

JOINT REGIONAL PLANNING PANEL
(East Region)

JRPP No	2012SYE053
DA Number	DA-12/070
Local Government Area	City of Botany Bay
Proposed Development	Construction of 141 residential apartments arranged in three separate building forms above a common basement providing parking for a total of 255 cars and loading facilities and associated landscape treatment
Street Address	22-24 Rhodes Street, Hillsdale
Applicant	Krikis Tayler Architects
Number of Submissions	Nil
Recommendation	Approval – Deferred Commencement
Report by	Rodger Dowsett, Director Planning and Development

PRECIS

Council received DA 12/070 on 9 May 2012. The application seeks approval for the construction of 141 residential apartments arranged in three separate building forms above a common basement providing parking for a total of 255 cars; loading facilities and associated landscape treatment on the property known as 22 – 24 Rhodes Street, Hillsdale.

The application has been referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal exceeds \$20 million.

The site is zoned 2(b) Residential pursuant to Botany Local Environmental Plan 1995 (BLEP 1995). The proposed development falls within the definition of “residential flat buildings” and is permissible in this zone with development consent.

The application seeks approval for a floor space ratio (FSR) of 2:1 when calculated in accordance with BLEP 1995 and 1.89:1 when calculated in accordance with the definition adopted by the Standard LEP Template. This exceeds the maximum allowable FSR of 1:1 for sites that have an area of in excess of 2,500m² within the Residential 2(b) zone. Accordingly a State Environmental Planning Policy No. 1 Objection has been prepared by the applicant to address the departure.

It should be noted that under the Draft Botany Bay Local Environmental Plan 2012 (Draft BBLEP 2012) the maximum allowable FSR is 1.5:1 for sites in excess of 2,000m². It should also be noted that Council has previously approved DA 09/102/04 which allows for the construction of 76 apartments, contained in 5 buildings with basement parking for 160 cars and which achieves an FSR of 1.4:1.

The development application (DA) was presented to Council’s Design Review Panel (DRP) on 29 February 2012. The Panel indicated general support for the proposal, subject to compliance with the maximum FSR allowed by the Draft BBLEP 2012.

The application was notified for a 14 day period from 7 June to 22 June 2012 in accordance with Council’s Notification Development Control Plan No. 24.

No submissions were received.

Council engaged an independent consultant to check the accuracy of the solar access analysis as submitted with the DA and to examine the accuracy of the performance of the proposed development in terms of solar access and cross ventilation. Whilst compliance with the cross ventilation requirements was confirmed (with 61% of the apartments achieving cross ventilation), a significant non-compliance with the solar access provisions was revealed - only 58.9% of dwellings could achieve the 3 hours solar access required by SEPP 65. This was found to be largely due to the inclusion of large recessed balconies off the primary living areas which comply with Council’s DCP requirements for private open space, but inhibit the achievement of sun on glazing to the living areas.

On 24 October 2012 the applicant submitted further information which demonstrated modifications to some 19 apartments which would improve compliance with the SEPP 65 solar access standards, where 72% of the apartments now satisfy the minimum requirements. The modifications are predominantly contained within the proposed building envelopes, with the exception of minor adjustments to wall lines to 2 units in Building B and 4 units in Building C. None of the changes result in any substantive alteration to the form, appearance or gross floor area of the proposed development.

The proposed development observes a minimal setback to the adjacent Rhodes Street Reserve. As the proposal will significantly increase the population of the area, which will in turn,

increase usage of and demand for local facilities including open space, Council's Landscape Officer has required certain improvements to the adjacent Rhodes Street Reserve including:

- Tree planting to enhance and/or to replace trees removed on the southern boundary of the park at the interface with the development.
- Additional tree planting throughout the park to increase tree canopy in strategic locations.
- Park furniture (seats, litter bins, picnic settings, lighting and the like).
- Playground equipment.

The applicant has confirmed by way of correspondence dated 7 November 2012 that it is willing to enter into a Voluntary Planning Agreement (VPA) with Council for the purpose of carrying out public domain works including landscaping and recreational embellishments within the adjacent Rhodes Street Reserve and in the vicinity of the cul-de-sac head of Flack Avenue.

Rhodes Street Reserve is owned by Sydney Water but is under the care, control and management of Council. The terms of the VPA will be separately negotiated with Council. In addition a long term licence agreement will need to be entered into with Sydney Water to facilitate the embellishment of Rhodes Street Reserve.

On balance, it is considered that the proposed development is a well-conceived response to all the relevant planning controls and strategies, constraints and opportunities presented by the site.

Accordingly, it is considered that the development standard relating to the maximum FSR development for the site as contained within Clause 12(2) of BLEP 1995, should be varied in the circumstances to allow the development to attain a floor space ratio of 2:1.

The recommendation is for approval as a Deferred Commencement Consent.

Officer Recommendation

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*. It is recommended that the Joint Regional Planning Panel for the Sydney East Region, as the Consent Authority in this instance, resolve to grant deferred commencement consent, subject to the following:

- (1) Grant consent to the objection submitted under the provisions of State Environmental Planning Policy No. 1 – Development Standards to vary the provisions of Clause 12(2) of Botany Local Environmental Plan 1995 relating to maximum floor space ratio of 2:1 applied under this clause on the basis that:
 - (i) Clause 12(2) of Botany Local Environmental Plan 1995 is a development standard; and
 - (ii) The objection lodged by the applicant is well founded; and
- (2) Grant Development Application No. 12/070 a “deferred commencement” consent under section 80(3) of the *Environmental Planning and Assessment Act 1979* for the construction of 141 residential apartments contained in three separate buildings, above a common basement providing parking for a total of 255 cars; loading facilities and associated landscape treatment on the property known as 22 – 24 Rhodes Street, Hillsdale, with such consent not to operate until the deferred commencement condition has been satisfied.

DEFERRED COMMENCEMENT CONDITION

- DC1 A Voluntary Planning Agreement (VPA) with Council is to be prepared and placed on exhibition. The scope of the VPA is to include the works outlined in the applicant's correspondence dated 7 November 2012.
- (3) That the deferred commencement consent be limited to a period of 12 months.

REPORT BACKGROUND

Site Description

The subject site to which the development application relates is legally described as Lots 1 and 2 in DP 515866. The combined area of these parcels is 6,652m². The extent, configuration and local context of the site is illustrated at **Figure 1**.



Figure 1 Site Plan and local context

The site has a frontage to Rhodes Street (40.28m), with a secondary frontage to Flack Avenue, where the cul-de-sac head abuts the southern property boundary. The site shares a common boundary (136m) with Rhodes Street Reserve immediately to the north, while the playing fields associated with Matraville Public School adjoin the eastern boundary.

The site exhibits a significant fall (approx. 5m) from west (Rhodes Street) towards the centre of the site, whereupon it rises slightly (approx. 60mm) towards the eastern property boundary. Based on the information currently available to Council, it would appear that the site is subject to inundation.

The land was previously occupied by a single dwelling on the Rhodes Street frontage and a 3 storey residential flat building dating from the 1970's and comprising 33 units located at the eastern end of the site which was oriented towards Flack Avenue. The residential flat building was built to satisfy the development standards contained in Schedule 7 of the Local Government Act 1919.

All existing buildings, structures and vegetation have been removed from the site.

Site History

General

On 25 May 2009 Council granted development consent to DA 09/102 which allowed for:

- demolition of the existing buildings and structures on the site, comprising a residential flat building (located at the rear of the property) and a single dwelling on the Rhodes Street frontage;
- re-subdivision of Lot 1 and Lot 2 in DP 515866;
- creation of a Right of Way over Lot 1 in DP 515866 for vehicular access;
- the construction of a new 76 unit residential flat complex and basement car park; and
- Stage 1 and Stage 2 Construction Certificate.

The development approved under this Consent achieved an FSR of 1.4:1.

On 5 November 2009 Council received a new application (DA 10/119) which sought approval for the strata subdivision of the existing residential flat building into 18 x 1 bedroom units and 14 x 2 bedroom units, together with the addition of 2 x 1 bedroom units and subdivision of the land into two lots.

On 31 December 2009 a Class 1 Appeal was filed in the Land and Environment Court against Council's deemed refusal of this DA. The Court upheld only part of the Appeal, approving the alteration of the residential flat building to provide the additional two (2) units, refurbishment, parking and landscape works however the strata subdivision and Torrens title subdivision were refused consent by the Court.

This consent was not acted upon.

Development Application No. 09/102

The consent issued in respect of DA 09/102 has been the subject of a series of section 96(2) applications, as follows:

- 5 March 2010 - application sought approval to amend the floor plan of the building, to alter the unit sizes and to increase the dwelling yield from 76 to 108. This application did not proceed to determination;
- 4 November 2010 – this application also sought to increase the dwelling yield, this time from 76 to 102 units. On 15 November 2010 a Class 1 Appeal was filed in the Land and Environment Court against Council's deemed refusal of the application. The Court upheld the appeal, approving the S96(2) application to modify the consent issued in respect of DA 09/102 such that the development is now for "*demolition of the existing dwelling on Lot 1 and residential flat building on Lot 2, re-subdivision of Lots 1 and 2, creation of a Right of Way over Lot 1 for vehicular access, the construction of a new 102 unit residential flat complex and basement car parking and a Stage 1 and Stage 2 Construction Certificate.*"

It should be noted however, that the increased dwelling yield did not result in any corresponding increase in FSR, height or change to the building footprints.

- The property was sold and on 17 April 2012 the new owners (current owner) submitted a further Section 96(2) application in respect of DA 09/102/04 which stated that:

The Section 96 application submitted in relation to the above Development Consent by Marana Developments (previous owner of the site) will not be pursued under the new ownership of the property.

Instead, we have attached for Council's consideration a new Section 96 application ... to reconfigure the basement as approved under DA 09/102. It is proposed to expand the parking for the development into two basement levels. This will allow for greater amenity with enlarged car parking spaces, including some in lock-up garages and increased storage potential. The total number of car parking spaces remains the same as that previously approved. As the changes proposed are entirely below ground, yet still above the level of the water table, there will be no adverse environmental effects.

- The Section 96(2) application was subsequently approved on 11 July 2012 and provided for construction of a new 76 unit residential flat complex and basement car parking with an FSR of 1.4:1 and a maximum height of 40 metres.

The demolition of the existing structures was undertaken in accordance with a demolition order issued by Council.

Approval of the aforementioned modification (DA 09/102/04) enabled the owner to commence excavation of an expanded basement car park (which broadly corresponds to the extent and configuration of the basement now proposed as part of the current DA). Council is the Principal Certifying Authority for this project and a Construction Certificate (CC) was issued on 12 July 2012 for the basement cut of wall and retaining wall, together with excavation. These works are now well advanced.

Council is in receipt of a further Construction Certificate for the slab in direct contact with the ground surface, as excavated. Any further CC's will relate to any approval granted by the JRPP in respect of DA 12/070 for the three (3) residential flat buildings.

It is also anticipated that an Occupation Certificate for the basement construction will be sought for the perimeter wall and slab on ground pursuant to the two CC's issued under DA 09/102.

Current DA 12/070

On 9 May 2012 the current DA 12/070 was submitted to Council, which seeks approval for the construction of 141 residential apartments arranged in three separate building forms above a common basement providing parking for a total of 255 cars; loading facilities and associated landscape treatment.

The basement approved under DA 09/102/04 is of sufficient size to accommodate the 255 on-site car spaces required by the proposed development in accordance with Council's DCP 35, as reflected in the architectural drawings (refer Dwg Nos.2211 A02 01 and 2211A03 01). Should this application be approved, conditions will be included which require the provision of the requisite 255 spaces and stipulates their allocation according to unit size, visitor and disabled parking.

Development in the Locality

The suburb of Hillsdale (refer **Figure 2**) is located in the eastern part of the Botany Bay LGA and is broadly defined by Smith Street / Flint Street to the north, Beauchamp Road to the south, Bunnerong Road to the east and Denison Street to the west. Rhodes Street runs through the centre of the suburb and provides a north-south route for pedestrian and vehicular traffic.

As broadly delineated in **Figure 2** below, existing housing stock in the area between Flint Street and the Rhodes Street Reserve comprises predominantly strata titled 3 storey walk-up residential flat buildings dating from the 1960's and late 1970's.

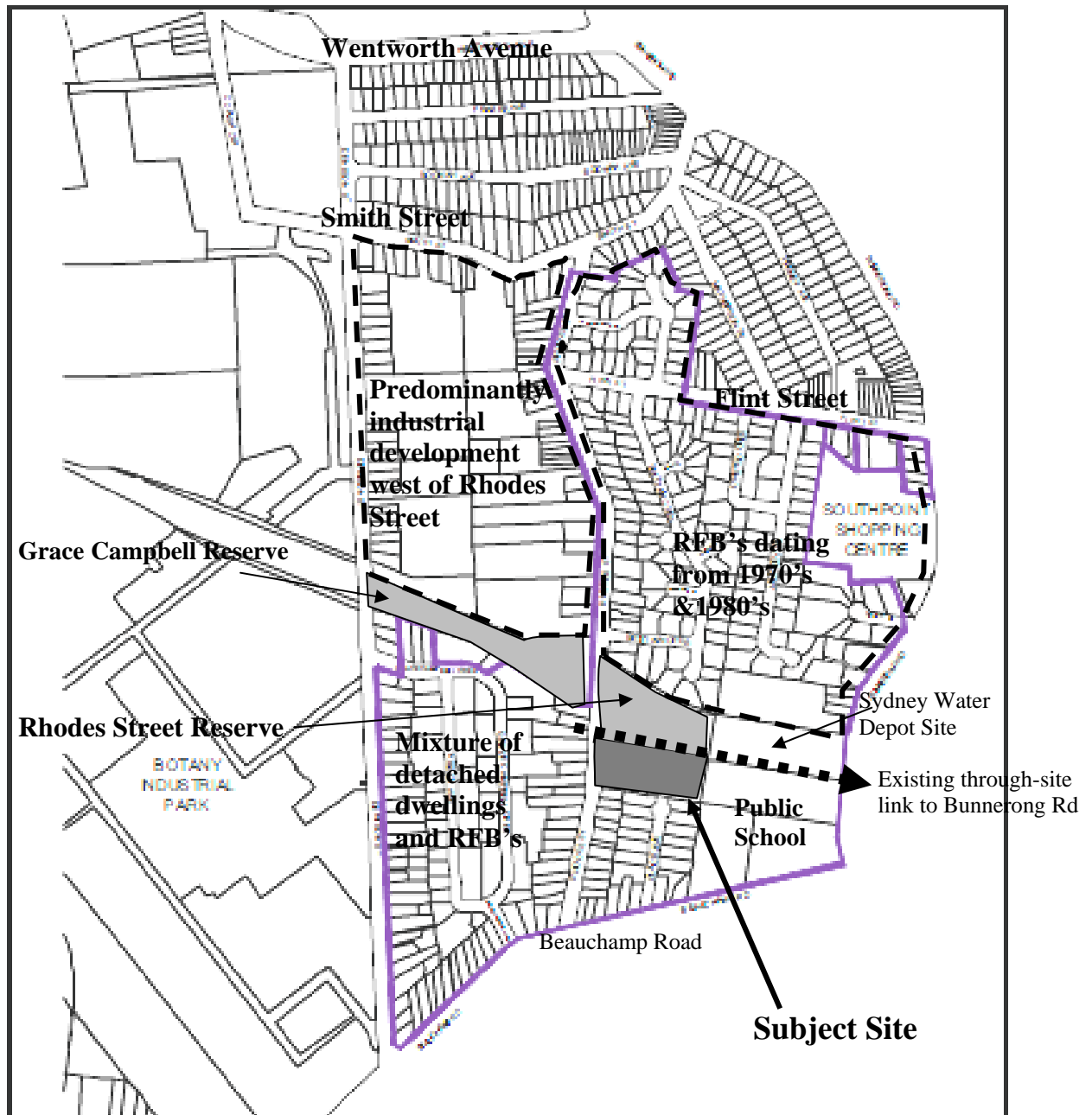


Figure 2 Hillsdale

The 12 levels of residential apartments constructed above Southpoint Shopping Centre on Bunnerong Road in the early 2000's represents the tallest development in this locality and is visually dominant because of its location on the ridge.

Development between Rhodes Street and Denison Street is predominantly industrial in character, with the exception of a fringe of residential development along Rhodes Street.

The area of Hillsdale to the south of Grace Campbell Reserve / Rhodes Street Reserve is characterised by a mixture of single dwellings and two, three and four storey residential flat buildings.

Hillsdale is well serviced by public transport with frequent bus services operating along Bunnerong Road, Flint Street, and Beauchamp Road. The nearest bus stop is located approximately 250 metres to the south on Beauchamp Road, near the corner of Perry Street. This is located on Route 309 which provides bus services between Port Botany and the City.

Routes 391, 392 and X92 operate along Bunnerong Road and provide access to La Perouse in the south and the City. The nearest bus stops city-bound are located on Bunnerong Road, near the corner of Devitt Place (400m to the north east) and Bunnerong Road, near the corner of Beauchamp Road (approx. 400m to the south east).

Southpoint Shopping Centre contains two supermarkets and is located approximately 420 metres to the north east and Westfield Eastgardens shopping complex is located approximately 1 kilometre to the north of the site.

Adjoining Development

The site is located on the eastern side of Rhodes Street between Beauchamp Road and the Rhodes Street Reserve. Development immediately adjacent to the site comprises:

- Rhodes Street Reserve to the North (which is owned by the Sydney Water Corporation but under the care, control and management of Council), beyond which is an area dominated by 3 and 4 storey residential flat buildings, most of which date from the 1960's and late 1970's;
- A part two / part three storey residential flat building immediately to the South on Rhodes Street (No. 20). Single dwelling houses are the predominant form of development on both sides of Rhodes Street between the subject site and the Beauchamp Road intersection. Existing development in Flack Avenue (also to the south of the site) is comprised entirely of 3 storey residential flat buildings, the nearest of which are No. 13 (on the western side of Flack Avenue) and No. 14 on the eastern side of Flack Avenue;
- Playing fields associated with Matraville Public School are located to the East of the site, beyond which is the remainder of the school campus which has frontage to Bunnerong Road and Beauchamp Road. The south western corner of the former Sydney Water Depot interfaces with the north eastern corner of the subject site. It also has frontage to Bunnerong Road; and
- Development on the western side of Rhodes Street comprises predominantly single dwellings, with the exception of a three storey residential flat building at No. 27 Rhodes Street, immediately opposite the site. Diagonally opposite the site and roughly aligned with Rhodes Street Reserve is an area of open space known as Grace Campbell Reserve which runs through to Denison Street in the west.

A pedestrian through-site link extends from the eastern end of Rhodes Street Reserve, through the Sydney Water Depot to Bunnerong Road, along the northern edge of Matraville Public School. This facilitates more direct access to Bunnerong Road and the public transport and shopping facilities in this area for residents of the southern part of Hillsdale.

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks consent for the construction of 141 residential apartments (arranged in three separate building forms) constructed above a common basement providing parking for a total of 255 cars and loading facilities and associated landscape treatment on the property known as 22 – 24 Rhodes Street, Hillsdale.

The specifics of the proposal are detailed in the following paragraphs.'

General Arrangement

The three residential buildings are arranged along the northern property boundary. A single storey communal building is located in the south eastern corner of the site. **Figure 3** below illustrates the siting of the proposed development within the site.

A lower scale building form (Building A) addresses Rhodes Street with two taller buildings (Buildings B and C) arranged along the edge of the adjacent Rhodes Street Reserve located towards the east.

The siting of the development maximises the physical separation between the proposed multi-storey residential buildings and the existing lower scale residential flat buildings to the south (No. 20 Rhodes Street and Nos. 13 and 14 Flack Avenue). This arrangement also enables the new buildings to take advantage of expansive northerly views across the adjacent open space, whilst maintaining view corridors between buildings to the park from Flack Avenue and to maximize sunlight across to adjoining properties to the south.

The proposed siting also results in a substantial physical separation between the proposed buildings and the existing residential properties to the south, as follows:

- Building A to 20 Rhodes Street = ranges between 9.2 and 12.4 metres
- Building B to 13 Flack Ave = 22.4 metres
- Building C to 14 Flack Ave = 21.7 metres

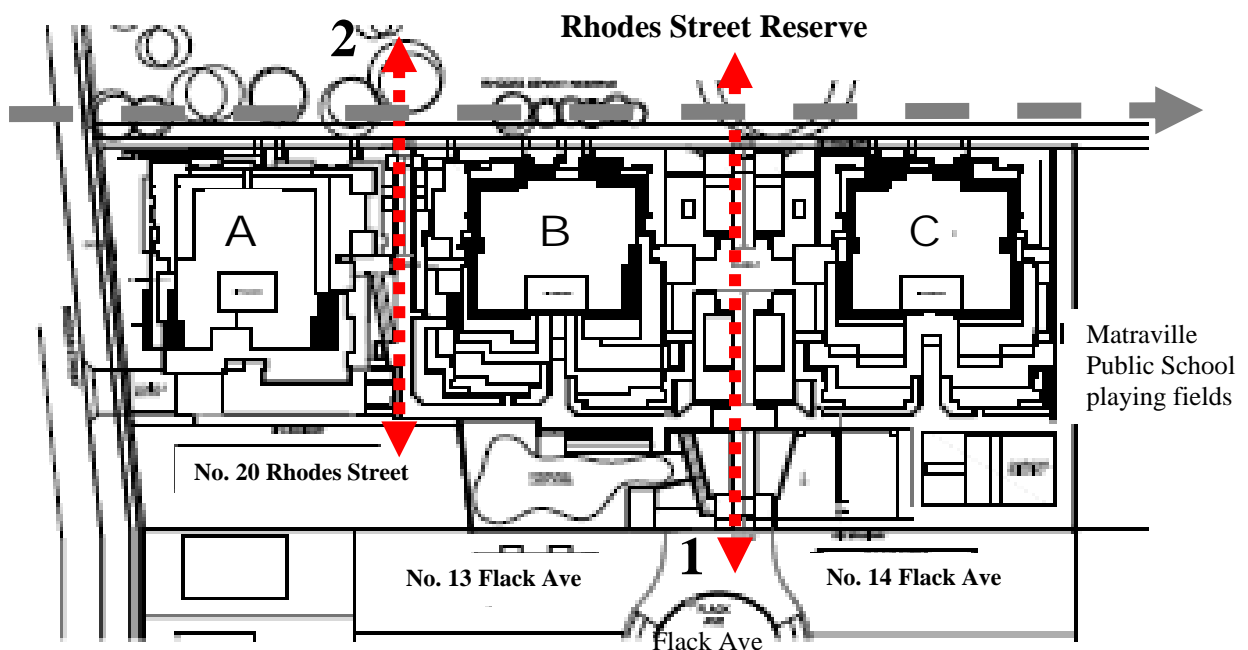


Figure 3 Site Plan showing arrangement of built form and view corridors

The building setback to Rhodes Street is 6 metres which is consistent with the adjacent residential properties to the south. Deep soil landscaping is provided along the Rhodes Street and Rhodes Street Reserve edges and also to the eastern and southern boundaries.

The three buildings are constructed over a shared two level basement car park which provides parking for 255 cars.

Access to the car park is via an enclosed ramp from the Rhodes Street frontage to reduce impact of noise on neighbouring properties. The ramp will be roofed for two thirds of its length and landscaped to create a green outlook for residents of both the proposed building and the adjacent building at No. 20 Rhodes Street.

The Level 1 podium is raised a maximum 1.2m above natural ground level, to achieve an appropriate level of privacy from the Rhodes Street Reserve to the apartments located on the ground floor of Buildings A, B and C.

A combined enclosed garbage removal / unloading area is included within the site area adjacent to Flack Avenue with access to a garbage collection room in Basement Level 1 via a tunnel and open ramp. This area will be screened using a combination of walls and landscaping to ensure it does not compromise the visual amenity of the communal open space.

The site is bisected by two (2) north-south pedestrian connections. The primary link (marked “1” on **Figure 3** and identified as Plaza 1 in the architectural drawings) is intended to provide public access and function as a through-site link between the northern end of Flack Avenue and Rhodes Street Reserve.

The secondary connection (marked “2” on **Figure 3** and identified as Plaza 2 in the architectural drawings) is located between Buildings A and B and is provided for the use of residents of the complex, providing a direct connection to Rhodes Street Reserve, as well as the communal open space and Plaza 1 and Flack Avenue. Security gates will be installed at the northern end of Plaza 2 (where it interfaces with Rhodes Street Reserve) and at the junction with Plaza 1 to prevent public access to the private areas of the proposed development.

Passive solar design has been considered with the orientation of living areas and balconies to the north, east or west. Sun hoods and operable sliding louvre screens are utilized as appropriate in response to aspect and privacy.

Following amendments to the internal layouts of some 19 apartments (as detailed in the applicant’s submission received by Council on 24 October 2012), 72% of the dwellings receive a minimum of 2 hours sunlight per day on 21 June to the glazing to the living area. It is also noted that 72% of all units achieve a minimum of 3 hours sunlight per day to their private open spaces and 91% achieve a minimum of 2 hours per day to their private open spaces.

External materials and finishes serve to further articulate the two tower elements with variations in colour proposed to be applied to rendered and textured masonry. Slab edges and columns will be painted and balcony balustrades will utilise solid painted upstands for privacy at lower levels and glass and aluminium at upper levels. Variations in colour are introduced in sun and privacy louvre screens.

Building A

Is a residential flat building constructed over five (5) levels. It presents three storeys to Rhodes Street. The fall of the site towards the east enables the provision of a lower ground floor below the level of the Rhodes Street footpath. The uppermost level (Level 5) observes an additional setback from the Rhodes Street frontage of 1.5 metres.

Building A is afforded westerly district views across the open space on the western side of Rhodes Street as well as a northerly aspect and views to Rhodes Street Reserve from living and balcony spaces.

Primary pedestrian access to the main lobby is achieved directly from Rhodes Street at Level 2 of the building. A secondary access to the lobby is available from the internal pedestrian path located between Buildings A and B and shown as Plaza 2 on the architectural drawings (Dwg No. A04 01). Plaza 2 provides a pedestrian connection to the Rhodes Street Reserve and to the communal open spaces arranged along the southern boundary of the site.

Buildings B and C

The two taller (9 storey) towers are located on the lower part of the site to reduce the effective height of these buildings when viewed from Rhodes Street. Building B is located roughly half way along the northern boundary, while Building C occupies the north eastern corner of the site.

These tower elements enjoy a northerly aspect and views over the Rhodes Street Reserve from living and/or balcony spaces. The southern side of each of these buildings overlook the landscaped common open space, while the dwellings on the eastern side of Building C overlook the playing fields associated with the adjoining Matraville Public School.

All ground floor apartments have either direct access to Rhodes Street Reserve or common landscaped podium areas which in turn access the Reserve. The primary pedestrian access to the lift lobbies in Buildings B and C is via Plaza 1.

The tower forms step back at Levels 4 and 5 to facilitate appropriate levels of solar access to adjoining areas of common open space and adjoining residential properties in Flack Ave.

The building forms are well articulated with clearly identifiable entries to the residential lobbies, deep balconies and terraces in varying forms of semi enclosed and open. Building A is articulated horizontally in response to the lower scale streetscape while the two taller towers are vertically expressed in response to the articulation of the plan forms.

PLANNING CONSIDERATIONS

The proposed development has been assessed under the provisions of the Environmental and Planning Assessment Act, 1979. The matters below are those requiring the consideration of the Joint Regional Planning Panel.

Section 79C (1) Matters for Consideration - General

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

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

In accordance with the requirements of SEPP BASIX, the applicant provided a BASIX Certificate with the development application. BASIX Certificate No. 424298M, dated 4 May 2012 and received by Council on 9 May 2012 satisfies the provisions of SEPP BASIX and forms part of the documents recommended for approval with this development application.

State Environmental Planning Policy (SEPP) No. 1 – Development Standards

The provisions of SEPP No. 1 have been considered in the assessment of the application. The policy aims to introduce flexibility in the application of development standards where it can be shown that strict compliance is unreasonable or unnecessary in the circumstances of the case.

Under the provisions of the LEP the site is zoned residential 2(b) and Council may only consent to the erection of a building if the FSR does not exceed 0.5:1 in accordance with Clause 12(2).

Notwithstanding the provisions of Clause 12(2), the Council may consent to the carrying out of residential development on land within Zone 2(b) to a maximum FSR of 1:1 where it is in the opinion that the proposed development will satisfy objectives under Clause 12(2).

The proposal seeks an FSR as indicated under column 2 of the table below:

Requirement under Clause 12(2) of Botany LEP 1995	Proposed FSR (calculated in accordance with definition under Botany LEP 1995)	Proposed FSR (calculated as per definition in the Standard Instrument)
1:1 (6,652m ²)	2:1 (13,304m ²)	1. 89:1 (12,572m ²)

The development application was accompanied by an objection under SEPP No. 1. The SEPP No. 1 Objection initially sought a variation to Clause 12 of the LEP in relation to the permitted floor space ratio for the site being 1:1. The variation sought under the SEPP No. 1 Objection was to permit an FSR of 2.1:1. The SEPP No. 1 Objection is reproduced as follows:

In the circumstances of this development application, strict compliance with Clause 12 of Botany Bay LEP 1995 is unreasonable and unnecessary for the following reasons:

- a) The objectives of the standard are achieved notwithstanding non compliance with the standard;*

The LEP does not include objectives of the FSR control, however the proposed development is consistent with the objectives for FSR controls established by the Residential Flat Design Code as follows:

- The density of apartment is within the capacity of the area as identified by the Metropolitan Plan for Sydney 2036.*
- The proposed building typology is reflective of the trend towards apartment buildings in this locality and the proximity of the site to public open space. The distribution of floor space provides for a lower building to the Rhodes Street frontage and the higher building form to the rear. This building typology is reflective of the transition in building height from Flack Avenue and creates a substantial area of communal open space at the southern end of the site.*
- The building forms are highly articulated to create a building modulation that respects the adjacent properties and creates substantial visual interest to all facades.*
- The development achieves excellent levels of residential amenity through the design of the floor plates. 83% of the dwellings achieve in excess of 3 hours solar access in midwinter and 61% are naturally cross ventilated.*

Note: Council commissioned an independent analysis of the performance of the proposed development in terms of solar access, which found that only 58.9% of the dwellings could achieve the required minimum. The discrepancy is due to the manner of interpretation of the control and Council's required minimum balcony depths.

The applicant has subsequently amended the internal layouts of some 19 apartments in order to improve the performance of the proposed development. The amended proposal now demonstrates that at least 72% of the units will achieve a minimum of 2 hours direct sunlight to the glazing of their living areas in mid winter. It is also noted that 72% of the units will achieve a minimum of 3 hours of solar access in mid winter to their private open spaces and 91% will achieve a minimum of 2 hours.

The proportion of cross ventilated apartments is correct.

- The configuration allows for a generous communal open space in the centre of the site and deep soil landscaping along all property boundaries. All units are provided*

with generous balconies that exceed the minimum requirements of Council and create useable external spaces associated with the internal living area.

It is therefore considered that the development and increased floor space maintains compliance with the objectives under the Residential Flat Design Code.

Furthermore, the development achieves compliance with the bonus floor space provisions under the LEP. The site area exceeds the minimum required to seek the bonus and complies with the further requirements.

Compliance with the requirements of the Bonus floor space provisions is provided as follows:

a) the proposed development will satisfy the primary objective of the zone,

The primary objectives of the 2(b) zone is:

The primary objective is to provide for the redevelopment and use of housing, other than detached housing, in appropriate locations, together with community and service uses of a type and scale appropriate to the enjoyment of such housing.

The existing dwelling and apartment building will be demolished to allow for the new development. This application will see the removal of an older residential flat building that does not contribute to the surrounding streetscape. This is consistent with Botany Bay Council and the Land and Environment Courts refusal of a development application to strata subdivide this existing building. It is also consistent with the demolition order issued by Botany Bay Council to remove the building.

This application will enable the redevelopment of this site for an appropriate form of housing that will not adversely impact on surrounding residents or the amenity of the area. Its scale is appropriate for this location.

b) the architectural character and design of the proposed development does not adversely affect existing residential development in the locality.

The architectural character and design of the building has been specifically modulated to add visual interest and reduce the overall form of the buildings. The configuration of the buildings on the site provides a substantial landscaped area at the southern end of the site at the interface with existing residential flat buildings on Flack Ave.

Landscaping is used to soften the site surrounds and in particular contribute to the privacy of units, both within and beyond the site. A continuous landscaped buffer is proposed around the site perimeter, featuring a significant proportion of deep soil planting.

The position, orientation and heights of the buildings have been designed in consideration of the existing residential uses to the south.

The adjoining properties will maintain reasonable levels of solar access. The shadow from the proposed development is marginally increased from the existing buildings on the site; the primary shadow from the proposed buildings falls to the rear (south). Careful consideration has been given to maintaining privacy and the building design accommodates this via a range of measures including stepping of the side and rear setbacks, the use of fixed and operable privacy screens and highlight windows.

c) the provision of off-street parking for residents and visitors adequately meets the needs of the development,

The development fully complies with Council's requirements for car parking.

- I. *the provision of on-site car parking does not dominate or detract from the appearance of the proposed development or the streetscape,*

Basement car parking is proposed for the apartments; its access off Rhodes Street is appropriately located and integrated as part of the building. The ramp is enclosed and features terraced landscaping to the top and side, improving the visual amenity to neighbouring apartments at 20 Rhodes Street. Units extend above the access ramp, reducing its visibility.

The parking arrangements are considered appropriate and will not adversely impact the existing streetscape.

- d) *the provision of private and communal open space on the site is adequate for the proposed development,*

Each dwelling is provided with a suitable area of private open space that is directly accessible from the living area in accordance with DCP 35. In addition, in excess of 2,490m² of the site area is occupied by communal open space, representing 37.4% of the site area. 32% of this area is provided as deep soil landscaped zones.

Note: Council officers have calculated that the area of usable communal open space constitutes approximately 1,570m² or 23.6% of the total site area and includes the area the area of Plaza 1 because whilst it is available to the general public, it is of sufficient dimensions to allow for use as a gathering area. This aspect is discussed in further detail later in this report.

The buildings have been arranged to provide two plaza's that provide access to the respective buildings and a large communal landscaped area at the southern end of the site off Flack Ave.

The communal open space includes a common room with kitchen, toilet facilities, garden store and office. The common room opens onto an external BBQ area. The BBQ area looks out over a large area of communal open space that includes lawn area, children play ground and landscaping. These areas will provide for the passive and active recreation needs of the residents. In addition, the site has direct frontage and access to the Rhodes Street Reserve.

- d)(1) *the proposed development includes landscaping that screens and softens the visual effect of the buildings on the site, and creates useable and comfortable open space areas,*

Deep soil landscaping has been provided within the front setback and along all property boundaries. A large deep soil landscaped zone is provided in the southern section of the site off Flack Ave. The location of the deep soil landscaped areas will enable large screening trees along all side and rear boundaries.

The landscape scheme allows for useable / active and passive areas of communal open space for the enjoyment of the residents.

- e) *the environmental amenity of the proposed development and of the immediate locality includes measures to confine or reduce noise and to maintain privacy,*

Careful consideration has been given to maintaining privacy and the building design accommodates this via a range of measures including physical separation, the use of fixed and operable privacy screens and highlight windows.

The separation distances proposed ensure the adjoining properties maintain their acoustic and visual privacy. The removal of the existing buildings and provision of a

through site link from Flack Ave to the Rhodes Street Reserve will provide a positive outcome for existing residents.

- f) the proposed development ensures adequate sunlight, ventilation and privacy to its residents, to residents of adjoining development and to users of nearby public and private open space,*

The development achieves high levels of energy efficiency. In addition to meeting the requirements of BASIX, 61% of the apartments are cross ventilated to allow the natural flow of air through the apartments. 83% of the units will achieve in excess of the required 3 hours of solar access in mid winter and 95% of the units will achieve in excess of 2 hours of solar access in mid winter.

Note: as discussed previously in this report, these figures have been found to be incorrect and the applicant has subsequently submitted amended plans which result in 72% of the apartments achieving the solar access requirements. The proportion of naturally cross ventilated apartments has been verified.

All adjacent properties achieve a minimum of 2 hours solar access between 9am to 3pm in mid winter as demonstrated below:

20 Rhodes Street (East-West orientation)

5 units have living areas and or balconies facing the subject site to the north and 2 of these units (2 & 5) also have balconies to the west.

The remaining openings are to bedrooms, kitchens and bathrooms.

Solar access achieved between 9am to 3pm in mid winter. (Note: unit numbers reflect the numbering on shadow diagrams and may not reflect actual unit numbers)

- Unit 2 – solar access between 12 – 1pm & 2.30 – 3pm (living room) and 12 – 3pm (balcony) = total 4hr 30min*
- Unit 3 – solar access between 9.40 – 12noon = total 2hrs 20min*
- Unit 5 – solar access between 11.30 – 1.15pm & 2.15 – 3pm = total 2hr 30min*
- Unit 6 – solar access between 9.40 – 12noon = total 2hr 20min*
- Unit 7 – solar access between 9.30 – 3pm = total 5hr 30 min*

13 Flack Ave (East-West orientation)

6 units have living rooms/balconies facing north.

Solar access achieved between 9am to 3pm in mid winter. (Note: unit numbers reflect the numbering on shadow diagrams and may not reflect actual unit numbers)

- Unit 1 – solar access between 12 – 3pm = total 2hrs*
- Unit 2 – solar access between 1 – 3pm = total 2hr*
- Unit 3 – solar access between 1 – 3pm = total 2hr*
- Unit 4 – solar access between 11.30 – 3pm = total 3hr 30min*
- Unit 5 – solar access between 12-2.30pm = total 2hr 30min*
- Unit 6 – solar access between 12.30-2.30pm = total 2 hrs*

14 Flack Ave (East-West orientation)

2 units have living room windows facing north.

Solar access achieved between 9am to 3pm in mid winter. (Note: unit numbers reflect the numbering on shadow diagrams and may not reflect actual unit numbers)

- Unit 1 – solar access between 12.15 – 2.30pm = total 2hrs 15min*
- Unit 2 – solar access between 12.15 – 2.15pm = total 2hr*

On the basis of the above assessment, all adjoining living rooms windows/balconies achieve a minimum of 2 hours solar access between 9am to 3pm in mid winter.

In regards to the adjacent school oval, the accompanying shadow diagrams indicate that the proposed development will have no impact on the solar access to the oval until approximately 1pm. At 3pm the shadow impact is limited to less than 50% of the oval. As such the oval will achieve full solar access for a minimum of 3 hours and retain solar access to more than half until 3pm in mid winter. The oval will retain excellent levels of solar access in mid winter.

g) the proposed development makes provision for the adequate absorption of stormwater, and includes deep root zones for tree planting,

In excess of 32.17% of the open space on site area is provided as deep soil landscaping. This will enable water absorption and significant tree planting. This is well in excess of the recommended Rule of Thumb in the Residential Flat Design Code of 25% of the site area.

Note: Council officers have calculated the potential area available for deep soil (ie. those parts of the site not affected by the basement structure and/or any buildings) at 1,906m² (28.9%). However it should be noted that this figure is eroded by extensive hard paved areas, electricity substation the garbage bin enclosure and associated ramp from the basement garbage room, which reduces the area of “true” deep soil (where water can permeate the soil), to approximately 925m² or 14% of the total site area. This aspect is discussed in further detail later in this report.

h) the proposed development incorporates pedestrian links at points where they are most prominently and safely connected to the existing street and pedestrian network, and

The development provides a substantial through site pedestrian link from Flack Avenue to Rhodes Street reserve. The through site link acts as an extension of Flack Ave and provides a substantial vista from Beauchamp Street to the reserve.

i) the proposed development provides a safe and secure environment for its residents.

The majority of the units on the ground level have individual access from the street, the Rhodes Street Reserve of the internal Plazas. This will enhance the sense of security and passive surveillance of the surrounding private and public areas.

All entry points to the buildings are clearly defined and the inclusion of gates differentiates the public and private domains.

On the basis of the above assessment, the development meets the requirements of subclause (2) and therefore this SEPP 1 objection seek to justify the non-compliance with the 1:1 FSR.

The SEPP 1 Objection to the FSR control has been assessed in accordance with relevant case law and the rationale of the applicant:

1. Is the requirement a development standard?

The planning control in question is a development standard in the Botany Local Environmental Plan 1995, Clause 12, which specifies the FSR for the subject site as 1:1 (comprising 0.5:1 base rate + 0.5:1 additional for sites in excess of 2,500m²).

The proposed development achieves an FSR of 2:1, calculated in accordance with the definitions contained in Botany LEP 1995.

2. What is the underlying object or purpose of the standard (if there is no stated objective of the standard)?

The LEP does not contain specific objectives in respect of FSR. However the applicant has satisfactorily demonstrated that the development and increased floor space maintains compliance with the objectives for FSR set out in the Residential Flat Design Code.

On balance, it is considered that the proposed development demonstrates quality urban design, residential amenity and environmental sustainability.

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

This may be found if:

- (a) The proposal meets the objectives of the development standard notwithstanding its non-compliance with the standard. In this instance one must determine the objectives of the standard and if not expressly stated in the LEP what are the inferred objectives?**
- (b) The underlying objective or purpose is not relevant to the development.**
- (c) The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard.**
- (d) The development standard has been virtually abandoned or destroyed by Council's own actions.**

Botany LEP 1995 does not identify any specific objectives for the FSR standard. The applicant contends (and Council generally concurs) that the proposed development meets the generic objectives for FSR controls espoused in the RFDC.

It is also appropriate to analyse the proposed development in its local context and the unique development opportunity it affords by virtue of its size and location. As described previously in this report, existing development in the suburb of Hillside occurs within 3 broad geographic areas, each with its own prevailing form of development and character.

The area to the north of Rhodes Street Reserve between Rhodes Street and Bunnerong Road is dominated by three storey residential flat buildings dating from the 1960's and late 1970's, the majority of which are strata titled. The only development of comparable scale to that which is proposed under this application, is the 12 levels of residential apartments constructed above Southpoint Shopping Centre on Bunnerong Road, located approximately 500 metres to the north east of the site.

Development to the west of Rhodes Street (to Denison Street) is predominantly industrial uses, with some small scale residential development along the eastern (Rhodes Street) edge.

The area to the south of Grace Campbell Reserve / Rhodes Street Reserve is a mixture of single detached dwellings and 3 storey residential flat buildings on relatively modestly sized parcels of land.

The general land use regime will be preserved under the Draft Botany Bay LEP 2012. The site will be subject to an FSR control of 1.5:1 under the new LEP. The proposed development equates to an FSR of 1.89:1 when calculated in accordance with the definition of GFA under the Standard Template.

Having regard to existing pattern of development, the established nature of housing forms and the titling arrangements, it is unlikely that substantive change will occur within Hillside within the foreseeable future.

Furthermore, the existing consent issued in respect of DA 09/012 approved by Council on 11 July 2012 allows for an FSR of 1.4:1.

The subject site is possibly the only parcel in this locality which offers sufficient site area to facilitate larger scale, integrated residential development. An adjacent parcel owned by the Sydney Water Corporation (located immediately to the north east of the subject site which has frontage to Bunnerong Road and a common boundary with Rhodes Street Reserve at the rear) is the only other site of comparable size in the locality. Whilst this site is also proposed to be zoned Residential R3 under the Draft BBLEP 2012, thereby facilitating its future development for residential purposes, it is understood that a significant proportion of the Depot site will be retained for use by Sydney Water thereby reducing the area potentially available for future development.

The subject site is unique in that it has a direct interface in excess of 136 metres with a substantial area of open space (Rhodes Street Reserve) along its northern boundary.

These sites are likely to be the only parcels in the foreseeable future which are of sufficient size, with the appropriate physical characteristics and locational attributes which are capable of delivering larger scale, contemporary integrated housing within the locality of Hillsdale.

In view of the circumstances of the case, Council is of the view that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary.

4. Is the objection well founded?

Clause 12 of the Botany LEP states that Council may consent to the erection of a building in excess of the FSR requirement up to 1:1 if it can be demonstrated that the proposed development satisfies the zone objectives, and if the scale of the proposed development is compatible with the scale of existing residential development in the locality and the desired future character of the locality.

Clause 12(2) only allows a maximum FSR of 1:1 however the subject application seeks to exceed this FSR standard. It is considered that the proposal is generally consistent with the underlying objectives identified in points (2) and (3) above. The SEPP 1 Objection contends that compliance with the 1:1 FSR development standard is unreasonable and unnecessary in the circumstances of the case with respect to the aims and objectives of SEPP 1 and the relevant matters for consideration.

The rationale and argument presented in the SEPP 1 submission is generally agreed with and it is recommended that the development standard relating to the maximum FSR for the site as contained in Clause 12(2) of the Botany LEP 1995 should be varied in the circumstances to allow the development to attain a floor space ratio of 2:1.

5. Is the granting of consent consistent with the aims of the SEPP 1 policy, namely:

- (a) to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance in any particular case would be unreasonable or unnecessary.**
- (b) Will strict compliance with the development standard tend to hinder the objects of the Act, namely:**
 - (i) the proper management development and conservation of natural and artificial resources, including agricultural land, natural forest, forest, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and a better environment.**

(ii) The promotion and coordination of the orderly and economic use and development of land.

This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

The objects of the Act are:

- (a) to encourage:*
 - (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,*
 - (iii) the protection, provision and co-ordination of communication and utility services,*
 - (iv) the provision of land for public purposes,*
 - (v) the provision and co-ordination of community services and facilities, and*
 - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) ecologically sustainable development, and*
 - (viii) the provision and maintenance of affordable housing, and*
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The discussion under point 3 above has established that Council's view is that in the circumstances of the case, the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary.

The proposed development provides a high quality residential development that facilitates the orderly and economic development of land in a manner that is appropriate in the Residential 2(b) zone. The dwelling sizes are compliant with Council's DCP 35 comparatively high minimum unit sizes (compared to those set out in the Residential Flat Design Code). It is acknowledged that whilst the larger unit sizes are designed to ensure a higher standard of internal amenity, they do have an impact on the economic use of land, particularly in terms of dwelling yield.

Furthermore, the additional floor space does not manifest itself in any substantive impact to adjoining properties in terms of residential amenity, overshadowing or visual impact. To strictly apply the standard, in the absence of any tangible impact, would be unreasonable and without basis.

In the circumstances of this development, the underlying objectives would be thwarted if strict compliance with the FSR standard was required.

6.

- (a) Whether or not non-compliance with the development standard raises any matter of significance for State or Regional environmental planning;**

(b) The public benefit of maintaining the planning controls adopted by the environmental planning instrument.

State or Regional matters of significance

The proposed variation to the FSR standard does not raise any matters of significance for state or regional planning. The variation is also not contrary to any state policy of ministerial directive.

Public Benefit

The redevelopment of this site facilitated the removal of derelict, sub-standard and underutilised residential properties including an outdated Schedule 7 residential flat building and a run-down dwelling on the Rhodes Street frontage that detracted from the visual amenity of the area. The proposed development will result in a contemporary multi-unit residential development, designed to satisfy local market expectations.

The proposed development is located in an established urban area and will make better use of existing physical and social infrastructure.

The proposed development achieves a high level of internal amenity in terms of room sizes, sunlight access, natural ventilation, visual and acoustic privacy, storage, indoor/outdoor space, layouts, service areas, outlook and access.

The proposed development will not result any significant adverse impacts on the amenity of surrounding land in terms of overshadowing, loss of privacy or loss of views.

The configuration of the buildings on the site provides for a public through-site link connecting Flack Avenue with Rhodes Street Reserve which is considered to be in the wider public interest.

Summary and Conclusion

The proposal is broadly consistent with Council's expectations for development and the desired future character of this locality. It also assists Council in achieving its residential and employment targets as identified in the Draft East Sub Regional Strategy.

The SEPP1 objection submitted by the applicant in respect of the non-compliance with the 1:1 FSR standard in Botany Local Environmental Plan 1995 is considered to be well founded as:

- The proposed development is a well mannered design form that fits well into the existing Rhodes Street streetscape. Similarly, the fall of the site ensures that the taller elements at the rear, sit lower in the landscape, thereby reducing the perceived overall height.
- The site offers a unique opportunity, by virtue of its context and physical characteristics, to achieve a large scale integrated housing development, which is not otherwise available in this part of the Botany Bay LGA. Council is of the view that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary.
- The existing active consent for the site (DA 09/102) allows for an FSR of 1.4:1.
- The proposal to redevelop the site for a large scale integrated housing development is consistent with State Government's urban consolidation initiatives, as outlined in the Sydney Metropolitan Plan for Sydney 2036. It also assists in achieving the residential targets for the City of Botany Bay as required by the Draft East Subregional Strategy.
- The proposed development provides a high quality development which exhibits high standards of both architectural design and residential amenity. The design adopts

strong urban design principles that ensure the proposed development is appropriate in scale and form with existing and likely future development in this locality. It will also provide a significant public benefit in terms of public domain works in Rhodes Street Reserve and the provision of a public through-site link between Flack Avenue and the Reserve.

In summary, it is considered that the proposed development is a well-conceived response to all the relevant planning controls and strategies, and addresses the constraints and opportunities presented by the site.

Accordingly, it is considered that the development standard relating to the maximum FSR development for the site as contained within Clause 12(2) of the Botany LEP 1995, should be varied in the circumstances to allow the development to attain a floor space ratio of 2:1.

More detailed discussion about the non-compliance with the FSR control applicable to the site under the provisions of Draft Botany Bay Local Environmental Plan 2012 is provided later in this report.

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant submitted a Phase 2 Environmental Site Assessment prepared by Environmental Investigations dated 5 April 2012. The report provides the following summary:

The property located at 22-24 Rhodes Street, Hillsdale NSW, was the subject of an additional environmental investigation in order to assess the potential for on-site contamination associated with the identified former land uses. Based on the findings of this investigation, it was concluded that:

- *The soil profile across the site was characterised as generally topsoil / fill materials consisting of brown to light brown silty sand with grass and tree rootlets, some gravel, dry, no odours (0.25 to 0.4m in thickness); overlying natural light grey sand, fine to medium grained, dry, no odours (0.25 to 2.3m BGL).*
- *Ten test boreholes (BH6 to BH15) were drilled across the site and selected using a mixed judgemental / systematic, triangular sampling pattern, with allowance for structural obstacles. These boreholes were constructed in addition to the five boreholes drilled during the previous investigation conducted by EI (EI, 2008).*
- *Laboratory analytical results for heavy metals revealed all tested soil samples were found to be well within the adopted SILs with only PPILs levels exceed for copper, mercury and zinc in sample BH13-1 and zinc in sample BH14-1. Based on the proposed development plans (REF. Appendix A) the areas surrounding boreholes BH13 and BH14 will ultimately to be permanently paved under the proposed basement and/or building footprints and remediation of these areas is therefore considered unwarranted.*
- *No detectable concentration of any of the screened TPH fractions and BTEX compounds were identified in some of the tested samples, however there results were found to be well with the adopted criteria.*
- *No detectable concentration of any of the screened OCPs, PCBs and OPPs compounds were identified in any of the tested samples, with all laboratory quantitation limits being within the corresponding SILs.*

- *No asbestos were identified in any of the tested samples.*

In view of the above findings, and following the DECCW Guidelines, it is considered that the site is considered suitable for the proposed residential development.

If site soils are to be excavated and disposed from the site, then these soils should be classified in accordance with the DECCW (2009) Waste Classification Guidelines. Any soils to be imported onto the site for the purpose of back-filling excavated areas will also require validation testing in accordance with the relevant EPA / DECCW regulatory guidelines to confirm soil suitability for the proposed land use.

Council's Environmental Scientist has reviewed the documentation submitted in support of the DA and has advised that soil samples for chemicals of concern were either not detected or were within adopted Site Investigation Levels. No asbestos was identified.

On this basis it is concluded that the site is suitable for the proposed development. It is therefore considered that the provisions of SEPP No.55 have been satisfied in this instance.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Buildings

SEPP No. 65 aims to improve the design quality of residential flat development in New South Wales. The policy recognises the significance of residential flat development and aims to improve the built form and sustainability of development and to satisfy the demand for appropriate development in the social and built form context.

The provisions of SEPP No. 65 have been considered in the assessment of the development application.

Council's Design Review Panel (DRP) considered the proposed development prior to the lodgement of the application on 29 February 2012. The Panel provided comments in the context of the ten design quality principles for residential flat development.

The applicant has submitted a SEPP No. 65 assessment of the proposed development together with a Design Verification Statement prepared by Krikis Tayler Architects dated 3 May 2012 to verify that the plans submitted were drawn by a registered architect and describes the manner in which the proposed development achieves the design quality principles set out in Part 2 of SEPP No. 65.

The findings of an independent analysis of the solar access and ventilation commissioned by Council have resulted in modifications to the proposal to achieve an improved outcome in terms of SEPP 65 amenity standards. A submission to this effect was received by Council on 24 October 2012 which details modifications to a total of 19 apartments. The changes are wholly confined to internal layouts and therefore there is no substantive change to the form or appearance of the proposed development.

These amendments result in 72% of the dwellings receiving a minimum of 2 hours sunlight per day on 21 June to the glazing to the primary living area. It is also noted that 72% of all units achieve a minimum of 3 hours sunlight per day to their private open spaces and 91% achieve a minimum of 2 hours per day to their private open spaces.

In performing a detailed assessment, it is considered that the proposed development, in the form now presented for consideration by the JRPP is consistent with the aims and objectives of SEPP 65 as the proposal responds to the urban context in terms of scale, bulk, materials, setbacks, security and amenity.

The ten design principles are addressed below and where relevant, include the specific comments raised by Council's DRP together with a commentary on the manner in which they have been addressed in the current proposal.

Principle 1: Context

In this regard, Council's DRP indicated that:

The site is within an existing locality of mixed residential development ranging from single dwellings to three and four storey RFBs. It has frontages to Rhodes Street and Flack Avenue.

Matraville Public School grounds adjoin to the east and Rhodes Street Reserve adjoins to the north. The visual impact when viewed from the Reserve and the overshadowing and visual impact of the proposal on the school property and the existing adjoining residential development on Flack Avenue to the south are important considerations.

The three proposed buildings are much larger than the adjoining existing buildings and other existing developments in this setting. The height of Buildings B and C are more than twice the height of existing development in the locality. However, the large area of the subject site (over 6,500m²) its topography and that it adjoins existing open space on two sides gives it increased development capacity so that the building envelopes proposed may not be entirely unreasonable and may provide an acceptable outcome in terms of urban form and visual and amenity impact.

The proposed public access and open space between Buildings B and C is an important attribute of the current design and is seen as a public benefit as it would provide a pedestrian link between Flack Avenue and the Reserve.

The spatial connection of Flack Avenue and the Reserve is welcomed.

Officer Comment:

The proposed development is considered to be appropriate, having regard to the physical attributes of this particular site, which include the physical size of the land, its topography and its relationship to adjoining development / open space.

Principle 2: Scale

In relation to this Principle Council's DRP commented as follows:

The height and bulk of Buildings B and C need to be reduced to better suit the existing scale of adjoining and nearby development and to reduce visual and overshadowing impact.

It is suggested that the height of Buildings B and C be reduced by at least one storey (preferably two) while not exceeding the proposed maximum footprint and retaining the proposed stepping down towards the south to four storeys as per the current design.

Officer Comment:

The proposed buildings are arranged along the northern boundary and the north eastern corner of the site. This arrangement takes advantage of the adjacent open space provided by the Reserve to the north and the school's playing fields to the east.

The perimeter of the site will be landscaped to provide an appropriate transition to the building forms to these open spaces. To supplement the planting within the site and ensure that the planting in this area achieves an appropriate mature height (ie. large canopy trees), the applicant has confirmed a willingness by way of correspondence dated 7 November 2012 to enter into a Voluntary Planning Agreement with Council to undertake public domain works, including planting and other embellishment on the adjacent Rhodes Street Reserve which is owned by the Sydney Water Corporation. Council is responsible for the care, control and

management of this area of open space and the terms of the VPA will be separately negotiated with Council

The lower scale (5 Levels) Building A addresses Rhodes Street. As indicated previously in this report the fall of the land to the east means this building will read as a 3 storey + reduced 4th storey when viewed from Rhodes Street. On this basis it is considered to be generally in keeping with the scale of the existing streetscape.

Principle 3: Built Form

Council's DRP indicated that:

Site planning: The site planning concept of three buildings with the public plaza, separation distances and setbacks is generally agreed with.

The setback of Building C from the eastern boundary needs to be adequate to allow space for tree planting within the deep soil landscaped strip facing the adjoining school grounds. It is suggested that the setback of all façade elements Building C from the eastern boundary be a minimum of 4m.

The reduction in height of Building C by at least one storey would reduce the afternoon overshadowing of the adjoining school grounds.

Building separation distances: The building separation distances to the adjoining development to the south and within the site appear to be adequately considered and should satisfy the objectives of the RFDC.

Façade design: Buildings B and C should be more recessive on the northern façade at the top storey by setting back the balcony projections and associated roof line to reduce visual impact when viewed from Rhodes Street Reserve.

Officer Comment:

The built form defines the public domain, maintains vistas between buildings from neighbouring properties and Flack Avenue and incorporates a through-site link for public access between Flack Avenue and Rhodes Street Reserve. It is noted that this will require the creation of a Right of Way granted in favour of Council which ensures that the through-site link is preserved for public use in perpetuity. This has been included as a condition of consent.

The façade of Building C observes a varied setback to the eastern property boundary ranging from 5.5 metres to 7.65 metres. It is noted that the walls around private courtyards (at ground level) and a number of balconies on the upper levels (Levels 2-6) encroach into the setback area (to a minimum of 3 metres). However these are relatively minor in the scope of the eastern elevation and are considered to be acceptable in this instance.

Notwithstanding the height of Buildings B and C, the applicant has demonstrated that the adjoining properties to the south (Nos. 13 and 14 Flack Ave and No. 20 Rhodes Street) will achieve satisfactory solar access in mid-winter.

Principle 4: Density

Council's DRP indicated that:

The maximum permissible FSR is 1:1 (for sites in excess of 2,500 square metres) under the current planning controls. The subject Pre-DA is proposing a FSR of 2.1:1 which exceeds the bonus FSR of up to 1.5:1 (under the draft LEP 2011 for large sites) on the basis of the significantly large site area and the provision of a public access link from Flack Avenue to the Reserve.

However, in this context the FSR should not exceed the maximum allowed by the draft LEP 2011. The numerical density proposed (as manifested by the current design) will need to be substantially reduced to satisfy the issues raised in this report.

Officer Comment:

The development standards and controls embodied in Botany Bay LEP 1995 and DCP No.35 contemplate the development of larger sites. In this particular instance, the size of this site, (which exceeds 6,650m²) and its physical context (adjacent to open space and playing fields and a no through road – Flack Ave) creates a series of opportunities including visual and physical connectivity between the public open space and the residential area to the south.

The proposal results in a FSR of 2.1:1 calculated in accordance with the BLEP 1995 definition of gross floor area. A SEPP 1 Objection has been submitted in this regard.

The maximum permissible FSR under Draft BBLEP 2012 is 1.5:1. It is noted that the proposed development equates to an FSR of 1.89:1 calculated in accordance with the Standard Template and that Council has previously approved an FSR of 1.4:1 under the consent issued in respect of DA 09/102.

The subject site is unusually large within the Hillsdale precinct and the proposed FSR is considered appropriate in this particular context as the proposal not only complies with objectives outlined in the LEP for sites over 2,500m² it also provides a generous and balanced area of open landscaped space to compliment the existing public domain and provides for the public access link from Flack Avenue to the park.

Principle 5: Resources, energy and water efficiency

Council's DRP indicated that:

It would be expected that the ultimate scheme for this site would incorporate best practice environmental design principles. Solar hot water and collection and reuse of roof storm water should be allowed for.

Officer Comment:

The applicant has indicated that the proposed development:

- will use appropriate sustainable materials;
- its design adopts passive solar design principles;
- cross flow ventilation is optimised;
- deep soil zones have been retained for vegetation;
- harvested rainwater will be utilised for irrigation purposes; and
- water and energy efficient appliances, fixtures and fittings will be installed.

Whilst the proposal does not include the use of solar or photovoltaic panels, the roof design is capable of future application of these elements.

Having regard to the above, it is considered that the proposed development is satisfactory in terms of the use of resources, energy and water efficiency.

Principle 6: Landscape

Council's DRP indicated that:

The landscape design should include an upgrade of the Rhodes Street Reserve public pathway particularly as it provides the main pedestrian access to Buildings B and C.

Supplementary street trees should be provided and consideration to ensure the protection and preservation of existing canopies of trees on the adjacent Reserve.

It is important to ensure that the landscape design accords with the Council's public domain plan for landscaping in the streets and provides large species canopy tree plantings where possible.

Officer Comment:

Private open space ground floor

Landscaped private open space has been provided to all ground floor units. The applicant will be required to provide additional planting (in the form of planter boxes) in the narrow (generally less than 1.0m wide) residual private open space areas along the northern frontage of the property to supplement the quantum of setback landscaping on the property on northern frontage.

The deciduous tree species specified in these areas are to be replaced with a small evergreen tree.

Communal open space

There are two (2) areas of communal open space located to the south of Buildings B and C (which are solely for the use of residents). These areas provide open grassed and landscaped spaces suitable for passive recreation for residents as well as an area dedicated for a small playground. Additionally there is a communal building with covered BBQ facilities.

The area of usable communal open space constitutes approximately 1,570m² or 23.6% of the total site area and includes the area of Plaza 1 because whilst it is available to the general public, it is of sufficient dimensions to allow for use as a gathering area.

North-south access spines – Plaza 1 and Plaza 2

Two (2) tree lined spines or axes are proposed to traverse the site in a north-south direction and provide connections between Flack Avenue and Rhodes Street Reserve. These areas are proposed to be landscaped with trees however the species shown on the landscape plan which accompanies the DA are deciduous which will offer a lesser privacy value, landscape amenity and amelioration of buildings during the autumn and winter months. This is of particular concern in Plaza 2, which is narrower and the opposing apartments in Buildings A and B are consequently much closer. The planting of appropriate tree species in this area will provide screening and will enhance residential amenity and comfort.

Council's Landscape Officer has recommended the inclusion of a condition which requires the preparation of an amended landscape plan which documents (among other things) the inclusion of more decorative/flowering evergreen trees into these spaces.

Eastern boundary (interface with School playing fields)

A row of tall, evergreen canopy trees is required to be provided along the full length of the setback to the eastern boundary to provide a buffer between the development and the primary school. The basement observes a minimum 3 metre setback from this boundary (and at the northern end is in excess of 7 metres) which can support large canopy trees.

Rhodes Street frontage and the public domain

Council's Landscape Officer has advised that the nominated street tree for Rhodes Street is *Brachychiton acerifolius* and is to be planted at 7 metre centres and included on the amended landscape drawings. The footpath is to be relocated 600mm off the property boundary (in accordance with the electricity authority's requirements) to enable underground electrical service pillars to be located in a landscaped area rather than the public footpath.

Flack Avenue threshold

The amended Landscape Plan will be required to document a revised landscape scheme for the Flack Avenue entry which shows additional tree planting within the paved areas in the form of tree pits with accent understorey planting to break up this large expanse of pavement.

Rhodes Street Reserve

All existing trees within the Reserve adjacent to the northern boundary of the development are to be retained, with further analysis of their condition and retention undertaken prior to the commencement of the landscape works on the site and those within the Reserve (see discussion below). Any existing trees that require removal post-construction will be required to be replaced with new trees as directed by Council.

The applicant has confirmed by way of letter dated 7 November 2012 that it is willing to enter into a Voluntary Planning Agreement (VPA) with Council for the purpose of carrying out public domain works including landscaping and recreational embellishments (including the provision of a children's playground) within the adjacent Rhodes Street Reserve and in the vicinity of the cul-de-sac head of Flack Avenue.

Rhodes Street Reserve is owned by Sydney Water but is under the care, control and management of Council. The terms of the VPA will be separately negotiated with Council. In addition a long term licence agreement will need to be entered into with Sydney Water to facilitate the embellishment of Rhodes Street Reserve.

The likely scope of works will include the following:

- Tree planting to enhance and/or to replace trees removed on the southern boundary of the park at the interface with the development.
- Additional tree planting throughout the park to increase tree canopy in strategic locations.
- Park furniture (BBQ, seats, litter bins, picnic shelter, lighting and the like).
- Playground equipment.

All improvements and their locations require the approval of the landowner (Sydney Water).

Council's Landscape Officer has reviewed the documentation submitted in support of this application and has indicated that the proposed layout and dimensions of open space and landscape treatment is satisfactory, subject to the preparation of an amended Landscape Plan which addresses the comments raised in the preceding discussion.

Appropriate conditions have been included in the consent which address these matters.

Principle 7: Amenity

Council's DRP indicated that:

The common entries at the boundary of the Reserve should have a small canopy and night lighting for visual definition and to assist with security.

The main entry corridors from the plaza to Buildings B and C should be wider to improve proportions, access and natural light.

Fixed and operable screens (as shown on the drawings) should be employed where necessary to avoid direct overlooking from Building C of the adjoining school grounds and across the two spaces between the proposed buildings.

Overshadowing of the adjoining residential flat buildings to the south is an issue as it does not appear to comply with the minimum requirements for solar access at mid winter. The reduction in height of Buildings B and C by one storey would assist in this regard.

The Level 1 basement car park could have some natural top light and ventilation to enhance its character and minimise energy usage.

It is questioned whether one elevator is adequate to serve each building (especially Buildings B and C). The Panel is concerned about the provision of only a single elevator when residential units are more than three or four storeys above entry level.

The amenity of Units A101, A207 and A208 is questioned as they are partly below existing ground level and the rooms concerned would have poor outlook and natural light.

Officer Comment:

The proposed development satisfies the minimum apartment sizes specified in Council's DCP 35, which are generally larger than the minima recommended in the Residential Flat Design Code (RFDC). In addition, private open space generally compliant with Council's DCP requirements is available to each dwelling in the form of private courtyards, terraces or balconies.

A large (approx. 620m²) communal open space in the south eastern corner of the site incorporates landscaped gardens and passive recreation space, a communal building; BBQ area and children's playground contributes to the range of resident facilities.

Having regard to the proximity of the communal building to adjoining residential properties, a condition has been included in the consent which requires the Strata By-Laws to restrict the nature of its use, as follows:

- Prohibit separate commercial letting of the facility for parties etc;
- Restricts the hours of operation to between 7.00am and 9.00pm; and
- Prohibits the use of amplified music.

An additional communal open space area for the exclusive use of residents is located on the western side of the through-site link. This has an area of approximately 300m² and comprises a lawn area edged by trees and shrubs.

Both these areas of communal open space provide outlook for the south-facing apartments within the development and also for those existing units located within Nos. 13 and 14 Flack Avenue.

Plaza 1 (located between Buildings B and C) provides a public through-site link and ranges in width between 14 and 21 metres. This space will also be landscaped to provide amenity and outlook between the tower elements.

Following a series of amendments to the layout of some 19 apartments, as discussed previously in this assessment, the proposed development now achieves the following performance criteria:

- 0% (nil) single aspect SE/SW apartments;
- 61% of apartment achieve natural cross ventilation;
- 72% apartments achieve a minimum 2 hours of direct sun between 9.00am and 3.00pm on 21 June to the glazing of their primary living areas; and
- In terms of solar access to private open spaces, 72 % of apartments achieve 3 hours and 91% achieve 2 hours of sun between 9.00am and 3.00pm on 21 June.

Typical floor corridors are naturally lit at each level and provide access to a maximum of 8 dwellings per level.

The proposal complies with the requirements for individual apartment storage as outlined in Council's DCP No.35.

The proposal complies with the DCP No.35 in relation to car parking provision for residential and visitors.

Having regard to the preceding assessment, the proposed development is considered to achieve acceptable levels of amenity.

Principle 8: Safety and Security

Council's DRP indicated that:

The issue of safety and security is significant for this site because of the adjacent Reserve and proposed public access. Overlooking of the Reserve and the ground level common open space from the proposed buildings should assist with passive surveillance.

It appears that adequate safety and security would be achievable with the current proposal but further thought should be given as to whether security should be included to at least some parts of the common areas by way of see-through gating, fencing and/or landscaping devices.

Officer Comment:

The proposal optimises passive surveillance of public and communal open spaces, with ground level address points to Rhodes Street and the existing pathway within Rhodes Street Reserve (which provides a pedestrian connection to Bunnerong Road). This arrangement enhances the activation of these frontages and provides safe entrance points with a clear distinction between public and private space.

The Panel's comment in relation to appropriate demarcation between communal open space and the through-site link has been partially addressed by the applicant – a combination of gates and raised planters are shown on the landscape plan (LP-01) and the architectural drawings (Dwg No. A04 01) as providing a physical delineation of the space, but there is no indication of any internal fencing treatment to prevent access by the general public.

A condition has been included in the schedule of conditions which stipulates the use of visually permeable fencing around the areas of communal open space (internal to the site).

Lighting will be installed in accordance with Australian Standards. This has been incorporated as a condition of consent.

The proposal has taken into account safer by design principles in the design of communal areas and landscaping. The NSW Police undertook a 'Safer by Design' analysis of the proposal and have recommended a number of conditions of consent aimed at enhancing the safety and security of the development.

Principle 9: Social Dimensions

In this regard Council's DRP indicated that:

The proposed common room building would provide an enclosure of the space to the west and passive surveillance of the play ground which are both desirable. It would be overshadowed in the suggested location but could be improved by a roof shape with high lights which would allow eastern sunlight to penetrate into the common room.

The common pedestrian / mail collection points should have a seat and a small shelter and night lighting.

The main entry lobbies should be inviting and should desirably have some amenity including seating and a notice-board.

Officer Comment:

The proposed development yields a total of 141 apartments, comprising:

8 x studio (6%)

34 x 1 bedroom (24%)

97 x 2 bedroom (69%)

2 x 3 bedroom (1%)

This apartment mix responds to the needs of the local community by providing for diversity in the type and affordability of the units.

The building forms and their arrangement on the site define the areas of communal open space at ground level on the southern side of the site for residents to enjoy in addition to their own private open spaces attached to each apartment. These areas will be fenced and gated for the use of residents.

The proposal promotes the desired future community character of the precinct and improves the amenity of the neighbourhood with provision of the public through site link from Flack Avenue to Rhodes Street Reserve.

It is considered that the surrounding community structure and the comprehensive range of facilities and services available in the local government area provide an appropriate social context for the proposed development.

Principle 10: Aesthetics

Council's DRP commented as follows:

It would be expected that the articulation and detailing of the facades including the treatment of balcony balustrades is further resolved and refined during the next stage of design development.

All external building elements and attachments must be integrated with the overall design of the facades. The composition of building elements, textures, materials and colours should suit the context.

Officer Comment:

The applicant has submitted a materials and finishes board as part of the DA documentation. A relatively neutral colour palette has been adopted (using a combination of soft greens, greys and taupes) in cognisance of the visibility of the development from the adjacent Rhodes Street Reserve.

On balance, it is considered that the proposal will make a positive contribution to the future character of the precinct as outlined above and exhibits a modern contemporary aesthetic in terms of built form, materials, finishes and colours as well as the provision of a well landscaped setting.

Summary

Having regard to the previous discussion, it is considered that the proposed development represents an appropriate design response to the opportunities and constraints offered by the site and its setting and is consistent with the design quality principles outlined in Part 2 of SEPP 65.

Residential Flat Design Code (RFDC)

The following table provides an assessment of the proposed development against the design guidelines set out in the RFDC.

Relevant Guidelines	Compliance														
Part 1 – Local Context															
<p>Building Height</p> <p><i>Ensure future development responds to desired future scale and character of street and local area and allow reasonable daylight access to all developments and public domain.</i></p>	<p>Does Not Comply: Building A has 5 residential levels, however the fall of the land toward the east (away from the street) means it will effectively read (from the street) as a 3/4 storey building (one level below the level of the footpath) with Level 5 being set back a further 1.5m thereby reducing the perceived height of the building from Rhodes Street.</p> <p>In the context of the Rhodes Street streetscape, the proposed height of Building A is acceptable.</p> <p>Buildings B and C are 9 storey towers and are located in the lowest part of the site (some 5m lower than Rhodes Street).</p> <p>The siting and built form ensures that solar / daylight access to adjoining (existing) residential properties, the public domain and private and communal open space complies with Council's minimum requirements.</p>														
<p>Building Depth</p> <p><i>Maximum internal plan depth should be 18 metres from glass line to glass line.</i></p>	<p>Does not Comply:</p> <table> <tr> <td>Building A</td><td>31 metres</td></tr> <tr> <td>Building B</td><td>31 metres</td></tr> <tr> <td>Building C</td><td>29 metres</td></tr> </table> <p>It is noted that the habitable parts of each dwelling are generally confined to an area no more than 11m from an external glass line.</p> <p>A large number of apartments occupy corner locations with good natural light and cross ventilation. All single aspect apartments exceed 7m in width which also allows light penetration and provides for natural ventilation.</p> <p>The non-compliance in this regard is at least in part attributable to the fact that the development satisfies the minimum dwelling sizes set out in Council's DCP 35, as follows:</p> <table> <tr> <td>Studio</td><td>60m²</td></tr> <tr> <td>1 bedroom</td><td>75m²</td></tr> <tr> <td>2 bedroom</td><td>100m²</td></tr> <tr> <td>3 bedroom</td><td>130m²</td></tr> </table> <p>This has the effect of increasing the size of the floor plates and as a consequence, the depth of the buildings.</p> <p>Balcony dimensions vary across the frontage of each apartment however compliance with Council's DCP 35 (which requires min 3m depth) creates a deeper articulation zone beyond the glass line. Having regard to the above, this arrangement is considered to be satisfactory.</p>	Building A	31 metres	Building B	31 metres	Building C	29 metres	Studio	60m ²	1 bedroom	75m ²	2 bedroom	100m ²	3 bedroom	130m ²
Building A	31 metres														
Building B	31 metres														
Building C	29 metres														
Studio	60m ²														
1 bedroom	75m ²														
2 bedroom	100m ²														
3 bedroom	130m ²														

Relevant Guidelines	Compliance
<p>Building Separation</p> <p><i>Suggested dimensions within development, for internal courtyards and between adjoining sites for buildings:</i></p> <p><i>Buildings over 25m (9 storeys and above)</i></p> <ul style="list-style-type: none"> – 24m between habitable rooms / balconies – 18m between habitable rooms / balconies and non habitable rooms – 12m between non habitable rooms 	<p>Does not Comply:</p> <p><u>Building A to Building B</u></p> <p>There is a varied separation between the 5 storey Building A and 9 storey Building B ranging between 6 and 12.9 metres. It should be noted that the sections of the building that are less than the required separation contain minimal opposing openings and those that occur are to be treated with privacy screens / louvres.</p> <p><u>Building B to Building C</u></p> <p>Achieves min separation of 18 m balcony to balcony. Min separation between windows of habitable rooms is 23 m. The non-compliance in this regard is considered to be within acceptable limits and the applicant has demonstrated that in those instances between Buildings A and B where the separation is only 6 metres, the window openings will be appropriately treated with privacy screens / louvres.</p> <p><u>Separation to Adjoining Development</u></p> <p>Building A (5 storeys) to No 20 Rhodes Street – setback ranges between 12.4m and 9.2m. Building B to 13 Flack Avenue = 22.4m. Building C to 14 Flack Avenue = 21.7m.</p> <p>The setbacks between Building A and the adjoining 3 storey residential flat building at 20 Rhodes Street are considered reasonable in this instance as the openings within the southern elevation are limited (small window in the ensuite bathroom of Unit Nos A206, 306 and 405 and a window to the walk-in wardrobe in the same three apartments). A condition has been included in the consent requiring the glazing in these windows to be obscure glass).</p> <p>The 1.5m wide landscape strip along the common boundary in this part of the site will be planted with Sweet Viburnum which grows to achieve mature heights of 2m.</p>
<p>Street Setbacks</p> <p><i>Should establish desired patterns along street, also recognising scale transition, privacy, surveillance and street landscape character.</i></p>	<p>Complies: The proposed Building A observes a 6 metre setback to Rhodes Street, consistent with the prevailing setbacks in this part of the street.</p>
<p>Side and Rear Setbacks</p> <p><i>Minimise impact on light, air, sun, privacy, views and outlook for neighbouring properties.</i></p>	<p><u>Eastern (rear) Setback</u></p> <p>Satisfactory: Façade of Building C observes a varied setback to the eastern property boundary ranging from 5.5 m to 7.65 m.</p>

Relevant Guidelines	Compliance								
	<p>It is noted that the walls around private courtyards (at ground level) and a number of balconies on the upper levels (Levels 2-6) encroach into the setback area (to a minimum of 3 metres). However these are relatively minor in the scope of the eastern elevation and are considered to be acceptable in this instance.</p> <p>The single storey Community Building observes a setback of 3m to the eastern boundary and overlooks the Matraville Public School playing fields.</p> <p><u>Northern (side) Setback to Reserve</u></p> <p>Satisfactory: The buildings observe a varied setback to the northern boundary, with an absolute minimum of 3.0m, up to as much as 6m. It should be noted that the 1800mm high private courtyard walls encroach on the minimum setback area, resulting in a consistent landscaped planter of 1700mm along the entire length of the northern boundary.</p> <p><u>Southern (side) setback</u></p> <p>Satisfactory. The proposed development observes the following minimum setbacks:</p> <table border="0"> <tr> <td>Building A</td><td>6.2 – 9.2m</td></tr> <tr> <td>Building B</td><td>17.7 – 19.7m</td></tr> <tr> <td>Building C</td><td>17.7 – 18.9m</td></tr> <tr> <td>Communal Building (single storey)</td><td>3.77m</td></tr> </table> <p>The varying setbacks exhibited by the proposed development allow for an appropriate balance between light, air, sun and outlook for adjoining properties. It is noted that the setbacks facilitate compliance with minimum solar access requirements for the adjoining properties.</p>	Building A	6.2 – 9.2m	Building B	17.7 – 19.7m	Building C	17.7 – 18.9m	Communal Building (single storey)	3.77m
Building A	6.2 – 9.2m								
Building B	17.7 – 19.7m								
Building C	17.7 – 18.9m								
Communal Building (single storey)	3.77m								
Part 2 – Site Design									
<p>Site Configuration</p> <p><i>Deep Soil Zones</i></p> <p><i>To assist in management of water table, water quality amenity and large scale landscaping 25% of open space should have deep soil</i></p>	<p>Complies: Council officers have calculated the potential area available for deep soil (ie. those parts of the site not affected by the basement structure and/or any buildings) at 1,906m² or 28.9% of the site.</p> <p>It is noted that the inclusion of a range of impervious elements including extensive hard paved areas, electricity substation, the garbage bin enclosure and associated ramp from the basement garbage room, reduces the area of “true” deep soil (where water can permeate the soil), to approximately 925m² or 14% of the total area theoretically available for deep soil.</p>								

Relevant Guidelines	Compliance
	<p>The area of usable communal open space constitutes approximately 1,570m² or 23.6% of the total site area and includes the areas to the south of Buildings B and C (which are solely for the use of residents) and the area of Plaza 1 because whilst it is available to the general public, it is of sufficient dimensions to allow for use as a gathering area.</p> <p>Of the total area of communal open space, some 832m² or 53% constitutes deep soil.</p>
<p>Landscape Design</p> <ul style="list-style-type: none"> • <i>Improve amenity of open space with landscape design which provides appropriate shade from trees or structures, accessible routes through site and between buildings.</i> • <i>Contribute to streetscape character visually softening bulk of large development for the person on the street.</i> • <i>Provide a sufficient depth of soil above paving slabs to enable growth of mature trees.</i> 	<p>Complies: The landscaping proposal for the site will provide appropriate shade and public amenity and provide areas with sufficient depth to accommodate mature trees.</p>
<p>Open Space</p> <ul style="list-style-type: none"> • <i>Area of communal open space required should generally be at least between 25 and 30% of site area.</i> • <i>Provide private open space for each apartment capable of enhancing residential amenity, in the form of a balcony, deck, terrace, garden, yard, courtyard and/or roof terrace.</i> • <i>Minimum recommended area of private open space for each apartment at ground level or on a structure, such as on a podium, is 25m²; minimum preferred dimension is 4m.</i> 	<p>Minor Non Compliance: The usable communal open space constitutes approx 23.6% of the site area and will be landscaped and embellished for the use of residents. It should be noted that this calculation includes the areas to the south of Buildings B and C (which are solely for the use of residents) but also includes Plaza 1 because whilst it is available to the general public, it is of sufficient dimensions to allow for use as a gathering area. It should also be noted that the provision of communal open space complies with the minimum area required under the provisions of DCP 35 (20%) and on this basis is considered to be satisfactory.</p> <p>Complies: Each unit has access to a private courtyard, terrace or balcony, accessed via the primary internal living area.</p> <p>Complies. All ground floor units have private courtyard areas in excess of 28m².</p>

Relevant Guidelines	Compliance
<p>Orientation</p> <ul style="list-style-type: none"> Optimise solar access to residential apartments within development and adjacent development. <p>The RFDC <i>Rules of Thumb</i> require a minimum of 70% of dwellings to receive at least 3 hours of direct sun to glazing of living areas and to private open space on June 21. The <i>Rules of Thumb</i> do make provision for a concession to reduce this to 2 hours in a densely built up urban context.</p>	<p>Complies.</p> <p><u>Within the Proposed Development</u></p> <p>The number of units with at least 2 hours direct sunlight onto the glazing of living spaces between the hours of 9.00am and 3.00pm in mid-winter is 72%.</p> <p><u>Solar Access to Adjoining Properties</u></p> <p>The applicant has satisfactorily demonstrated that all adjoining dwellings will achieve a minimum of 2 hours solar access between 9.00am and 3.00pm in mid winter.</p>
<p>Planting on Structures</p> <ul style="list-style-type: none"> Encourage establishment and healthy growth of trees in urban areas. 	<p>Complies.</p> <p>Council's Landscape Officer has reviewed the documentation submitted in support of this application and has indicated that the proposed layout and dimensions of open space and landscape treatment is satisfactory, subject to the preparation of an amended Landscape Plan which addresses specific comments which are discussed elsewhere in this report.</p>
<p>Stormwater Management</p> <ul style="list-style-type: none"> Reduce volume impact of stormwater on infrastructure by retaining on site. 	<p>Complies. An on-site detention system is to be provided.</p>
<p>Site Amenity Safety</p> <ul style="list-style-type: none"> Ensure residential flat developments are safe and secure for residents and visitors and contribute to safety of public domain. 	<p>Complies: The design provides for a clear definition between public and private spaces and communal areas and allows for passive surveillance of both the public and private domain surrounding the buildings.</p> <p>This arrangement will ensure that the site is safe and secure for occupants and visitors and users of the public domain.</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> Provide reasonable levels of visual privacy externally and internally, during day and at night and maximise outlook and views from principal rooms and private open space is without compromising visual privacy. 	<p>Complies: Good levels of visual privacy are provided externally and internally through the orientation of rooms, placement of windows and use of landscape or architectural screening devices.</p> <p>Outlook and views from living areas and balconies will be optimised without compromising visual privacy due to the orientation of living areas and balconies.</p>
<p>Site Access</p> <p>Building Entry</p> <ul style="list-style-type: none"> Create entrance which provides a desirable residential identity for development, orient visitor and contribute positively to streetscape and building facade design. 	<p>Complies: A clearly identifiable and landscaped residential entry is provided from Rhodes Street for Building A. This arrangement creates a discrete identity for this element of the development and easy orientation for residents and visitors.</p> <p>Access to Buildings B and C is from Plaza 1.</p>

Relevant Guidelines	Compliance
<p>Parking</p> <ul style="list-style-type: none"> Minimise car dependency but provide adequate car parking for building's users and visitors. Integrate location and design of car parking with design of site and building. 	<p>Complies: On-site parking for the building's users and visitors is proposed in accordance with Council's requirements.</p> <p>Complies: The on-site parking is provided over 2 levels and is integrated into the overall site design.</p>
<p>Pedestrian Access</p> <ul style="list-style-type: none"> Promote residential flat development that is well connected to street and contributes to accessibility. Barrier free access to at least 20% of dwellings. 	<p>Complies: The site is well connected with the surrounding streets and pedestrian network through clearly identifiable address points and pedestrian paths within and through the site.</p> <p>Complies: At least 20% of the units afford barrier free access.</p>
<p>Vehicle Access</p> <ul style="list-style-type: none"> Integrate adequate car parking and servicing access without compromising street character, landscape or pedestrian amenity and safety. Generally limit width of driveways to 6m maximum. 	<p>Complies: Car parking and servicing access have been integrated without compromising the street character, landscape setting or pedestrian amenity and safety.</p> <p>Minor Non Compliance: The driveway to / from Rhodes Street has a width of 6m across the public footpath to accommodate two way traffic.</p>
Part 3 – Building Design	
<p>Building Configuration</p> <p><i>Apartment Layout</i></p> <ul style="list-style-type: none"> Single aspect apartments should be limited in depth to 8m from a window. Back of a kitchen should be no more than 8m from a window. Width of through apartments over 15m deep should be 4m or greater to avoid deep narrow apartment layouts. 	<p>Non-Compliance: A total of 40 apartments are single aspect. The majority (28 units) have a northern orientation; 8 have a western orientation and 4 are oriented to the east. None have are single aspect apartments with a southern orientation.</p> <p>The max depth of the single aspect units is 13m. None of the single aspect apartments are less than 7 m wide and in the majority of cases are between 8 and 9 m wide. This ensures that these dwellings will have adequate outlook and access to natural light, on this basis the non-compliance is considered to be satisfactory.</p> <p>Complies. The maximum distance between the back wall of a kitchen and a window in the single aspect apartments is 10m however this primarily occurs in the north facing apartments.</p> <p>Complies. None of the apartments within the proposed development has a width less than 4 metres and all single aspect apartments are greater than 7 m wide.</p>

Relevant Guidelines	Compliance
<ul style="list-style-type: none"> <i>Affordable housing to be considered including small units & minimum sizes</i> 	<p>Complies. Various unit sizes are proposed, including a number of studios and 1 bedroom apartments, with the highest proportion being 2 bedroom units. It is considered that this mix will allow for an acceptable degree of housing affordability, in line with current market trends.</p>
<p>Apartment Mix</p> <ul style="list-style-type: none"> <i>Provide a diversity of apartment types.</i> 	<p>Complies: An acceptable mix of Studio, 1 bedroom + study, 2 bedroom and 3 bedroom units is proposed.</p>
<p>Balconies</p> <ul style="list-style-type: none"> <i>Provide all apartments with private open space.</i> <i>Ensure balconies are functional and integrated with overall architectural design.</i> <i>Provide primary balconies for all apartments with a minimum depth of 2m.</i> 	<p>Complies: All units will have a principal private balcony / terrace / courtyard that is integrated into the overall architectural form.</p> <p>All private open spaces are accessed from the primary internal living spaces and whilst they vary in depth, all include substantial / usable sections which are at least 3m deep in accordance with the requirements of Council's DCP 35.</p> <p>A number of units also have a secondary balcony.</p>
<p>Ceiling Heights</p> <ul style="list-style-type: none"> <i>2.7m for habitable rooms in residential flats.</i> 	<p>Complies: The minimum ceiling height for all habitable rooms is 2.7m.</p>
<p>Flexibility</p> <ul style="list-style-type: none"> <i>To promote 'long life, loose fit' buildings and encourage adaptive re-use to save embodied energy expended in building demolition.</i> 	<p>Complies: The design caters for inbuilt adaptability through a structural grid that would allow for some degree of future modification to the internal layout.</p>
<p>Ground Floor Apartments</p> <ul style="list-style-type: none"> <i>Contribute to streetscape and active safe streets by designing front gardens or terraces while ensuring privacy.</i> 	<p>Complies: The design incorporates a series of ground floor apartments which address either Rhodes Street Reserve or Plaza 1, all of which include small private front yards oriented towards those public spaces.</p>
<p>Internal Circulation</p> <ul style="list-style-type: none"> <i>In general, where units are arranged off a double loaded corridor, the number of units accessible from a single core / corridor should be limited to 8.</i> 	<p>Complies: Each building has one lift which provides access to / from the basement parking, ground floor and all residential levels.</p> <p>No more than eight (8) apartments occur on each floor of the buildings.</p>
<p>Storage</p> <ul style="list-style-type: none"> <i>6m³ per studio or 1 bedroom unit.</i> <i>8m³ per 2 bedroom unit.</i> <i>10 m³ per 3 bedroom unit</i> 	<p>Complies.</p> <p>Storage is provided as follows:</p> <ul style="list-style-type: none"> • Studio apartment 6m³ • 1 bed apartment 8m³ • 2 bed apartment 10m³ • 3 bed apartment 12m³

Relevant Guidelines	Compliance
<p>Mixed Use</p> <ul style="list-style-type: none"> Support integration of appropriate retail and commercial uses with housing, create more active lively streets and urban areas, encouraging pedestrian movement, service needs of residents and increase employment base, designed to maintain residential amenities and preserves compatibility between uses. 	<p>Not Applicable.</p>
<p>Building Amenity</p> <p>Acoustic Privacy - Ensure high level of amenity by protecting privacy of residents within residential flat buildings both within the apartments and in private open spaces.</p>	<p>Complies: The proposed method and materials of construction will provide adequate acoustic privacy to achieve the BCA requirements in relation to noise transmission.</p>
<p>Daylight Access</p> <ul style="list-style-type: none"> Living rooms and private open space for at least 70% of apartments should receive a minimum of 3 hours direct sunlight between 9 am and 3 pm mid winter. 2hours acceptable in dense precincts Limit number of single aspect apartments with southerly aspect to maximum 10% of total. 	<p>Complies. One hundred and two (102) or 72% of units achieve at least 2 hours direct sunlight onto the glazing of living spaces between the hours of 9.00am and 3.00pm in mid-winter.</p> <p>Complies: None of the apartments in the development have a single, southerly aspect.</p>
<p>Natural Ventilation</p> <ul style="list-style-type: none"> Building depths, which support natural ventilation typically range from 10 to 18 m. 60% of residential units should be naturally cross ventilated. 25% of kitchens within a development should have access to natural ventilation. 	<p>Noted – refer previous comment.</p> <p>Complies. A total of 61% of the apartments achieve natural cross ventilation.</p> <p>Satisfactory. Whilst none of the kitchens have direct access to a window and the maximum distance between the back wall of a kitchen and a window is generally 10m, however the apartments generally have high levels of fenestration and all windows are operable.</p>
<p>Roof Design</p> <ul style="list-style-type: none"> Provide quality roof designs, which contribute to overall design and performance of residential flat buildings, integrate as part of overall design. 	<p>Complies: The proposed roof forms are integrated with overall design and provide an appropriate ‘top’ to each of the buildings.</p>
<p>Building Performance</p> <p>Energy Efficiency</p> <ul style="list-style-type: none"> Reduce the necessity for mechanical heating and cooling reducing reliance on fossil fuels and minimize greenhouse gas emissions. 	<p>Complies: The installation of energy efficient plant, equipment and appliances will assist in reducing energy usage. Cross ventilation and appropriate choice of glazing and shading devices will reduce the need for mechanical heating and/or cooling.</p>

Relevant Guidelines	Compliance
<p>Building Form</p> <p><i>Facades</i></p> <ul style="list-style-type: none"> Promote high architectural quality in residential flat buildings, ensure new developments have facades which define and enhance public domain and desired street character and that building elements integrated into overall building form and facade design. 	<p>Complies: The facade design is of a high architectural quality and establishes an appropriate built form, character and streetscape for the urban context of the site.</p>
<p>Water Conservation</p> <ul style="list-style-type: none"> Reduce mains consumption of potable water and quantity of urban stormwater runoff. 	<p>Complies: A number of water conserving measures such as the collection and reuse of rain water for use in landscaped areas and the installation of water efficient fixtures and fittings will reduce the consumption of potable water.</p>

Botany Local Environmental Plan 1995 (LEP)

Clause 10 – Zoning

The subject site is zoned Residential 2(b) in accordance with clause 10 of the LEP. The propose development being for the construction of residential flat buildings is permissible with the appropriate consent of Council. The primary objective of the residential 2(b) zone is as follows:

To provide for the development and use of housing, other than detached housing, in appropriate locations, together with community and service uses of a type and scale appropriate to the enjoyment of such housing.

It is considered that the proposed development, being for the construction of three (3) residential flat buildings is not inconsistent with this primary objective.

The secondary objectives of the zone are as follows:

- (a) *to provide scope for high-quality residential development in innovative forms on identified sites,*

In this regard, it is considered that the proposed design represents an appropriate design response to the opportunities and constraints offered by the site and its setting and is consistent with the design quality principles outlined in Part 2 of SEPP 65

- (b) *to improve the quality of the residential amenity by encouraging landscaping and good design in both new developments and renovations.*

The usable communal open space constitutes approximately 23.6% of the site area and will be landscaped and embellished for the use of residents. It should be noted that this calculation includes the areas to the south of Buildings B and C (which are solely for the use of residents) but also includes Plaza 1 because whilst it is available to the general public, it is of sufficient dimensions to allow for use as a gathering area.

The provision of communal open space complies with the minimum area required under the provisions of DCP 35 (20%).

- (c) *to encourage the revitalisation and improvement of older established residential areas by rehabilitation and suitable development.*

The proposed development represents the redevelopment of a former derelict, sub-standard and underutilised residential property for a contemporary multi-unit development, designed to meet local market expectations.

The bulk, scale and density of the proposed development is greater than much of the remainder of Hillsdale (as previously described in this report). However

(d) to allow non-residential development which provides services or employment for residents and which is of a type and scale which does not interfere with the amenity of surrounding residential areas.

Not applicable.

(e) to encourage the preservation of buildings which are of heritage significance and within a heritage conservation area.

Noted. However the subject site does not include any items of heritage significance, nor is it located in a Heritage Conservation Area.

(f) to encourage energy efficiency and energy conservation in all forms of development permissible within the zone.

BASIX Certificate No. 424298M dated 4 May 2012 accompanies the application and indicates that the project meets the water saving target of 40, energy saving target of 20, and the thermal comfort requirements of the SEPP (BASIX) 2004.

Having regard to the above comments, it is considered that the proposed development is generally consistent with these secondary objectives of the 2(b) zone.

Clause 12 – Floor Space Ratio

Clause 12 of the LEP limits the maximum floor space ratio of the development to 0.5:1. Clause 12(2) allows consideration of an increase to the maximum floor space ratio to 1:1 on land within the Residential 2(b) zone and where the allotment area exceeds 2,500m².

The proposed development seeks a floor space ratio of 2:1 (as measured in accordance with Botany LEP 1995) or 1.89:1 measured in accordance with Draft BBLEP 2012. The applicant has submitted a SEPP 1 Objection as discussed earlier in the report which demonstrates that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and it is recommended that the SEPP 1 Objection be supported.

It is also noted that the consent issued in respect of DA 09/102 allows for development of the site to an FSR of 1.4: 1.

In addition, Clause 12(2) of the LEP provides for a floor space ratio variation pending the consideration of the following matters:

(a) The proposed development will satisfy the primary objective of the zone.

The primary objective of the 2(b) zone is to provide for the redevelopment and use of housing, other than detached housing, in appropriate locations, together with community and service uses of a type and scale appropriate to the enjoyment of such housing.

The proposed development will revitalise this area, providing an appropriate form of contemporary housing in an established urban area with good access to a full range of services and facilities. The scale of the proposed development is considered to be appropriate for this location.

(b) The scale of the proposed development, if above 2 storeys in height, is compatible with the scale of existing residential development in the locality.

As discussed previously in this assessment, the scale of existing development in Hillsdale is a mixture of 1 and 2 storey detached dwellings and 3-4 storey residential flat buildings. The single exception to this is the 12+ storey residential tower constructed above the Southpoint Shopping Centre on Bunnerong Road.

Having regard to existing pattern of development, the established nature of housing forms and the prevailing titling arrangements (ie. strata title), it is considered to be unlikely that substantive change will occur within Hillsdale within the foreseeable future.

The subject site, together with the parcel owned by the Sydney Water Corporation immediately to the north east (which has frontage to Bunnerong Road and a common boundary with Rhodes Street Reserve at the rear) are the only parcels in this locality which offer sufficient site area to facilitate larger scale, integrated residential development.

Both sites are unique in that they have a direct interface with a substantial area of open space (Rhodes Street Reserve), however the subject site enjoys a much greater exposure to the Reserve (in excess of 136 metres) along its northern boundary.

These properties are likely to be the only parcels in the foreseeable future which are of sufficient size, with the appropriate physical characteristics and locational attributes which are capable of delivering larger scale, contemporary integrated housing within the locality of Hillsdale.

In this context and having regard to the fact that the development is unlikely to result in any substantive adverse environmental impacts, Council is of the view that the scale of the proposed development is appropriate.

- (c) *The architectural character and design of the proposed development does not adversely affect existing residential development in the locality.*

The architectural character and design of the proposed development is significantly different from existing housing stock in the immediate vicinity and is representative of contemporary urban apartment living. The architect has sought to modulate the facades to create visual interest and to break up the physical bulk of the buildings.

The arrangement of the buildings on the site provides a landscaped interface with the existing residential flat buildings at 20 Rhodes Street and 13 and 14 Flack Avenue.

Perimeter landscaping is used to soften the edges of the site and contributes to the privacy of the lower level units within the development as well as affording screening to adjoining residential properties.

The position, orientation and heights of the buildings have been designed in consideration of the impacts on existing residential uses to the east and south. In this regard, the proposed buildings achieve appropriate physical separations between them and the adjacent dwellings, incorporating highlight windows, screens and fixed louvres to maintain privacy on the lower levels where there is a direct interface with the adjoining residential development.

- (d) *The provision of off-street parking for residents and visitors adequately meets the needs of the development.*

The proposed on-site parking provision has been assessed by Council's Traffic Engineer who has reviewed the plans and supplementary traffic and parking report (submitted to Council on 10 October 2012) and has advised that the proposed development is generally satisfactory in terms of traffic and parking impact on the locality.

Conditions to address matters pertaining to traffic, access and parking have been included in the consent, as appropriate.

- (d1) *The provision of on-site car parking does not dominate or detract from the appearance of the proposed development or the streetscape.*

Vehicular access to / from the site is via a 6m wide driveway on the Rhodes Street frontage, which provides access to the basement parking.

The driveway from is located adjacent to the southern property boundary and will be framed by landscaped areas on either side. The opening to the basement is set back 6 metres from the Rhodes Street frontage and is set down approximately 300mm from the footpath level. This arrangement serves to minimise the appearance of the car park entry in the streetscape.

A condition has been included in the schedule of conditions which prohibits vehicular access, with the exception of service vehicles (including garbage), from Flack Avenue.

The vehicular access arrangements are considered appropriate and will not adversely impact the existing streetscape.

- (e) *The provision of private and communal open space on the site is adequate for the proposed development.*

Each dwelling is provided with an area of private open space that is directly accessible from the internal living area of each dwelling. It complies with the numerical standards embodied in DCP 35 and provides a high degree of amenity in this context.

Approximately 23.6% of the site constitutes usable communal open space which also satisfies the minimum requirements of DCP 35. Whilst it does not strictly accord with the requirements of SEPP 65 (which specifies 25-30% on large sites such as this), Council is of the view that the proximity to Rhodes Street Reserve renders the availability of both passive and active recreation opportunities to be acceptable in this instance.

- (e1) *The proposed development includes landscaping that screens and softens the visual effect of the buildings on the site, and creates useable and comfortable open space areas.*

Landscaping along the perimeter of the site will provide a green edge to the development and will make a positive contribution to the privacy of apartments, both within the development and beyond the site.

A landscaped buffer is proposed for the full length of the eastern property boundary which interfaces with the Matraville Public School playing fields, and includes a (minimum) 3m wide area of deep soil landscaping which is proposed to be planted to provide a dense landscaped space and will also be required to include tall canopy trees to ameliorate the scale of the development when viewed from the school.

The communal open space will provide areas of lawn, decorative planting as well as shrub and tree planting. This area comprises a combination of hard and soft surfaces and provides the opportunity for predominantly passive recreation activities. Landscaping will also help define the common area circulation paths and contribute to privacy and amenity for adjacent ground floor apartments.

A children's playground will also be incorporated in the communal open space.

Private open spaces at ground level feature various low level planters which offer the opportunity for decorative as well functional kitchen gardens. Upper level terraces and balconies are sized to enable residents to create similar landscaping with planters.

Species selection is based upon selection of robust species with low demand for water and maintenance.

The landscape scheme allows for useable / active and passive areas of communal open space for the enjoyment of the residents.

- (f) *The environmental amenity of the proposed development and of the immediate locality includes measures to confine or reduce noise to maintain privacy.*

The proposed development has been examined in relation to the consideration accorded to maintaining privacy both within the development and the likely impact on adjoining properties. In this regard it is noted that the building design includes a range of devices including physical separation, the use of fixed and operable privacy screens and highlight windows.

It is considered that the application of these devices will ensure acceptable levels of visual and acoustic privacy are maintained both within the development and external to the site (ie. adjoining properties).

- (g) *The proposed development ensure adequate sunlight, ventilation and privacy to its residents, to residents of adjoining development and to users of nearby public and private open space.*

Council commissioned an independent analysis of the 3D modelling submitted by the applicant. The purpose was to:

- (i) verify the accuracy of the shadow analysis; and
- (ii) assess the amenity compliance for solar access and natural ventilation for apartments within the development under the provisions of the RFDC as it gives effect to SEPP 65.

Steve King, a consultant architect from the University of NSW undertook the analysis and confirmed in the first instance that the computer modelling is sufficiently accurate to make an assessment of the likely shadow impact of the proposed development.

On that basis, the applicant's assessment of the overshadowing impact of the proposed development on the existing properties at No. 20 Rhodes Street and Nos. 13 and 14 Flack Avenue has been accepted as being correct. Shadow diagrams have been included in the DA documentation which demonstrate that the adjoining properties achieve at least 2 hours direct sunlight to their private open spaces / living areas between 9.00am and 3.00pm in mid winter.

Mr King's analysis found that the applicant had underestimated the degree of solar access able to be achieved to the apartments within the proposed development, which meant that only 58.9% of the units satisfied the minimum solar access requirements. This was primarily because the self-shading by the architectural detailing of the facades (recessed balconies, solid privacy screens, other overhangs etc) was not taken into account.

On 23 October 2012 the applicant submitted additional information which incorporated a series of design modifications to some 19 apartments across the proposed development to achieve an overall improved performance, increasing the proportion of compliant apartments to 72%.

It is considered that the proposed development achieves a satisfactory outcome in terms of its overshadowing impact on adjoining properties and solar access within the development.

- (h) *The proposed development makes provision for the adequate absorption of stormwater, and includes deep root zones for tree planting.*

Council officers have calculated the potential area available for deep soil (ie. those parts of the site not affected by the basement structure and/or any buildings) at 1,906m² (28.9%). However it should be noted that this figure is eroded by extensive hard paved areas, a new electricity substation the garbage bin enclosure and associated ramp from the basement

garbage room, which reduces the area of “true” deep soil (where water can permeate the soil), to approximately 925m² or 14% of the total site area.

The quantum of deep soil achieved as part of the proposed development is considered to be satisfactory.

- (i) *The proposed development incorporates pedestrian links at points where they are most prominently and safely connected to the existing street and pedestrian network.*

The site is bisected by two (2) north-south pedestrian connections. The primary link (marked “1” on **Figure 3** and identified as Plaza 1 in the architectural drawings) is intended to provide public access and function as a through-site link between the northern end of Flack Avenue and Rhodes Street Reserve.

The secondary connection (marked “2” on **Figure 3** and identified as Plaza 2 in the architectural drawings) is located between Buildings A and B and is provided for the use of residents of the complex, providing a direct connection to Rhodes Street Reserve, as well as the communal open space and Plaza 1 and Flack Avenue. Security gates will be installed at the northern end of Plaza 2 (where it interfaces with Rhodes Street Reserve) and at the junction with Plaza 1 to prevent public access to the private areas of the proposed development.

The development provides clear and legible pedestrian access to and within the site. All typical apartments are accessed from the common lobby by lift or via the lift from the basement car park. In addition, individual entry is provided to all ground level apartments.

- (j) *The proposed development provides a safe and secure environment for its residents.*

The ground level units in Building A are accessed via the main, security controlled (swipe card or similar) pedestrian entry from Rhodes Street. Similar access arrangements to the main lobbies in Buildings B and C will apply, both of which are accessed from Plaza 1 (pedestrian through-site link between Flack Avenue and Rhodes Street Reserve).

The ground floor units in each of the buildings enjoy individual pedestrian access to the Rhodes Street Reserve or the internal communal open space. This arrangement will enhance the sense of security and passive surveillance of the surrounding private and public areas.

All entry points to the buildings are clearly defined and include security controlled access for the safety of residents.

Clause 13B – Development and Obstacle Limitation Surfaces (OLS)

The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulation that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The proposed buildings exceed this maximum height, and therefore the application was referred to Sydney Airports Corporation Limited (SACL) on 29 October 2012 for consideration. In correspondence dated 7 November 2012 SACL raised no objections to the proposed development, subject to conditions to be imposed on any consent.

Clause 22 – Greenhouse, Energy Efficiency, etc

Clause 22 of the LEP and the requirements of Council’s DCP for Energy Efficiency has been considered in the assessment of the development application. BASIX Certificate No. 424298M dated 4 May 2012, was received by Council on 9 May 2012. The BASIX Certificate indicates that the proposal meets the water saving target of 40, energy saving target of 20, and the thermal comfort requirements of the SEPP (BASIX) 2004.

As such, the proposal is considered to adequately address the requirements of this clause.

Clause 28 – Excavation and Filling of Land

The extent of the basement has previously been considered and approved by Council on 11 July 2012 under an application made pursuant to S96(2) in respect of DA 09/102.

Clause 30A – Development on land identified on Acid Sulfate Soil Planning Map

The site is located within a Class 5 Acid Sulfate Soil Area. Pursuant to Clause 30A of the LEP any works within 500 metres of adjacent Class 1, 2 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2 or 4 land require the consent of Council.

It is noted that the excavation is now complete and the water table has not been encountered.

Clause 38 – Water, wastewater and stormwater systems

The provisions of clause 38 have been considered in the assessment of the development application. Council must not grant consent to the carrying out of the development as follows:

- (i) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate water and sewerage services will be available to the land it is proposed to develop.*
- (ii) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop.*

The development application was referred to Sydney Water with regard to water supply and wastewater on 1 June 2012. In correspondence dated 22 June 2012, Sydney Water provided a range of comments including the need for the upsizing of an existing drinking water main and the need for the applicant to make application to Sydney Water for a Section 73 Certificate.

Relevant conditions as requested by Sydney Water have been included in the schedule.

Concept stormwater plans and flooding information were submitted with the application, which have been reviewed by both Sydney Water and Council's Development Engineer.

Sydney Water indicated that the Flood Study submitted by the applicant may not be adequate to assess the potential flooding impacts of the surrounding environment on the site. The nearby Sydney Water channel (located approx. 75 metres to the east of the site on the opposite side of the Matraville Public School playing field) has limited capacity and Sydney Water advised that the proposed development is expected to be affected by over bank local flooding from time to time.

The applicant was requested to undertake 2 dimensional flood modelling for the design storm events of Probable Maximum Flood (PMF) and 1% Annual Exceedance Probability with the predicated impacts of Climate Change.

On 2 November 2012, the applicant submitted additional information prepared by KF Williams and Associates in relation to the flood behaviour, prepared in consultation with Sydney Water which was duly reviewed by Council's Development Engineer, who has provided conditions of consent with regard to the provision of stormwater drainage for the development and stipulates a finished floor level for the lowest habitable area within the site of minimum RL 16.45 (500mm freeboard above the 1 in 100 year ARI flood level).

Having regard to the above, it is considered that the proposed development satisfies the provisions of Clause 38 of the LEP.

Provisions of any Draft Environmental Planning Instruments (S.79C(1)(a)(ii))

Draft Botany Bay Local Environmental Plan 2012

The Draft Botany Bay Local Environmental Plan (Draft LEP) is the comprehensive planning instrument for the whole of the City of Botany Bay. It has been prepared in response to the planning reforms initiated by the State Government, which required all Councils in NSW to standardise their LEPs.

The provisions of the Draft LEP have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of Draft LEP 2012	Compliance	Comment				
Land Use Zone	Yes	The site is zoned Medium Density Residential R3 under the Draft LEP				
Is the proposed use / works permitted with development consent	Yes	The proposed use is permissible with Council’s consent under the Draft LEP				
Does the proposed use / works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the following objectives in the Draft LEP in the following manner:</p> <ul style="list-style-type: none">• it will provide for the housing needs to the community within a medium density residential environment which meets contemporary market expectations;• it will contribute to the range of housing types available within the Botany Bay LGA; and• will provide facilities (pedestrian through-site link) to meet the day to day needs of residents in the locality in improving access to a substantial area of open space within the Rhodes Street reserve.				
Does Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Schedule 1 does not apply				
What is the height of the building? Does the height exceed the maximum building height	No	<p>Maximum building height under clause 4.3(1) of Draft BBLEP 2012 is 22m for sites in excess of 2,000m². Proposed development achieves the following heights:</p> <table><tr><td>Building A</td><td>18m</td></tr><tr><td>Buildings B & C</td><td>29m</td></tr></table>	Building A	18m	Buildings B & C	29m
Building A	18m					
Buildings B & C	29m					
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	No	The maximum floor space ratio for sites in excess of 2,000m ² under clause 4.4(1)(2A) of Draft BBLEP 2012 1.5:1.				

Principal Provisions of Draft LEP 2012	Compliance	Comment				
		<p>The application seeks approval for an FSR of 1.89:1, calculated in accordance with the definition of gross floor area under the Standard Template.</p> <p>As discussed previously in this report, the subject site is unique in Hillsdale in terms of its size (6,652m²) and its context – having frontage on two sides to areas of open space (Rhodes Street Reserve and Matraville Public School playing fields).</p> <p>Furthermore, because of the nature of existing development in this area (strata titled residential flat buildings and well-established single dwellings) and the inherent difficulties in consolidating a site of sufficient size for redevelopment, it represents the only opportunity to achieve a larger scale, integrated residential development.</p> <p>The unique physical and locational characteristics enjoyed by the site can reasonably be assumed to result in a corresponding increase in the environmental capacity of the land in so far as a greater scale of development can be achieved without resulting in any substantive environmental impacts – physical separation to existing residential development, maintaining appropriate solar access and privacy.</p> <p>The proposed development also results in a significant public benefit through the provision of a publicly accessible through-site link between Flack Avenue and Rhodes Street Reserve as well as a range of public domain improvements within the Reserve (to be the subject of a separate VPA).</p> <p>Having regard to the above, the variation to the draft FSR control is supported by Council in this instance.</p>				
Is the proposed development in a R3/R4 zone? If so, does it comply with the site of 2,000m ² min and maximum height of 22m and maximum FSR of 1.5:1?	No	<p>The site will be zoned R3 and whilst it complies with the minimum site area of 2,000m² (6,652m²), it exceeds both the maximum height and FSR controls.</p> <table> <tr> <td>Height</td> <td>18 metres Building A 29 m Buildings B & C</td> </tr> <tr> <td>FSR</td> <td>1.89:1</td> </tr> </table>	Height	18 metres Building A 29 m Buildings B & C	FSR	1.89:1
Height	18 metres Building A 29 m Buildings B & C					
FSR	1.89:1					

Principal Provisions of Draft LEP 2012	Compliance	Comment
Is the site within land marked "Area 1" on the FSR Map? If so, does it comply with the sliding scale for FSR in Clause 4.4A?	N/A	Site is not located within Area 1.
Is the land affected by road widening?	N/A	The site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a conservation area?	N/A	The site is not heritage listed and is not located within a conservation area
The following provisions in Part 6 of the Draft LEP apply to the development: <ul style="list-style-type: none"> • Acid Sulphate Soils 	Yes	Clause 6.14 – the site is Class 5 land according to Council's ASS Map. An Environmental Site Assessment accompanies the application and reveals that ASS was not encountered within the excavation depth proposed for the development.

The imminence of the gazettal of a draft local environmental plan is paramount in determining the weighting accorded to the provisions of the draft instrument in the assessment of a development application. Three tests have been outlined in relevant case law, as follows:

1. Whether the draft local environmental plan is imminent and certain and if so, what weight should the draft LEP be given.

Public exhibition of the Draft LEP concluded on 22 June 2012. Council is currently reviewing and undertaking further investigations related to the submissions received in response to the public exhibition and will give due consideration as to whether further amendments to the Draft LEP are required.

On 21 November, Council will consider a report on the public submissions which includes a recommendation to forward the Section 68 Report to the Department of Planning and Infrastructure.

The Department will subsequently issue correspondence which confirms receipt of the S68 submission.

It is following this exchange that it can be determined that the gazettal of the Draft LEP is "imminent". It is generally accepted that the imminency and certainty of the Draft LEP increases as it is advanced through the plan-making process and the expected date of gazettal approaches.

2. How is the proposed development characterised under the draft local environmental plan and whether the proposed use is prohibited or permissible.

Residential accommodation (which includes residential flat buildings) is permitted with consent in the Residential R3 zone.

3. Whether the proposal undermines the expressed future planning objectives for the area in the draft local environmental plan.

The stated objectives of the Residential R3 zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

The proposed development will result in the provision of 141 new dwellings, across a range of sizes (studio, 1, 2 and 3 bedroom apartments) with corresponding price points, thereby catering to a wide range of potential purchasers.

The quality of the design is consistent with the residential character of the Hillsdale locality and the development will increase the range of housing choice in the Botany Bay LGA, that will support the viability of existing (and future) centres.

Having regard to the above, it is considered that the proposed development is not contrary to the objective of the R3 zone.

Provisions of Development Control Plans (S.79C(1)(a)(iii))

Development Control Plan – Off Street Parking

The provision of parking to serve the needs of the proposed development has been addressed previously in this report under the section addressing compliance with the provisions of Botany LEP 1995.

Development Control Plan – Access

The requirements of the Access DCP have been considered in the assessment of the development application. The proposed development provides disabled access into all main lobbies. Lift access is provided to all levels within each of the buildings.

In addition to the requirements of the Access DCP, Council's DCP 35 - Multi-Unit Housing and Residential Flat Building requires the provision of adaptable dwellings at the rate of 2 adaptable dwellings plus one for each 30 units above 50.

The DCP requires the provision of five (5) adaptable units within the proposed development. This is most appropriately addressed as a condition of consent.

Development Control Plan – Energy Efficiency

A BASIX Certificate has been submitted with the application which indicates that the proposal meets the water saving target of 40%, energy saving target of 20%, and the thermal comfort requirements of the SEPP (BASIX) 2004.

Development Control Plan No. 29 – Waste Minimisation and Management Guidelines

A Waste Management Plan has been submitted detailing waste minimisation and management practices to be implemented for the construction and operational phases of the proposed development. The Waste Management Plan appropriately addresses the requirements of DCP No. 29.

Development Control Plan No. 34 – Contaminated Land

The Contaminated Land DCP provides requirements for the environmental assessment of sites that are potentially contaminated.

The property was the subject of a Preliminary Contamination Assessment in 2008 (prepared by Environmental Investigations in respect of an earlier development application) which included a preliminary soil and groundwater sampling investigation as well as an examination of the site's land use history.

A further more detailed environmental site investigation has been prepared by Environmental Investigations to accompany this application.

The report confirms that the site is suitable for the proposed residential development without the need for remediation. If site soils are to be excavated and disposed from the site, they should be classified in accordance with the DECCW (2000) *Waste Classification Guideline*. Any soils to be imported onto the site for back-filling excavated areas will also require validation testing in accordance with the relevant EPA / DECCW regulatory guidelines to confirm soil suitability for the proposed land use.

In this regard it should be noted that the excavation works associated with the basement levels are currently underway, approved by Council as part of an application made pursuant to Section 96 of the EP&A Act.

Development Control Plan No. 35 – Multi-Unit Housing and Residential Flat Building

The subject site is contained within the Mascot Precinct 2 under the DCP. The following is an assessment of the application against the provisions of the DCP.

Requirement	Comment	Compliance
Section 2.7.3 Design Principles for new residential flat buildings Hillsdale Precinct 7		
Building design and site layout of development is to create an attractive and pleasant environment for future residents	<p>The three residential buildings are arranged along the northern property boundary. A single storey communal building is located in the south eastern corner of the site.</p> <p>The siting of the development maximises the physical separation between the proposed multi-storey buildings and the existing lower scale buildings to the south (No. 20 Rhodes Street and Nos. 13 and 14 Flack Avenue). This arrangement also enables the new buildings to take advantage of expansive northerly views across the adjacent Reserve, whilst maintaining view corridors between buildings to the Reserve from Flack Ave and to maximize sunlight to adjoining properties to the south.</p> <p>The proposed development incorporates two (2) north-south pedestrian connections. The primary link, known as Plaza 1, is intended to provide public access and function as a physical and visual through-site link between the northern end of Flack Ave and Rhodes Street Reserve.</p>	Yes
The design of buildings and site treatment area to improve upon and enhance the current character and atmosphere within the suburb	<p>The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that ESD principles are incorporated.</p> <p>As such, the proposed development is considered to be both reasonable and appropriate in the context of the site and the wider precinct.</p> <p>The development will have positive social and economic benefits in terms of creating</p>	Yes

Requirement	Comment	Compliance
	accommodation for an additional resident population that will benefit from the site's location in proximity to services and facilities and which will in turn, support local businesses and services.	
New development must have a clear presentation to the street with the scale and height of buildings being sympathetic to the overall character of the area	A lower scale building form (Building A) addresses Rhodes Street with two taller buildings (Buildings B and C) arranged along the edge of the adjacent Rhodes Street Reserve located towards the east, in the lowest part of the site.	Yes
Landscaping is to be incorporated within the development and site layout in order to soften the built form, promote pedestrian comfort and enhance the aesthetics of the neighbourhood.	The development provides deep soil landscaping along the north, south and eastern property boundaries, with substantial areas of deep soil available in the communal open space area in the south eastern corner of the site. This arrangement provides opportunities for substantial tree planting to enhance the privacy and outlook of adjacent sites, in particular the existing residential properties to the south.	Yes
Section 2.7.5 Site Requirements for Development		
Minimum Site Area 1,000m ² Minimum frontage 20m	Site area = 6,652m ² Rhodes Street frontage = 40m	Yes
<i>Height of New Development</i> Max 2 storeys + attic at street frontage, increasing to 3 storeys at rear	Building A (street frontage) = 5 storeys Buildings B and C (rear of site) = 9 storeys	No – refer Note 1
<i>Preferred Design Type</i> Multi-unit housing at front of site with residential flat buildings at rear	The proposal comprises 3 residential flat buildings. As discussed previously in this report this is one of the only sites in Hillsdale which is of sufficient size, with its unique context (ie. adjacent to substantial areas of open space and playing fields) which can accommodate a large, integrated housing development.	Satisfactory
<i>Desired Future Character</i> To promote neighbourhood amenity.	The proposed development will provide significant amenity to the locality having regard to the quality of the landscape treatment and the significant public benefit afforded by the provision of a through-site link and embellishment works within the adjoining Rhodes Street Reserve.	Satisfactory
To encourage site layout and building styles / designs that assist in improving the visual appearance of the suburb and its streetscapes.	The proposed development is a well mannered design that fits well into the streetscape and will present a positive and aesthetically pleasing interface with the Reserve.	Satisfactory

Requirement	Comment	Compliance
To encourage a strong landscape and vegetation theme with both the public and private domain.	Council's Landscape Officer has reviewed the DA documentation and has requested the preparation of an amended landscape plan to address a series of minor issues. Overall the proposed layout and dimensions of open space and landscape treatment is satisfactory.	Satisfactory
To allow the use of allotment bonuses to encourage redevelopment of existing flat buildings in order to improve the living environment for residents and enhance the liveability and appearance of the suburb.	As indicated previously in this assessment the physical characteristics and context of the subject site provide possibly the only remaining opportunity in this locality to achieve a fully integrated, medium-high density residential development which satisfies market expectations for contemporary apartment living in an established urban area with excellent access to the full range of facilities and services.	Satisfactory
To encourage the consolidation of allotments to promote well designed developments that incorporate energy efficient designs and useable open space landscaped areas.	The subject site comprises two separate parcels. It is anticipated that the parcels will be consolidated.	Satisfactory
To ensure access to sites and parking facilities are not a dominant feature in the streetscape.	Access to the site is via a 6m wide vehicular entry on the Rhodes Street frontage of the site, which provides access to the basement parking. The driveway from is located adjacent to the southern property boundary and will be framed by landscaped areas on either side. The opening to the basement is set back 6 m from the street frontage and is set down approximately 300mm. This arrangement reduces the appearance / visibility of the car park entry in the streetscape.	Satisfactory
To promote through-site linkages where a development abuts or is in the vicinity of open space.	The proposed development includes the provision of a north-south through-site link between the cul-de-sac head of Flack Avenue and Rhodes Street Reserve which will significantly improve the pedestrian permeability through the locality.	Satisfactory
Section 3 General Design Elements		
Building Form and Character		
3.2.1 Floor Space Ratio		
<i>Clause 12 of LEP</i> 0.5:1 base FSR plus up to 0.5:1 additional for sites with an area in excess of 2,500m ²	FSR proposed 2:1	No – SEPP 1 Objection (refer previous discussion and Note 2)

Requirement	Comment	Compliance
3.2.7 Heritage		
Compliance with DCP 37 – Heritage Conservation	There are no heritage buildings either on or in the immediate vicinity of the site. Furthermore, it is not located within a Heritage Conservation Area.	N/A
3.2.8 Through Site Links & View Corridors		
<p>Retain existing significant views</p> <p>View corridors to be integrated into the design</p> <p>Building footprints are to take account the requirement for consolidated open space as well as for views</p>	<p>There are no significant views in the immediate vicinity of the site.</p> <p>The proposed development incorporates two north-south pedestrian connections. The primary link (Plaza 1) is intended to provide public access and function as a physical and visual through-site link between the northern end of Flack Ave and Rhodes Street Reserve.</p> <p>The secondary connection is located between Buildings A and B and is provided for the use of residents of the complex, providing a direct connection to Rhodes Street Reserve, as well as access to the area of communal open space, Plaza 1 and Flack Avenue.</p>	Satisfactory
3.2.9 Building Setbacks		
<p>Front Setbacks</p> <p>Building setbacks from front boundary are determined by setback of adjoining development but are to be min 3m (or 4 m if fronting a designated road).</p>	The proposed development (Building A) observes a 6 metre setback to Rhodes Street, which is consistent with the prevailing setbacks elsewhere in the street.	Satisfactory
<p>Side Setbacks</p> <p>2m + ¼ height in excess of 3m, which ever is the greater to allow an inter-building space of at least 9 m between properties (including balconies) with a common rear boundary as well as to allow useable private open spaces to the rear.</p>	<p>Only the southern (side) setback interfaces with adjoining development. The following setbacks are required:</p> <p>Building A 5.75m (6.2m min achieved) Building B 8.5m (17.7m min achieved) Building C 8.5m (17.7m min achieved)</p> <p>The residential levels of the buildings observe setbacks from the side boundaries which achieve physical separation well in excess of 9m from all adjoining residential properties.</p>	Complies
3.2.10 Streetscape		
Garages & parking structures are to be designed, constructed and located to complement the development.	Access to the site is via a 6m wide vehicular entry on the Rhodes Street frontage of the site, which provides access to the basement parking. All vehicles will enter and exit the site via Rhodes Street.	Satisfactory

Requirement	Comment	Compliance
<p>These structures are not to dominate the street frontage.</p> <p>Design and materials of front fences /walls to be compatible with the development and with attractive fences and walls in the nearby visible locality.</p>	<p>The driveway from is located adjacent to the southern property boundary and will be framed by landscaped areas on either side. The opening to the basement is set back 6 m from the street frontage and is set down approximately 300mm. This arrangement reduces the appearance / visibility of the car park entry in the streetscape.</p> <p>The car park ramp is enclosed for approximately two thirds of its length and features a stepped landscaped planter on top, improving the visual and acoustic amenity to the adjacent apartments at 20 Rhodes Street as well as those contained within the proposed Building A.</p>	Satisfactory
3.2.11 Facades		
<p>The desired future character defined by Precinct, are to be addressed and reflected within the development.</p> <p>Reflectivity from building materials used on facade not to exceed 20%.</p>	<p>The DRP has considered the proposed architectural treatment and has indicated its general support for the development.</p> <p>The external materials and finishes proposed to be employed in the building are not expected to result in any significant reflectivity issues.</p>	<p>Satisfactory</p> <p>Satisfactory</p>
3.2.12 Roof Design		
<p>Rooftop or exposed structures including lift motor rooms, plant rooms, etc, together with A/C, ventilation and exhaust systems, are to be screened and integrated with the building.</p> <p>Visual impact of roof fixtures (vents, aerials, chimneys, solar panels, satellite dishes, mobile phone transmitters etc) is to be minimised.</p>	<p>The lift overrun and plant in each of the buildings have generally been incorporated in the design.</p> <p>The top level of each building features a diminished footprint which ultimately terminates in a small footprint (approx 5m x 8m) located as follows:</p> <p>Building A – lift core / overrun located centrally on the roof, set back some 6m from the edge of the parapet. Given the siting, it is unlikely that this element of the roof will be visible from the street or surrounding open space.</p> <p>Buildings B and C – lift cores / overruns are located centrally on the southern side of both buildings (ie. internal to the site and not visible from Rhodes Street or the Reserve)</p> <p>The proposed development can comply and will be conditioned accordingly.</p>	<p>Satisfactory</p> <p>Satisfactory</p>

Requirement	Comment	Compliance
3.2.13 Parking and Access		
Studio + 1 bedroom – 1 space / dwelling 2 - 4 bedroom – 2 spaces/dwelling Visitor – 1 space / 10 dwellings Car wash – 1 bay / 10 dwellings Commercial tenancies 1 space / 40m ²	255 spaces provided in total 8 x studio = 8 spaces 34 x 1 bedroom = 34 spaces 97 x 2 bedroom = 194 2 x 3 bedroom = 4 Visitor = 14	Satisfactory
Enter / leave forward direction	Single 6m wide driveway provides ingress and egress.	Satisfactory
Driveway – 5m wide	6m wide	Satisfactory
Driveway – max 30m long	Less than 30m long	Satisfactory
3.2.14 Site Facilities		
<ul style="list-style-type: none"> • Compliance with Sydney Water requirements • Fire hydrant booster valves, substations, water storage tanks etc not to be incorporated in landscaped areas but should be set back behind the building line. • Mailboxes to Australia Post req'mts • Address displayed • Garbage facilities to be integrated into building design • Waste and recycling areas not to be located within front setbacks • Open air clothes drying areas or clothes dryers with min 3.5 star rating • Garden maintenance storage to be provided • Air conditioning units not to be visible from the street 	Each of these matters have been addressed, where necessary as a condition of consent.	Satisfactory

Note 1 Height

DCP 35 establishes a maximum height of Max 2 storeys + attic at street frontage, increasing to 3 storeys at rear for Precinct 7 Hillsdale. The maximum height achievable under the current consent issued in respect of DA 09/102 is 40 metres.

The three proposed buildings are much larger than the adjoining existing buildings and other existing developments in this setting. The height of Buildings B and C are more than twice the height of existing development in the locality. However, the site offers a unique opportunity, by virtue of its context and physical characteristics, to achieve a large scale integrated housing development, which is not otherwise available in this part of the Botany Bay LGA.

The proposed development is a well mannered design form that fits well into the existing Rhodes Street streetscape. Similarly, the fall of the site ensures that the taller elements at the rear, sit lower in the landscape, thereby reducing the perceived overall height.

Notwithstanding the height of Buildings B and C, the applicant has demonstrated that the adjoining properties to the south (Nos. 13 and 14 Flack Ave and No. 20 Rhodes Street) will achieve satisfactory solar access in mid-winter.

On this basis it is considered that the proposed building envelopes are reasonable and will provide an acceptable outcome in terms of urban form and visual and amenity impact.

Having regard to the preceding discussion, it is considered that the proposed variation to the height control included in DCP 35 is acceptable in this instance.

Note 2 Floor Space Ratio

The proposed development is a well mannered design form that fits well into the existing Rhodes Street streetscape. Similarly, the fall of the site ensures that the taller elements at the rear, sit lower in the landscape, thereby reducing the perceived overall height.

The site offers a unique opportunity, by virtue of its context and physical characteristics, to achieve a large scale integrated housing development, which is not otherwise available in this part of the Botany Bay LGA. Council is of the view that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary.

The proposal to redevelop the site for a large scale integrated housing development is consistent with State Government's urban consolidation initiatives, as outlined in the Sydney Metropolitan Plan for Sydney 2036. It also assists in achieving the residential targets for the City of Botany Bay as required by the Draft East Subregional Strategy.

The proposed development provides a high quality development, which exhibits a high standard of architecture and excellent residential amenity. The design adopts strong urban design principles that ensure the proposal is appropriate in scale and form with existing and likely future development in this locality. It will also provide a significant public benefit in terms of public domain works in Rhodes Street Reserve and the provision of a public through-site link between Flack Avenue and the Reserve.

In summary it is considered that the proposed development is a well-conceived response to all the relevant planning controls and Strategies, constraints and opportunities presented by the site.

Accordingly, it is considered that the development standard relating to the maximum FSR development for the site as contained within Clause 12(2) of the Botany LEP, should be varied in the circumstances to allow the development to attain a floor space ratio of 2:1.

Note 3 Site Coverage

The maximum site coverage specified under DCP 35 is 40%.

Council's DCP 35 defines Site Coverage as "*...the proportion of the floor plan area of the ground floor plan area of a building or buildings, including garages, carports, awnings, outbuildings etc to the actual site area of the site contained within the site's boundaries expressed as a percentage ratio.*"

As a consequence, the area of the basement is required to be included in the calculation of site coverage, which results in a figure of 71% for the proposed development, representing a significant non-compliance with the control. However, at ground level, the site coverage is 39%.

In considering the extent of non compliance it is appropriate to examine the purpose and objectives of the control. The objectives of the site coverage control are as follows:

1. To achieve a balance between built form and open space
2. To ensure adequate sunlight, ventilation and levels of privacy to the dwellings within the development and adjoining buildings and open space
3. To make adequate provision for infiltration of stormwater, landscaping, recreational areas and deep soil planting.

In this regard it is noted that:

- the site coverage of the buildings above ground level complies (39%). The inclusion of the basement level and driveways does not impact on the balance between the built form and open space / landscaping. Furthermore, the siting of the proposed buildings facilitates landscaping along all boundaries of the site;
- the development provides deep soil landscaping along the north, south and eastern property boundaries, with substantial areas of deep soil available in the communal open space area in the south eastern corner of the site. This arrangement provides opportunities for substantial tree planting to enhance the privacy and outlook of adjacent sites, in particular the existing residential properties to the south;
- the siting of the buildings has no unreasonable adverse impact on the solar access for the adjacent residential properties. All adjacent properties achieve appropriate levels of solar access; and
- the configuration of the units and the physical separation between the buildings together with the inclusion of privacy screens will maintain reasonable levels of privacy to the adjoining sites.

Whilst the numerical non-compliance with the site coverage control is significant (71% including basement) the perception at ground level will be of a compliant development. The non-compliance does not detract from the site's ability to maintain adequate open spaces and compliant setbacks to adjoining properties.

The development will result in a substantial area of communal open space which is appropriately configured and sited to achieve the primary function of providing amenity in the form of landscape design, daylight and ventilation access to apartments, and opportunities for recreation and social activities. The variation to the site coverage control is considered appropriate in this context.

Note 4 – Building Depth

In this regard it is noted that the habitable parts of each apartment within the proposed development are generally confined to an area no more than 11m from an external glass line.

A large proportion of the apartments occupy corner locations which provide good natural light and cross ventilation. The single aspect apartments all exceed 7metres in width which facilitates penetration of natural light and provides opportunities for natural ventilation.

Balcony dimensions vary across the frontage of each apartment however compliance with Council's DCP 35 (which requires a minimum 3m depth) creates a deeper articulation zone beyond the glass line.

Having regard to the above, the depth of each of the proposed buildings is considered to be satisfactory and notwithstanding the non-compliance with the DCP development control, will not unduly compromise the internal amenity of the dwellings.

Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.79C(1)(a)(iiia))

The applicant has confirmed by letter dated 7 November 2012 that it is willing to enter into a Voluntary Planning Agreement (VPA) with Botany Bay City Council to effect a range of landscaping and recreational embellishment works in the public domain, specifically within Rhodes Street Reserve and the end Flack Avenue, installed by the Applicant at the Applicant's expense as a contribution to community facilities given the anticipated increased usage of the park upon completion of this development, and due to the limited landscape setback on the property on the northern boundary.

In this regard a public domain landscape plan is required for Rhodes Street Reserve (prior Occupation Certificate or as appropriate) indicating the following improvements:

- Tree planting to enhance and/or to replace trees removed on the southern boundary of the park at the interface with the development
- Additional tree planting throughout the park to increase tree canopy in strategic locations.
- Park furniture (seats, litter bins, picnic settings, lighting and the like).
- Playground equipment.

All improvements and their locations require the approval of the landowner (Sydney Water).

Provisions of Regulation (S.79C(1)(a)(iv))

Clauses 92-94 of the *Environmental Planning and Assessment Regulation 2000* outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. In this regard all demolition associated with the proposed development has been completed under the consent issued (as amended) in respect of DA 09 / 102.

The Regulation requires notification to relevant authorities that may have an interest in the application. The proposal has been notified to Ausgrid, Sydney Water and the NSW Police Service. The recommendations provided by these authorities are included as conditions of consent.

All relevant provisions of the Regulations have been considered in the assessment of this proposal.

Impact of the Development (S.79C(1)(b))

Context and Setting

The development proposal is considered to represent an acceptable design solution that will provide for a high standard of amenity, minimises potential impacts on surrounding development and will make a positive contribution to the streetscape and amenity of the locality.

These matters have been considered in the assessment of the development application. It is considered that the environmental impacts associated with the proposed development are within reasonable limits having regard to the urban context of the site.

Wind Impacts

A Wind Impact Assessment forms part of the DA documentation and concludes that the majority of outdoor trafficable areas around and within the development site are suitable for the intended use. A number of strategically placed trees are proposed within the development site and the report recommends that these be evergreen species in order to optimise their wind mitigation value, particularly in terms of westerly winds.

The report also recommends the use of impermeable balustrades to balcony areas and the inclusion of 2m high screens on the east and / or westerly aspects of the balconies from Levels 5 – 8 inclusive of Buildings A, B and C.

The report concludes that the implementation of these recommendations will render the wind environment in and around the various outdoor areas associated with the development acceptable.

Traffic & Parking Impacts

The Traffic and Parking report which accompanies the DA examined the traffic generation in accordance with the RMS *Guide to Traffic Generating Developments (2002)* which indicates that the proposed development will generate between 41 and 57 vehicle trips per hour in peak periods.

All vehicular access will be via Rhodes Street (designated as a local collector road), with the exception of garbage collection which will be via Flack Avenue (a local access street). The report indicates good existing levels of service with spare capacity and minimal queuing at the intersections of Beauchamp Road / Rhodes Street (south of the site) and Smith Street / Rhodes Street (north of the site).

The report concludes that there will be no significant impact on the operation of intersections and street capacity in the locality as a result of the proposed development.

In terms of on-site parking provision, the proposed development complies with Council's requirements for residential flat buildings as set out in DCP 35.

Overshadowing

As discussed previously in this report, following submission of amended plans, the applicant has increased the degree of compliance in terms of solar access. A total of 72% of the apartments now achieve a minimum of 2 hours direct sun access to the glazing of the primary living areas, thereby satisfying the rule of thumb set out in the RFDC.

Furthermore, the shadow analysis which accompanies the application demonstrates that the existing dwellings in the adjacent residential flat buildings to the south of the site (Nos. 13 and 14 Flack Ave and No. 20 Rhodes Street) will achieve at least 2 hours sunlight access to their primary living areas / private open spaces.

Privacy

The proposed development observes sufficient physical separation from the adjoining developments at No. 20 Rhodes Street and Nos.13 and 14 Flack Avenue to ensure that the privacy of these dwellings is not unduly compromised. Landscape treatment along the perimeter and within the communal open space areas of the site will serve to further screen and mitigate any perceived overlooking.

Within the development, the physical separation between Buildings A and B is less than the recommended minimum (as little as 6 metres). However, it should be noted that the sections of the building that are less than the required separation contain minimal opposing openings and those that occur are to be treated with privacy screens / louvres.

Construction Impacts

A condition has been included in the consent which requires the preparation of a Construction Management Plan for the management of the site during construction.

Social and Economic Impacts

The proposed development will increase the overall population and potentially alter the income mix of Hillsdale. This will have flow-on effects for local retail and other services thereby making a positive contribution to the economic base of the local and regional area. The increased population will also increase demand for public transport, schools and other services.

The proposed development will also increase Council's residential rate base.

These matters have been considered in the assessment of the development application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts on the locality.

Suitability of the Site (S.79C(1)(c))

The site is considered to be suitable for the proposed development and residential land use. It is located in reasonable proximity to the facilities at the shopping centres at Eastgardens and Soutpoint, as well as having good access to the regular bus services along Bunnerong Road and Beauchamp Road and has the environmental capacity to support the proposed additional density and built form. Having regard to the characteristics of the site and its location, the proposed mixed use development is considered appropriate in that:

- the site is zoned to accommodate this type of development;
- the nature and form of the proposed development is generally consistent with the desired future character of the locality;
- the size and dimensions of the land can accommodate the scale of the proposed development;
- the site will have access to all utility services to accommodate the demand generated by the proposed development;
- the proposed development is unlikely to result in any adverse traffic impacts;
- the proposed development will not result in any unacceptable or material environmental impacts in relation to adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation; and
- there are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

Additional conditions of consent are included which are aimed at further minimising any potential impacts on neighbouring properties, particularly during the construction phase.

The proposed development, being demolition of existing buildings and construction of three (3) residential flat buildings containing a total of 141 units within the Residential 2(b) zone, is suitable development in the context of the site and the locality.

Public Submissions (S.79C(1)(d))

These matters have been considered in the assessment of the development application. In accordance with Council's Notification Policy (Development Control Plan No. 24), the development application was notified to surrounding property owners and occupants and advertised in the local newspaper from 7 June 2012 until 22 June 2012.

No submissions were received.

Public Interest (S.79C(1)(e))

The proposed development is considered to be in the wider public interest for the following reasons:

- it is consistent with the objects of the Environmental Planning and Assessment Act 1979, specifically because it represents the economic and orderly development of land;
- the proposal generally satisfies the objectives and intent of Botany Local Environmental Plan 1995 and Council's DCP 35;
- generally consistent in terms of height, bulk and scale to the development approved under the consent issued in respect of DA 09/102;
- generally satisfies Draft BBLEP 2012 which reflects Council's future planning initiatives for this site;
- the proposal provides a responsive design in terms of its relationship to adjoining development and establishes an appropriate streetscape and human scale through sound urban design principles;
- the design incorporates a number of ESD initiatives that will achieve a high standard of environmental design and sustainability;
- the proposal provides a satisfactory response to the design principles set out in SEPP 65; and
- the proposal provides the community with additional commercial/retail space, as well as additional high quality housing, taking advantage of the site's proximity to local and regional facilities, public transport and open space areas.

These matters have been considered in the assessment of the development application. The public interest is served through the detailed assessment of the development application under the relevant planning controls and legislation. Based on this assessment it is considered that approval of the proposed development will be in the wider public interest by virtue of the fact that it will contribute to the quantum and range of housing stock available in the Botany Bay LGA.

Other Matters

Referrals to External Agencies

Sydney Water

The development application was referred to Sydney Water for consideration on 1 June 2012. Correspondence received from Sydney water dated 22 June 2012 raised no objection to the proposed development subject to the inclusion of a number of specific conditions.

NSW Police

In correspondence dated 20 June 2012 the Mascot Police Local Area Command advised that a medium crime risk rating has been identified for the proposed development. The advice includes a range of recommendations including security, lighting and access control which are most appropriately incorporated as conditions or advices in any consent issued in respect of this application.

Ausgrid

The development application was referred to Ausgrid for consideration on 1 June 2012. On 13 June 2012 a response was received from Ausgrid advising that an electricity substation would be required. The applicant was advised of this requirement and has made provision for a substation kiosk adjacent to the southern property boundary, accessible from Flack Avenue.

Sydney Airport Corporation

The subject site lies within an area defined in schedules of the Civil Aviation (Building Control) Regulations, which limit the height of the structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority.

Correspondence received on 7 November 2012 confirms that the Corporation has no objection to the erection of the three proposed buildings to a maximum height of 45.3 metres AHD. The advice also notes that construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulation.

SACL advises that approval to operate construction equipment (ie. cranes) should be obtained by the applicant prior to any commitment to construct.

The matters identified by SACL have been incorporated as conditions.

Fire and Rescue NSW

In correspondence dated 5 July 2012 Fire and Rescue NSW indicated that it had no specific objection to the proposed development and recommended the inclusion of certain conditions on any consent issued in respect of this application.

Internal Referrals

Landscape Officer

Council's Landscape Officer has reviewed the documentation submitted in support of this application and has indicated that the proposed layout and dimensions of open space and landscape treatment is satisfactory, subject to some minor amendments which have been detailed in the conditions of consent.

The proposed development observes a minimal setback to the adjacent Rhodes Street Reserve. As the proposal will significantly increase the population of the area, which will in turn, increase usage of and demand for local facilities including open space, Council's Landscape Officer has required certain improvements to the adjacent Rhodes Street Reserve including:

- Tree planting to enhance and/or to replace trees removed on the southern boundary of the park at the interface with the development.
- Additional tree planting throughout the park to increase tree canopy in strategic locations.
- Park furniture (seats, litter bins, picnic settings, lighting and the like).
- Playground equipment.

The applicant has confirmed by way of correspondence dated 7 November 2012 that it is willing to enter into a Voluntary Planning Agreement (VPA) with Council for the purpose of carrying out public domain works including landscaping and recreational embellishments within the adjacent Rhodes Street Reserve and in the vicinity of the cul-de-sac head of Flack Avenue.

Rhodes Street Reserve is owned by Sydney Water but is under the care, control and management of Council. The terms of the VPA will be separately negotiated with Council. In addition a long term licence agreement will need to be entered into with Sydney Water to facilitate the embellishment of Rhodes Street Reserve.

Traffic Engineer

The proposed on-site parking provision has been assessed by Council's Traffic Engineer who has reviewed the plans and supplementary traffic and parking report (submitted to Council on

10 October 2012) and has advised that the proposed development is generally satisfactory in terms of traffic and parking impact on the locality.

Conditions to address matters pertaining to traffic, access and parking and construction management have been included in the consent, as appropriate.

Development Engineer

As discussed previously in this report, Sydney Water indicated that the Flood Study submitted by the applicant may not be adequate to assess the potential flooding impacts of the surrounding environment on the site. The nearby Sydney Water channel (located approx. 75 metres to the east of the site on the opposite side of the Matraville Public School playing field) has limited capacity and Sydney Water advised that the proposed development is expected to be affected by over bank local flooding from time to time.

The applicant was requested to undertake 2 dimensional flood modelling for the design storm events of Probable Maximum Flood (PMF) and 1% Annual Exceedance Probability with the predicated impacts of Climate Change.

On 2 November 2012, the applicant submitted additional information prepared by KF Williams and Associates in relation to the flood behaviour, prepared in consultation with Sydney Water.

Council's Development Engineer has advised that after reviewing the additional information prepared by KFW, Reference KF 111053, dated 31 Oct 2012 and the Flood Study Report for 280 Bunnerong Road (Sydney Water Corporation site), prepared by Northrop and dated September 2012 that there is no objection to the proposed development, subject to the submission of a revised flood study and revised stormwater management plans being submitted to Council for review and approval prior to the issue of the Stage 1 Construction Certificate.

This requirement together with a series of other relevant conditions specified by Council's Development Engineer, have been incorporated in the conditions of consent.

Environmental Health Officer

The development application was referred to Council's Environmental Health Officer for assessment. No objection was raised to the proposed development subject to the imposition of conditions on the notice of determination.

Environmental Scientist

The development application was referred to Council's Environmental Scientist who reviewed the Environmental Site Investigation report and other relevant material. No objection was raised to the proposed development subject to the imposition of conditions on the notice of determination.

Section 94 Contributions

The development application seeks approval for 141 new apartments, comprising:

- 8 x studio apartments
- 34 x 1 bed apartments
- 97 x 2 bed apartments
- 2 x 3 bed apartments

The Department of Planning and Infrastructure's direction under Section 94E of the *Environmental Planning and Assessment Act 1979* states that residential development

contributions have a maximum threshold of \$20,000 per dwelling. In accordance with Council's policy, the following Section 94 Contribution applies:

$$141 \text{ dwellings} \times \$20,000 = \$2,820,000.00$$

The site previously contained a residential flat building comprising 32 units (known as 24 Rhodes Street) and a 3 bedroom single storey detached dwelling at 22 Rhodes Street. The credit attributed to the previous development on the site, calculated in accordance with Council's S94 Contributions Plan is \$660,000.00 being:

$$33 \text{ dwellings} \times \$20,000 = \$660,000.00$$

Therefore, the total Section 94 Contribution required to be levied on the proposed mixed use development is \$2,820,000.00 less the \$660,000.00 credit, which equates to **\$2,160,000.00**. A condition of consent has been included which requires payment to be made prior to the issue of any Occupation Certificate, as follows:

• Community facilities	\$233,259.99
• Administration	\$8,755.07
• Transport Management	\$119,444.12
• Open Space and Recreation	\$1,798,540.82

TOTAL S94 CONTRIBUTION \$2,160,000.00

Conclusion

The proposed development has been assessed in accordance with the relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act, 1979*. The application involves the demolition of existing structures and construction of 141 residential apartments, associated basement car parking for 255 cars, loading facilities and landscape treatment.

The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.

As such, the proposed development is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms of creating accommodation for an additional resident population that will benefit from the site's location in proximity to services and facilities and which will in turn, support local businesses and services.

Although generally consistent with the objectives and relevant statutory requirements under Botany LEP 1995, the proposal is subject to a request for a variation to the maximum floor space ratio development standard. Notwithstanding, the request for a variation is considered to be well founded and worthy of support in the circumstances, having regard to the provisions of Clause 12 of Botany LEP 1995, the existing development consent issued in respect of DA09/102 and particularly in light of the unique characteristics of the site and its physical context.

The areas of non-compliance with the relevant controls under Council's DCP 35 – Multi-Unit Housing and Residential Flat Buildings have been discussed earlier in the report and on merit, are considered to be relatively minor and are worthy of support.

The proposed development observes a minimal setback to the adjacent Rhodes Street Reserve. This arrangement optimises the physical separation (thereby ensuring adequate natural light and solar access) between the proposed buildings and the existing residential properties to the

south. As the proposal will significantly increase the population of the area, which will in turn, increase usage of and demand for local facilities including open space, Council's Landscape Officer has required certain improvements to the adjacent Rhodes Street Reserve including:

- Tree planting to enhance and/or to replace trees removed on the southern boundary of the park at the interface with the development.
- Additional tree planting throughout the park to increase tree canopy in strategic locations.
- Park furniture (seats, litter bins, picnic settings, lighting and the like).
- Playground equipment.

The applicant has confirmed by way of correspondence dated 7 November 2012 that it is willing to enter into a Voluntary Planning Agreement (VPA) with Council for the purpose of carrying out public domain works including landscaping and recreational embellishments within the adjacent Rhodes Street Reserve and in the vicinity of the cul-de-sac head of Flack Avenue.

Rhodes Street Reserve is owned by Sydney Water but is under the care, control and management of Council. The terms of the VPA will be separately negotiated with Council. In addition a long term licence agreement will need to be entered into with Sydney Water to facilitate the embellishment of Rhodes Street Reserve.

As such, it is recommended that the proposed development be APPROVED as a deferred commencement consent.

RECOMMENDATION

In view of the preceding assessment, it is RECOMMENDED that the Joint Regional Planning Panel for the Sydney East Region, as the Consent Authority, resolve to grant deferred commencement consent, subject to the following:-

- (1) Grant consent to the objection submitted under the provisions of State Environmental Planning Policy No. 1 – Development Standards to vary the provisions of Clause 12(2) of Botany Local Environmental Plan 1995 relating to maximum floor space ratio of 2:1 applied under this clause on the basis that:
 - (i) Clause 12(2) of Botany Local Environmental Plan 1995 is a development standard; and
 - (ii) The objection lodged by the applicant is well founded; and
- (2) Grant Development Application No. 12/070 a “deferred commencement” consent under section 80(3) of the *Environmental Planning and Assessment Act 1979* for the construction of 141 residential apartments arranged in three separate building forms above a common basement providing parking for a total of 255 cars; loading facilities and associated landscape treatment on the property known as 22 – 24 Rhodes Street, Hillsdale, with such consent not to operate until the deferred commencement condition is satisfied.

DEFERRED COMMENCEMENT CONDITIONS

DC1 A Voluntary Planning Agreement (VPA) with Council is to be prepared and placed on exhibition. The scope of the VPA is to include the works outlined in the applicant's correspondence dated 7 November 2012.

- (3) That the deferred commencement consent be limited to a period of 12 months.

Premises: 22-24 Rhodes Street, Hillsdale

DA No: 12/070

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received by Council
2211 A00 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A01 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A02 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A03 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A04 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A05 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A06 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A07 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A08 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A09 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A10 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A11 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A12 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A13 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A14 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A15 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012

Drawing No.	Author	Dated Received by Council
2211 A16 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A17 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A18 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 A35 Issue 01	Krikis Tayler Architects Pty Ltd	9 May 2012
2211 SK121017-01	Krikis Tayler Architects Pty Ltd	23 October 2012
2211 SK121017-02	Krikis Tayler Architects Pty Ltd	23 October 2012
2211 SK121017-03	Krikis Tayler Architects Pty Ltd	23 October 2012
1902 LP-01 Issue F	John Lock and Associates	9 May 2012
1902 LP-02 Issue F	John Lock and Associates	9 May 2012
1902 LP-03 Issue F	John Lock and Associates	9 May 2012
120177 D00 Rev A	Australian Consulting Engineers Pty Ltd	9 May 2012
120177 D01 Rev A	Australian Consulting Engineers Pty Ltd	9 May 2012
120177 D02 Rev B	Australian Consulting Engineers Pty Ltd	5 November 2012
120177 D03 Rev A	Australian Consulting Engineers Pty Ltd	9 May 2012
120177 D04 Rev C	Australian Consulting Engineers Pty Ltd	5 November 2012
120177 D05 Rev C	Australian Consulting Engineers Pty Ltd	5 November 2012
120177 D06 Rev A	Australian Consulting Engineers Pty Ltd	5 November 2012
120177 D07 Rev A	Australian Consulting Engineers Pty Ltd	5 November 2012
120177 D12 Rev A	Australian Consulting Engineers Pty Ltd	5 November 2012

Document Name	Author	Date Received by Council
Statement of Environmental Effects	LJB Planning Pty Ltd	9 May 2012
SEPP 1 Objection	LJB Planning Pty Ltd	9 May 2012
Traffic and Parking Impact Assessment	TEF Consulting	9 May 2012
Supplementary Report on Traffic and Parking Impacts	TEF Consulting	16 October 2012
Design Verification Statement	Krikis Tayler Architects	9 May 2012
BASIX Certificate No.	AGA Consultants	9 May 2012

Document Name	Author	Date Received by Council
424298M		
Geotechnical Investigation	Asset Geotechnical Engineering Pty Ltd	9 May 2012
Waste Management Plan (Construction)	Krikis Tayler Architects	9 May 2012
Waste Management Plan	Elephant's Foot	9 May 2012
Pedestrian Wind Environment Statement	Windtech	9 May 2012
Environmental Site Investigation	Environmental Investigations	9 May 2012
Flood Assessment Report	Australian Consulting Engineers Pty Ltd	9 May 2012
Environmental Noise Impact Report	Day Design Pty Ltd	9 May 2012
BCA Assessment Report	Barry Johnson & Associates	16 October 2012

This consent provides for the issue of staged Construction Certificates, generally defined as follows:

Stage 1 Building work to ground level including lift cores, stairs, columns and parking layout

Stage 2 Works above ground level

No construction works shall be undertaken prior to the issue of the Construction Certificate.

2. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-

- (a) Builders Security Deposit \$51,000.00
- (b) Development Control \$11,110.00
- (c) Waste Levy \$15,000.00
- (d) Inspect and Plans Checking Fee \$5,000.00

- 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, stormwater downpipes including balcony drainage 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;

- (d) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner parts of the basement car park; and
4. This Consent relates to land in Lot 1 in DP 515866 and Lot 2 in DP 515866 and as such, building works must not encroach on to adjoining lands or the adjoining Rhodes Street Reserve or other public places, other than public domain work required of this consent.
5. The Strata subdivision of the development shall be the subject of a further Development Application to Council; and,

Note: The Strata Subdivision Application must be accompanied by a formal copy of the By-Laws which shall be in accordance with the plans and documentation approved under this Consent and should also address the following matters:

- (i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 12/070.
- (ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 12/070.
- (iii) Responsibilities regarding the maintenance of the car wash bays by the Owners Corporation / building owner.
- (iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance the conditions of this consent.
- (v) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon.
- (vi) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
- (vii) Responsibilities to ensure that graffiti is removed as soon as practicable. In this regard a graffiti management plan is to be incorporated into the maintenance plan for the development.
- (viii) Responsibilities to ensure the appropriate management and operation of the communal building and associated facilities located in the south eastern corner of the site. In this regard it should be noted that:
 - separate commercial letting of the facility for parties etc is not permitted;
 - hours of operation of the facility shall be limited to between 7.00am and 9.00pm; and

- the use of amplified music is not permitted.
- (ix) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
 - (x) The linen plan must include details of required easements, encroachments, rights of way including footway (and specifically a Right of Way for public access through the site between Flack Avenue and Rhodes Street Reserve, identified as Plaza 1 on the approved plans), restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants.
 - (xi) The landscape contractor shall be engaged weekly for a minimum period of 26 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 monthly maintenance is required.
 - (xii) New street trees shall be maintained by the Owner/Strata Corporation for 24 months after planting. Maintenance includes watering twice weekly for a period of 4 months min. (or until established) and after that at a frequency to sustain adequate growth, bi-annual feeding with a suitable fertilizer, weed removal and replenishment of the mulched base, but does not include trimming or pruning the trees under any circumstances. Any trees that fail to thrive shall be replaced by the owner/strata corporation to Council's satisfaction at their expense.
6. It is a condition of approval that the applicant shall, at no costs or expense to Council, comply with the following: -
- (a) Upgrade the public domain by construction and reconstruction of road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for both street frontages (Rhodes Street and Flack Ave) of the site and the adjoining Rhodes Street Reserve owned by the Sydney Water Corporation at the applicant's expense. All improvements shall be in accordance with specifications and requirements from Council's landscape and engineering sections and the approved civil works construction plans and landscape plans. All the public domain works shall be constructed and completed to Council's satisfaction prior to the issue of any Occupation Certificate.
 - (b) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and along the Rhodes Street frontage of the site in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of any Occupation Certificate.
 - (c) Provide appropriate and suitable street lighting to a high decorative standard to the street frontages of the site, so to provide safety and illumination for

residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements and shall be completed prior to the issue of any Occupation Certificate.

7. 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 relevant BASIX Certificate No. 424298M dated 4 May 2012 for the development are fulfilled.

Note Relevant BASIX Certificate means:

- (a) 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
 - (b) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - (c) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
8. 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 persons intention to commence the erection of the building.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

9. The proposed development is to comply with the conditions provided by Sydney Water dated 22 June 2012. The conditions are outlined as follows:
- (a) The 150mm drinking water main fronting the proposed development in Rhodes Street does not comply with the Water Supply Code of Australia (Sydney Water Edition – WSA 03-2002) requirement for minimum sized mains for the scope of development. This main needs to be upsized to a 200mm main from point ‘A’ to point ‘B’ (‘B’ is 2 metres past the point of connection). The proposed drinking water infrastructure for this development will be sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002).

- (b) Sydney Water will further assess the impact of any subsequent development when the developer applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of future development and to assess if amplification and/or changes to the system are applicable. The developer must fund any adjustments needed to Sydney Water infrastructure as a result of the development.

The developer should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

10. The proposed development is to comply with the General Terms of Approval dated 7 November 2012 issued by Sydney Airport Corporation Limited (SACL). The conditions are as follows:

Height Restrictions

- (a) The PROPERTY DEVELOPMENT at 22-24 RHODES STREET, HILLSDALE lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulation, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- (b) In this instance, Peter Bleasdale, an authorised person of the Civil Aviation Safety Authority (CASA), under Instrument Number : CASA 229/11 in the capacity as Airfield Design Manager has advised that he has “no objection to the erection of the three buildings to a maximum height of 45.3 metres above Australian Height Datum (AHD)”.
- (c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- (d) Should you wish to exceed 45.3 metres above Australian Height Datum (AHD), a new application must be submitted.
- (e) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- (f) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
- (g) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (h) Information required by SACL prior to any approval is to include:
- (i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - (ii) the swing circle of any temporary structure/equipment used during construction;

- (iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - (iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
 - (i) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
 - (j) For further information on Height Restrictions please call Peter Bleasdale on (02) 9667 9246.
 - (k) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by up to 50 penalty units.
 - (l) The height of the prescribed airspace at the site is approximately 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, “a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved.
11. The applicant should have regard to the following matters provided by NSW Police - Botany Bay Local Area Command, dated 20 June 2012:
- (a) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit television system (CCTV) which complies with the Australian Standard – Closed Circuit Television System (CCTV) AS4806.2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti social behaviour or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.
 - (b) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be position at the entry and exit points to monitor these areas (underground car park, foyer entrance).
 - (c) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.
 - (d) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare / high uniformity lighting levels in line with Australian Standard AS:1158. Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor

positioning choices in relation to light can cause glare on the surveillance screens). The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis. A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the development.

Notes:

- (i) It is crucial that the aforementioned cameras are installed as soon as power is available to the site.
- (ii) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- (iii) Any proposed seating area, playground or grass area should be positioned somewhere which can be viewed easily by the community. Consider whether the area will be used enough to warrant its development. Areas which are isolated, unused and maintained poorly become a breeding ground for anti-social behaviour.
- (iv) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- (v) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.
- (vi) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space.' Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.
- (vii) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- (viii) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.
- (ix) Clear street numbers signs should be displayed and appropriately positioned at the front of the business to comply with Local government Act, 1993, Section 124(8). Failure to comply with any such order is an offence under Section 628 of the act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (\$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (x) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - Warning, trespasser will be prosecuted.

- Warning, these premises are under electronic surveillance.
- (xi) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
 - (xii) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
 - (xiii) A boom gate should be installed within the underground car park located immediately after the roller door entrance. This will hold residents in the vicinity of the roller door to ensure no unauthorised persons enter after them. The boom gate will rise when the roller door is completely closed and allow the residents vehicle to move on.
 - (xiv) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.
12. The proposed development is to comply with the recommendations provided by Ausgrid, dated 6 June 2012. The conditions are outlined as follows:
 - (a) The proposed development will require the provision of an electricity substation within the premises; and
 - (b) The applicant is to comply with all requirements of Ausgrid in relation to the siting and design of the substation; and
 - (c) The substation must not be subject to inundation.
 13. The proposed development is to comply with the recommendation provided by Fire and Rescue NSW dated 5 July 2012, as follows:
 - (a) FRNSW notes that it is likely that each tower will be provided with a single stair; therefore it is recommended that consideration is given to the adequacy of the proposed emergency vehicle access, including FRNSW Aerial Rescue Appliances. A copy of FRNSW Guidelines for Emergency Vehicle Access, Policy No. 4 can be accessed at:
[http://www.fire.nsw.gov.au/gallery/files/pdf/guidelines/vehicle access.pdf](http://www.fire.nsw.gov.au/gallery/files/pdf/guidelines/vehicle%20access.pdf)
 - (b) To facilitate rapid firefighting intervention and other emergency service response, FRNSW recommends that each tower is prominently identified by name and street number.
 - (c) The development is required to meet the requirements of clause E1.9 of the Building Code of Australia during construction.

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

14. Prior to the issue of the Stage 1 Construction Certificate, the applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant’s expense.
15. Prior to the release of the Stage 1 Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must 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.
16. Prior to issue of any Construction Certificate, a dilapidation report on public infrastructure (including Council and public utility infrastructure) adjoining the development site shall be prepared by a suitably qualified person and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development: -
 - Rhodes Street
 - Flack Avenue
 - Rhodes Street Reserve
 - All properties immediately adjoining the site, including the residential flat buildings at No. 20 Rhodes Street and Nos. 13 and 14 Flack Ave.

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the construction. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer’s expense.

17. Prior to the issue of any Construction Certificate, a revised flood study for the development, prepared by a qualified civil engineer experienced in flood and stormwater management design shall be prepared by qualified civil engineer experienced in flood modelling and submitted to Council for approval. The revised flood study shall be based upon **the findings and conclusion from the written correspondence to Council, prepared by KF Williams & Associates Pty Ltd, numbered KF111053, dated 31 Oct 2012.** In addition, the following issues shall be addressed: -
 - (i) A flood evacuation plan for the PMF shall be included in the revised flood study
 - (ii) The revised flood study shall indicate the 1 in 100 year ARI flood level and flood extent in the landscaped area adjacent to the southern boundary of the site and Flack Avenue entrance area.

- (iii) The crest of the ramp (near Flack Avenue) leading to basement garbage bin collection area shall be minimum 300mm above the 1 in 100 year ARI flood level.
- (iv) Any substation within the 1 in 100 year flood affected area shall be constructed to the relevant authorities' requirements.
- (v) The boundary fence along the southern boundary of the site that is over the estimated flood extent must be replaced with open type fencing in order to allow unimpeded passage of overland floodwater.
- (vi) Suitable flood management measures have been designed for the proposed development to ensure there is no adverse impact to the existing flooding behaviour.
- (vii) Design certification from the engineer to certify that: -
 - 1. The loss of flood storage will not impede the passage of floodwater to cause significant rise (afflux) in the flood level upstream and/or increase the downstream velocities of flow for the flood standard.
 - 2. The flood study has been undertaken in accordance with Australian Rainfall and Runoff (AR&R) and NSW Floodplain Development Manual.

A written acknowledgment shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

18. Prior to the issue of any Construction Certificate, the architectural plans for construction shall be revised to address the following: -
 - (a) The finished floor level of the lowest habitable area within the site shall be minimum RL 16.45 (i.e. 500mm above the 1 in 100 year ARI flood level, RL 15.95, identified in RS 24.78, from Flood Modelling and Impact Study of 280 Bunnerong Road, Matraville, prepared by Northrop Pty Ltd, Job No. 11821, dated September 2012;
 - (b) No opening shall be permitted in the vertical face of the boundary walls along northern and eastern boundary of the built development; and
 - (c) The surface levels of the landscaped area adjacent to the southern boundary of the site and Flack Avenue entrance area shall be revised to correspond with the findings of the revised flood study.
19. Prior to the issue of any Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the ramps, turning area and car parking area shown on the construction plans have been designed in accordance with AS 2890.1, AS2890.2 and AS2890.6
20. A suitable intercom system linked to all units within the development shall be provided at all vehicle accesses to the development to ensure that visitors to the site can gain access to the visitor parking located within the basement car park. The details of the

intercom system shall be submitted prior to the issue of a Stage 2 Construction Certificate and its location and specifications endorsed on the construction drawings.

21.

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill.
- (b) All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting; and
- (c) The installation of solar power to external space lighting. Details shall be submitted to the Principal Certifying Authority prior to the issue of a Stage 2 Construction Certificate.

22. A Tree Preservation Order applies to all existing trees located along the southern boundary of Rhodes Street Reserve, accordingly they are required to be retained and protected. The property owner is also required to ensure the protection and preservation of trees on adjoining properties, in close proximity to the proposed development and/or property boundaries. In order to ensure that these trees are protected during construction, and their health and structural stability ensured, the following is required :

- (i) Engage the Consultant Arborist for all tree root and canopy work to trees.
- (ii) Prior to commencing construction work the trees are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence, where practical, to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete. If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian/carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix hardwood palings around the tree with strapping or wire (not nails).
- (iii) Before any works commence on site the Applicant is required to contact Council for an inspection of the trees to be retained and the TPZ.
- (iv) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

23. Prior to the issue of a Stage 2 Construction Certificate, a public domain landscape plan shall be submitted for approval by Council for the works within the Rhodes Street Reserve, installed by the applicant at the applicant's expense as a contribution to community facilities given the increased usage the Reserve is expected to receive as a result of the development. The scope of works shall include:

- (i) Tree planting to infill and/or replace trees removed on the southern boundary of Rhodes Street Reserve at the interface with the development (as to be agreed by Council, post-construction);
- (ii) Additional tree planting throughout the Reserve to increase tree canopy in strategic locations;

- (iii) Park furniture (BBQ, seats, litter bins, picnic shelter, lighting and the like); and
- (iv) Playground equipment.

All improvements shall be in accordance with the approved public domain plan and shall be constructed and completed prior to the issue of an Occupation Certificate.

Note: All improvements and the locations of large trees and playground equipment require the approval of the landowner (Sydney Water).

The Plan shall be prepared by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture and in ground landscaping. The Plan shall be in accordance with Council's City Identity Program and Landscape DCP.

24. The landscape areas shown on the plan by John Lock & Assoc., *Issue F, Dwg 1902-LP01-LP03*, shall be the subject of amended landscape construction documentation to be submitted to and approved by the City of Botany Bay Council's Landscape Architect, prior to the issue of a Stage 2 Construction Certificate. The required amendments include:
 - (a) Additional planter boxes are to be provided in residual private open space areas of 1 metre dimension on the northern side of units A101 and A103 as per the hand marked up plan dated 31 October 2012.
 - (b) The deciduous Magnolias are to be replaced with a small evergreen tree.
 - (c) There are 2 tree lined north-south axes is to include decorative/flowering evergreen tree species. Evergreens are important to provide year round screening, residential amenity and comfort.
 - (d) A row of tall, evergreen canopy trees is required within the eastern boundary setback to provide a buffer between the development and the primary school to the east. The Tuckeroos are also to be included in this area and/or relocated to the private landscape areas.
 - (e) The Blueberry Ash tall hedge shrub along this boundary is to be continued for its entire length up to the communal building (to replace Lillypilly).
 - (f) The blocks of planting above the driveway entry off Rhodes Streets could be varied to include 2-3 species.
 - (g) The nominated street tree for Rhodes Street is *Brachychiton acerifolius*, to be planted at 7 metre.
 - (h) The Rhodes Street footpath is to be relocated 600mm off the property boundary to enable screening of electrical service pillars located in this area. The 600 wide area is to be planted with low shrubbery.
 - (i) A revised landscape scheme for the Flack Avenue entry is to show additional tree planting within the paved areas in the form of tree pits with accent understorey planting to break up large expanses of pavement. Paving details are also required to be submitted. Reduce dominance of deciduous trees in this area, and in the main spine, and include evergreens for year round foliage and screening.

- (j) Some plants labelled on the plan are not indicated in the plant schedule and some in the schedule are not found on the plan.
- (k) Some trees, particularly deciduous species such as Crepe Myrtle and Jacaranda, shall be increased in pot size to 200 litre minimum to ensure a substantial dimensioned tree is planted.
- (l) Fencing details on all boundaries of the development – heights, materials and construction.
- (m) Planter boxes constructed over a concrete slab shall be built in accordance with the following minimum details:
 - (i) Ensure soil depths in accordance with Council’s Landscape DCP. 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. Turfed areas require a min. 5% cross fall.
 - (ii) 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.
 - (iii) 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.
 - (iv) 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.
 - (v) Planter boxes shall be finished externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finished of the building.
- (n) All internal access driveways, parking areas and pedestrian walkways shall be unit paved. WSUD principles shall be incorporated directing surface runoff to garden beds or lawns where practical and/or utilize porous segmental pavement units. Large areas of asphalt or concrete are not permitted. The driveway crossover shall be constructed of plain broom finished concrete.
- (o) Any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be 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. Above-ground rainwater tanks shall not be located within the front setback of a property nor shall they be visible from a public street.
- (p) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all

planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. 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.

- (q) A raised concrete edge shall be installed around landscape areas to contain soil and mulch finishes. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable except where separating shrub beds and lawn.
- (r) Rigid polyethylene sheet type tree root barriers shall be installed where deemed necessary to protect pavements from tree root damage. The locations and types of tree root barriers are to be indicated on the landscape plan.

25. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

- a. Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
- b. Negotiate with the utility authorities (eg Energy Australia, Sydney Water and 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.

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.

26. Prior to the issue of a Stage 2 Construction Certificate, detailed construction plans of the stormwater management and disposal system for the development shall be prepared by a suitably qualified civil engineer experienced in drainage design and submitted to Council for approval. The detailed stormwater management construction plans (together with the design certification) shall be generally in accordance with the following stormwater drainage plans, prepared by Australian Consulting Engineers, Job No. 120177:

- Drawing No. D02, Rev B, dated 18 Sep 2012
- Drawing No. D03, Rev A, dated 30 Apr 2012
- Drawing No. D04, Rev C, dated 1 Nov 2012
- Drawing No. D05, Rev C, dated 1 Nov 2012
- Drawing No. D07, Rev A, dated 18 Sep 2012
- Drawing No. D12, Rev A, dated 18 Sep 2012

In addition, the following issues shall also be addressed:

- (a) Detailed roof and downpipes drainage system shall be shown on the stormwater management construction plans to ensure stormwater runoff from the roof area to be collected and drained into the rainwater tanks and on-site

infiltration system. Any overflow from the roof drainage system shall be conveyed to the on-site infiltration system.

- (b) Stormwater runoff generated from the development (except area in the 1 in 100 year ARI flood extent) shall be collected and discharged into the on-site infiltration system
- (c) Surface level of all grated pits that connecting to the on-site infiltration system shall be minimum 100 mm above the 1 in 100 year flood level.
- (d) The on-site infiltration system shall not be located within the 1 in 100 year flood affected area identified in the revised flood study. It shall have minimum one (1) metre clearance from the boundaries fronting public roads/reserve and two (2) metres clearance from all other boundaries, building/structure footings, and/or underground car parking structures.

Note: Lesser setback requirements for all other boundaries, building/structure footings, and/or underground car parking structures (but not less than one (1) metre) can be acceptable subject to provision of a structural compliance certificate, issued by a qualified structural engineer that the on-site infiltration system provided would not have adverse impact to existing or proposed buildings/basements.

- (e) Due to the construction of Flack Avenue cul-de-sac, the existing Council's kerb inlet pit shall be converted to a sealed pit and a new 2.4m long opening grated kerb inlet gully pit shall be provided to the new cul-de-sac in order to maintain inlet capacity of the system.
- (f) Design of the stormwater drainage system in the road reserve area shall be shown on the stormwater management plans.
- (g) Details of the non-return flap valve in the proposed boundary pit shall be shown on the stormwater drainage plan.

All drawings and specifications shall be prepared in accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', Australian Rainfall and Runoff (AR&R), AS 3500.3 and BCA. All drawings shall correspond with the approved architectural plans. Design certification from the engineer shall be submitted to the Principal Certifying Authority.

- 27. A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to '*Do It Right On-Site*' *Soil and Water Management for the Construction Industry* and NSW EPA's *Managing Urban Stormwater: Construction Activities* and submitted to the Principal Certifying Authority prior to issue of the Stage 1 Construction Certificate. 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 during the construction works. A copy of the Soil and Water Management Plan shall be kept on-site at all times and made available to Council Officers on request.
- 28. Prior to the issue of Stage 1 Construction Certificate, a detailed Construction Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Certifying Authority and Council. The plan shall: -

- (a) be prepared by a RMS accredited qualified person;
- (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;
- (c) indicate the construction vehicle access points of the site;
- (d) indicate the frequency of truck movements;
- (e) ensure any vehicles accessing the site or carrying out construction activities associated with the development be restricted to 12.5 metres (defined as Heavy Rigid Vehicle in AS2890.2);
- (f) ensure any vehicles associated with the demolition and construction activities to enter the site from Flack Avenue; and
- (g) ensure all traffic (including worker's vehicles) generated from the construction activities shall enter and leave the site in a forward direction.

29. Prior to the issue of the Stage 1 Construction Certificate, a detailed Construction Management Plan (CMP) shall be submitted to Principal Certifying Authority and Council for approval of the site works. The CMP shall address the following:

- (a) All vehicles (including worker's vehicles) associated with site construction activities shall enter and leave the site in a forward direction ONLY;
- (b) All vehicles (including worker's vehicles) associated with site construction activities shall only be allowed to park within the site. No parking of these vehicles shall be allowed on Flack Avenue;
- (c) Construction building materials shall be stored wholly within the site;
- (d) Access to adjacent buildings and the pedestrian and vehicular access fronting Rhodes Street and Flack Ave shall be maintained at all times. No closure of any road reserve will be permitted without Council approval;
- (e) Under no circumstances (except in an emergency) shall any trucks be permitted to queue and wait on public places, public streets or any road related area (eg. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site;
- (f) Locations of site office, accommodation and the storage of major materials related to the project shall be within the site;
- (g) Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times;
- (h) Location and extent of proposed builder's hoarding and Works Zones, if there is any, shall be shown on the plan. It should be noted that any Works Zones proposed requires approval from Council; and
- (i) Tree protection management measures for all protected and retained trees shall be implemented at all times.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

30. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
31. 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 lands /road reserve under Road Act 1993 and Local Government Act 1993: -
- (i) Permit to erect hoarding on or over a public place, including Council's property/road reserve
 - (ii) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - (iii) Permit for roads and footways occupancy (long term/ short term)
 - (iv) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve
 - (v) 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.
 - (vi) Permit to place skip/waste bin on footpath and/or nature strip
 - (vii) Permit to use any part of Council's road reserve or other Council lands
 - (viii) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
 - (ix) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area. Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s).

Copy of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.

Note: No works or occupancy shall be carried out in road reserve until permits have been granted from Council's engineers. 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.

32. Erosion and sediment control devices shall be installed and in function prior to the commencement of any 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.

33.

(a) Prior to commencement of any works in the road reserve area, the applicant shall obtain written approval, together with a copy of approved engineering plans, construction management plan and construction traffic plans, under Section 138 of *Roads Act 1993* for the civil works to be carried out in public domain. Documentary evidence shall be submitted to the Principal Certifying Authority attesting to this condition has been appropriately satisfied. The engineering construction drawings shall include the following:

- (i) Design and reconstruct footpath, kerb and gutter on the cul-de-sac section of Flack Avenue and along Rhodes Street frontage of the site. The works shall include removal of any redundant crossings.
- (ii) Design and provide landscaping/street trees to the footpath area on all frontages of the site
- (iii) Design and construct minimum 5.5 metres wide vehicular crossing, including layback and/or gutter and any associated road restoration on Rhodes Street at the property boundary and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
- (iv) Design and construct stormwater drainage system from the site to the existing Council's drainage pit on Flack Avenue. This work shall include converting the existing kerb inlet pit on Flack Avenue cul-de-sac into sealed pit and construct a new 2.4m long opening grated kerb inlet gully pit to the new cul-de-sac in order to maintain the inlet capacity.
- (v) Resurface the road pavement on cul-de-sac section on Flack Avenue with 50mm AC10 hotmix.

All the above works shall be designed and prepared by suitably qualified civil engineers and landscape architects with relevant qualification in civil engineering and landscape respectively. All costs associated with the design and construction shall be borne by the applicant.

(b) 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: -

- (i) 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
- (ii) Prior to placement of concrete/ road pavement materials

- (iii) Prior to backfilling of proposed stormwater drainage system in the road reserve
- (iv) Final inspection

Council's 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.

34. Prior to the issue of a Stage 2 Construction Certificate, details shall be submitted to the Principal Certifying Authority in relation to storage areas to be provided for each unit in accordance with the following:

- (i) The proposal shall comply with the minimum storage requirements contained within Section 3.3.7 of Council's DCP No. 35 for Multi Unit Housing and Residential Flat Buildings which are as follows:
 - (1) Studio apartment = 6m³
 - (2) 1 bedroom apartment = 8m³
 - (3) 2 bedroom apartment = 10m³
 - (4) 3 bedroom apartment = 12m³
 - (5) Adequate storage area is to be provided for each retail tenancy in accordance with DCP 35.
- (ii) A minimum of 50% of the storage requirements shall be provided within the unit, and the remainder shall be provided in the basement, in accordance with DCP No. 35;
- (iii) The storage areas shall have a minimum height of 1.5 metres in accordance with DCP 35;
- (iv) Storage areas proposed within the living room or any other habitable room within a dwelling shall not be included as storage space for these purposes.
- (v) Storage space provided within a dwelling shall not be included as part of the floor area of the dwelling (i.e. the units must comply with Council's minimum unit sizes contained in DCP No. 35 excluding any proposed storage area);
- (vi) Storage areas within the basement shall be constructed in accordance with the following requirements as recommended by the NSW Police:
 - (1) The construction shall be undertaken using solid frame construction and each storage area shall be provided with a proper key lock that complies with Australian Standard AS:4145:1993; and
 - (2) These storage areas shall be monitored by CCTV cameras at all times.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

35.

- (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) 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.
- (e) 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.
- (f) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times.
- (g) Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and /or other plant and equipment.

36. The Principal Contractor must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- (i) The *Soil and Water Management Plan* if required under this consent;
- (ii) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- (iii) "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition" ('The Blue Book').

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The "Do it Right On Site," can be down loaded free of charge from Council's website at <http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm> further information on sediment control can be obtained from www.ssroc.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

37. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA *Environmental Noise Control Manual*.
38. Throughout the 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 free copy of the sign is available from Council’s Customer Service Counter.
39. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
40. During Construction and any associated deliveries activities, 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.
41. During Construction and any associated deliveries activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related 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 lands.
42. During Construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times: -

- (i) Approved Erosion and Sediment Control Plan;
 - (ii) Approved Construction Traffic Management Plan;
 - (iii) Approved Construction Management Plan; and
 - (iv) Approved Waste Management Plan.
43. In order to ensure that the trees adjoining the site to the north, located within the Rhodes Street Reserve (Nos.1 - 45 on the Survey Plan dated 18 July 2012) are protected during construction, and their health and structural stability ensured, the following is required:
- (a) All TPZ's are a "No-Go" zone. There shall be no access to the property, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer
 - (b) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
 - (c) Excavation within an area 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance.
 - (d) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer or consulting Arborist after a site inspection.
 - (e) Ensure there is no damage to the canopy of any tree. There shall be no canopy pruning or further tree removals unless approval has been granted by Council's Tree Officer under separate application. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
 - (f) Masonry boundary fencing shall be of pier and beam construction in to avoid damaging tree roots; trench footings are not permitted. If a tree root greater than 40mm diameter is in the location of a pier and the root cannot be cut without compromising the tree (after Council inspection and advice), the pier will need to be relocated.
 - (g) There shall be no retaining walls, pavements, change in levels or trenching for subsurface utilities within the primary root zone or canopy of any tree.
 - (h) All waste concrete and debris shall be removed from areas to be landscaped on the site to minimise soil contamination.
 - (i) The Applicant shall undertake any tree maintenance/remedial pruning required by Council and/or the Consultant Arborist at the completion of construction.
 - (j) All existing park trees on the northern boundary of the development and in Rhodes Street Reserve are to be retained with further analysis of their condition and retention undertaken prior landscaping commencing on the site and within the park itself. Trees that require removal post-construction are to be replaced with new trees as directed by Council.

44. The development is to be constructed to meet the requirements detailed in the approved acoustic report (Day Design Pty Ltd, dated 1st May 2012), and the following construction noise requirements:

(a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.

(b) Level Restrictions

(i) 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 20dB(A).

(ii) 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).

(c) Time Restrictions

Monday to Friday 07:00am to 06:00pm

Saturday 07:00am to 02:00pm

No Construction to take place on Sundays or Public Holidays.

(d) Silencing

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

45. To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Office of Environment and Heritage (OEH) approved guidelines to ensure that it is suitable for the proposed development. 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.

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

- (a) Erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

- (b) Each toilet provided:

(i) must be standard flushing toilet; and,

(ii) must be connected:-

(1) to a public sewer; or

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

- (3) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - (c) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.
47. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited;
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (c) the Development Approval number;
 - (d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - (e) any such sign is to be removed when the work has been completed.
- 48.
- (a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and
 - (b) All excavations shall be properly guarded and protected to prevent them from being dangerous to life or property; and,
 - (c) If the soil conditions require it:-
 - (i) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and;
 - (ii) adequate provision must be made for drainage.
 - (d) Existing structures and or services on this and adjoining properties are not endangered during any excavation or construction work associated with the development. 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) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) Protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) Where necessary, underpin the adjoining premises to prevent any such damage.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY
OCCUPATION CERTIFICATE**

49. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans listed below a contribution of \$2,160,000.00 is required to be paid to Council prior to the issue of any Occupation Certificate.

(a)	Community facilities	\$233,259.99
(b)	Administration	\$8,755.07
(c)	Transport Management	\$119,444.12
(d)	Open Space and Recreation	\$1,798,540.82
	TOTAL S94 CONTRIBUTION	\$2,600,000.16

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.

50. Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused by the site works undertaken (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 the issue of Final Occupation Certificate.
51. Prior to the issue of any Interim Occupation Certificate, two hundred and fifty five (255) off-street parking bays shall be provided within the basement levels of the development in accordance with the approved plans.
52. Prior to the issue of any Interim Occupation Certificate, documentation from suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area, turning area, access ramps and driveways have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal road network and parking area shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current version of Australian Standards.
53. Prior to the issue of any Occupation Certificate, construction of the stormwater drainage system (including OSD system and pump-out system) of the proposed development shall be completed generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', Australian Rainfall & Runoff (AR&R), AS 3500 and BCA.

Documentation from a qualified civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system (including OSD

systems and pump-out system) has been constructed generally in accordance with the approved stormwater drainage construction plan(s) and accepted practice.

54. Prior to the issue of Final Occupation Certificate, maintenance schedule of the stormwater drainage system (including on-site infiltration system and pump-out system) shall be prepared by a qualified engineer and submitted to Principal Certifying Authority. A copy of maintenance schedule shall also be submitted to Council for record purpose.
55. In order to ensure that the constructed on-site infiltration system and pump-out system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the systems, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to the issue of Final Occupation Certificate.
56. Prior to the issue of any Occupation Certificate, 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.
57. Prior to the issue of Final Occupation Certificate, the following public domain civil works shall be completed to the satisfaction of Council: -
 - (a) Reconstruction of footpath and kerb and gutter for the cul-de-sac section of Flack Avenue and along Rhodes Street frontage of the site. The works shall include removal of any redundant crossings.
 - (b) Provision of landscaping/street trees to the footpath area on all frontages of the site.
 - (c) Construction of minimum 5.5 metres wide vehicular crossing including layback and/or gutter and any associated road restoration, on Rhodes Street at the property boundary and at 90o to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
 - (d) Construction of stormwater drainage system from the site to the existing Council's drainage pit on Flack Avenue. This work shall include converting the existing kerb inlet pit on Flack Avenue cul-de-sac into sealed pit and construct a new 2.4m long opening grated kerb inlet gully pit to the new cul-de-sac in order to maintain the inlet capacity.
 - (e) Resurfacing road pavement on cul-de-sac section on Flack Avenue with 50mm AC10 hotmix.
 - (f) Installation of underground electricity and telecommunication cables along Rhodes Street frontage of the site to relevant authorities' requirements.

- (g) Installation of appropriate and suitable street lighting to a high decorative standard on Rhodes Street frontage of the site and the cul-de-sac section of Flack Avenue to relevant authorities' requirements.
 - (h) Installation of necessary signage and line marking on all frontages of the site to Road and Maritime Services (RMS) requirements. The signage and line marking will be subject to approval from Local Traffic Committee.
58. Prior to the issue of Final Occupation Certificate, the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied:-
- Written confirmation / completion certificate obtained from Council's engineers;
 - Inspection reports (formwork and final) for the works on public domain and road reserve area obtained from Council's engineer; and
 - A copy of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the civil works on public domain and road reserve area. The plan shall be prepared by a registered surveyor.
59. Prior to the issue of Final Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.
60. The applicant is responsible for the installation and protection of all regulatory / parking / street signs along the Rhodes Street and Flack Avenue frontage of the site. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
61. Landscaping shall be installed in accordance with the approved landscape plan, as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate. This amended plan supersedes Issue F. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.
62. All new street trees shall be installed by a qualified landscape contractor. The trees shall be sourced from a reputable supplier that grows to NATSPEC. A Dial-Before-You-Dig enquiry is required prior to all tree planting. The trees shall be planted in an area measuring 1 metre diameter, backfilled with compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 75mm. The trees are to be double staked and tied to industry standards. The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing.
63. The Council nature strip shall be suitably replaced in accordance with Council Specification at the completion of construction work and at the Applicant's expense.

64.

- (a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
- (b) Condition Nos. 6 and 49 to 64 inclusive are pre-conditions prior to the issue of the Occupation Certificate.

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

65. The proposal shall comply with the City of Botany Bay's General Noise Criteria is as follows:

- (a) 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.
- (b) 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.
- (c) 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.

'Offensive noise' as defined in the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2000, (See advisory notes).

66. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.

67. 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 in accordance with the maintenance schedule submitted to Council 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.

68. All vehicles (including deliveries) shall enter and exit the premises to the public roads in a forward direction. Vehicle turning areas shall be kept clear at all times and no vehicles shall be permitted to park in these areas.
69. All vehicular access to the site shall be via Rhodes Street, with the exception of service vehicles (including general rubbish and recycling collection), which may access the site via Flack Avenue.
70. All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicle is permitted to park in these areas.
71. A total of two hundred fifty-five (255) parking bays shall be allocated to residents parking only. The allocation of parking bays shall be based on the following rates: -
 - (a) Studio/ 1 bedroom unit one (1) space / unit
 - (b) 2-bedroom / 3-bedroom two (2) spaces / unit
 - (c) Sixteen (16) off-street parking bays shall be made available at all times for visitors parking, with minimum three (3) parking bays to also be used as car wash bays.
 - (d) Minimum of six (6) parking bays shall be dedicated to disabled parking and are to conform to AS 2890.6:2009
 - (e) Stacked parking spaces shall only be allocated to a single 2 bedroom / 3 bedroom unit.
72. Vehicles accessing the site shall comply with the following requirements: -
 - (i) Vehicles accessing the basement car parking area shall be limited to B99 vehicles as defined by AS 2890.1.
 - (ii) Any furniture removal vehicles or garbage collection trucks assessing the loading/unloading area shall be limited to Medium Rigid Vehicle (MRV) or smaller as defined by AS 2890.2
 - (iii) All loading and unloading activities shall be carried out in the dedicated loading/unloading area as indicated on the turning path diagram, prepared by TEF Consulting, Job No. 12015, dated 20 Sep 2012 in the Supplementary Report on Traffic and Parking Impacts of a proposed residential development at 22-24 Rhodes Street, Hillsdale, Job No. 12015/1, dated 3 October 2012.
73. The approved Waste Management Plan for the site prepared by Elephants Foot Waste Contractors Pty Ltd (Dated 27th April 2012) shall be complied with at all times during demolition works, construction works, and use of the premises.
74. Roller shutters to windows and doors are not permitted if visible from the street.

75. The ongoing maintenance of the nature strip/footpath shall be undertaken by the occupier/owner. Maintenance includes mowing and watering of grass areas and the maintenance of a good, even coverage at all times and the removal of weeds and rubbish in grass and paved areas.
76. 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. 12/070 dated as 9 May 2012 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

Certified Mr Rodger Dowsett.....
Director - Planning and Development