DESIGN

PORTES

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### GENERAL NOTES

- CONFIRM LOCATION, SIZE, CONDITION AND LEVELS OF ALL EXISTING SERVICES PRIOR TO COMMENCEMENT OF WORK
- ALL WORK TO BE IN ACCORDANCE WITH SPECIFICATION, AUTHORITIES REQUIREMENTS, BCA AND RELEVANT AUSTRALIAN STANDARDS (IN PARTICULARLY AS 3500)
- DISCONNECT, CAP OFF AND REMOVE ALL EXISTING, REDUNDANT SERVICES TO AUTHORITIES APPROVAL
- ALL DRAWINGS TO BE READ IN CONJUNCTION WITH ARCHITECTURAL AND OTHER CONSULTANTS DOCUMENTS. ALL DISCREPANCIES SHALL BE REFERRED TO THE PROJECT MANAGER BEFORE PROCEEDING WITH THE WORK
- LOCATION OF ALL PIPEWORK IS DIAGRAMMATIC ONLY FINAL LOCATION TO BE CO-ORDINATED ON SITE AND APPROVED BY THE PROJECT MANAGER PRIOR TO COMMENCEMENT OF ANY WORK

### GENERAL DRAINAGE NOTES:

- ALL GRATED DRAINAGE PITS ARE TO BE BENCHED OR STREAMLINED, UNLESS NOTED OTHERWISE.
- ALL DRAINAGE PIPES ARE TO BE UPVC GRADE, UNLESS NOTED OTHERWISE.
- THE MINIMUM COVER OVER ALL DRAINAGE PIPES IS TO BE 150mm.
- ALL DRAINAGE PIPES ARE TO HAVE A MINIMUM PIPE GRADIENT OF 1.0%.
- ALL DRAINAGE PITS ARE TO BE INSTALLED WITH A CHILD PROOF SAFETY LATCH ON THE ACCESS GRATE.
- ALL DOWNPIPES ARE TO BE 100 x 75 SQUARE BOX OR 100Ø CIRCULAR SECTIONS UNLESS NOTED OTHERWISE MAXIMUM PROJECTED ROOF AREA PER DOWN PIPE = 65M<sup>2</sup>
- ALL INLET & OUTLET PIPES SHALL BE CUT FLUSH WITH PIT WALL
- PROVIDE ALL GRATED PIT LIDS TO BE HINGED AND FITTED WITH AN APPROPRIATE CHILDPROOF LOCK-DOWN SYSTEM
- ALL PITS TO BE CONSTRUCTED ARE SHOWN IN CONCRETE, HOWEVER PRECAST OR BRICK PITS OF SIMILAR SIZE AND CONSTRUCTION AND TO THE SAME LEVELS ARE ACCEPTABLE
- IT IS THE CONTRACTORS RESPONSIBILITY TO LOCATE & LEVEL ALL EXISTING SERVICES PRIOR TO THE COMMENCEMENT OF ANY EARTHWORKS.
- ALL PITS IN DRIVEWAYS TO BE 600x600 INTERNAL AND ALL PITS IN LANDSCAPED AREAS TO BE 450x450 INTERNAL UNO
- ALL WORK DO BE DONE IN ACCORDANCE WITH AS/NZ 3500.3:1998 AND COUNCIL SPECIFICATIONS.
- COUNCIL APPROVAL REQUIRED FOR ANY STORMWATER WORKS IN THE ROAD RESERVE INCLUDING PIPE CONNECTION TO KERB & GUTTER

SERVICE	MATERIAL			
	ABBREVIATION	DESCRIPTION	STANDARD	NOTES
STORMWATER DRAINAGE	UPVC	UNPLASTICIZED	- AS 1254	- BELOW GROUND
		POLYVINYL	- AS 1260	- ABOVE GROUND
		CHLORIDE	- AS 2032	- INSTALLATION
	RCP	REINFORCED CONCRETE	- AS 4058 - AS 3725	CLASS 4 UNO LAYING
	HDPE	HIGH DENSITY POLYETHYLENE	INSTALLED IN ACCORDANCE WITH MANUFACTURERS (VINIDEX / GEBERT) REQUIREMENTS	
FRC	FIBRE REINFORCED CEMENT	- AS 4139 - AS 3725	- CLASS 4 UNO LAYING & INST.	

### STORMWATER

- ALL PIPEWORK TO BE 100mm @ 1% FALL UNO

MINIMUM INTERNAL MEASUREMENTS:				
DEPTH TO BASE OF CHAMBER	RECTANGULAR		CIRCULAR	LADDER / STEP IRON
	WIDTH	LENGTH		
SMALLER THAN 600	450	450	600	NO
601 TO 900	600	600	900	NO
901 TO 1200	600	900	1050	NO
GREATER THAN 1200	900	900	1050	YES

MINIMUM INTERNAL MEASUREMENTS:				
DEPTH TO BASE OF CHAMBER	RECTANGULAR		CIRCULAR	LADDER / STEP IRON
	WIDTH	LENGTH		
SMALLER THAN 600	450	600	600	NO
601 TO 900	600	900	900	NO
GREATER THAN 900	750	1200	1050	YES

SYMBOLS	
TWL	TOP WATER LEVEL
FFL	FINISHED FLOOR LEVEL
FGL	FINISHED GARAGE LEVEL
TK	TOP OF KERB
RL11.0	FINISHED LEVEL
x RL	EXISTING LEVEL
SL	PIT SURFACE LEVEL
IL	INVERT LEVEL
-----	DOWNPIPE AND STORMWATER PIPE
●DP	DOWN PIPE
●SP	SPREADER
●IP	INSPECTION POINT
////	MASONRY RETAINING WALL
TW 81.20	TOP OF WALL LEVEL
⊗FW(150Ø)	FLOOR WASTE 150Ø
■	GRATED INLET PIT - NON TRAFFICABLE - CHILD SAFE LID
	GRATED DRAIN - TRAFFICABLE TRANSVERSE
RWH	RAIN WATER HEAD
OF	OVER FLOW POINT (Ø40mm MIN)
→	PIPE FLOW
→	RUNOFF FLOW DIRECTION
→	EMERGENCY OVERLAND FLOW PATH

UNDERGROUND SERVICES IN THE FOOTPATH AREA MAY AFFECT THE DESIGN OF THE STORMWATER SYSTEM. DIAL 1100 BEFORE YOU DIG FOR THEIR LOCATION DIAL 1100 DIAL BEFORE YOU DIG BEFORE CONSTRUCTION COMMENCES


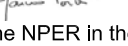

### IMPORTANT - FOR PRINCIPAL CONTRACTOR

TO ENABLE THE ISSUE OF STORMWATER CERTIFICATION PERMITTING OCCUPATION IN ALIGNMENT WITH COUNCIL LEGISLATION, SITE INSPECTIONS MUST OCCUR. THE PRINCIPAL CONTRACTOR IS RESPONSIBLE FOR COORDINATING ALL STORMWATER INSPECTIONS. ABSENCE OF INSPECTION WILL PREVENT ISSUE OF STORMWATER CERTIFICATION. SITE INSPECTIONS ARE TO BE COMPLETED BY PORTES PROJECTS & SERVICES (PPS) AS FOLLOWS:

INSPECTION #	STORMWATER INSPECTION REQUIREMENTS	PPS REPRESENTATIVE		INSPECTION DATE	PASS	FAIL
		NAME	SIGNATURE			
					✓	
	INSPECTION OF INGROUND STORMWATER					
1	DRAINAGE PRIOR TO BACKFILL (MANDATORY)					
	INSPECTION OF ANY INGROUND STORMWATER DRAINAGE NOT VIEWED AT INSPECTION NO. 1					
2	(OPTIONAL)					
	INSPECTION OF INFILTRATION PIT / TANK / TRENCH PRIOR TO BACKFILL (JOB SPECIFIC)					
3	FINAL INSPECTION* ON COMPLETION OF ALL LANDSCAPING & POST COMMISSIONING OF THE STORMWATER SYSTEM (MANDATORY)					
4						

\*SURVEY OF RAINWATER & ON-SITE DETENTION STORAGE & WORKS-AS-EXECUTED STORMWATER DRAWINGS (MANDATORY) TO BE PROVIDED TO PPS PRIOR TO INSPECTION

MINIMUM PRIOR NOTICE OF TWO WORKING DAYS (& PREFERABLY AT LEAST A WEEK) SHOULD BE PROVIDED IN ORDER TO ARRANGE A SITE INSPECTION BY PPS WITHIN THE SYDNEY METROPOLITAN AREA

 ENGINEERS AUSTRALIA	Registered Professional Engineer 1149560 Mr Marcio Rodrigues Portes MEast CPEng (Civil/Structural) NPER	
	Signature 	Date 
Registered on the NPER in the Category of Civil/Structural National Professional Engineers Register		

NO INSPECTION = NO CERTIFICATE


### IF IN DOUBT ASK

A	ISSUED FOR DA	03/06/16

Issue	Description	Date
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### REVISION

### ARCHITECTURAL DESIGN

	Arc Architects	
	Ph: (02) 9223 0280	
	Fax: (02) 9223 0283	
	mail@arcarchitects.com.au	

### PORTES

Civil & Structural Engineers

Portes Project & Services Pty Ltd  
L1, Suite 25, 532-538 Canterbury Road, Campsie NSW 2193  
P.O.BOX 4172, Seely North NSW 1207  
Tel: 02 9787 3772 Mobile: 0412 258 348  
Email: info@portes.com.au www.portes.com.au

### PROJECT TITLE:

**NEW MIX USE DEVELOPMENT  
AT 228C-230 BUNNERONG ROAD,  
HILLSDALE NSW 2036**

### DRAWING TITLE:

STORMWATER DRAINAGE CONCEPTUAL DESIGN PLAN  
NOTES AND DETAILS

DRAWN: AP	DESIGN: MP	DRAWING SIZE A1
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DATE: 03/06/16	SCALE: UNO 1:100 @ A1 1:200 @ A3
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### PROJECT NUMBER:

**16-159**

### DRAWING NUMBER:

**D1**

### ISSUE:

**A**

0 1 2 3 4 5 6 7 8 9 10