
Bayside Planning Panel

26/09/2017

Item No	5.3
Application Type	Development Application – Mixed Use Development (Residential and Commercial Building)
Application Number	DA-2017/0012
Lodgement Date	1 February 2017
Property	228 Bunnerong Road, Hillsdale Lot 2 in DP 414270
Owner	Alvin Lee & Karen Lee
Applicant	Zhinar Architects
Proposal	Integrated Development for the demolition of the existing structures, tree removal and construction of a mixed use development comprising of a commercial tenancy and residential apartments (4 x 1 bed and 6 x 2 bed units) and two levels of basement car parking.
No. of Submissions	One (1) objection
Cost of Development	\$3,261,850.00
Report by	Kim Johnston, Consultant Planner

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. 2017/0012 for the demolition of the existing structures, tree removal and construction of a mixed use development comprising a commercial tenancy and residential apartments (4 x 1 bed and 6 x 2 bed units) and two levels of basement car parking at 228 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.
 - 3 That objectors be advised of the Bayside Planning Panel's decision.
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Attachments

- 1 Planning Assessment Report
- 2 Apartment Schedule (in report)
- 3 Clause 4.6 Variation to Height
- 4 Location Plan (included in this cover sheet)
- 5 Site Plan and Demolition Plan

- 6 Basement Plans (Basement 1 and Basement 2)
 - 7 Roof Plan
 - 8 Elevations (North, South, East and West)
 - 9 Sections (A, B, C (Driveway Section), D (Driveway Section), E
 - 10 Site Analysis Plan
 - 11 Material Schedule
 - 12 Shadow Diagrams Mid-Winter: 9am – 12noon & 1pm – 3pm
 - 13 Views from the Sun 22 June
 - 14 Survey Plan
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Location Plan



Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2017/0012
Date of Receipt:	1 February 2017
Property:	228 Bunnerong Road, Hillsdale Lot 2 in DP 414270
Owners:	Alvin Lee & Karen Lee
Applicant:	Zhinar Architects
Proposal:	Demolition of existing structures, tree removal and construction of a mixed use development comprising a commercial tenancy, ten (10) residential apartments (4 x 1 bed and 6 x 2 bed units) and two levels of basement car parking.
Recommendation:	Approve the development, subject to conditions.
Value:	\$3,261,850.00
No. of submissions:	One (1) submission (objection)
Author:	Kim Johnston, Consultant Planner
Date of Report:	24 August 2017

Key Issues

Council received Development Application No. 17/0012 on 1 February 2017 seeking consent the demolition of the existing dwelling on the site and the construction of a mixed use development comprising residential apartments and a ground floor commercial tenancy with two levels of basement car parking at 228 Bunnerong Road, Hillsdale.

The application was placed on public exhibition for a fourteen (14) day period from 1 March 2017 to 15 March 2017. There was one (1) submission received.

Key issues in the assessment of the development application include the height exceedance, amount of landscaping throughout the site and the compatibility of the proposal with the evolving streetscape. First floor ceiling height, site isolation, unit mix and setbacks were other issues considered in this assessment.

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

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. 2017/0012 for the demolition of the existing structures, tree removal and construction of a mixed use development comprising a commercial tenancy and residential apartments (4 x 1 bed and 6 x 2 bed units) and two levels of basement car parking at 228 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.
- 3 That objectors be advised of the Bayside Planning Panel's decision.

Background

History

There are no previous applications on the site relevant to this proposal. The adjoining site to the south, No 228B Bunnerong Road, has development consent (DA 13/176) for a similar four (4) storey mixed use development which is currently under construction.

Development Application History

On 24 February 2017, Council sent correspondence requesting further information and amendments to be made to the proposal to address various issues including groundwater and dewatering, bin storage, family friendly provisions of *Botany Bay Development Control Plan 2013* (BBDGP 2013), overshadowing, and screening to balconies and communal areas. The amended plans were received on 15 March 2017.

The amended plans provided the following amendments to the proposal (Issue B):

- Amended basement with storage areas shown and minor changes to car parking layout;
- Additional commercial car space at ground level, relocation of the bike storage area and a security boom gate added on the ground floor to separate commercial premises with the residential car parks;
- Relocation of the garbage storage area closer to the street on the ground floor;
- Addition of an awning along the frontage of the commercial premises along Bunnerong Road wrapping around along Flint Street;
- Bifold aluminium screening added to the balcony of north-western corner units (Units 102 and 202);
- Two (2) bedroom units on the eastern side of the building amended to comply with the family friendly provisions of BBDGP 2013 (study nooks and bathrooms);
- Vegetation screening 1.8m high around common open space area on Level 3 rooftop as required by wind assessment report.
- Provision of 3D shadow diagram to demonstrate the shadow impact on dwellings at 4 Flint St from 9am to 12noon and ADG workbook.

This amended proposal is the subject of this report.

On 28 June 2017, a site inspection was carried out on the site. It was noted that the approved mixed-use development 228B Bunnerong Road was under construction.

Proposal

The development application, in its amended form, seeks consent for the demolition of the existing dwelling on the site and the construction of a mixed use development comprising ten (10) residential apartments and a ground floor commercial tenancy with two levels of basement car parking.

The proposed ten (10) apartments comprise of the following:

- 4 x 1 bedroom apartments
- 6 x 2 bedroom apartments

The proposed development is described in detail below:

Car Parking and Parking Allocation

The car parking proposed is over two basement levels and one enclosed level at grade, containing a total of 21 car spaces. The plans allocate the car spaces to each individual apartment with one space for each of the one bedroom units and two spaces for the two bedroom units (within the basement) for a total of 16 residential spaces, 2 visitor spaces and 3 retail spaces (located at grade). One of the residential spaces has been dedicated as disabled parking space as well as one of the retail spaces.

Additionally, the car parking levels contain the following items:

- Driveway ramp access;
- 1 lift;
- 1 fire-rated staircase;
- 10 separate storage areas for residents located on the basement levels;
- 1 motorcycle space on Basement level 2;
- 4 bicycle spaces, split between basement level 1 and the at grade level;
- Residential and commercial waste holding rooms within the enclosed at grade car parking level.

Residential Apartment and Commercial Component

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

Table 1: Apartment Schedule

Level	Unit	Type	Internal Area (sqm)	Private Open Space	Storage (m3 approx.)	Solar Access (2 hours)
Level 1	101	1 Bed	50.1	8.2	9.5	No
	102	1 Bed	54	10.9	7.9	Yes
	103	2 Bed	76.5	10.2	55.7	Yes
	104	2 Bed	79.4	10.2	18.7	Yes
Level 2	201	1 Bed	50.1	8.2	5	No
	202	1 Bed	54	10.9	11.4	Yes
	203	2 Bed	76.5	10.2	15.9	Yes

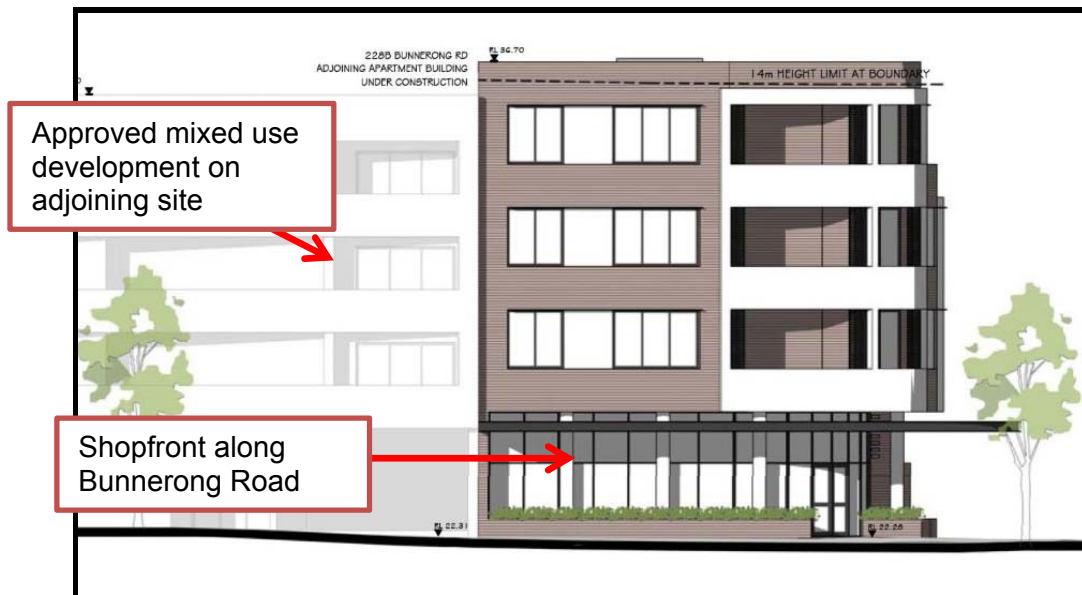


Figure 2: Proposed Bunnerong Rd (east) Elevation (Source: Zhinarchitects, Issue B March 2017)



Figure 3: Proposed Flint Street (North) Elevation (Source: Zhinarchitects, Issue B March 2017)



Figure 4: Montage of the Proposal (Source: Zhinarchitects, Issue B March 2017)

Key Controls

The key controls relevant to the proposal are provided below:

Table 2: Key Controls

Control	Required	Proposal	Complies (Yes/No)
Site Area	-	Site Area: 500sqm	N/A
SEPP 65 – ADG			
Dwelling Size	Minimum internal areas as follows: Studio: 35sqm 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	1 bed units: 50.1 – 54sqm 2 bed units: 76.5 – 79.4sqm	Yes Yes
Deep Soil	Objective 3E-1 requires 7% of the site (for sites between 650sqm and 1,500sqm) as deep soil area with min. dimensions of 3m	The site does not provide any deep soil. All planting is located on Level 1 and on the rooftop.	No – Refer to Note 1
Communal Open Space	25% of site (252sqm)	33% (165.4sqm)	Yes
Solar Access	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	80% (8/10) of apartments will receive at least two hours of sunlight during June 21 st	Yes
Building Depth	Use a range of appropriate maximum apartment depths of 12-18 metres	The proposal involves dual aspect/corner apartments and shallow apartments with depths generally <10 metres.	Yes
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	Southern Boundary: <u>Ground Level:</u> Nil (to adjoining building under construction on nil setback) <u>Level 1 to 3:</u> Nil (to adjoining building under construction on nil setback) Western Boundary:	No – Refer to Note 2

Control	Required	Proposal	Complies (Yes/No)
		<u>Ground Level:</u> 1 metre to adjoining driveway (loading dock for Southpoint). <u>Level 1 to 3:</u> 1 metre to adjoining driveway (loading dock for Southpoint).	
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor	Habitable rooms: 2.8m Mixed Use (Ground floor): 3.85m Mixed Use (First floor): 3.1m First floor Mixed Use does not comply	Yes Yes No – Refer to Note 3
Balcony Sizes	1 bed: 8sqm 2 bed: 10sqm 3 bed: 12sqm Ground Floor: 15sqm	1 bed: 8.2-10.9sqm 2 bed: 10.2sqm 3 bed: N/A Ground Floor: No ground floor apartments	Yes Yes N/A N/A
Cross Ventilation	60%	80%	Yes
Storage	1 bed: 6m ³ 2 bed: 8m ³ 3 bed: 10m ³	1 bed: 5m ³ -11.4m ³ (basement) 2 bed: 15.9m ³ - 55.7m ³ (basement) 3 bed: N/A The combined unit and basement storage complies	Yes
BBLEP 2013			
Zone	B2	Mixed Use/Shop top housing (Residential Flat Building and Commercial tenancy)	Yes
FSR	2:1 under BBLEP 2013	1.73 :1	Yes
GFA	1000sqm (maximum) calculated based on permissible FSR under BBLEP 2013	865.4sqm	Yes
Height	14 metres (maximum)	Lift overrun- 15.4m Parapet- 14m	No – Refer to Note 4
BBDGP 2013			
Car Parking	<u>Residential</u> 1 space/ studio or one bedroom 2 space/ 2 + bedrooms 1 visitor space/ 5 units Total: 18 car spaces required <u>Commercial (shop)</u>	<u>Residential</u> 16 residential car spaces provided 2 visitor spaces Total residential: 18 spaces <u>Commercial</u>	Yes

Control	Required	Proposal	Complies (Yes/No)
	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 Total car parking required: 24 car parking spaces	3 car parking spaces <u>Service Bays</u> Service vehicle: Nil (however courier space within car parking area) Total car parking spaces provided: 21 car spaces	Acceptable
Bicycle Parking	In every new building, where the floor space exceeds 600m ² GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided. Total required: 2.4 (based on 24 car spaces)	Four (4) bicycle spaces provided	Yes
Landscaped Area	35% minimum landscaped area (175sqm required)	456sqm (45%)	No Refer to Note 5
Dwelling Layout and Family Friendly Apartment Buildings	Satisfy the Family Friendly controls	Refer to Part 4C.4.2	Yes
Unit Mix	25% one bedroom (3 max)	4 x 1-bedroom apartments (40%)	No Refer to Note 7

Site Description

The site comprises one (1) allotment known as 228 Bunnerong Road, Hillsdale and is legally described as Lot 2 in DP 414270. The site is located on the corner of Bunnerong Road and Flint Street, with the Bunnerong Road frontage forming the northern edge of the Hillsdale Local Centre. The site has an east-west orientation, with the land falling gently by around 2 metres from the south-east corner along the Bunnerong Road frontage to the rear south-western corner along the adjoining driveway.

The site has a regular shape and is located within the B2 Local Centre zone. The site has a frontage to Bunnerong Road comprising approximately 15.5 metres long with a splay corner at the intersection of Bunnerong Road and Flint Streets, while the Flint Street boundary (north) comprises 33.53 metres. The rear (western) boundary adjoins a concrete driveway accessing the loading dock for the Southpoint Shopping Centre and is 14.67 metres long. The side boundary to the south adjoins No 228B Bunnerong Road and is 36.575 metres long. The total area of the site is 500m². The site location is illustrated in **Figure 5**.



Figure 5: Site Location (Source: SIX Maps)

The site is currently occupied by an existing single storey brick dwelling house with a tiled roof and a clad extension to the rear. An attached garage exists in the rear yard while a timber paling fence borders the site along Flint Street with a low height brick wall along Bunnerong Road (**Figures 6 & 7**). Vehicle access is currently provided from Flint Street while a sewage easement exists along the rear (western) boundary.



Figure 6: Existing Site from Bunnerong Road



Figure 7: Existing Site from Flint Street

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 on the first three levels with residential apartments above. 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 containing soccer fields, netball courts, gym and other facilities.

Adjoining development to the south comprises No 228B Bunnerong Road, which is currently undergoing redevelopment into a four (4) storey mixed development on DA 13/176 (approved on 9 December 2014). This approved development has 11 apartments and a ground floor retail/commercial premises fronting Bunnerong Road, similar to the current proposal. This approved development on this adjoining southern site is illustrated in **Figures 8, 9 and 10**.



Figure 8: Approved Development on the adjoining site at No 228B Bunnerong Road (Source: Sgammotta Architects, 5 September 2013)

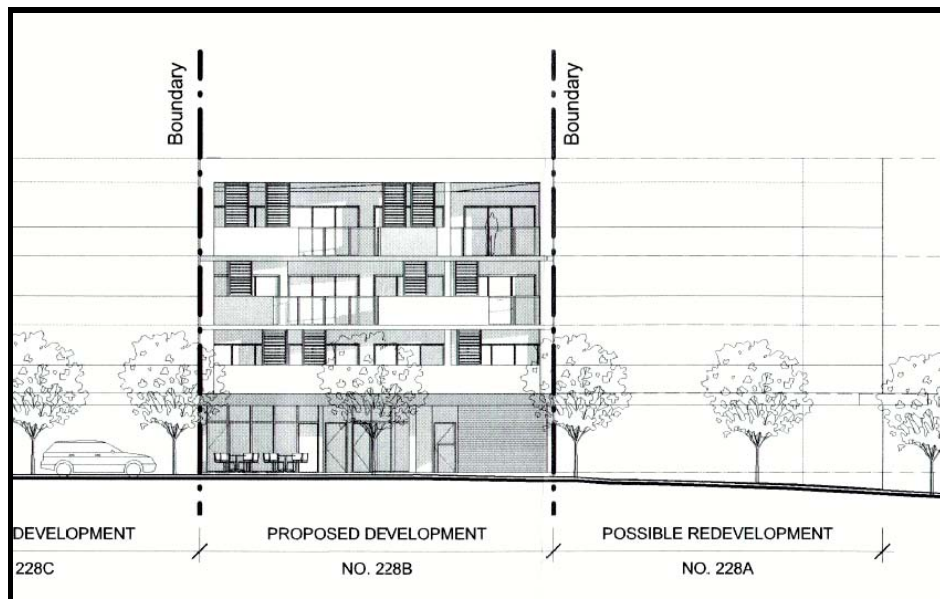


Figure 9: Approved Development on the adjoining site - Bunnerong Road frontage (Source: Sgammotta Architects, 5 September 2013)

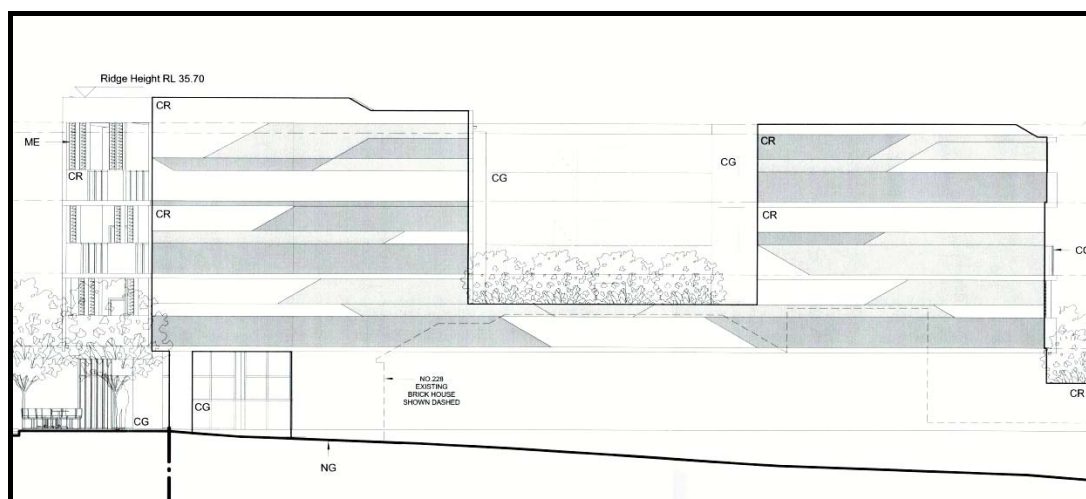


Figure 10: Approved Development on the adjoining site - Bunnerong Road frontage (Source: Sgammotta Architects, 5 September 2013)

Beyond this adjoining southern site is No 228C and 230 Bunnerong Road which is the subject of a recent approval by the Bayside Planning Panel (DA 2016/101) for a four (4) storey mixed use development with 24 residential apartments and two (2) commercial tenancies over three (3) car parking levels.

Adjoining development to the west, beyond the driveway access to Southpoint Shopping Centre, comprises a single storey villa development (**Figure 11**). Located on the opposite side of Flint Street, to the north of the site, is a two storey dwelling house with vehicle entry from Flint Street.



Figure 11: Adjoining Development to the West

The site is well located in relation to services and transport, with Southpoint Shopping centre located a short distance to the south and bus services are provided along Bunnerong Road. Heffron Park to the east provides a regional open space area.

Referrals

Internal

The development application was referred to Council's development engineer, landscape architect, environmental scientist, environmental health officer and waste officer. 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 from Water NSW (notwithstanding that a referral was sent). RMS has provided conditions in relation to Section 138 of the Roads Act NSW. The development application was also referred to Sydney Airport Corporation Limited (SACL) due to the proximity of the airport, in which no objections were raised. Ausgrid and Sydney Water were also consulted and raised no objections subject to the imposition of standard conditions.

Relevant conditions have been imposed in Schedule 1 in **Attachment A**.

Statutory Considerations

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 application. The development application is not considered to be Integrated Development as the Geotechnical Report has indicated that the proposed basement excavation will be above the groundwater table. The Geotechnical report further advised that given the proposed basement is to comprise a tanked structure, that dewatering would not be required.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State and among other things, identifies matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

Clause 101 – Development with frontage to a Classified Road

Pursuant to Clause 101(2) of the SEPP (Infrastructure) 2007, a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *Where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *The design of the vehicular access to the land, or*
 - (ii) *The emission of smoke or dust from the development, or*
 - (iii) *The nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (iv) *The development is of a type that is not sensitive to traffic noise or vehicle emissions or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The application is accompanied by a Traffic Impact Assessment Report prepared by Varga Traffic Planning, dated 24 October 2016. Bunnerong Road is a State classified road and vehicular access to the proposal is from Flint Street, which satisfies Clause 101(a). The vehicular access to the proposal will not adversely impact on Bunnerong Road given its location approximately 27 metres from the intersection with Bunnerong Road as outlined in the Traffic Report.

The proposal will not result in any significant smoke or dust which would impact on the classified road and the traffic generation from the proposal is unlikely to adversely impact on Bunnerong Road. The proposal is therefore consistent with Clause 101(b).

An Acoustic report has been provided in relation to road noise and concluded that the proposal was satisfactory subject to recommendations. These recommendations will be imposed as conditions and accordingly, the proposal is considered to be consistent with Clause 101(c). The proposal is consistent with the provisions of Clause 101 of the Infrastructure SEPP.

Clause 102 – Impact of road noise or vibration on non-road development

Pursuant to Clause 102 of Infrastructure SEPP, development on land in or adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles must take appropriate measures to ensure that nominated LAeq levels are not exceeded, while roads with between 20,000 and 40,000 are recommended to include such an assessment. Bunnerong Road is included in the “recommended” category for this assessment.

The Development Application is accompanied by an Acoustic Report, prepared by Acoustic Logic dated 4 October 2016. This report concluded that subject to the recommended measure, the proposal is satisfactory with regards to traffic noise. Relevant conditions are to be imposed requiring compliance with these report recommendations.

Clause 104 – Traffic-generating development

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services (RMS) for comment based on the type, capacity or location of the proposal. In this instance the proposal does not meet this criteria and accordingly, a referral to the RMS is not required.

The proposal is consistent with the Infrastructure SEPP.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposal. The application was accompanied by BASIX Certificate No. 768639M_02 dated 03 November 2016 prepared by *Ecoinnovate* committing to environmental sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. Accordingly, a condition has been imposed on the consent to ensure that these requirements are adhered to. The proposal is consistent with the BASIX SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* (SEPP 55), along with the requirements of Part 3K Contamination of the BBDCP 2013, have been considered in the assessment of the development application, as the proposed development involves excavation for a basement car park. Clause 7 of SEPP 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 likelihood of encountering contaminated soils on the subject site is considered to be low given the following:

1. The site appears to have been continuously used for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes;
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses.

The development application was referred to Council's Environmental Scientist who considered that the site is not located in an area with acid sulfate soil and is residential with no known or indicated potentially contaminating activities occurring at the site. As such no further assessment is considered warranted.

On this basis, the site is considered suitable in its present state for the proposed residential and commercial development. No further investigations of contamination are considered necessary. The proposal is generally consistent with the SEPP 55, with relevant conditions being imposed on the consent to ensure compliance with this Policy.

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* (SEPP 65) have been considered in the assessment of the Development Application.

Clause 28(2) of SEPP 65 requires that the consent authority is to take into consideration the following matters in determining a development application for consent to carry out development to which this Policy applies:

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the *Apartment Design Guide (ADG)*.

Design Review Panel

Prior to the lodgement of the development application, the applicant submitted the proposal to the DRP for consideration. The meeting was held on 15 September 2016. The Design Review Panel supported the pre-DA design in principle and requested that the following matters be addressed in the submitted DA:-

- Solid balustrade treatments, areas of fixed or operable screens, weather protection hoods over windows and variation of external materials to achieve a lighter/warmer appearance;
- The common residential entry and lobby area should be reconfigured to provide a more direct physical and visual connection to the street as well as a small meeting place preferably near the mail collection point;
- The communal open space on the roof (including the roof over this area) should be reduced in area to achieve increased setbacks from the Flint Street and lane boundaries.
- Incorporate a Juliet balcony to the bedrooms facing the common open space/void of Units 104, 204 and 302;
- Provide highlight windows to bathrooms facing the common open space/void;
- Include a small enclosed meeting space with kitchen facilities at the roof level;
- Provision for natural light and ventilation to the internal service rooms of the top level units.

- Provide motor bike parking.

The development incorporated the majority of these recommendations listed above.

Design Quality Principles

The applicant has submitted an assessment against the design quality principles specified in Schedule 1 of SEPP 65. It is considered that the proposal has had adequate regard for these design principles as summarised below:

- Principle 1 (context and neighbourhood character) - The proposal is generally consistent with the desired future character of the area, which is undergoing a transition from a low density residential area to a high density mixed use precinct adjoining the Southpoint Shopping Centre area in close proximity to a large area of public open space.
- Principle 2 (built form and scale) - The proposal is of a similar bulk and scale to the adjoining development at No 228b Bunnerong Road and is consistent with the desired future character of the area. The proposal is consistent with the maximum FSR, however, exceeds the maximum height limit under BBLEP 2013 which is considered acceptable in this case.
- Principle 3 (density) - The proposal is consistent with the maximum FSR under BBLEP 2013 and provides adequate amenity in the proposed apartments given the consistency with the ADG in relation to bedroom sizes and family friendly apartments.
- Principle 4 (sustainability) - The proposal is consistent with the BASIX requirements and provides sufficient solar access to the proposed apartments.
- Principle 5 (landscape) - The proposed landscaping on the site is considered to be generally satisfactory given the site is located within a local centre.
- Principle 6 (amenity) - The proposal provides for adequate and functional outdoor private open space, communal open space and privacy for residents, the internal layouts of the proposed apartments are desirable and there is an adequate mix of apartments including for families.
- Principle 7 (safety) - The proposal provides adequate casual surveillance opportunities of public and communal open spaces. There is a clear distinction between public and private areas and there is adequate access control to the building and basement car parking levels.
- Principle 8 (housing diversity and social interaction) - The proposal provides for a range of dwelling types including family friendly and adaptable apartments.
- Principle 9 (aesthetics) - The proposed built form achieves a number of design measures to improve the aesthetics of the building, including using a variety of colours and materials, providing an articulated façade and incorporating landscaping throughout the site.

Apartment Design Guide

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has demonstrated adequate regard has been given to the objectives specified in the ADG for the relevant design criteria. The key points of non-compliance with the ADG are discussed below:

Note 1 - Deep Soil Zone (Part 3E)

Objective 3E-1 of the ADG requires sites less than 650sqm to have a minimum deep soil zone of 7%. There is no deep soil zone provided on the site as the basement car park extends across the site. The site is located within an area undergoing redevelopment 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 on the rooftop.

Additionally there is landscaping in the form of planter beds at Level 1 and within the front setback area along Flint Street. 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. This variation is acceptable in this instance.

Note 2 – Visual Privacy (Part 3F)

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 building setbacks (northern and eastern boundaries adjoin roads):

Southern Boundary:

- Ground Level: Nil (to boundary, adjoining development also on nil setback)
- Level 1 to 3: Nil (to boundary, adjoining development also on nil setback)

Western Boundary:

- Ground Level: 1 metre (to adjoining delivery driveway to Southpoint)
- Level 1 to 3: 1 metre

While the proposal does not strictly satisfy the setback requirements for visual privacy, there are no habitable rooms which directly overlook adjoining developments. This is due to the corner location of the site and the location of the access driveway to the Southpoint shopping centre adjoining the site to the west. The building under construction on the southern adjoining property also has a nil setback with no windows in this elevation. Accordingly, it is considered that there will be no adverse impacts on visual privacy resulting from the proposal.

The proposal has oriented the apartments to have a north, east or west outlook with no windows proposed along the side elevation to the south. The proposal is built to the boundary 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 northern, western or eastern side of the site to allow for greater sunlight and ventilation. Along the northern, eastern and western elevations, the site is fronting onto the street (Bunnerong Road) and/or 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 these sides of the site which would be affected by these inconsistencies with the building setbacks. This variation is acceptable in this instance

Note 3 – Ceiling Heights (Part 4C)

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 ground floor is proposed to be commercial with a ceiling height of 3.85 metres which is consistent with this control. The proposed first floor, however, has a ceiling height of 3.1 metres.

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. While the applicant has not provided

a justification for the ceiling height departure, it is considered that given the small size of the overall development, that the proposed ceiling height to the first floor is satisfactory in this instance. Therefore, based on this assessment, the non-compliance is acceptable.

Clause 30(1) of SEPP 65 states that if a development application satisfies the design criteria for car parking, internal area of each apartment and ceiling heights, the consent authority cannot refuse an application in relation to those matters. The car parking criteria of the ADG does not apply in this instance as the site is more than 800 metres from a train station while the proposal complies with the minimum unit area of Part 4D of the ADG. In relation to ceiling height, the proposal is inconsistent with the controls of Part 4C of the ADG, however, it is considered that this inconsistency is acceptable in this instance. Accordingly, Clause 30(1) of SEPP 65 is satisfied.

Botany Bay Local Environmental Plan 2013

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

Table 3: Consideration of BBLEP 2013

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 BBLEP 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 BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the objectives of the B2 Local Centre which include:</p> <ul style="list-style-type: none"> ▪ <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i> ▪ <i>To encourage employment opportunities in accessible locations.</i> ▪ <i>To maximise public transport patronage and encourage walking and cycling.</i> <p>The proposal is consistent with the zone objectives given retail services are proposed on the ground floor and residential accommodation is proposed above commercial premises in an accessible location. This provides employment opportunities as well as a range of retail uses for the people who live and work within the vicinity of the site.</p>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
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?	- No – Refer to Note 4	A maximum height of 14 metres applies to the subject site. <ul style="list-style-type: none"> • Lift overrun- 15.4m (Section B & D) • Roof parapet – 14.4m • Covered walkway to rooftop communal open space - 14.88m • Common room and BBQ (on roof) – 14.85mm • Pergola over rooftop communal open space– 14.60m. <p>The maximum height of the development does not comply with Clause 4.3(1) of BBLEP 2013. A Clause 4.6 variation was provided with the application and is discussed in Note 4 below.</p>
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: 865.4sqm FSR: 1.73.:1 The Floor Space Ratio of the development complies with BBLEP 2013.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m2 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.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Preservation of trees and vegetation (Cl 5.9)	??	There are two (2) street trees and one (1) on-site tree proposed to be removed, as outlined on the Landscape Plan prepared by Paul Scrivener Landscape Architect dated 15 March 2017. Council's Landscape Officer considered this tree removal to be satisfactory.
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.
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 6.2 – Earthworks 6.3 – Stormwater Management 6.9 – Development in areas subject to aircraft noise 6.15 – Active Street frontage 	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>	<p>The site is not located within an Acid Sulfate Soil zone.</p> <p>The proposal includes excavation of two basement levels. The development will not encounter the groundwater table.</p> <p>The proposed development has provided an on-site detention tank located within Basement Level 1 (suspended). The proposal has 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 a retail space on the ground floor along the Bunnerong Road frontage.</p>

Note 4 – Clause 4.6 variation relating to height exceedance

The applicant has provided a Clause 4.6 variation to the maximum permissible building height of 14 metres pursuant under Clause 4.3(1) of the BBLEP 2013. The proposal has a maximum building height of 15.4 metres, a breach of 1.4 metres. The adjoining approved development (currently under construction) has a maximum height of 16.55 metres, a breach of 2.55m.

A breakdown of the heights proposed is as follows:

- Lift overrun- 15.4m (Section B & D)
- Roof parapet – 14.4m

- Covered walkway to rooftop communal open space - 14.88m
- Common room and BBQ (on roof) – 14.85mm
- Pergola over rooftop communal open space– 14.60m.

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 proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP 2013 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. The salient points of their justification are provided below:

"...Compliance with the objectives of the height development standard

...It was determined that the proposal satisfactorily addresses potential impacts including, visual impacts, potential overshadowing within the development and onto the adjoining property to the south, landscaping, acoustic impacts, and traffic and parking impacts.

...The development site is located in the Hillsdale Local Centre. The site is identified for mixed commercial/residential use in the former City of Botany Bay Council's DCP, which applies to the subject land. The adjoining site is being developed for an approved 4 storey mixed use commercial/residential development. The subject development site is an isolated site, which if developed for a taller building will complete the urban edge of the Hillsdale Centre. It is therefore considered that the proposed taller building is appropriately located.

..The proposed development will be consistent with the approved 4 storey development at 228 Bunnerong Road and commercial development in the Hillsdale Local Centre, specifically Southpoint Shopping Centre. It has been carefully designed so that it will not impact on low Density residential development in Flint Street by incorporating street landscaping and preventing overlooking from the proposed rooftop communal open space by incorporating perimeter planting on all street interfaces of the rooftop communal open space with the adjoining streets/lane.

...The design of the proposed development ensures that it will have a positive visual impact when viewed from the street and surrounding development. The design

recognises the corner location of the development and specifically addresses the site constraints in a manner that ensures that there will be no disruption of views or loss of privacy. The design also ensures that no additional overshadowing impacts are created with most of the shadows generated from the proposed development falling on the roadway or being contained within the cast shadow from existing buildings on the development site and under construction on the adjoining land.

...The proposed mixed use commercial/residential development has been designed to provide active street frontages in both Bunnerong Road and Flint Street at ground level. The building incorporates architectural treatments to reduce the bulk and scale of the building so that when viewed from adjoining roads and the public park opposite the site, there will be no adverse effects on the contextual setting or existing scenic landscape.

Strict enforcement of the maximum building height development standard in this instance would hinder the desired redevelopment outcome for the site, the orderly and economic use as well as the development of the land. The proposal is considered to remain consistent with the scale of surrounding future development in the B2 zone under BBLEP 2013.

.....it is considered that strict compliance with this standard is unnecessary in this case for the following reasons:

- o The maximum height exceedance is confined to the lift overrun, which equates to 10% and involves a minimum of the building footprint.*
- o The additional building height will not result in any unacceptable or unreasonable physical impacts to the surrounding developments or the public domain as noted previously.*
- o The proposed development, including the additional building height, presents as a modest commercial/ residential apartment building when viewed from the street and surrounding land uses.*
- o It is considered that sufficient environmental planning grounds are demonstrated to warrant variation to the development standard. The proposed maximum 1.4m variation will not result in any considerable negative environmental impacts, however approval will help facilitate a development that will provide social, economic and community benefits via the delivery of additional affordable housing choice in an area that is currently experiencing increased housing demand.*

In relation to the specific provisions of Clause 4.3(3) & (4), the following is noted:

- Compliance with the development standard is considered to be unreasonable or unnecessary given the low level of exceedance (maximum 10%);*
- There are considered to be sufficient environmental planning grounds to justify contravention of the development standard as set out in the variation application; and*
- The proposed development will be in the public interest because it is consistent with the objectives of the building height standard and the objectives for development within the zone in which the proposed development will be carried out."*

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 and access to the rooftop communal open space, and generally not due to the building itself. The building height is consistent with the approved development at 228B Bunnerong Road and does not dominate the surrounding uses. The isolation of the site, coupled with the site being the northern edge of the Hillsdale Town Centre, results in this minor non-compliance being satisfactory in this instance. There are limited impacts on the adjoining property to the south given there is limited overshadowing, overlooking and the bulk and scale is consistent with the prevailing scale of the new development being constructed in the area.

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 (BBDCP 2013) as follows:

Part 3A –Parking and Access

Table 4: Consideration of Part 3 Controls of BBDCP 2013

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	<u>Residential</u> 1 space/ studio or one bedroom 2 space/ 2 + bedrooms 1 visitor space/ 5 units Total: 18 car spaces required <u>Commercial (shop)</u> 1 space / 25sqm (6 req.)	<u>Residential</u> 16 residential car spaces provided 2 visitor spaces Total residential: 18 spaces <u>Commercial</u> 3 car parking spaces <u>Service Bays</u>	Yes

Part	Control	Proposed	Complies
	<p><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</p>	<p>Service vehicle: Nil (however space within driveway)</p> <p>Total car parking spaces provided: 21 car spaces</p>	Acceptable
3A.3.1 – Car Park Design	<p>C13 Pedestrian entrances and exits shall be separated from vehicular access paths.</p>	The plans demonstrate that there is separate entry and exits 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
	<p>C15 Vehicle access points of the property should not be located:</p> <p>a) In places with high traffic volumes, such as classified or arterial roads;</p> <p>b) Close to intersections as outlined in Section 3.2.3 of AS2890.1;</p>	The site has two street frontages, Flint Street and Bunnerong Road. The development is not a traffic generating development with only 10 apartments proposed. Bunnerong Road is a classified road and vehicle access will be from Flint Street. The application was referred to RMS with no objections subject to conditions.	Yes
	<p>C28 The minimum width of the access driveway at the property boundary shall be:</p> <ul style="list-style-type: none"> For other residential developments: 5.5 metres (two way); The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary. 	The development has a minimum driveway width of approximately 5.5 metres and is located on the northern side of the site.	Yes
	<p>C40 The waste collection point shall be designed to:</p> <p>(i) Allow waste loading operations to occur on a level surface away</p>	Waste collection and garbage holding rooms are located within the Ground Floor of the development. Collection of bins will be directly from the street frontage. The car parking levels	Yes

Part	Control	Proposed	Complies
	<p>from parking areas, turning areas, aisles, internal roadways and ramps; and</p> <p>(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.</p>	cannot accommodate off-street garbage collection due to the small size of the site and development.	
3A.3.2 Bicycle Parking	C1-C5 To comply with AS2890.3 and AUSTRROADS (i.e. 10% of the required amount of car parking = 2.1)	The plans demonstrate that 4 bicycle spaces and 1 motorbike space are provided as part of the development.	Yes
3A.3.4 On-site Loading and Unloading	C1-C11 1 service bay/50 dwellings	There is no separate area of loading for MRV within the car parking levels. There are 3 commercial spaces provided in the at-grade car parking area, which is sufficient to provide a courier space for the proposed small commercial tenancy (77m ²). 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.	Yes
3C - Access and Mobility		<p>A DA Access Report prepared by Wall to Wall Design & Consulting dated 28 October 2016 ("the Access Report") has been submitted and provides an accessibility overview of the proposal. Part 3C requires the following to be provided:-</p> <ul style="list-style-type: none"> • Statement of consistency with Part 3C of the DCP; • Accessible accommodation – refer to Table D3.1 of the BCA. • General access – Access for all persons through the principal entrance and access to any common 	Yes

Part	Control	Proposed	Complies
		<p>laundry, kitchen, sanitary or other common facilities in accordance with relevant Australian Standards 1428.1, 1428.4.1 and lifts where provided.</p> <ul style="list-style-type: none"> • Accessible parking – 1 accessible parking space for every accessible room or unit as specified by Table D3.1 of BCA <p>The Access Report concluded that the proposal is capable of complying with the relevant performance requirements of the BCA and AS4299. The recommendations within this report are to be further developed at detailed design to ensure compliance with regulatory requirements. The proposal is consistent with this Part of the DCP</p>	
3G – Stormwater Management		The development application was accompanied by Stormwater Management Plans prepared by Quantum Engineers dated 21 October 2016 (Rev B). The plans demonstrate that an on-site detention system will be installed in the basement 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.	Yes
3H – Sustainable Design		A BASIX Certificate (No 768639M_02) has been prepared by Ecoinnovate dated 03 November 2016 committing to energy efficient measures. Relevant conditions are recommended have been imposed.	Yes
3I – Crime Prevention,		The proposed development includes habitable rooms oriented to the street with windows facing the street	Yes

Part	Control	Proposed	Complies
Safety and Security		<p>providing adequate surveillance of the street as well as of the front pedestrian entry being overlooked by the retail premises. The stair access within each level is located with good visual access to surrounding units and is located close to the common area on Level 1 and void area.</p> <p>Habitable rooms are positioned at the front of dwellings to allow surveillance of the entry areas. The established setback pattern of the street has been maintained and therefore there is natural surveillance of the street along the length of the development. Landscaping is generally low set which does not obscure lighting or sightlines in and around the entrance to the development along Flint Street. The common room and laundry are located adjoining each other for casual surveillance of both areas with the caretaker's unit located above for additional surveillance (via fire stairs).</p>	
3J – Aircraft Noise and OLS		The subject site is located outside the ANEF contour zones. In relation to the Obstacle Limitation Surface, the application was referred to SACL who have raised no objection to the proposal subject to conditions. The proposal is consistent with this Part of the DCP subject to conditions. Relevant conditions are recommended have been imposed.	Yes
3K – Contamination		Refer to the discussion above in State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land section of the report addressing contamination.	Yes

Part	Control	Proposed	Complies
3L – Landscaping		The proposal provides landscaped areas on the communal rooftop area, the small communal open space area on Level 1 as well as within the front setback along Flint Street. There are no deep soil areas proposed due to the extent of the basement car parking levels and there is no requirement under Part 5 of the Botany Bay DCP. The application was reviewed by Council's Landscape Architect to be satisfactory subject to conditions.	Yes
3N - Waste Minimisation & Management		<p>The relevant requirements and objectives have been considered in the assessment of the development application. A Waste Management Plan prepared by the applicant dated 10 October 2016 was submitted with the application. Recommended conditions are included to ensure that all waste generated will be stockpiled, managed and disposed of in accordance with the approved plan.</p> <p>For the ongoing use of the development, the plans indicate separate bin storage areas for the retail and residential components of the development which can accommodate 14 bins in total. Pursuant to Section 3N. 3.2 (C1), residential flat development (part of mixed) requires 1 x 360L per 5 dwellings spaces for recycling and 1 x 360L bin for general waste, and 1 x 240L per 2 dwellings spaces for green waste (optional). Therefore, the proposal requires 3 bins for each waste stream, (3 waste, 3 recycling, 3 green waste) with the bins storage area providing 14 bins. This is considered</p>	Yes

Part	Control	Proposed	Complies
		satisfactory given there is limited vegetation on the site and therefore 6 green waste bins are not required. 5 bins for the retail space are sufficient.	

Part 4C Residential Flat Buildings

Part 4C of BBDCP 2013 applies to the proposal as the site includes a residential apartment building. The relevant controls are considered below.

Table 5: Consideration of Part 4C of BBDCP 2013

Part	Control	Proposal	Comply
4C.2.2 Streetscape Presentation	C1 New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. It must respond to building setbacks, building height and treatment of the building facades (refer to Figure 3).	The proposal is compatible with the emerging character of this area of Bunnerong Road. The building design, height and scale as well as the front setback is compatible with that of the approved development adjoining to the south. The bulk and scale of the building is consistent with the desired future character of the area. The façade has been articulated to provide visual interest when viewed from the streets and to reduce visual bulk.	Yes
	C2 Development must comply with: (i) Max length of any building - 24m; and (ii) Façades articulated and employ materials and finishes to enhance and complement character of the streetscape.	Max length across the Bunnerong Road frontage is 10 metres. The building is appropriately articulated with the upper level partially setback through the use of balconies along the front elevation. The proposed materials are face brick, painted render and some screening with aluminium fixtures, which provides sufficient detail in the facades.	Yes
	C3 Buildings must be sited to address the street and relate to neighbouring buildings. Developments on sites with two or more frontages should address both frontages, to promote and to reinforce the ambience of the streetscape. Buildings that are orientated across sites, contrary to the	The proposed building adequately addresses both street frontages and is compatible with approved adjoining development.	Yes

	established development pattern, are intrusive and are not permitted.		
	C4 Street corners must be addressed by giving visual prominence to parts of the building façade, such as a change in building articulation, materials, colour, roof form or height.	The site is a corner lot and addresses the street corner through curved corner treatment and extension of the awning along both street frontages.	Yes
4C.2.3 Height	C2 The maximum number of storeys must not exceed that identified in the relevant character statement for each precinct as set out in Part 8 - Character Precincts. If the maximum number of storeys is not identified in Part 8, the maximum number of storeys must be consistent with the existing characteristic building height set by the immediately surrounding apartment buildings.	The proposal is consistent with the adjoining approved development comprising four (4) storeys.	Yes
4C.2.4 Landscaped Area and Deep Soil Planting	C1 Min landscaped area of 35% and a maximum unbuilt upon area of 20%. Trees C5 Street trees are to be accurately indicated on the landscape plan and are to be maintained.	There is no landscaped area of hard landscaping on the site, consistent with its location within the local centre and the adjoining southern site.	No Refer to Note 5
4C.2.5 Open Space	C2 Open space should be considered early on during site planning to provide a visual focus for the development, ideal siting for solar access, and to enable preservation of existing trees.	Addressed in SEPP 65 and ADG. Communal and private open space has been provided.	N/A
4C.2.6 Setbacks	C2 All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas. C3 Development designed to create spatial separation between buildings to: (i) Minimise bulk and scale of the building; (ii) Allow contiguous deep soil planting and landscaping; (iii) Ensure adequate exposure to sunlight and ventilation; and (iv) Create a buffer for visual and acoustic privacy. C4 Setbacks to maximise retention of existing trees and their root systems and may need to be variable to achieve this (includes trees on adjoining properties).	The site is located within the local centre and accordingly, the nil setbacks are appropriate and are consistent with the adjoining approved development. Building separation is adequate given the local centre location of the site and the setbacks on the adjoining site to the south. Only minor trees are to be removed and will be replaced.	No Refer to Note 6 Yes Yes

	<p>C5 Awnings and balconies are to be</p> <ul style="list-style-type: none"> (i) set back a minimum of 1.5 metres from the kerb on a classified road; (ii) set back a minimum of 1.5 metres from the kerb for a distance of up to 100 metres from an intersection of a local road with a classified road; and (iii) set back a minimum of 1.5 metres from the kerb for a distance of up to 100 metres from any signalised intersection. <p>Front Setbacks</p> <p>C1 Building setbacks from the existing front boundary must match the setback of adjoining properties, but must be a minimum of 3 metres or 4 metres if fronting a classified road.</p>	<p>Awning along Bunnerong Road is adequately setback and located.</p> <p>Front setback is set by adjoining building to the south and is to the boundary. This is appropriate in the local centre, notwithstanding it is located on a classified road.</p>	<p>Yes</p> <p>Yes</p>
4C.2.7 Through Site Links	<p>C1 Building footprints are to take into account the requirement for consolidated open space as well as for view corridors.</p> <p>C2 If a site has a frontage to two (2) or more streets with a boundary length greater than 25 metres, then one through site link to the other street/s must be provided (refer to Figure 9).</p>	<p>The proposed building footprint has regard for open space, which is provided on the rooftop.</p> <p>The site has two street frontages, one 15.5 metres wide and the other 33 metres long. The through-site link is not required given the small size of the site and its corner location which makes pedestrian access under the awning along the frontage of the site sufficient for pedestrian activity.</p>	<p>Yes</p> <p>Yes</p>
4C.2.8 Consideration of Isolated Sites	<p>C1 Applicants must demonstrate that adjoining parcels not included in their development site will be capable of being economically developed as required by Council as part of the development assessment process for their site. This will include establishing appropriate separation distances between adjoining buildings.</p> <p>C2 The development of existing isolated sites is not to detract from the character of the streetscape and is to achieve a satisfactory level of residential amenity for its occupants</p>	<p>The adjoining site to the south has development consent for a similar mixed-use development (DA 13/176). There are no other adjoining sites given the site is a corner lot.</p> <p>The site is an existing isolated lot and the proposal is consistent with the emerging streetscape envisaged under the Character precinct controls.</p>	<p>Yes</p> <p>Yes</p>

	<p>C3 Where it is demonstrated by an applicant (with written documentation) that attempts have been made to address a potentially isolated site (i.e. an off to acquire the isolated site and reply from the owner of that site) the proposed development will be assessed on its merits.</p> <p>C4 Where adjacent sites are developing concurrently, site planning options for development as an amalgamated site are to be explored.</p>	<p>The site is an existing isolated site.</p> <p>Construction on the adjoining site has commenced.</p>	<p>Yes</p> <p>Yes</p>
4C.3.1 Building Entries	<p>C1 Entrances must provide shelter and be well-lit and safe spaces to enter the building, meet and collect mail (refer to Figure 12). The front door must be visible from, and have direct access to, the street.</p> <p>C2 A main pedestrian entry is to be provided within a development. The entry is to be separate from car parks or car entries. Disabled access through the primary entrance to the building must be provided.</p> <p>C5 Mailboxes are to be designed and provided so that they are convenient for residents and do not clutter the appearance of the development from the street.</p>	<p>The main pedestrian entry is from Bunnerong Road. Mailboxes are provided in this location.</p> <p>There are separate vehicle and pedestrian entry points from Flint Street provided.</p> <p>Mailboxes are provide at the residential pedestrian entry area from Flint Street, located off the street at the entry door.</p>	<p>Yes</p> <p>Yes</p>
4C.3.3 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade will accompany all Development Applications involving building works.	Provided.	Yes
4C.4.1 Dwelling Mix and Layout	<p>Apartment Size and Mix</p> <p>C1 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.</p> <p>C2 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</p>	<p>There are ten units proposed which include one and two bedroom units.</p> <p>Unit mix proposed is:</p> <ul style="list-style-type: none"> • 4 x 1 bed units – 40%; • 6 x 2 bed units – 60%. <p>The 2 bed units comply with these provisions (refer below).</p> <p>There are no 3 bed units</p>	<p>Yes</p> <p>No Refer to Note 7 (1 beds)</p> <p>Yes</p> <p>Yes</p>

	<p>(iii) All 3+ Bedroom apartments are to satisfy the amenity controls for Family Apartments. See Part 4C.5.2 - Family Friendly Apartment Buildings.</p> <p>Apartment Layout C1 Dwellings with 3 or more bedrooms are to have two (2) separate and appropriately sized living spaces. A study alcove may be located within the second living space. Should a freestanding study alcove be provided the height of the walls enclosing the study are to be a maximum of 1500mm.</p> <p>C2 To avoid a secondary living space, study, or the like being used as a bedroom, it will only be regarded as such if it has no door or enclosure.</p> <p>C4 Designs which utilise light corridors and saddle back bedroom designs are not acceptable.</p> <p>C5 Kitchens are to be naturally ventilated.</p>	<p>proposed.</p> <p>There are no 3 bed units proposed.</p> <p>The second living space cannot be easily turned into a bedroom.</p> <p>There are no saddle-back bedrooms proposed.</p> <p>The proposed kitchens either have a window or are within 8 metres of a window (ADG)</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4C.4.2 Family Friendly Apartment Buildings	<p>C1 Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.</p> <p>C2 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.</p> <p>C3 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.</p> <p>C4 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.</p>	<p>There are 6 x 2 bed units proposed.</p> <p>There are study nooks on each of the proposed 2 bed units.</p> <p>The second bedroom is sufficient for a double bed or a single bed with a desk.</p> <p>Can form a condition.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>C5 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.</p> <p>C6 The private outdoor space is to be clearly visible from the kitchen.</p> <p>C7 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.</p> <p>C8 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.</p>	<p>Each of the main bathrooms in the 2 bed units have bathtub.</p> <p>The balconies are visible from the kitchens in the proposed 2 bed units.</p> <p>There are sufficient storage areas in the proposed 2 bed units.</p> <p>Refer to ADG.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>
4C.4.3 Internal Circulation	<p>C1 Development will provide multiple cores within the building to:</p> <p>(i) Increase number of entries along a street;</p> <p>(ii) Increase number of vertical circulation points;</p> <p>(iii) Give more articulation to façade; and</p> <p>(iv) Limit number of units off a circulation core on a single level.</p>	<p>There are multiple entry points (pedestrian and vehicular) from Flint Street (multiple pedestrian entries) and Bunnerong Road (Commercial) and there are stairs and a lift provided.</p>	<p>Yes</p>
4C.4.4 Views	<p>C1 Development is to preserve views of significant topographical features such as the urban skyline, landmark buildings and areas of high visibility.</p>	<p>There are no view corridors obstructed.</p>	<p>Yes</p>
4C.4.5 Acoustic Privacy	<p>C1 An acoustic report prepared by a certified acoustic consultant will be submitted with the development application addressing the requirements detailed in Controls C2, C3 and C4 below.</p> <p>C4 Where multiple dwellings are provided within the same building, the building will be designed and constructed to comply with the requirements of the BCA regarding acoustic insulation and noise transmission of walls and floors.</p> <p>C8 Development on land which is on or is within 100 metres of a railway corridor,</p>	<p>An Acoustic report has been provided which concluded the proposal was satisfactory.</p> <p>Bathrooms and kitchens adjoin each other and/or corridors in adjoining dwellings in the development. BCA compliance will be required as a condition.</p> <p>This has been addressed in the Acoustic report and the</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>a classified road or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) must consider the requirements of the Development Near Rail Corridors and Busy Roads - Interim Guideline (19 December 2008) in accordance with cl.87(3) and cl.102(3) of SEPP (Infrastructure) 2007. An acoustic report prepared by a certified acoustic consultant must be submitted at development application stage to demonstrate compliance with this Guideline.</p>	<p>Infrastructure assessment.</p> <p>SEPP</p>	
4C.4.6 Vibration & Excavation	<p>C1 In accordance with Clause 87 of SEPP (Infrastructure) 2007 any proposed excavation exceeding 2 metres in depth on land:</p> <p>(i) within or above a rail corridor; or (ii) within 25 metres (measured horizontally) of a ground or below ground rail corridor must consider the requirements of the Development Near Rail Corridors and Busy Intersections - Interim Guideline (19 December 2008).</p> <p>C2 Any excavation adjacent to RMS infrastructure must comply with the requirements of the Technical Direction (GTD 2012/001) – Excavation Adjacent to RMS Infrastructure</p>	<p>The excavation will be carried out pursuant to conditions, which will be recommended by Council's Engineer.</p>	Yes
4C.4.7 Site Facilities	<p>C1 Development must not be carried out on the land until arrangements satisfactory to Sydney Water have been made for the provision to the land of water and sewerage services.</p> <p>C2 Mailboxes will be located indoors in accordance with Australia Post's requirements.</p> <p>C5 Garbage storage and collection points comply with the provisions of Part 3N.</p> <p>C8 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</p>	<p>Sydney Water have provided conditions which have been recommended to be imposed.</p> <p>Mailboxes have been provided.</p> <p>Waste storage has been provided on the ground floor close to the street.</p> <p>To form relevant conditions.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	Provider's guidelines. The applicant will bear the cost of the new installation and the first 12 months of additional street light charges.		
4C.4.8 Safety and Security	C1 Applications must comply with Part 3I - Crime Prevention, Safety and Security. Note: Applications will be referred to the NSW Police Service for comment.	Refer to 3L above.	Yes
4C.4.9 Car and Bicycle Parking & Vehicle Access	<p>C1 & C2 Refer to Part 3A.</p> <p>C3 Small car parking bays are not permitted for apartment buildings.</p> <p>C4 Visitor's car parking spaces will be labelled clearly and resident car parking will be numbered to the relevant dwelling.</p> <p>C6 Vehicular access driveways and the top part of ramps visible from the street must be part of the overall landscape design.</p> <p>Basement Car Parking C7 Basement car parking: (i) Must not protrude further than 1.2 metres out of the ground when measured from natural ground to the underside of the slab at ground floor level of the building; (ii) Must be located under the building footprint of the development; (iii) Must not extend under dwelling balconies or setback areas; (iv) Must be designed to have adequate vertical clearance for the largest vehicle accessing the basement car parking area; (v) Must have a suitable intercom system link to all units within the development at the vehicle entrance to the car parking area to ensure visitors to the site can gain access to visitor parking; (vi) For mixed use developments the loading/unloading facilities are to be separate from the vehicle car parking area; (vii) For mixed use developments a security roller gate or door is to be provided for separation between residential and non-residential car parking areas; and</p>	<p>Refer to Part 3A.09.</p> <p>1 small car space is provided for visitors.</p> <p>Provided.</p> <p>The ramp to the basement is satisfactory from the street.</p> <p>The basement is under the building and is less than 1.2m above the ground level.</p> <p>Only vehicles will enter the basement.</p> <p>An intercom can be a condition.</p> <p>The commercial and residential car parking is adequately separated.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	(viii) Natural top lighting and ventilation must be integrated into the building and/or landscape design.		
4C.5.1 Adaptable Housing	C1 A statement from the architect or builder must be submitted with the development application certifying that the adaptable dwelling has been designed in accordance with the provisions of the Australian Standards AS 4299-1995 Adaptable Housing.	An Access report has been provided and the appropriate number of accessible rooms and parking has been provided.	Yes
4C.5.2 Access	<p>C1 All applications are to include a statement on how the development will comply with the provisions of the Disability Discrimination Act and comply with Part 3C - Access and Mobility.</p> <p>C2 Developments will have night lighting along all driveways and footpaths throughout the site.</p> <p>C3 Ramps should have gradients not exceeding 1 in 14, and have an even, non-slip surface.</p> <p>C4 Unnecessary barriers to direct access will be avoided.</p>	An Access report has been provided and the appropriate number of accessible rooms and parking has been provided.	Yes
4C.7 Mixed Use	<p>C1 Any retail or commercial component must be located at ground level.</p> <p>C2 Adequate storage space is to be provided for the use of the commercial or retail premises.</p> <p>C3 Noise insulation measures incorporated into development with particular attention to shared ceiling/floors and walls.</p> <p>C4 The building designed to encourage uses that will enhance and promote active street front activities.</p> <p>C5 The layout and design of building to ensure privacy for dwellings within development.</p> <p>C6 The design of parking areas and loading facilities is to take into account the use of these areas by a range of activities and will minimise any conflicts that may arise as a result of the multiple use of these facilities.</p>	<p>Retail component on ground level.</p> <p>There is adequate storage, including bin storage, for retail premises.</p> <p>Acoustic report concluded there are adequate acoustical privacy measures.</p> <p>Active street frontages provided at ground level.</p> <p>There is adequate internal privacy.</p> <p>Provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	C8 Site facilities, storage, mailboxes, and garbage collection points must be designed to adequately service the needs of the occupants of the building and are to be conveniently located within the development.	Provided.	
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Part 5 – Business Centres

Part 5 of BBDCP 2013 applies to the proposal as the site is located in the B2 Local Centre zone. The relevant controls are considered below, including the controls of the Hillsdale Shops (illustrated in **Figure 12**):

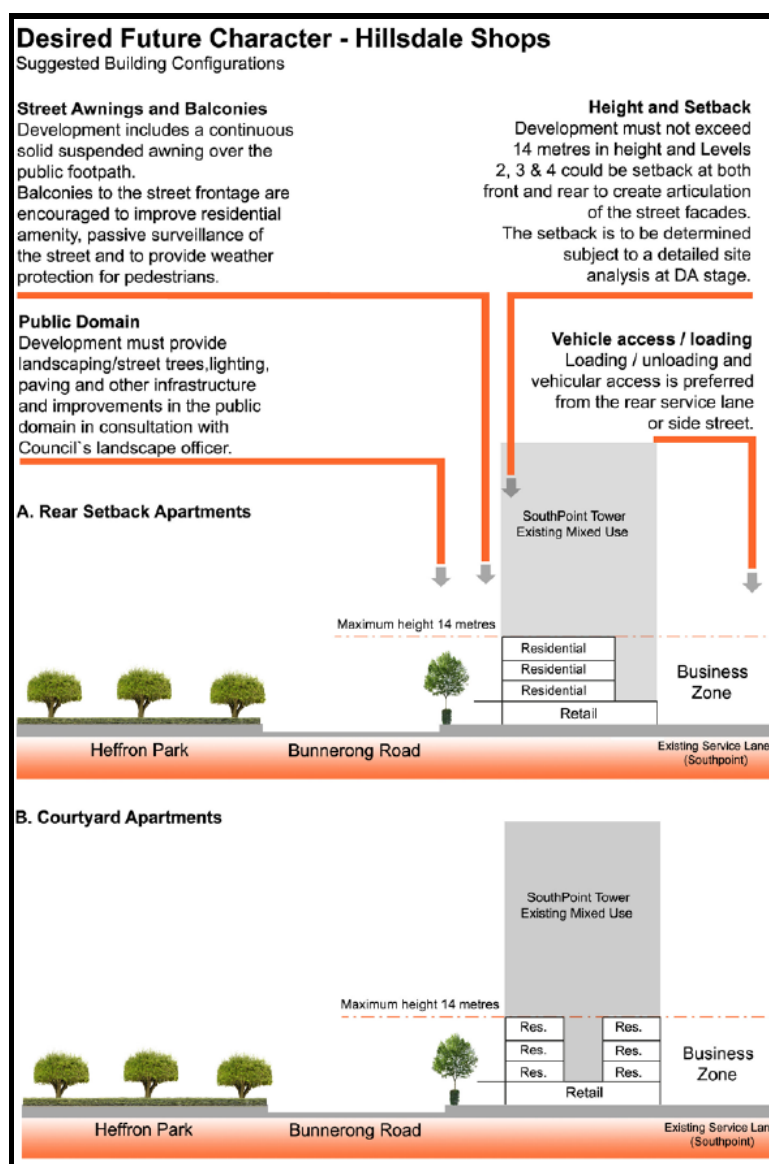
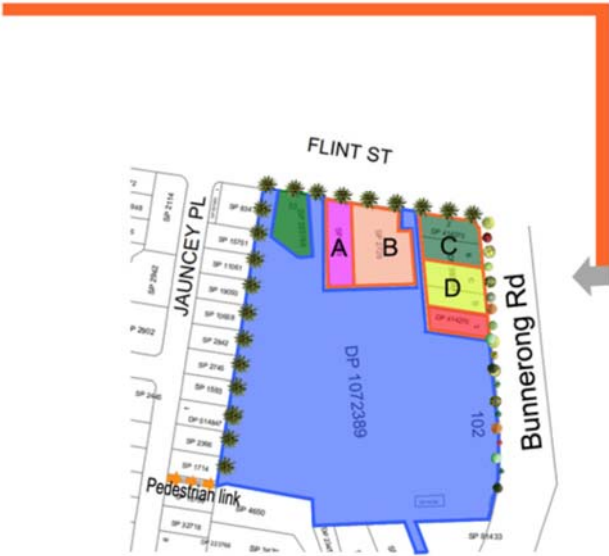


Figure 12: Hillsdale Shops Controls of Part 5.2.2.9 of BBDCP 2013)

Table 6: Part 5 of BBDCP 2013 Assessment

Part	Control	Proposal	Comply
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5.2.2.9 Hillsdale Local Centre			
Public Domain/Streetscape	C1 Development must provide landscaping, street trees, decorative fencing, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figure 28 (see below).	To be provided as conditions of consent.	Yes
	C2 Pedestrian amenity and connectivity must be enhanced in conjunction with new development.	Refer above.	Yes
Site Amalgamation	<p>C3 Redevelopment is encouraged through logical lot consolidation of sites and infill development in accordance with Figure 29 (see below). Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.</p> <p>Site amalgamation Site amalgamations are encouraged. Suggested amalgamations include parcels A, B, C, D as shown.</p> 	The subject site is located within parcel C, however, only the corner lot is included in the proposal and not the lot to the south, which has been separately approved for redevelopment and is now under construction.	No Refer to Note 8
Building Form and Design	C4 The design of development must be generally consistent with the desired future character of the centre identified in Figure 28.	Consistent with these requirements.	Yes
	<p>C5 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.</p> <p>C6 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.</p>	Refer to BBLEP 2013.	N/A
	C7 Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity	The design of the building is appropriate with articulated	Yes

	in building designs provided that development outcomes complement the existing character of the suburb.	facades and is consistent with design and scale of the adjoining approved development to the south.	
	C8 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 proposed development addresses both street frontages and the entry areas are readily visible from the street.	Yes
	C9 Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.	An awning along the Bunnerong Rd frontage and the corner is provided.	Yes
	C10 Shop top housing must have windows and/or verandahs/balconies facing the street to encourage passive surveillance of the street.	Habitable rooms overlook the street.	Yes
	C11 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.	An active street frontage is provided along Bunnerong Road with the residential entry along Flint Street.	Yes
	C12 A street number for the property is to be clearly identifiable from the street.	Can be provided via condition.	Yes
	C13 Existing street trees must be retained and supplemented with new planting where required by Council's Landscape Officer.	New street trees are proposed.	Yes
	C14 Air conditioners must not be installed on street awnings or the front facade of buildings.	None proposed.	N/A
	C15 Development must comply with Council's sustainable development requirements as identified in Part 3H - Sustainable Design.	Refer above.	N/A
Parking and Access	C16 Vehicular access to the 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.	Vehicle access from Flint Street is proposed.	Yes
	C17 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.	Loading is to be undertaken on site in the commercial spaces given the small size of the proposed commercial tenancy.	Yes

	C18 Development must comply with Part 3A - Car Parking.		
Advertising Signage	C19 Maintain limited advertisements and business signage to minimise visual impact.	There is no advertising proposed as part of this proposal. Subject to future DA.	N/A
	C20 Restrict signage to the awning fascia, under the awning or behind the shop window at street level.	Refer above.	N/A
	C21 Development must comply with Development must comply with Part 3D - Signage.	Refer above.	N/A
Flooding	C22 Due to the proximity of Sydney Water stormwater channel in the area, finished floor levels of all habitable and non-habitable areas are to be a minimum 500mm and 300mm above the 1 in 100 year ARI flood level respectively.	Engineering referral raised no objections subject to conditions.	Yes
	C23 No structure and/or filling are permitted or to be placed within the 1 in 100 year ARI flood extent unless suitable and adequate mitigation measures approved by Council have been proposed and implemented.		
Stormwater	C24 A Stormwater Management System is to be provided in accordance with Part 3G - Stormwater Management.	Engineering referral raised no objections subject to conditions.	Yes
5.3 General Controls			
5.3.1 Built Form	5.3.1.1 Floor Space Ratio	FSR is compliant.	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. C2 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.	Height is inconsistent with BBLEP 2013. The future characteristic height is 14m (which is generally proposed), with articulation in the building form.	No Refer to Note 4 Yes
	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 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 or where the site is located on a street corner. In this instance applicants must submit a written justification to Council for this variation at development application stage. The variation will be considered by Council on its merits.	Street wall height is four (4) storeys along Bunnerong Road which is compatible with the approved development to the south.	Yes

	<p>C2 Setbacks for buildings which exceed two storeys are provided in the Character Precincts for each centre in Part 5.2 - Character Statements for the Business Centres.</p>	N/A	N/A
	<p>5.3.1.4 Side & Rear Setbacks and Building Separation</p> <p>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. The appropriate setback will be determined at development application stage, subject to a detailed Site Analysis. Applicants must therefore demonstrate to Council at development application stage that impacts on the residential area are minimised.</p> <p>C2 Developments to which <i>State Environmental Planning Policy No 65</i> (SEPP 65) applies are to adhere to the Apartment Design Guide provisions for building separation.</p>	<p>There is no directly adjoining residential development as the site is a corner lot with a driveway along the western boundary.</p> <p>Refer to SEPP 65.</p>	<p>Yes</p> <p>N/A</p>
	<p>5.3.1.5 Built Form and Streetscape</p> <p>C2 Buildings must have a consistent street wall height and provide a continuous street frontage and awning height along the street frontage where appropriate.</p> <p>C3 Blank walls are to be avoided adjoining principle streets and the public domain. If they are unavoidable amelioration measures such as artwork or landscaping is required to enhance the visual amenity and reduce vandalism.</p>	<p>A consistent wall height of 4 storeys is provided along Bunnerong Road and an awning is also provided.</p> <p>There are no blank walls to the public domain, with landscaping also provided to the Flint Street frontage.</p>	<p>Yes</p> <p>Yes</p>
	<p>5.3.1.6 Excavation</p> <p>C1 Buildings must not dominate nor detract from the natural landform. The siting of buildings must relate to the site's natural context and topographical features.</p> <p>C2 Where steep or sloping sites exist, the building must not protrude from the landscape but must be staggered or stepped into the natural slope of the land.</p> <p>C3 Developments must avoid the unnecessary use of cut and fill by designing and siting buildings within the natural slope of the land. If cut and fill is required for drainage or other purposes, Council will consider its effect on the streetscape and adjoining properties.</p>	<p>There is excavation proposed for the basement with the height of the building staggered with the slope.</p>	<p>Yes</p>
5.3.2 Design	<p>5.3.2.1 Design Excellence</p> <p>C1 To achieve excellence in urban design, all development must:</p>	<p>The proposal has been designed to</p>	<p>Yes</p>

	<p>(i) Take into consideration the characteristics of the site and adjoining development by undertaking a thorough site analysis;</p> <p>(ii) Utilise innovative design which positively responds to the character and context of its locality;</p> <p>(iii) Provide a design which is sustainable;</p> <p>(iv) Enhance the streetscape character of the locality;</p> <p>(v) Ensure that proposed development is consistent in height and scale with surrounding development;</p> <p>(vi) Maintain established setbacks;</p> <p>(vii) Design buildings to minimise impacts on neighbours by maintaining appropriate levels of solar access and privacy;</p> <p>(viii) Ensure any development utilises materials and finishes which complement the locality;</p> <p>(ix) Design for acoustic and visual privacy;</p> <p>(x) Ensure dwellings and open space areas achieve good solar access, and are energy efficient;</p> <p>(xi) Ensure building entries address the street and are clearly visible from the street or footpaths;</p> <p>(xii) Design development that provides good quality landscaping;</p> <p>(xiii) Consider the relationship of private open space to the layout of the dwelling;</p> <p>(xiv) Use design techniques which promote safety and discourage crime; and</p> <p>(xv) Encourage active street frontages</p> <p>C2 The Development Application must identify, through a design statement, how design excellence will be achieved in the proposed development. The design statement must include drawings and examples of the building features, textures, materials, finishes and colours and how they are suitable to the subject site and its context.</p>	<p>be a compatible addition to the area and is consistent with the bulk, scale and design of the approved development on the adjoining site to the south.</p> <p>Provided in the ADG and SPEP 65 analysis.</p>	<p>Yes</p>
	<p>5.3.2.2 Building Design</p> <p>C1 Building construction must be undertaken in compliance with the BCA. All development applications must submit a BCA report outlining the compliance of the building design with the BCA.</p> <p>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.</p>	<p>BCA report submitted and satisfactory.</p> <p>There will be no adverse impacts on privacy of the adjoining residential development (under construction) to the south given walls with no direct windows facing the side boundary are proposed or</p>	<p>Yes</p> <p>Yes</p>

		are screened with landscaping. The void area is adequately screened with landscaping, which ensures minimal privacy loss to the adjoining building to the south.	
	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.	No adverse impacts on the privacy of adjoining development.	Yes
	5.3.2.4 Awnings and Verandahs C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.	An awning is proposed along Bunnerong Road and Flint Street frontages.	Yes
	C5 Further kerb-side setback condition (2.5 metres minimum) is required on major roads, in accordance with RTA "Clear Zones" provisions.	The proposed awning is setback 2.5 metres from the kerb.	Yes
	5.3.2.5 Public Domain Interface at Ground Level C2 Development must be designed so that it has a clearly definable entry and addresses the street.	Clearly identifiable entry areas are provided.	Yes
	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.	A communal terrace area is provided along the street frontage on the upper level. Private open space areas as balconies are provided on the upper levels.	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.	There are clear paths of entry and visibility between the building and the public domain.	Yes
	C5 Public domain improvement works such as footpath paving, reconstruction of kerb and gutter, landscaping,	To be provided in conditions.	Yes

	street trees, amenity area lighting and furniture may be required at the developers expense.		
	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.	Active street frontage required by BBLEP 2013 and is provided along Bunnerong Road.	Yes
	5.3.2.10 Private Open Space & Communal Open Space C1 The primary area of outdoor private open space must not be located at grade on the street frontage. 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. C3 More than 70% of the communal open space area must be capable of growing plants, grasses and trees of carrying height and canopy.	Balconies are provided on the upper levels. The communal open space is provided on the roof. Not achieved although there is sufficient planting in the form of screening provided on planter boxes.	Yes Yes No Refer to Note 9
	5.3.2.11 Materials and Finishes C2 The use of intrusive materials and practices for new development is not permitted. This includes extensive areas of glass sheeting and glass blocks; the painting, rendering or bagging of any original unpainted masonry or sandstone surfaces; and cladding that requires maintenance Colour Schemes C1 New development must incorporate colour schemes that are consistent with the predominant colour schemes in the street. No expansive use of white, light or primary colours which dominate the streetscape are permitted.	Materials include face brick, render and aluminium fixtures which are satisfactory. The proposed colours include brown and off-white with dark powder-coated highlights (pergolas etc), which is acceptable.	Yes Yes
	5.3.2.12 Servicing C3 Service vehicles must enter and leave the loading dock in a forward direction.	A car parking space/courier is provided for the commercial premises, with al	Yes

	<p>vehicles capable of leaving the site in a forward direction.</p> <p>C4 Delivery and operation of loading docks is to be restricted to the approved trading hours.</p> <p>C5 No garbage collection is permitted between 10pm and 6am.</p>	<p>Relevant condition to be imposed.</p> <p>Relevant condition to be imposed.</p>	
	<p>5.3.2.13 Access & Mobility C1 Development must comply with Part 3C - Access and Mobility</p>	Refer above.	Yes
	<p>5.3.2.14 Crime Prevention, Safety and Security Refer to Part 3L.</p>	Refer above.	Yes
5.3.3 Amenity	<p>5.3.3.1 Acoustic Privacy 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>C2 Habitable rooms of dwellings adjacent to high levels of external noise designed to limit internal noise levels to a maximum of 45dB(a) in accordance with relevant Australian Standards for acoustic control.</p> <p>C3 Development must comply with Part 3J - Development Affecting Operations at Sydney Airport.</p> <p>C4 The introduction of noise abatement measures to achieve compliance with the current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.</p> <p>C5 All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines, December 2008' (DNRCBR 2008).</p> <p>C6 New development adjacent to high noise sources (e.g. busy roads) are to generally locate habitable rooms and private open spaces away from noise sources. Alternatively, if such spaces/rooms front a major noise source they must be protected by appropriate noise shielding devices to minimise noise intrusion.</p>	Addressed in Acoustic Report.	Yes
	<p>5.3.3.2 Visual Privacy C1 In some cases potential visual privacy impacts can be mitigated by incorporation of design measures.</p>	There are no visual privacy impacts for the adjoining residential	Yes

		development (future) to the south as there are no direct windows facing into this adjoining property. The void/courtyard area is adequately screened to ensure there will be minimal overlooking opportunities into the adjoining property.	
	<p>5.3.3.3 Solar Access and Shadow C1 Development must demonstrate: (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 (ii) 30% of any communal open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.</p> <p>C2 The Development Application must provide solar diagrams that, as a minimum, illustrate compliance with the above control and comprise of plans and elevations demonstrating the shadows of the proposal at 9am, 12 noon, and 3pm on 21 March, 21 June and 21 December.</p> <p>C3 Buildings are to be designed and sited to ensure sun access to private and communal open space within the development, and adjoining properties and public open space.</p>	<p>The adjoining property to the south will receive adequate solar access to its habitable room windows and private open space areas given the overshadowing from the proposal is to the rear of this adjoining building in the morning and is to front portion in the afternoon. The central void area of the adjoining building to the south is largely overshadowed by the building on this site.</p> <p>Shadow diagrams have been provided.</p> <p>Adequate solar access has been provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p>5.3.3.4 External Lighting C1 External lighting must not detract from the residential amenity of a building or adjoining residential</p>	Condition of consent if appropriate.	Yes

	development by shining directly into habitable residential areas or private open spaces.		
	5.3.3.6 Stormwater Management and Flooding C2 All development must comply with the Stormwater Management Technical Guidelines (refer to Part 10 - Stormwater Management Technical Guidelines).	Council's Engineer did not raise any objections subject to relevant conditions.	Yes

Part 8 – Character Precinct

Part 8.2.2 Desired Future Character of the Hillsdale Character Precinct has been considered in the assessment of this application. The subject site is located within an area of mixed character consisting of the linear retail shopping strip along Bunnerong Road comprising largely shop top housing within two storey buildings, however, the scale is changing to four (4) storey mixed use commercial and residential buildings with basement car parking. Low density residential development is located to the north of the site beyond Flint Street. The area is dominated by the multi--storey Southpoint Shopping Centre with residential accommodation above. A large area of regional open space exists to the east on the opposite side of Bunnerong Road.

The site is located within the B2 Local Centre zone with a frontage to both Flint Street and Bunnerong Road. The area will continue to undergo a transition from a two storey shop top housing area to a higher density mixed use zone with active street frontages and residential on the upper levels. This has begun to occur following redevelopments of other sites including the adjoining sites to the south.

The proposal is consistent with the function and diversity controls in that the proposal enhances the public domain due to the active street frontage provided along Bunnerong Road, the articulated facade and the landscaping proposed along the Flint Street frontage. Neighbourhood amenity is also provided via the casual surveillance of the street, the level and identifiable entry and the compatibility with development in the area.

The proposal satisfies the form, massing, scale and streetscape controls in that the proposal generally follows the natural contours of the site and the car parking along the Flint Street frontage is integrated into the site with landscaping along this elevation. The 4 storey height is an appropriate scale for the area and the articulation in the façade is consistent with the height and architectural style of future development in this area of Hillsdale. A flat roof is proposed which is of a contemporary design and is compatible with existing development.

The proposal is consistent with the setback controls and is generally consistent with existing development in the area, and side setbacks are consistent with future development in the area. The proposal is also consistent with the landscape and heritage controls as outlined by Council's Specialist officers.

In terms of solar access, the submitted shadow diagrams indicate that there will be adequate solar access to adjoining properties as the main overshadowing is over the rear of this adjoining building in the morning in midwinter and over the front portion of this adjoining building in the afternoon in midwinter. There is overshadowing of the central courtyard/void area of this adjoining building for the majority of the day in midwinter, however, some of this overshadowing occurs from the existing development on the site and there is some solar access to this area. The nature of the site's zoning and location within the local centre results in buildings which are on nil side setbacks and therefore solar access to the middle portion of

these buildings is difficult to achieve. Accordingly, this overshadowing is considered acceptable given these site constraints.

There is adequate car parking provided for the proposal given the proposal complies with BBDPC 2013 and the proximity of public transport and services to the site. There are no view corridors which will be obstructed by the proposal. The proposal is considered to be consistent with the controls for the Hillsdale Character Precinct pursuant to Part 8 of the BBDPC 2013.

Note 5 - Landscaped Area (Part 4C.2.4)

Part 4C.2.4 requires that the minimum landscaped area of the site comprise 35% of the site area. The objectives of these controls include:-

- O1 To increase tree and landscape coverage within the City of Botany Bay through the retention of existing vegetation and providing substantial new plantings and landscaping;*
- O2 To effectively and substantially ameliorate the development through site responsive, appropriate and strategic landscaping;*
- O3 To enhance the usability, liveability and functionality of open spaces on the site;*
- O4 To improve microclimate and solar performance around buildings through landscaping and in the design and position of open spaces;*
- O5 To enhance the public domain at the edge of new development and*
- O6 To increase natural stormwater filtration and decrease impervious surfaces and runoff.*

The proposal achieves these objectives, notwithstanding this non-compliance given the proposal includes further tree planting and landscaping is proposed within the site. Furthermore, there are sufficient areas of private and communal open space areas, with landscaping proposed within these areas and within both of the street setback. Given the site is located within a local centre, the proposed landscaping is considered to be satisfactory.

Note 6 - Setbacks (Part 4C.2.6)

Part 4C.2.6 requires that all setback areas are deep soil areas to allow for unencumbered planting. The proposal provides a nil setback to the south and west boundaries, with minimal setbacks to the front (east) and side (north) boundaries. The site is a corner location and therefore deep soil setbacks, particularly to the street boundaries are difficult to achieve, while the local centre location makes nil side setbacks appropriate, also reducing the potential for deep soil setbacks. The objectives of these controls include:

- O1 To improve the local character and streetscape qualities by reinforcing existing alignments and setbacks;*
- O2 To provide separation between buildings and ensure adequate space for landscaping;*
- O3 To reduce the impact of development on adjoining dwellings in terms of visual and acoustic privacy, solar access and ventilation; and*
- O4 To create cohesive streetscapes with consistent building alignments particularly at ground level and that accommodate canopy street tree planting.*

The site is located within the local centre and accordingly, the nil setbacks are appropriate and are consistent with the adjoining approved development. Building separation is adequate given the local centre location of the site and the setbacks on the adjoining site to the south. Sufficient privacy is retained for the adjoining property to the south and landscaping is provided

to the street setbacks to assist in providing cohesive streetscapes. The proposal is acceptable notwithstanding this non-compliance.

Note 7 - Unit Mix (Part 4C.4.1)

Part 4C.4.1 provides controls for Dwelling Mix and Layout and requires that developments with 10 or more units must provide a maximum of 25% of the total units as studio and one (1) bedroom units. The proposed development includes four (4) x one (1) bedroom units, comprising 40% of the total development, being inconsistent with this control. The relevant objectives of these controls include:

O1 To ensure that dwellings are efficient, have high standards of amenity for residents and satisfy environmental performance criteria, such as ventilation and access to natural light;

O2 To ensure that apartments are flexible to suit the occupant's requirements;

O3 To ensure residential development contains a mix of residential types (based on the number of bedrooms) to increase the potential to accommodate all the varied family sizes in future years;

O4 To ensure adequate provision, design and location of internal facilities;

The proposal is consistent with these objectives notwithstanding this inconsistency, given the proposal provides one and two bedroom units. provides adaptable units as well as units which are family friendly and proposes only 10 units, meaning the proposal is on the threshold for the requirement for a specific unit mix. Given the small size of the development and the provision of both one (1) and two (2) bedroom units, it is considered that the proposal is acceptable in this instance.

Note 8 - Site Amalgamation (Part 5.2.2.9)

Part 5.2.2.9 provides controls relating to the Hillsdale Local Centre. Included in these controls is the requirement for particular site amalgamations to ensure the centre develops in a cohesive way. The subject site is located within parcel C, however, only the corner lot is included in the proposal and not the adjoining lot to the south. This adjoining lot to the south is currently undergoing redevelopment approved by Council on 9 December 2014 on DA 13/176. Accordingly, this adjoining site is not capable of being included in this subject site or this application and accordingly, this inconsistency is acceptable in this instance. No further consideration of this issue is required given the approved development adjoining to the south is nearing completion and there are no minimum lot sizes for development in this area.

Note 9 - Landscaping in Communal Open Space (Part 5.3.2.10)

The controls of Part 5.3.2.10 for Private Open Space & Communal Open Space requires that more than 70% of the communal open space area must be capable of growing plants, grasses and trees of carrying height and canopy. This is not achieved as the communal open space is provided on the roof top on Level 3. There is planting provided along the edges, however, does not total 70% of this area. The objectives of these controls include:-

O1 To enhance the public domain at the edges of developments;

O2 To provide residents within the Business Centres with opportunities for both passive and active recreation;

O3 To enable residents to have a pleasant outlook; and

O4 To maximise provision of private and communal open space.

These objectives are achieved notwithstanding this non-compliance given the communal and private open space areas have sufficient landscaping to provide privacy screening as well as amenity for these outdoor areas. The proposal is acceptable in this regard.

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 is unlikely to have any significant impacts as outlined below:

- Context and setting – The proposed development has been designed to be a compatible addition to the locality and is of an appropriate size and density to the surrounding development. There is likely to be minimal adverse impacts on the adjoining properties in terms of privacy loss or acoustic impacts given the proposal has limited windows facing the adjoining properties which would allow direct overlooking of the adjoining or nearby residential dwellings (as outlined in this report). There will be no view loss arising from the proposal and the overshadowing impacts are largely towards the adjoining property to the south, however, these largely exist from the existing development on the site. This adjoining property will receive adequate solar access as outlined in this report.
- Noise generation – The potential for noise generation from the proposed development is likely to be standard residential noise and is unlikely to adversely affect the amenity of the area.
- Access, Traffic and Transport – There is sufficient car parking provided within the proposed basement and ground floor level on the site and the level of traffic generated from the proposal would be readily absorbed by the adjacent road network with minimal impact, in terms of traffic flow efficiency, road safety and residential amenity. Public transport is located in close proximity of the site comprising bus stops along Bunnerong Road. Vehicles can enter and leave the site in a forward direction.
- Public Domain – The proposal will not impede pedestrian access in the area and will not impinge on any public areas. The proposed awning along the street frontages will assist with pedestrian comfort in this area of the local centre.
- Utilities – All utilities are available to the site and as a consequence there are no impacts on utilities.
- Heritage – The proposed development will not adversely affect any heritage values or items.
- Natural environment – The proposed development will have minimal impact on the natural environment, as it is located in an area already zoned and cleared for development and there are no significant healthy trees being removed. All construction will be undertaken having regard to best practice sediment and erosion control techniques.

- Built environment - In relation to potential impacts on the built environment, it is considered that there is adequate articulation of the built form and that the bulk and scale of the proposal is compatible with existing development in the area. There is also an adequate mix of uses within the building to ensure that amenity is retained in the area. It is considered that the proposal is likely to have a positive impact on the built environment.
- Social impact – The provision of additional housing opportunities in a well serviced location provides positive social impacts of the proposal to the area.
- Economic Impact – The provision of an additional commercial/retail premises along Bunnerong Road will assist the local economy and resident population by providing additional services in close proximity to future and current residents and will increase business investment in the area. This will result in the proposal having positive economic impacts in the area.
- Site design and internal design – The proposed development is appropriately set out within the site to minimise adverse impacts on adjoining properties as outlined in this report. The provision of communal areas and open space in the form of the terrace areas and landscaped courtyard assist in providing an appropriately designed development.
- Construction – The proposed development will be constructed in accordance with the requirements of the *Building Code of Australia*.
- Cumulative impacts – The proposed development will not result in any adverse cumulative impacts as the proposed development generally complies with the zone objectives and development standards and controls as outlined in this report.

Accordingly, it is considered that there will be no significant adverse impacts arising from the proposed development on the site.

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 fourteen (14) day period from 1 March 2017 to 15 March 2017. One objection was received.

Issue: A mixed 3 / 4 story complex on the corner particularly when taking into account the height of surround buildings to the north and west isn't

particularly pleasing. While it complies with the zoning regulations the transition from 4 storey to the southern side of the Bunnerong / Flint Street intersection to a two storey on the northern side is lopsided. Also taking into account that this block and the three adjacent blocks to the south (228B, 228C and 230 I believe) are also earmarked or in the process of being built into 4 storey developments we will have a monolith of glass and concrete completing the block that Southpoint Shopping Centre is also located. If you take into account the Bunnerong / Devitt Place surrounding architecture, the transition is much less as south of Devitt Place are all 3 – 4 storey units.

Comment: The proposal is consistent with the FSR controls and is compatible with the desired future character of the area, which is reflected in recent approvals for 228B and 228C-230 Bunnerong Road. While the proposal exceeds the height of buildings development standard, largely restricted to the lift overrun, such non-compliance is consistent with other approvals on the area and does not result in any adverse privacy, overshadowing or streetscape impacts in the locality.

Issue: As perusal of Flint Street will show the following:

- 1. Limited parking due to the number of driveways and no parking zones particularly in the Bunnerong Rd to Mathewson St section, especially the southern side.*
- 2. It also has the only signposted entry to the local Southpoint Shopping Centre which generates significant traffic and bottlenecks.*
- 3. The entry to the main loading dock for the above shopping centre. Note this entry is directly adjacent to the above development and the proposed underground car parking entrance.*
- 4. The entry / exit to the two sets of Townhouses at 6 and 8 Flint Street.*
- 5. Another fact is that due to geography Flint Street crests at Bunnerong Road. Any Traffic turning into Flint Street has poor line of sight to any traffic already on or queued on Flint Street.*

These points alone seem to make the positioning of another vehicular driveway in Flint Street, particularly one close to an intersection, somewhat in the accident waiting to happen category

Comment: The site is located within 15 metres from a bus stop. In addition, the car parking provided by the proposal complies with Part 3A of the BBDCP 2013. The proposed vehicle entry point to the proposal is generally in the location of the existing driveway and is acceptable having regard to other driveways in the area and the location of the intersection of Flint Street and Bunnerong Road. This is confirmed in the Traffic Report provided by the applicant and by Council's Engineer.

Issue: The traffic report does not provide any Intersection Performance Statistics. I note that the development at 228C / 230 Bunnerong Road (DA 10.2016.101.1) does, even though it is unlikely traffic from that building will affect Flint Street due to its vehicular access being limited to Bunnerong Road. And taking into account the Rhodes Street developments 400+ units are not fully populated what the intersection on Flint / Bunnerong is going to be like in 12 – 24 months.

Comment: The proposed development will generate only 6 vehicles per hour, which is unlikely to affect intersection performance and therefore intersection modelling is not required in this instance.

The issues raised in public submissions have been considered in this assessment.

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 four storey mixed use development containing a total of 10 dwellings and one commercial tenancy at 77sqm:

Residential

Proposed Bedrooms	Proposed	Contribution per dwelling	Total payable
1 bed	4	\$8,654.53	\$34,618.12
2 bed	6	\$14,239.60	\$85,437.60
3 bed	0	\$18,609.44	\$0
TOTAL	10		\$120,055.72

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 existing dwelling on the site as a one (1) bedroom apartment (being the smallest of the new dwellings), the following Section 94 contributions are payable:

Proposed Bedrooms	Proposed	Contribution per dwelling	Total payable
1 bed	3	\$8,654.53	\$25,963.59
2 bed	6	\$14,239.60	\$85,437.60
3 bed	0	\$18,609.44	\$0
TOTAL	9		\$111,401.19

Therefore the total contribution payable for the proposal is **\$111,401.19**. A breakdown of the figure is provided in the condition of consent.

Conclusion

Development Application No. 17/0012 was received on 1 February 2017 for demolition of existing structures , tree removal and construction of a mixed use development comprising commercial and residential apartments (4 x 2 bed and 6 x 2 bed units) and two levels of basement car parking.

The development departs from the height requirement by 1.4 metres (15.4 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 and landscaped area, site isolation, unit mix and setbacks 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 an active street frontage, and ample private open space and a communal area. The area is serviced by public transport with a bus stop within 15 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.

Attachment

Schedule 1 – Conditions of Consent

Premises: 228 Bunnerong Road, Hillsdale

DA No: 17/0012

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
DA001 – Issue B – Development Summary; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA002 – Issue B – Site Analysis; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA101 - Issue B - Site Plan / Demolition Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA102 - Issue B – Basement 2 Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA103 - Issue B – Basement 1 Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA104 - Issue B – Ground Floor Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA105 - Issue B – First Floor Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA106 - Issue B – Second Floor Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA107 - Issue B – Third Floor Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA108 - Issue A – Roof Plan; Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 1 February 2017.
DA201 - Issue B – Elevations (North & South); Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.

DA202 - Issue B – Elevations (East & West); Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA203 - Issue B – Sections (A & B); Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA204 - Issue B – Sections (C & D); Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA 205 - Issue B – Sections (E); Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017.
DA 206 - Issue A – Height Study Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 15 March 2017
DA301 – Issue B – Perspective; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA 302 – Issue B – Perspective; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA303 – Issue A – Perspective; Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 1 February 2017
DA304 – Issue A – Perspective; Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 1 February 2017
DA305 – Issue A – Perspective; Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 1 February 2017
DA306 – Issue A – Perspective; Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 1 February 2017
DA307 – Issue A –Material Schedule; Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 1 February 2017
DA308 – Issue A – Photomontage; Job No 8401	Zhinar Architects Pty Ltd	Dated 21 October 2016; Received 1 February 2017
DA401 – Issue B – Shadow Diagrams 22 June; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA402 – Issue B – Shadow Diagrams 22 June; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA403 – Issue B – Views from the Sun 22 June; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA404 – Issue B – Views from the Sun 22 June; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA405 – Issue B – Shadow Diagrams 22 September (equinox); Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA406 – Issue B – Shadow Diagrams 22 September (equinox); Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
DA407 – Issue B – 3D Shadow Diagrams; Job No 8401	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
Landscape Plans (Sheet 1) – Sheet 1 - Issue C; Job Ref: 16/1874	Paul Scrivener Landscape Architect	Dated 15 March 2017; Received 16 March 2017

Planting Plan & Sectional Elevations - Sheet 2 - Issue C; Job Ref: 16/1874	Paul Scrivener Landscape Architect	Dated 15 March 2017; Received 16 March 2017.
Stormwater Plan – D1: Details, Notes and Legend – Issue B; Job No 160299	Quantum Engineers	Dated 21 October 2016 Received 1 February 2017
Stormwater Plan – D2: Basement Level 2 Plan – Issue B; Job No 160299	Quantum Engineers	Dated 21 October 2016 Received 1 February 2017
Stormwater Plan – D3: Basement Level 1 Plan – Issue B; Job No 160299	Quantum Engineers	Dated 21 October 2016 Received 1 February 2017
Stormwater Plan – D4: Site / Ground Floor Plan – Issue B; Job No 160299	Quantum Engineers	Dated 21 October 2016 Received 1 February 2017
Stormwater Plan – D5: Roof Plan – Issue B; Job No 160299	Quantum Engineers	Dated 21 October 2016 Received 1 February 2017
Stormwater Plan – D6: OSD Details & Calculations – Issue B; Job No 160299	Quantum Engineers	Dated 21 October 2016 Received 1 February 2017
Stormwater Plan – D7: Sediment Control Plan & Details – Issue B; Job No 160299	Quantum Engineers	Dated 21 October 2016 Received 1 February 2017
Survey Plan, Ref 6637, Issue A	SDG	Dated 23 March 2015 Received 1 February 2017

Reference Document(s)	Author	Date Received
Statement of Environmental Effects	Uniplan Australia	Dated 27 January 2017 Received 1 February 2017
Clause 4.6 Variation to height (within Statement)	Uniplan Australia	Dated 27 January 2017 Received 1 February 2017
ADG Workbook; Issue B.	Zhinar Architects Pty Ltd	Dated 6 March 2017; Received 15 March 2017
SEPP 65 Design Verification Statement	Zhinar Architects Pty Ltd	Dated November 2016; Received 1 February 2017
Traffic Report	Varga Traffic Planning Pty Ltd	Dated 16 March 2017; Received 17 March 2017
DA Access Report (Ref No: ZAA-004)	Wall to Wall Design + Consulting	Dated 28 October 2016 Received 1 February 2017
Relocation of sewer easement for basement		Undated
DA Acoustic Assessment (Ref No 20161441.1)	Acoustic Logic	Dated 4 October 2016 Received 1 February 2017
BASIX Certificate No 768639M_02	Ecoinnovate	Dated 03 November 2016 Received 1 February 2017
Construction and Traffic Management Plan	Mike Dalzell	Dated 6 December 2016 Received 1 February 2017
Geotechnical; Report (Ref No E23146GA)	EI Australia	Dated 28 October 2016 Received 1 February 2017

Cost Report for DA Submission	Quantex	Dated 11 October 2016 Received 1 February 2017
Waste Management Plan	Zhinar Architects Pty Ltd	Dated 10 October 2016; Received 1 February 2017
Roof Garden – Qualitative Wind Assessment	SLR Global Environmental Solutions	Dated 19 August 2016 Received 1 February 2017

2.

- a) This Consent relates to land in Lot 2 in DP 414270, 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) All buildings and structures (including balconies) together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary. However, Roads and Maritime would raise no objection to a pedestrian footpath awning.
 - b) The proposed pedestrian awning shall not obstruct the line of sight for motorists to the traffic control signals or other critical road infrastructure.
 - c) Should the post development stormwater discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any changes are to be submitted to Roads and Maritime for approval, prior to the commencement of works. Details should be submitted to suppiah.thillai@rms.nsw.gov.au. 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 requirements please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114.
 - 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 developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. The report and any enquiries should be submitted to suppiah.thillai@rms.gov.au telephone 8849 2114. 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 owners/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) All demolition and construction vehicles are to be contained wholly within the site or on Flint Street as a construction zone will not be permitted on Bunnerong Road.
 - f) 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 method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.
 - b) It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
 - The existing network can support the expected electrical load of the development
 - A substation may be required on-site, either a pad mount kiosk or chamber style and;
 - Site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.
 - c) The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.
 - d) All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 *Guideline For Managing Vegetation Near Power Lines*.
 - e) There are existing overhead electricity network assets in Bunnerong Road & Flint Street. Safework NSW Document – *Work Near Overhead Powerlines: Code of Practice*, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given the locating and operations of cranes and the location of any scaffolding.
 - f) The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, *NS220 Overhead Design Manual*. This document can be sourced from Ausgrid's website, www.ausgrid.com.au
 - g) Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

- h) There are existing underground electricity network assets in Bunnerong Road & Flint Street. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Safework Australia – *Excavation Code of Practice*, and Ausgrid’s *Network Standard NS156* outlines the minimum requirements for working around Ausgrid’s underground cables.
- i) There are existing electricity substation assets at the rear of the site. The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: *The use of ventilation and air conditioning in buildings - Mechanical ventilation in buildings*. In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment.

The development must comply with both the Reference Levels and the precautionary requirements of the *Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz* (ARPANSA, 2006). For further details on fire segregation requirements refer to Ausgrid’s Network Standard 113. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid’s Network Standard 143.

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 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) Sydney Water Asset
- i) The proposed development site is traversed by 150mm wastewater main.
 - ii) Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main.
 - iii) Servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets.
- e) 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
10. The following conditions imposed by **Sydney Airport Corporation Limited** are as follows:
- a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority. The application sought approval for the PROPERTY DEVELOPMENT to a height of 38.0 metres Australian Height Datum (AHD).
- In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 38.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK

11. A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
12. 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

Any such sign is to be removed when the work has been completed.

13. 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.

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

14. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or

- ii) Arrangements for the doing of the work are otherwise changed.
- 15. Prior to the commencement of works, the Principal Certifying Authority must be satisfied that: -
 - d) In the case of work to be done by a licensee under the *Home Building Act 1989*:
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the *Home Building Act 1989*; or,
 - e) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the person's name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 of the *Home Building Act 1989*.
- 16. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
 - f) Written notice, indicating the date when demolition of the building is to commence.
 - g) This persons full name and address.
 - h) Details of Public Liability Insurance.
- 17. 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.
- 18. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 19. The Applicant has permission to remove two (2) existing street trees along Flint Street.
Note: Trees are not permitted to be removed until the Construction Certificate has been issued.
- 20. 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.

21. 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.

22. Prior to the commencement of demolition work a licensed demolisher who is registered with SafeWork 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 SafeWork NSW.

The statement must be in compliance with *AS2601:1991 – 'Demolition of Structures'*, the requirements of SafeWork 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 Environment 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.
23. 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.
24. Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), Structural vibration Part 3 – Effects of vibration on structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
25. Any material containing asbestos, or other hazardous waste, found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² 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.
26. 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.
27. An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th 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* 4th 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.
28. 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.
29. 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.
30. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
 - b) Prior to placement of concrete (kerb and gutter and footpath);
 - c) Prior to construction and placement of road pavement materials; and
 - d) Final inspection.

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.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

31. 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.

32. The applicant must prior to the release of the Construction Certificate, pay the following fees:

- | | | |
|----|--------------------------|--------------------------|
| a) | Development Control Fee | \$5,250.00 |
| b) | Damage Deposit | \$103,104.75 (see below) |
| c) | Section 94 Contributions | \$111,401.19 (see below) |

33. Bayside 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 **\$111,401.19** is to be paid to Council prior to the issue of the first Construction Certificate.

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.

34. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit and Performance bond of **\$103,104.75** (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.

35. 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.

36. 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.

37. A detailed Traffic Management Plan for the pedestrian and traffic management of the site and Bunnerong Road and Flint Street 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.

38. 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 20 car parking spaces that must be clearly line marked and signposted;
 - d) A minimum of one (1), 3.5m wide carwash bay with the appropriate drainage systems shall be provided for residents.
39. Prior to the release of the Construction Certificate, the following required are to be submitted to and approved by the Principal Certifying Authority:
- a) A minimum 2 disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6 and Council requirements;
 - 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; and
 - c) 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.
40. 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.
41. 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 (e.g. 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.

42. 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.
43. A final landscape plan shall be provided, generally in accordance with the approved Landscape Plan prepared Paul Scrivener Landscape Architects Issue C (dated 15 March 2017), and shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's 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, the following:
- 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) Planting of two (2) *Cupaniopsis anacardioides* street trees of 200 lite sizes on the Flint Street frontage of the property is required to improve the amenity of the streetscape.
 - 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) Communal bench seating along the boundary of the rooftop communal open space is required to improve amenity and privacy.
 - e) The vegetation screening/planting around the boundary of the rooftop communal open space is to comprise 70-80% native plants. Accordingly, various changes to species in this area is required including other banksia variety suggestions such as Banksia spinulosa x 'Birdsong' and Xanthostemon 'Fairhall Gold'. Liriope to be replaced with different Dianellas. Tarchelospermum, Agave and Philodendron selections could also be replaced to meet these requirements.
 - f) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
 - g) Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the root ball are not permissible. Trees planted within paved areas shall have the barriers installed around the inside edge of the pavement cutout. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing.
 - h) All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt or concrete are not permitted. The driveway crossover shall be constructed of plain broom finished concrete.
 - i) For the purposes of irrigating the landscaped areas, a water tank, minimum 2000 litres in size shall be installed on the property for stormwater collection and re-use. Tank overflow will be to the existing piped stormwater drainage system. Above-ground rainwater tanks are not to be located within the front setback of a property nor shall they be visible from a public street. The location of underground

stormwater and rainwater tanks are to be shown on the final Landscape Plan, ensuring deep soil availability for landscaping and tree planting is maximised.
NOTE: detention tanks not permitted in street setbacks.

- j) The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of the consent and Council's Landscape DCP at all times.
44. Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$450 to Council to ensure the installation and establishment of a street tree in accordance with Council's *Street Tree Master Plan*. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.
45. 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.
46. 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.
47. 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 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.

48. 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.
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. The garbage and recycling storage area shall be adequately ventilated. 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.
50. 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 prior to the issue of the Construction Certificate and its location and specifications endorsed on the construction drawings.
51. Prior to the issue of any Construction Certificate, 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*.

CONDITIONS TO BE SATISFIED DURING WORKS

52. 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.
53. 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.
54. 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.
55. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
56. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
57. Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 *Demolition of Structures* and the requirements of the SafeWork NSW.

58. This approval does not permit any dewatering of the site. If groundwater is encountered during works, all work shall stop and a modification application may be required.
59. 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:
- a) Protect and support the adjoining premises from possible damage from the excavation, and
 - b) Where necessary, underpin the adjoining premises to prevent any such damage.
 - c) 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.
 - d) 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, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i. 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
 - ii. Adequate provision must be made for drainage.
60. 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.
61. 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.
62. 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.
63. The public footpaths on Flint Street and 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).

64. 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.
65. 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.
 - f) Medium canopy trees (5-8 metre height) must contain a minimum soil depth of 1000mm with planter dimensions 6 x 6 metres. The *Livistona australis* must be planted in a minimum soil depth of 1300mm, with planter dimensions 10 x 10 metres (Section 10 – Landscape Guidelines).
66. 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 L₁₀ 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 L₁₀ 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.

67. 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.
68. Construction operations shall be carried out as follows:
- 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 (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.
 - 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.
69. 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.

70. 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.
71. 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.
72. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
73. 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.
74. Results of the monitoring of any field parameters such as soil, groundwater, surface water, and dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
75. 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.
76. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
 - a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) *Protection of the Environment Operations Act 1997*; and
 - c) *Protection of the Environment Operations (Waste) Regulation 2014*.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

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

77. 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*.
78. 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.
79. 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.

80. 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 supersedes 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.
81. 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 Council prior to the Issue of an Occupation Certificate.
82. 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.
83. 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.
84. 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.
85. 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.
86. 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;
 - b) On Flint Street, adjacent to development, reconstruct existing concrete footpath for the full length of the property in accordance with Council's Landscape Architect specifications; and
 - c) On Flint Street, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's specifications.

87. 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.
88. 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.

89. 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.
90. 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.
91. The 21 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.

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

92. 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.
93. 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.
94. 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.

95. No roller shutters are to be installed to any of the commercial shopfronts that front Bunnerong Road.
96. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
97. Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
98.
 - a) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
 - b) 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.
99. 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.
100. 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. A sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a notice board in a communal area, where it can easily be observed and read by persons entering the building. 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.
101. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Protection of the Environment Operations (Noise Control) Regulation 208* and *AS2201, Parts 1 and 2 – 1978 Intruder Alarm Systems*.
102. 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.
103. 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.

104. 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. 17/0012 dated as 1 February 2017 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

Botany Bay Local Environmental Plan 2013

Clause 4.6 Exceptions to Development Standards

Background to Interpretation of Clause 4.6 Provisions

After some deliberation by the Land & Environment Court in a period of very conservative judgements and commentary in the planning and development industry concerning the difficulties in exceeding development controls such as building height, two more recent decisions of the Court have emphatically demonstrated that DAs for taller developments can and should be approved where they can be justified on their merits.

Nevertheless, it is recognised that the application of Clause 4.6 has its own set of tests. This was established in the Court's decision in *Four2Five vs Ashfield Council (2015)* where it was held that Clause 4.6 was different than its predecessor *State Environmental Planning Policy No 1 – Development Standards*, imposing different and additional hurdles that must be overcome before development standards, such as height can be exceeded. In the case of Clause 4.6 it was put forward that additional environmental planning grounds warranting the exceedance were required. However, although the decision of the Commissioner in this case was later upheld by the Court of Appeal, the Court expressly noted that the Commissioner's decision that she was not 'satisfied' because something more specific to the site was required was treated simply as discretionary, ie subjective opinion, which was a matter for her alone to decide. It did not mean that a Clause 4.6 variation can only be allowed where there is some special or particular feature of the site that justifies non-compliance.

Some important principles, however, have been established by more recent decisions of the Land & Environment Court in relation to Clause 4.6 variations (refer to *Micaul Holdings Pty Limited v Randwick City Council [2015]* and *Moskovich v Waverly Council [2016]*).

In *Micaul Holdings Pty Limited v Randwick City Council (2015)* the Commissioner's decision, on its face, means that:

1. the consent authority must be satisfied that the applicant's written Clause 4.6 variation request adequately addresses everything necessary in Clause 4.6(3), rather than being 'satisfied directly' as to each of those matters; and
2. the consent authority must be personally satisfied that the development will be 'consistent with' the objectives of the zone and the development standard being varied. 'Consistent with' meaning something less than actually achieving those objectives.

In *Moskovich v Waverly Council (2016)*, the following principles arise from the Court's decision:

- The requirement that the consent authority be personally satisfied that the proposed development will be in the public interest because it will be 'compatible' with the objectives of the development standard or 'capable of existing together in harmony.'
- Establishing that compliance with the standard is unreasonable or unnecessary in the circumstances of the case 'does not always require the applicant to demonstrate that the relevant objectives of the standard are achieved by the proposal'

STATEMENT OF ENVIRONMENTAL EFFECTS

Lot 2 in DP414270 No 228 Bunnerong Road Hillsdale NSW 2036

- It is always best, when pursuing a Clause 4.6 variation, to demonstrate how the proposal achieves a better outcome than a complying scheme.

Applicant's name:

Zhinar Architects.

Site address:

No 228 Bunnerong Road, Hillsdale, NSW 2036.

Proposal in Brief:

Construction of a 3 & 4 storey apartment development.

1. Name of the applicable planning instrument which specifies the development standard:

Botany Bay Local Environmental Plan 2013 (BBLEP2013).

2. The number of the relevant clause therein:

Clause 4.3 – Height of Buildings

3. The relevant subclause states:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

4. The nature of development standard sought to be varied and details of variation:

The building height as prescribed on the Height of Buildings Map is 14m. The proposed development will marginally exceed the building height as noted below (nb projections advised by Zhinar Architects):

Lift overrun – 1.4m

Roof parapet – 400mm

Covered walkway to roof top communal open space – 880mm

Common room and BBQ facilities – 850mm

Pergola over roof top communal open space – 600mm

Consequently, the greatest exceedance is the lift overrun, which exceeds the development standard by 10%.

5. Statement on the objective of the standard to be varied as it relates specifically to the subject site and proposal:

Clause 4.3(1) of the BBLEP2013 states the following specific objectives in relation to building height:

STATEMENT OF ENVIRONMENTAL EFFECTS

Lot 2 in DP414270 No 228 Bunnerong Road Hillsdale NSW 2036

(1) *The objectives of this clause are as follows:*

(a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,

(b) to ensure that taller buildings are appropriately located,

(c) to ensure that building height is consistent with the desired future character of an area,

(d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

(e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.

6. Explanation as to how the proposal, notwithstanding the non-compliance with the development standard, will achieve the objective of the development standard:

The following outlines each objective set out in Clause 4.3(1) of the BBLEP2013 (as set out in Section 5 above in this variation application), together with a comment/s on how the proposed development performs against this objective despite not satisfying numerical standard.

(a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,

Comment:

An assessment of the proposal against the relevant provisions of the BBLEP2013, and *Botany Bay Development Control Plan 2013 (BBDCP2013)*, as well as consideration of impacts of the development proposal on the natural and built environments has been undertaken in the SEE accompanying the subject development application (DA).

As part of the assessment contained within the SEE, it was determined that the proposal satisfactorily addresses potential impacts including, visual impacts, potential overshadowing within the development and onto the adjoining property to the south, landscaping, acoustic impacts, and traffic and parking impacts.

Reference is made to the SEE and the specialist reports submitted with the DA that support the proposal, subject to application of appropriate mitigation measures.

STATEMENT OF ENVIRONMENTAL EFFECTS

Lot 2 in DP414270 No 228 Bunnerong Road Hillsdale NSW 2036

(b) to ensure that taller buildings are appropriately located,

Comment:

The development site is located in the Hillsdale Local Centre. The site is identified for mixed commercial/ residential use in the former City of Botany Bay Council's DCP, which applies to the subject land. The adjoining site is being developed for an approved 4 storey mixed use commercial/ residential development. The subject development site is an isolated site, which if developed for a taller building will complete the urban edge of the Hillsdale Centre. It is therefore considered that the proposed taller building is appropriately located.

(c) to ensure that building height is consistent with the desired future character of an area,

Comment:

Refer to previous comment under paragraph (b). The proposed development will be consistent with the approved 4 storey development at 228 Bunnerong Road and commercial development in the Hillsdale Local Centre, specifically Southpoint Shopping Centre. It has been carefully designed so that it will not impact on low density residential development in Flint Street by incorporating street landscaping and preventing overlooking from the proposed roof top communal open space by incorporating perimeter planting on all street interfaces of the roof top communal open space with the adjoining streets/ lane.

(d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

The design of the proposed development ensures that it will have a positive visual impact when viewed from the street and surrounding development. The design recognises the corner location of the development and specifically addresses the site constraints in a manner that ensures that there will be no disruption of views or loss of privacy. The design also ensures that no additional overshadowing impacts are created with most of the shadows generated from the proposed development falling on the roadway or being contained within the cast shadow from existing buildings on the development site and under construction on the adjoining land.

STATEMENT OF ENVIRONMENTAL EFFECTS

Lot 2 in DP414270 No 228 Bunnerong Road Hillsdale NSW 2036

(e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.

The proposed mixed use commercial/ residential development has been designed to provide active street frontages in both Bunnerong Road and Flint Street at ground level. The building incorporates architectural treatments to reduce the bulk and scale of the building so that when viewed from adjoining roads and the public park opposite the site, there will be no adverse effects on the contextual setting or existing scenic landscape.

7. Would strict compliance hinder the attainment of the objectives under Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?

Non-compliance with the maximum building height development standard is considered unlikely to have any significant adverse effect on the locality or surrounding properties, given the constraints of the site. Strict compliance with the development standard in this instance is considered unnecessary to achieve the continued orderly and economic development of the subject site in accordance with the objectives of the B2 zone under BBLEP2013.

The following assessment of the Clause 4.6 exception to development standards applies the principles set out in the NSW Government Department of Planning and Infrastructure's guide to varying development standards publication and *Hooker Corporation Pty Limited v Hornsby Shire Council* (1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council* (2001) and as reiterated in *Wehbe v Pittwater Council* (2007):

- *Is the planning control in question a development standard?*

Comment:

The maximum building height control is a development standard under the provisions of Clause 4.3 of BBLEP2013. The proposal seeks an exception to this development standard and as such an application to vary the standard under Clause 4.6 'Exceptions to Development Standards' has been provided herein.

- *What is the underlying purpose of the standard?*

Comment:

Clause 4.3 sets out specific objectives for the maximum building height development standard of 14m set out BBLEP2010 that have been previously addressed above.

STATEMENT OF ENVIRONMENTAL EFFECTS

Lot 2 in DP414270 No 228 Bunnerong Road Hillsdale NSW 2036

The relevant parts of Section 5(a) of the *Environmental Planning and Assessment Act 1979* (EPAA1979) are stated inter alia:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

Strict enforcement of the maximum building height development standard in this instance would hinder the desired redevelopment outcome for the site, the orderly and economic use as well as the development of the land. The proposal is considered to remain consistent with the scale of surrounding future development in the B2 zone under BBLEP2013.

- *Is compliance with the standard unreasonable or unnecessary in the circumstance of the case?*

Comment:

Having regard to the objectives for the maximum building height development standard provided in Clause 4.3 of BBLEP2013, it is considered that strict compliance with this standard is unnecessary in this case for the following reasons:

- The maximum height exceedance is confined to the lift overrun, which equates to 10% and involves a minimum of the building footprint.
- The additional building height will not result in any unacceptable or unreasonable physical impacts to the surrounding developments or the public domain as noted previously.
- The proposed development, including the additional building height, presents as a modest commercial/ residential apartment building when viewed from the street and surrounding land uses.
- It is considered that sufficient environmental planning grounds are demonstrated to warrant variation to the development standard. The proposed maximum 1.4m variation will not result in any considerable negative environmental impacts, however approval will help facilitate a development that will provide social, economic and community benefits via the delivery of additional affordable housing choice in an area that is currently experiencing increased housing demand.

- *Is the objection well founded?*

Comment:

In *Wehbe v Pittwater Council (2007)*, Chief Justice Preston expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. These are:

- 1) The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3) The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or*
- 5) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

To some extent these policy aims must be qualified, however, it is considered that the subject Clause 4.6 variation application meets the aims set out in items 1), 3), & 4).

8. Conclusion:

It is considered that strict compliance with the maximum building height development standard set out in Clause 4.3 of BBLEP2013 is unnecessary in the circumstances of the case.

We are of the view that this objection to strict application of the development standard is well founded on the basis of the justification that has been presented in this Clause 4.6 variation application.

In relation to the specific provisions of Clause 4.3(3) & (4), the following is noted:

- compliance with the development standard is considered to be unreasonable or unnecessary given the low level of exceedance (maximum 10%);
- there are considered to be sufficient environmental planning grounds to justify contravention of the development standard as set out in the variation application; and

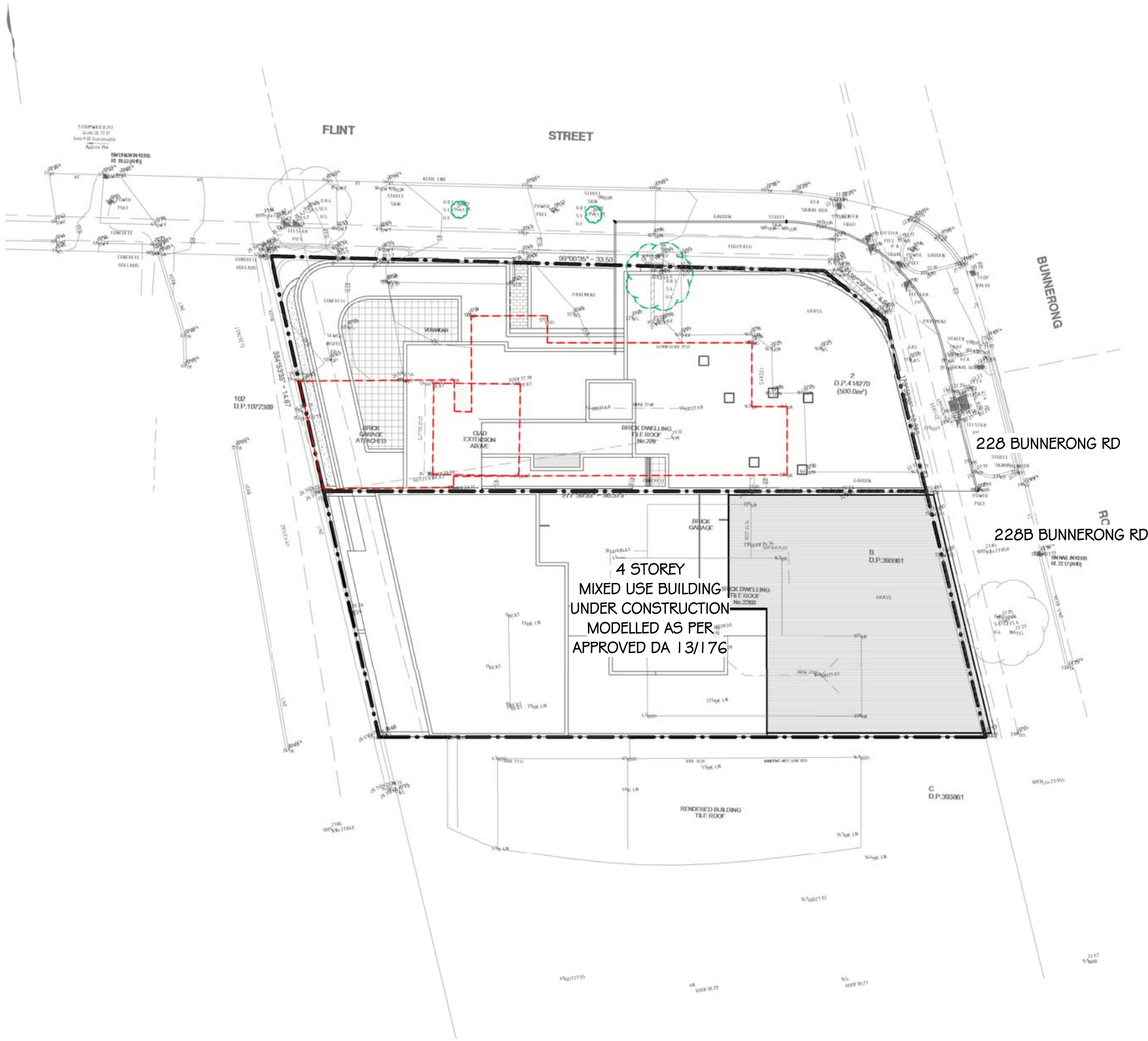
STATEMENT OF ENVIRONMENTAL EFFECTS

Lot 2 in DP414270 No 228 Bunnerong Road Hillsdale NSW 2036

- the proposed development will be in the public interest because it is consistent with the objectives of the building height standard and the objectives for development within the zone in which the proposed development will be carried out.

As such it is considered that granting of development consent for the development as proposed would be consistent with the aims and objectives of the building height development standard.

legend
- - - - - building to be demolished
- - - - - tree to be demolished



SITE PLAN
1 : 150 @ A1 sheet
1 : 300 @ A3 sheet

B	RESPONSE TO COUNCIL LETTER DATED 24/02/17	06/03/17	VV	JA
A	FOR DA SUBMISSION	21/1/16	VV	IC
ISSUE AMENDMENT		DATE	DRAWN	CHECK

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Eastwood, NSW 2122
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+61 2 0693 0033 / F
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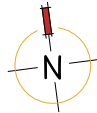
PROJECT STATUS :
Development Application

PROJECT NAME
Mixed Use Development

228 Bunnerong Rd

HILLSDALE, NSW 2036

L.G.A : BAYSIDE COUNCIL



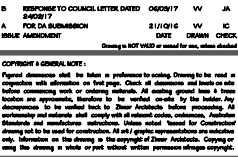
SHEET TITLE:
SITE PLAN / DEMOLITION PLAN

1 : 150 @ A1 sheet
SCALE

8401
JOB No.

DA101
DRAWING No.

B
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Suite 1, Level 2
2 Rouse Street
Centennial NSW 2122
+61 2 5085 5000 / p
+61 2 5085 5055 / f
www.shnar.com.au / w
25 485 508 790 / a

PROJECT STATUS :
Development Application

PROJECT NAME
Mixed Use Development

228 Bunnerong Rd

HILLSDALE, NSW 2036

LGA: BAYSIDE COUNCIL



SHEET TITLE:
BASEMENT 2 PLAN

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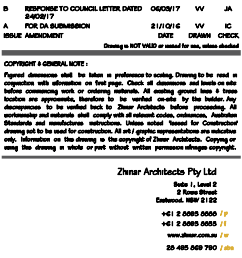
8401 DA102
JOB No. DRAWING No.

B
ONE

5/20/17 2:02:29 PM

BASEMENT 2 PLAN
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet

- BASEMENT 2 AMENDED
- FIRE STAIR IN THE WEST CORNER DELETED
- STORAGE AREA SHOWN



- BASEMENT 1 AMENDED
- FIRE STAIR IN THE WEST CORNER DELETED
- STORAGE AREA SHOWN

PROJECT STATUS :
Development Application

PROJECT NAME
Mixed Use Development

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HILLSDALE, NSW 2036
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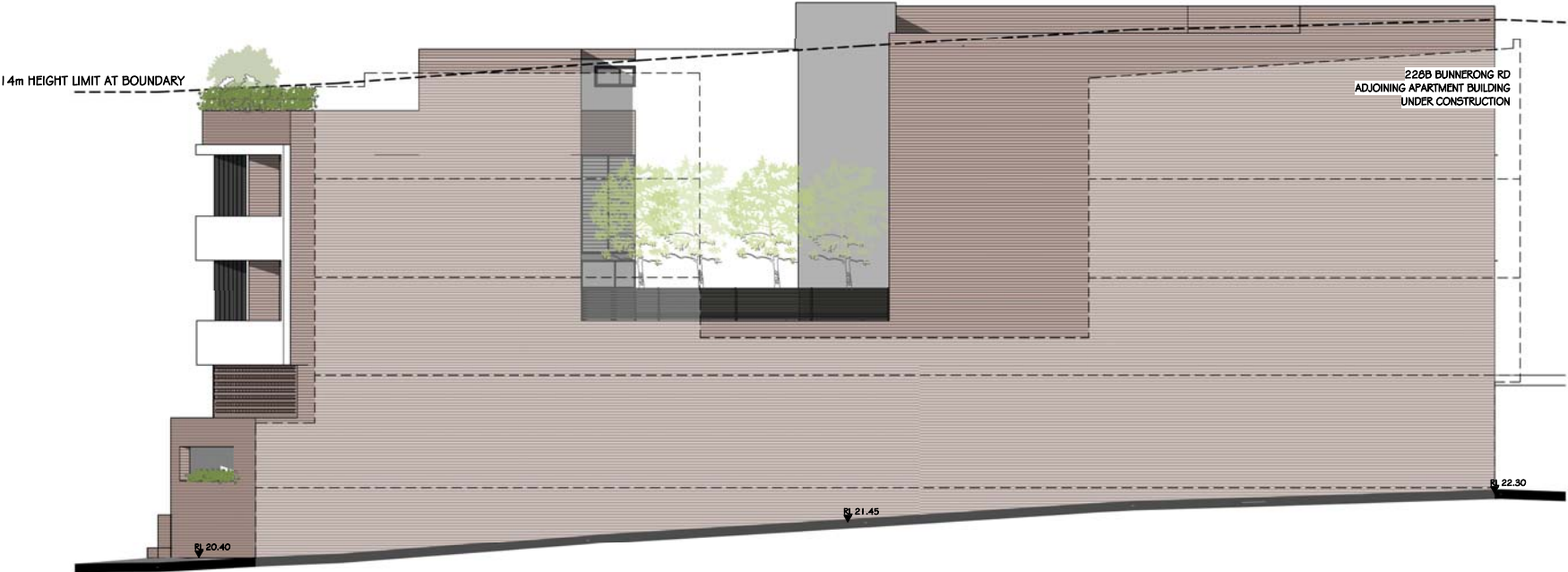
SHEET TITLE:
BASEMENT 1 PLAN

1 : 100 @ A1 sheet
SCALE

8401	DA103	B
JOB No.	DRAWING No.	ISSUE



North Elevation
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet



South Elevation
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet

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Eastwood, NSW 2122
+61 2 0693 0000 / P
+61 2 0693 0033 / F
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26 495 069 790 / A&M

PROJECT STATUS :
Development Application

PROJECT NAME:
Mixed Use Development

228 Bunnerrong Rd

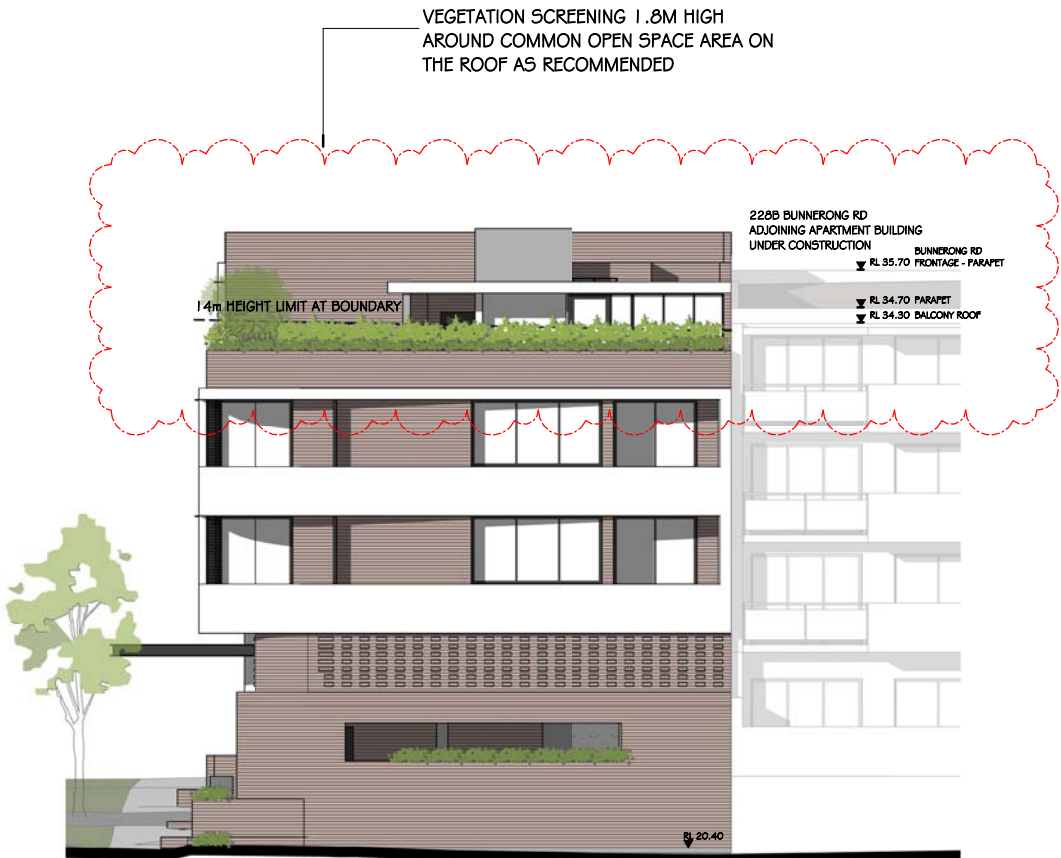
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SHEET TITLE:
ELEVATIONS

As indicated @ A1 sheet
SCALE
8401 DA201 B
JOB No. DRAWING No. ISSUE



East Elevation
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet



West Elevation
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet

B	RESPONSE TO COUNCIL LETTER DATED 24/02/17	06/03/17	VV	JA
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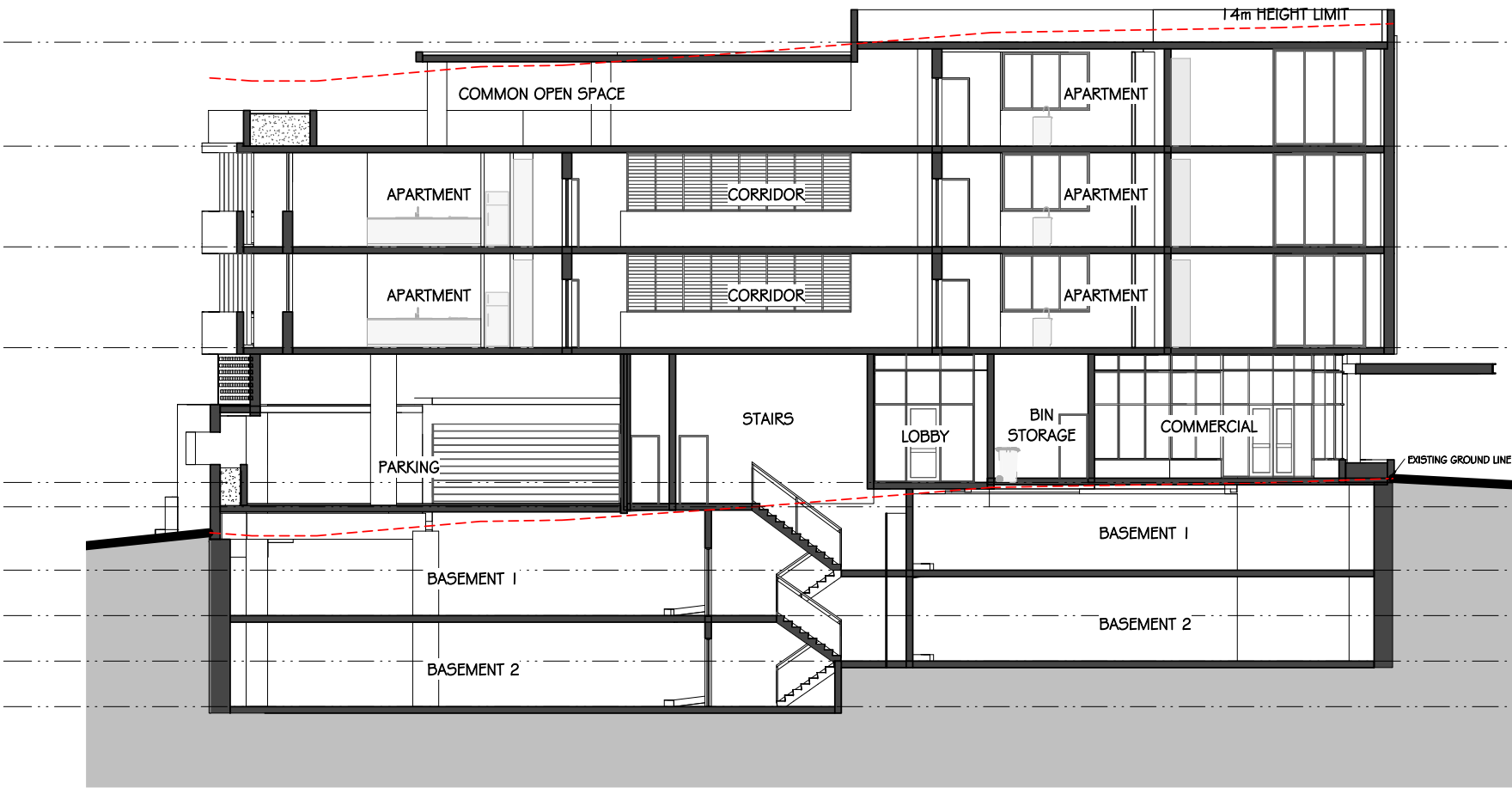
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Mixed Use Development

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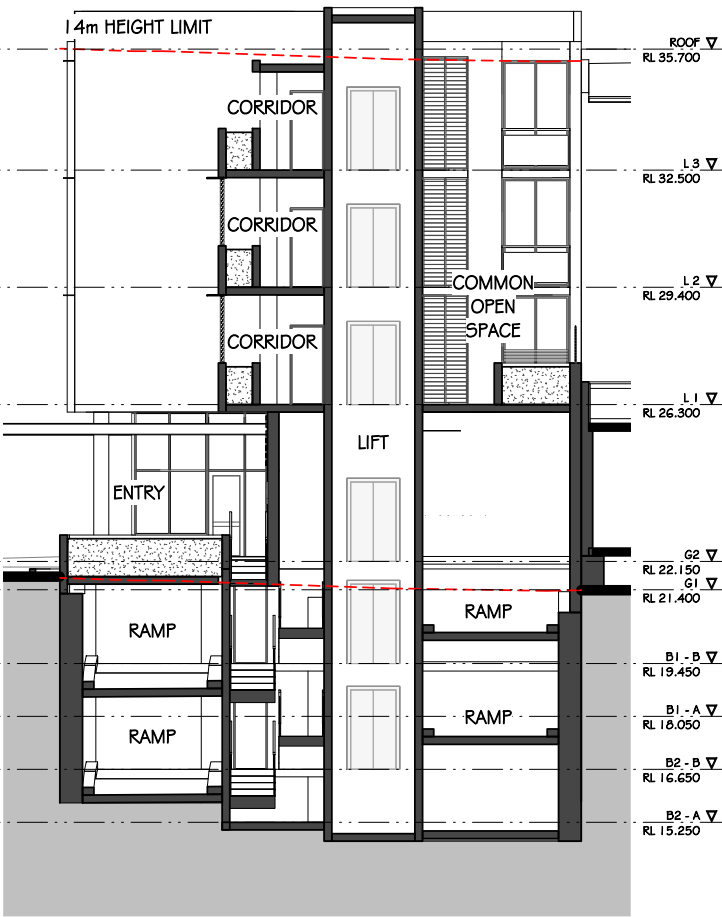
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SHEET TITLE:
ELEVATIONS

As indicated @ A1 sheet
SCALE
8401 JOB No.
DA202 DRAWING No.
B ISSUE



Section A
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet



Section B
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet

SECTION UPDATED TO SUIT
THE BASMEMENT CHANGE

B	RESPONSE TO COUNCIL LETTER DATED 24/02/17	06/03/17	VV	JA
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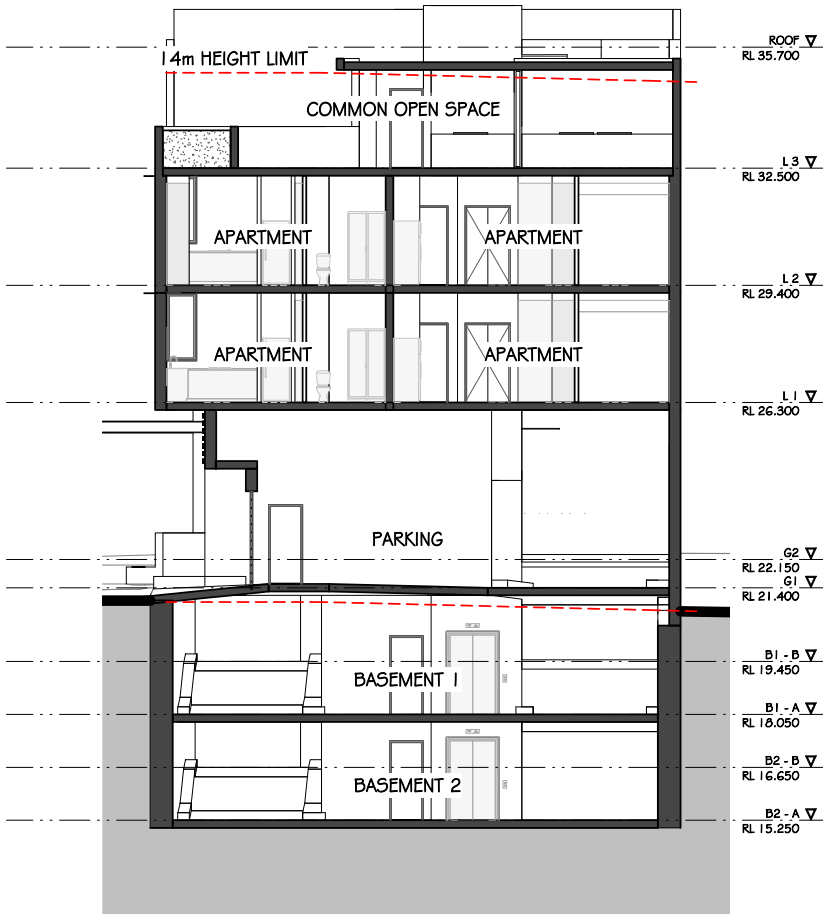
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Mixed Use Development

228 Burnerong Rd

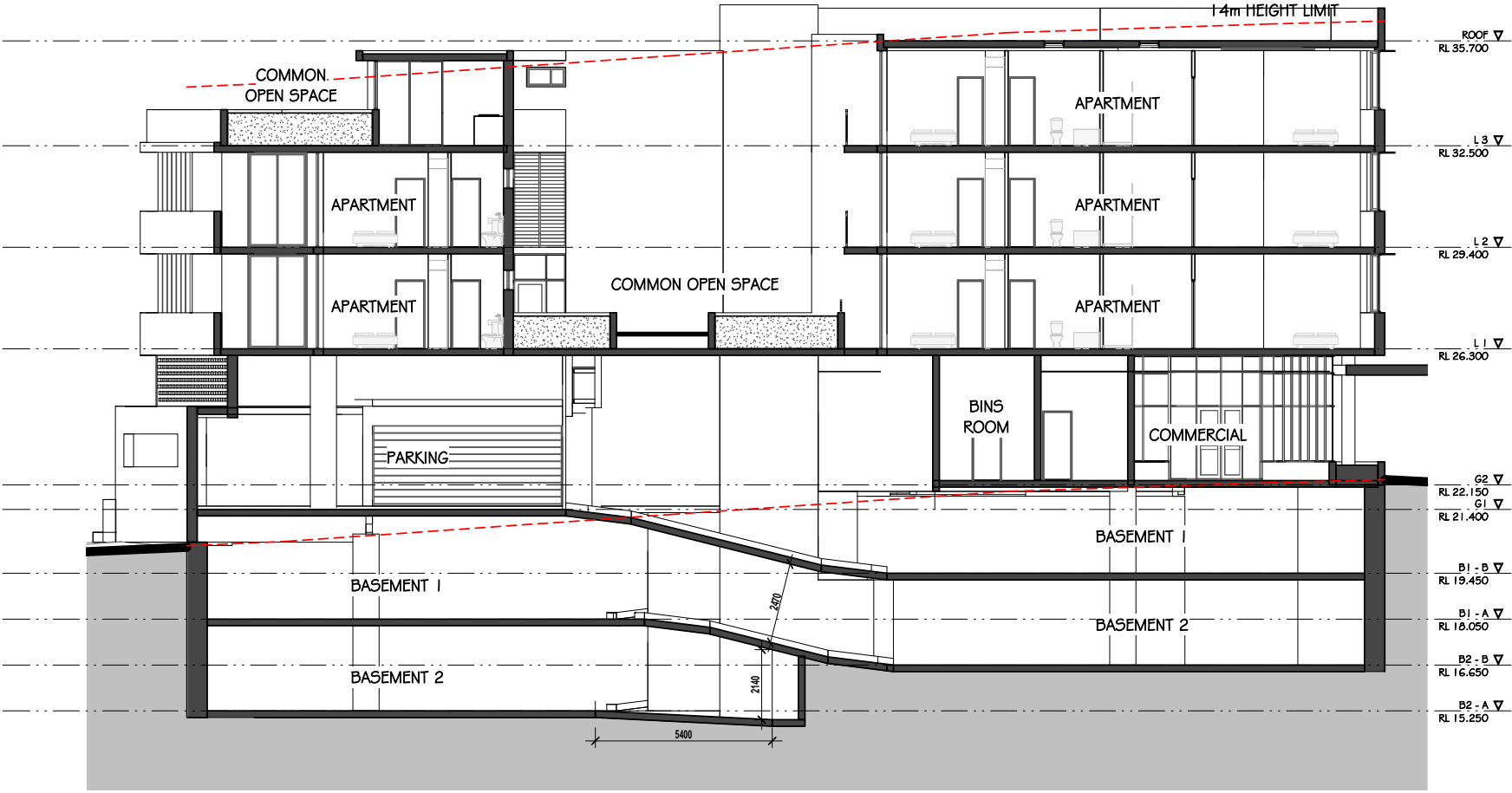
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SHEET TITLE:
SECTIONS

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SCALE
8401
JOB No.
DA203
DRAWING No.
B
ISSUE



SECTION C - DRIVEWAY SECTION
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet



SECTION D - DRIVEWAY SECTION
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet

SECTION UPDATED TO SUIT
THE BASMEMENT CHANGE

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PROJECT STATUS :
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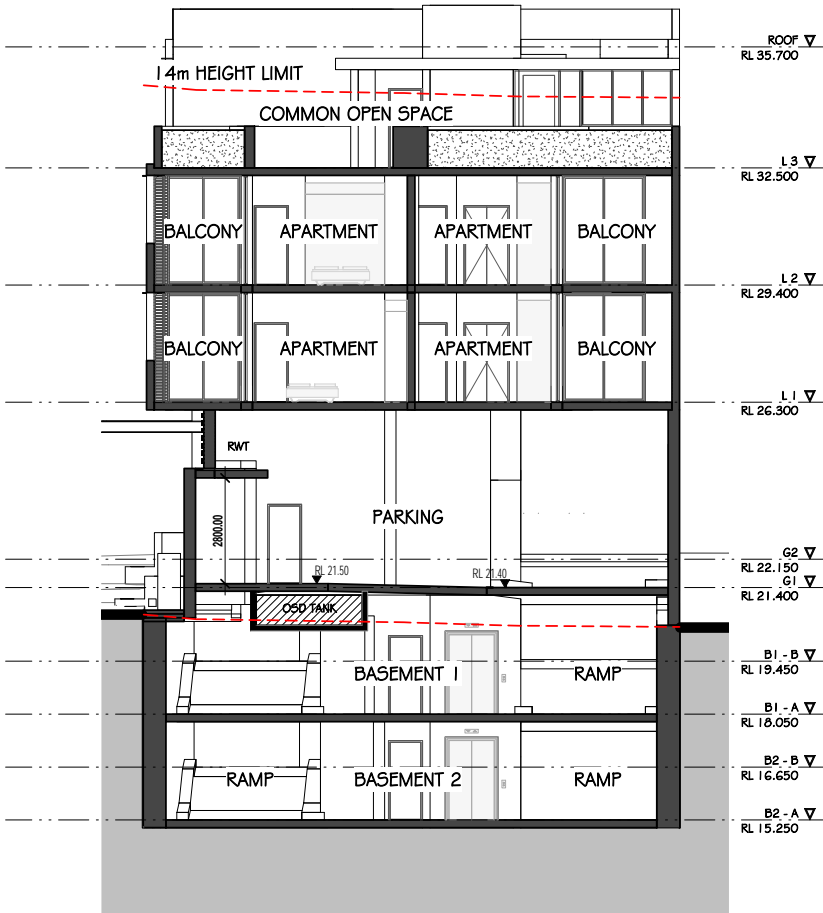
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1 : 100 @ A1 sheet
SCALE

8401
JOB No.

DA204
DRAWING No.

B
ISSUE



SECTION E
1 : 100 @ A1 sheet
1 : 200 @ A3 sheet

SECTION UPDATED TO SUIT
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B	RESPONSE TO COUNCIL LETTER DATED	06/08/17	VV	JA
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Eastwood, NSW 2122
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PROJECT STATUS :
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PROJECT NAME:
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HILLSDALE, NSW 2036
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SHEET TITLE:
SECTIONS

1 : 100 @ A1 sheet
SCALE
8401 JOB No.
DA205 DRAWING No.
B ISSUE



8401
228 Bunnerong Rd
HILLSDALE, NSW 2036
Mixed Use Development

DEVELOPMENT SUMMARY

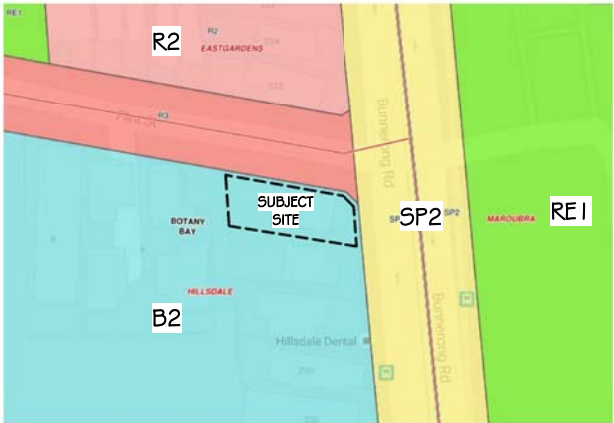
	ALLOWABLE	PROPOSED	COMPLIES
01. SITE AREA	-	500.00 m²	N/A
02. ZONE	B2	-	YES
03. BUILDING HEIGHT	MAX. 14 m	14 m	YES
04. FSR	2 : 1 1,000 m²	1.7 : 1 865.4 m²	YES
05. NUMBER OF UNIT	-	1 BEDROOM = 4 2 BEDROOM = 6 3 BEDROOM = 0 TOTAL = 10	-
COMMERCIAL AREA	-	= 79 m²	
06. CAR SPACE			
- COMMERCIAL	1 per 40 m² = 1.98		
- 1 BEDROOM	1 per UNIT 4 UNIT = 4		
- 2 BEDROOM	2 per UNIT 6 UNIT = 12		
- 3 BEDROOM	2 per UNIT 0 UNIT = 0		
- VISITOR	0.2 per UNIT 10 x 0.2 = 2		
- CAR WASH BAY	0		
	CAR SPACES REQUIRED = 20	CAR SPACE PROVIDED = 21	YES
07. SOLAR ACCESS	70 %	80 % (8 OF 10 UNITS)	YES
08. CROSS VENTILATION	60 %	80 % (8 OF 10 UNITS)	YES
09. ADAPTABLE UNIT	20% OF 10 UNITS = 2 UNIT	2 UNIT	YES
12. COMMON OPEN SPACE	150 m² (30 % OF SITE)	165.4 m² (33.08 % OF SITE)	YES

COMPLIANCE TABLE

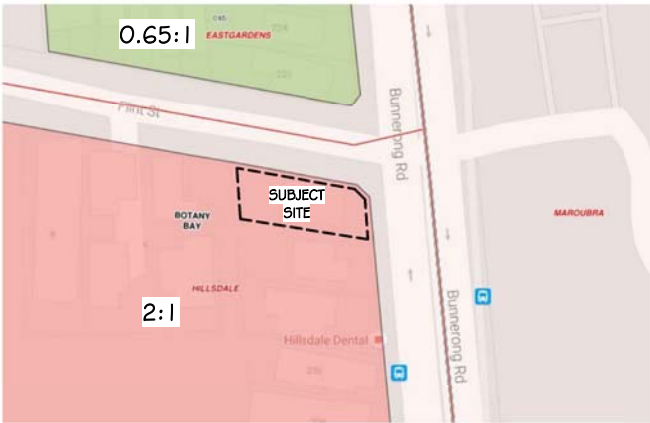
Unit Schedule											
Level	Number	Type	Area	Count	POS	Adaptable	Solar	Cross Ventilation	Storage External	Storage Internal	Storage Total
L 1	101	1 BED	50.1 m²	1	8.2 m²	No			9.3 m³	3.1 m³	12.4 m³
L 1	102	1 BED	54 m²	1	10.9 m²	Yes	1	1	7.9 m³	3.5 m³	11.4 m³
L 1	103	2 BED	76.5 m²	1	10.2 m²	No	1	1	35.7 m³	4.3 m³	40 m³
L 1	104	2 BED	79.4 m²	1	12 m²	No	1	1	18.7 m³	4.2 m³	22.9 m³
L 1: 4				4			3	3			
L 2	201	1 BED	50.1 m²	1	8.2 m²	No	0	0	5 m³	3.1 m³	8.1 m³
L 2	202	1 BED	54 m²	1	10.9 m²	Yes	1	1	11.4 m³	3.5 m³	14.9 m³
L 2	203	2 BED	76.5 m²	1	10.2 m²	No	1	1	18.9 m³	4.3 m³	23.2 m³
L 2	204	2 BED	79.4 m²	1	12 m²	No	1	1	35.7 m³	4.2 m³	39.9 m³
L 2: 4				4			3	3			
L 3	301	2 BED	76.5 m²	1	10.2 m²	No	1	1	18.7 m³	4.3 m³	23 m³
L 3	302	2 BED	79.4 m²	1	12 m²	No	1	1	33.8 m³	4.2 m³	38 m³
L 3: 2				2			2	2			
: 10				10			8	8			



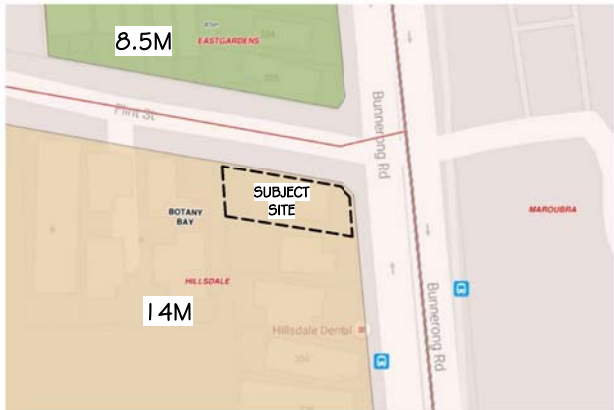
SITE LOCATION



LAND ZONING



FLOOR SPACE RATIO



HEIGHT OF BUILDINGS

LEP MAPS - BOTANY LEP 2013

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Eastwood, NSW 2122
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+61 2 0693 0033 / f
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26 495 069 790 / abn

PROJECT STATUS :
Development Application

PROJECT NAME
Mixed Use Development

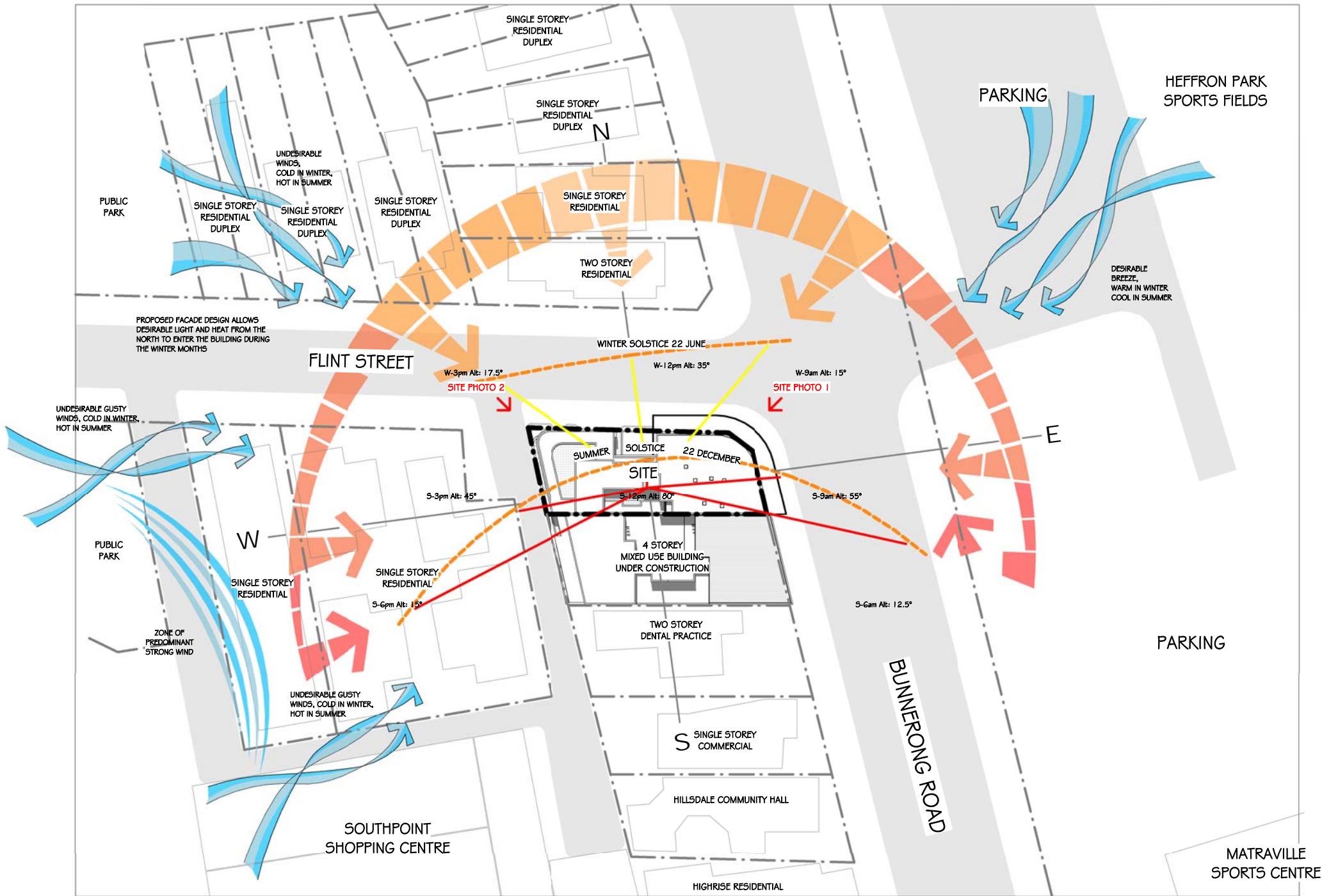
228 Burnerong Rd

HILLSDALE, NSW 2036

L.G.A : BAYSIDE COUNCIL

SHEET TITLE:
DEVELOPMENT SUMMARY

As indicated @ A1 sheet
SCALE
840 I DA00 I B
JOB No. DRAWING No. ISSUE



SITE PLAN - SITE ANALYSIS
1 : 400 @ A1 sheet
1 : 800 @ A3 sheet



SITE PHOTO 1 - VIEW FROM NE



SITE PHOTO 2 - VIEW FROM NW

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+61 2 8853 0000 / P
+61 2 8853 0033 / F
www.zhihar.com.au / W
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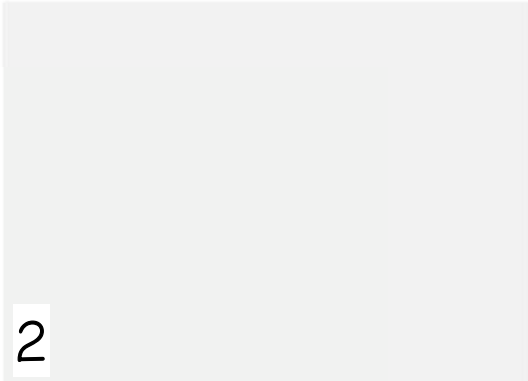
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L.G.A.: BAYSIDE COUNCIL

SHEET TITLE:
SITE ANALYSIS

As indicated @ A1 sheet
SCALE:
8401 JOB No. DA002 DRAWING No. B ISSUE



1
WALL - FACE BRICK - AUSTRAL -
BOWRAL 50 - GESTRUDIS BROWN



2
WALL - APPLIED TEXTURED PAINT FINISH
DULUX - LEXICON QUARTER PN2D1



3
BIFOLD ALUMINIUM SCREENS
POWDERCOATED - COLORBOND - MONUMENTS



4
WINDOW FRAME, RAILING, AWNING
POWDERCOATED - COLORBOND -
MONUMENT



5
FLAT ROOF - CONCRETE
FINISH



6
GLASS - CLEAR GLASS



7
PERGOLA - POWDERCOAT
COLORBOND - MONUMENT

A	FOR DA SUBMISSION	21/11/16	VV	IC
ISSUE AMENDMENT		DATE	DRAWN	CHECK
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Zhin Architects Pty Ltd
Suite 1, Level 2
2 Rowe Street
Eastwood, NSW 2122
+61 2 8593 8866 / p
+61 2 8593 8833 / f
www.zhinarch.com.au / w
28 495 069 790 / atm

PROJECT STATUS :
Development Application

PROJECT NAME
Mixed Use Development

228 Burnerong Rd

HILLSDALE, NSW 2036

L.G.A : BAYSIDE COUNCIL

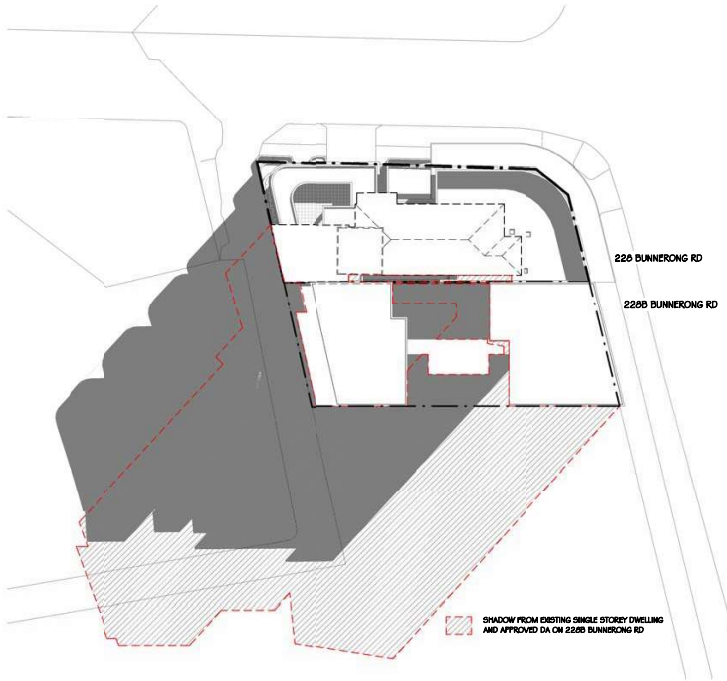
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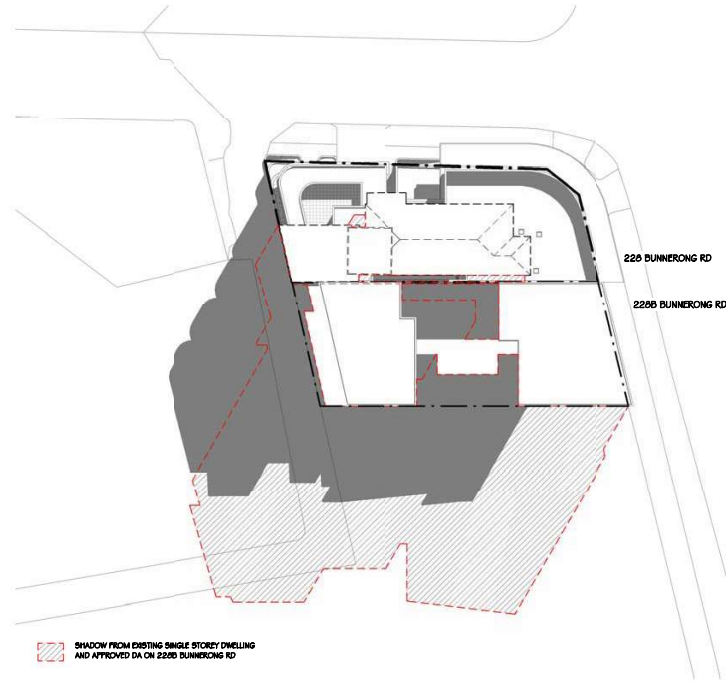
8401
JOB No.

DA307
DRAWING No.

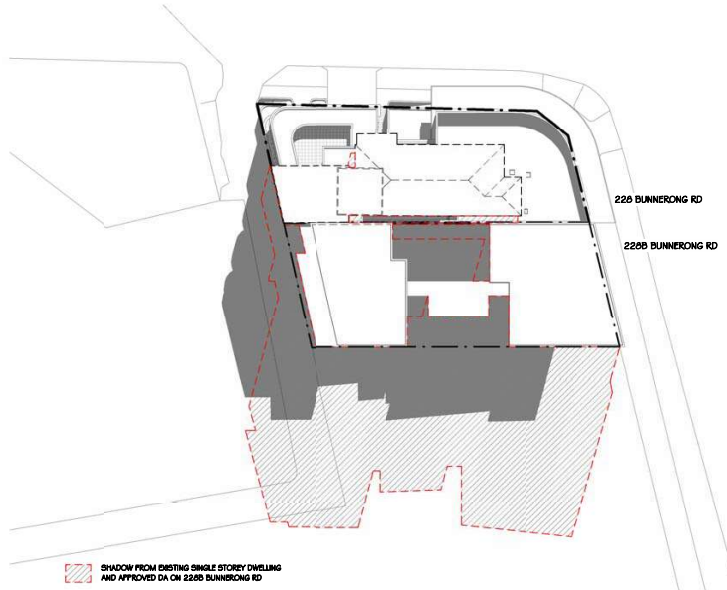
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ISSUE



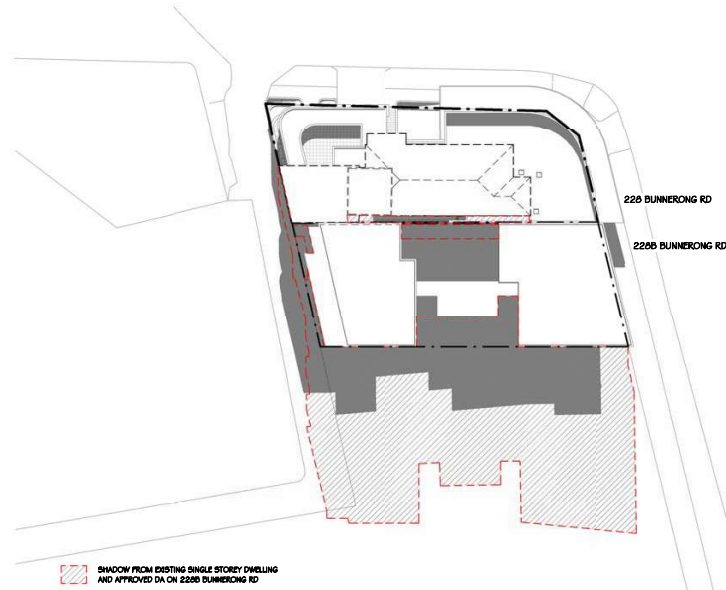
JUN 22 - 9AM



JUN 22 - 10AM



JUN 22 - 11AM



JUN 22 - 12PM

B RESPONSE TO COUNCIL LETTER DATED 06/06/17 VV JA
 A FOR DA SUBMISSION 8/10/16 VV IC
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Zhin Architects Pty Ltd
 Suite 1, Level 2
 2 Ross Street
 Cammeray, NSW 2152
 +61 2 9585 5058 / f
 +61 2 9585 5055 / t
 www.zhin.com.au / w
 55 482 049 7190 / e

PROJECT STATUS:
 Development Application

PROJECT NAME:
 Mixed Use Development

228 Bunnerong Rd

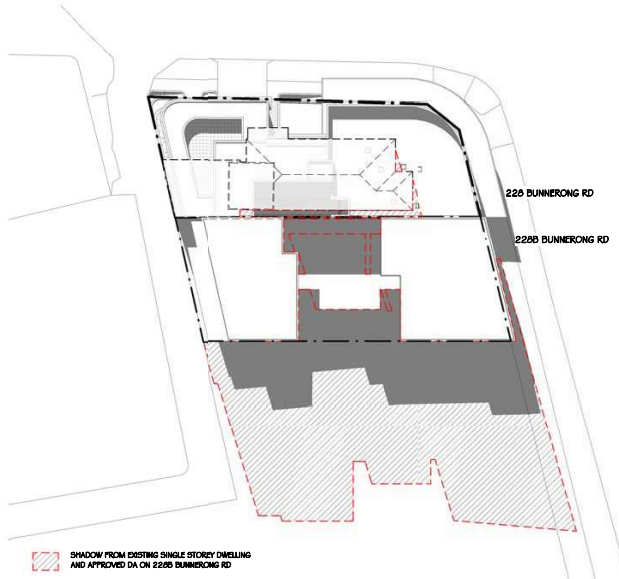
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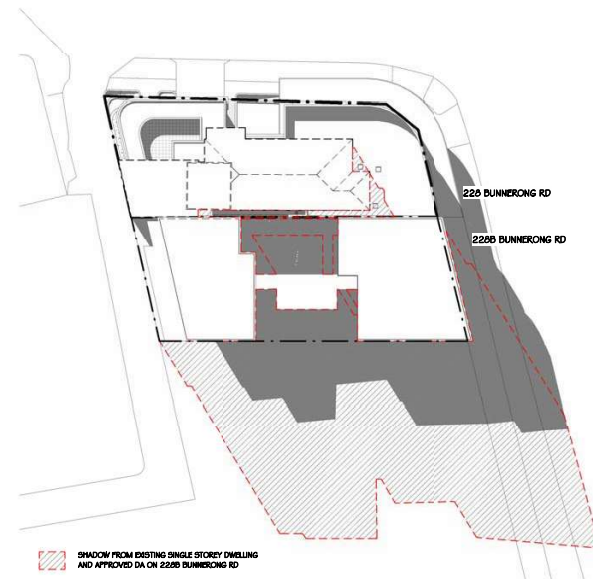


SHEET TITLE:
 SHADOW DIAGRAMS 22 JUNE

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 SCALE
 8401 DA401 B
 JOB No. DRAWING No. ISSUE
 6/23/2017 2:55:39 PM



JUN 22 - 1 PM



JUN 22 - 2 PM



JUN 22 - 3 PM

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S400177
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Zhin Architects Pty Ltd
Suite 1, Level 2
2 Ross Street
Cullerghin, NSW 2112
+61 2 9085 5055 / f
+61 2 9085 5055 / t
www.zhin.com.au / w
65-485 040 7190 / m

PROJECT STATUS :
Development Application

PROJECT NAME
Mixed Use Development

2225 Bunnerrong Rd

HILLSDALE, NSW 2036

L.A.A. : BAYSIDE COUNCIL



SHEET TITLE:
SHADOW DIAGRAMS 22 JUNE

1 : 300 @ A1 sheet

SCALE

8401 DA402

JOB No. DRAWING No.

B

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6/23/2017 2:51:24 PM



Zhnar Architects Pty Ltd
Suite 1, Level 2
2 Ruse Street
Enthwistle, NSW 2122
+61 2 5085 5000 / p
+61 2 5085 5055 / f
www.zhnar.com.au / w
25 485 569 790 / sbs

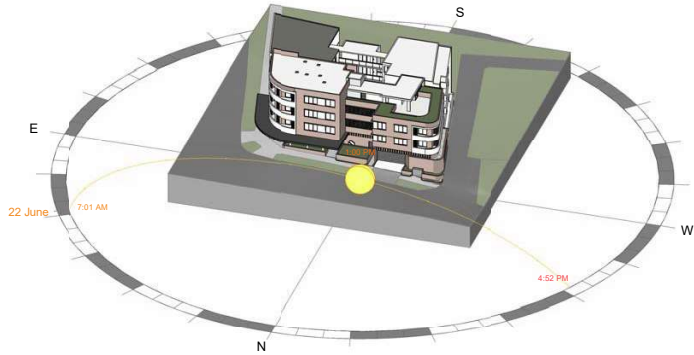
PROJECT STATUS :
Development Application

PROJECT NAME
Mixed Use Development

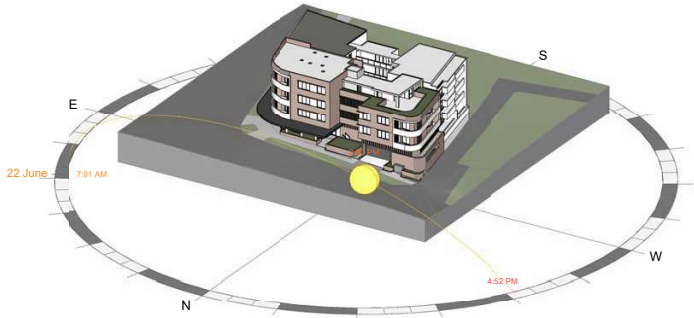
228 Bunnerong Rd
HILLSDALE, NSW 2036
LGA: BAYSIDE COUNCIL



SHEET TITLE:
VIEWS FROM THE SUN 22 JUNE



22 JUNE 1 PM



22 JUNE 2 PM



22 JUNE 3 PM

B RESPONSE TO COUNCIL LETTER DATED 06/06/17 VV JA
S400177
A FOR DA SUBMISSION 3/10/2016 VV IC
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Zhin Architects Pty Ltd
Suite 1, Level 2
2 Ross Street
Glenmore, NSW 2152
+61 2 9585 5058 / f
+61 2 9585 5055 / t
www.zhin.com.au / w
65 485 049 7190 / m

PROJECT STATUS:
Development Application

PROJECT NAME:
Mixed Use Development

226 Blumerong Rd
HILLSDALE, NSW 2036
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SHEET TITLE:
VIEWS FROM THE SUN 22 JUNE

© All sheet
SCALE
8401 DA404 B
JOB No. DRAWING No. ISSUE



UNDERGROUND SERVICES LEGEND

- UNDERGROUND SEWERMAIN
- UNDERGROUND WATERMAIN
- UNDERGROUND GASMAIN
- UNDERGROUND TELSTRA COMMUNICATIONS CABLES
- UNDERGROUND ELECTRICITY CABLES
- UNDERGROUND OPTUS CABLES

CAUTION: FIBRE OPTIC CABLES ARE PRESENT IN THIS AREA

APPROXIMATE POSITION ONLY VIDE DIAL BEFORE YOU DIG
JOB No. 8937571 WHERE CRITICAL TO DESIGN UNDERGROUND SERVICES SHOULD BE LOCATED BY GROUND PENETRATING RADAR TO DESIGN OR EXCAVATION.

- LEGEND: -**
- VC denotes VEHICLE CROSSING
PC denotes PRAM CROSSING
TK denotes TOP OF KERB
D:S:H: denotes DIAMETER, SPREAD and HEIGHT of TREE
- GENERAL NOTES:-**
- THE BOUNDARIES OF THE LAND HAVE NOT BEEN SURVEYED. FEATURES SHOWN ON THE PLAN HAVE BEEN PLOTTED IN RELATION TO THE OCCUPATIONS
 - ONLY VISIBLE SERVICES HAVE BEEN LOCATED AND THE RELEVANT AUTHORITIES SHOULD BE CONTACTED TO DETERMINE THE FULL EXTENT OF SERVICES.
 - UNDERGROUND SERVICES HAVE BEEN PLOTTED FROM DIAL BEFORE YOU DIG PLANS. THE RELEVANT AUTHORITIES MUST BE CONTACTED TO DETERMINE THE FULL EXTENT OF SERVICES PRIOR TO ANY WORKS ON OR NEAR THE SITE.
 - ONLY TREES GREATER THAN 3.5 METRES IN HEIGHT ARE SHOWN ON THIS PLAN AND THEIR POSITION IS DIAGRAMMATIC ONLY AND MAY REQUIRE ADDITIONAL SURVEY WHERE CRITICAL TO DESIGN.
 - CONTOURS ARE INDICATIVE AT GROUND FORM ONLY. SPOTS LEVELS ONLY SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.
 - CONTOUR INTERVAL 0.5 m.
 - ALL SETOUT LEVELS MUST BE REFERRED TO THE BENCH MARK.
 - THE ORIENTATION OF THIS PLAN IS APPROXIMATE MGA NORTH BASED ON DP1072389