

BAYSIDE COUNCIL PLANNING ASSESSMENT REPORT

Panel Reference	2018SCL048
DA Number	14/318/05
LGA	Bayside Council
Proposed Development	Section 4.56 Modification Application to amend Development Consent No. 2014/318 to modify building layout and the creation of three additional apartments and additional car parking.
Street Address	278 Bunnerong Road, Hillsdale Lot 1 in DP 1191652
Applicant/Owner	Mr Nicholas Krikis JB Hillsdale Pty Ltd
Date of DA lodgement	23 December 2017
Number of Submissions	Two (2)
Recommendation	<p>It is recommended that the Sydney Eastern Planning Panel, as the Consent Authority, resolve:</p> <p>Pursuant to Section 4.56 of the Environmental Planning and Assessment Act, 1979, approve the application and amend Development Consent No. 14/318 as follows:</p> <ul style="list-style-type: none"> a) Amend Condition No. 1 to include revised architectural plans applicable for the development; b) Amend Condition No. 29 and 30 to reflect the increased contributions payable under S7.11.
List of all relevant s4.15 matters	<p>List all of the relevant environmental planning instruments S4.15(1)(a)(i);</p> <ul style="list-style-type: none"> • SEPP (Infrastructure) 2007; • SEPP No. 55 – Remediation of Land; • SEPP No. 65 – Design Quality of Residential Apartment Development; • SEPP (BASIX) 2004; • Botany Bay Local Environmental Plan 2013 • Apartment Design Guide <p>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii);</p> <ul style="list-style-type: none"> • N/A <p>List any relevant development control plan: s4.15(1)(a)(iii);</p> <ul style="list-style-type: none"> • Botany Bay Development Control Plan 2013

	<p>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:</p> <ul style="list-style-type: none"> N/A <p>List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288:</p> <ul style="list-style-type: none"> Environmental Planning and Assessment Regulations 2000
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Planning Assessment Report Draft Determination Site and Site Analysis Plans Architectural Floor Plans Elevations Sections Shadow Diagrams
Report prepared by	<p>Alexandra Hafner – Senior Assessment Planner</p> <p>Ben Latta – Coordinator, Development Services</p> <p>Luis Melim – Manager Development Services</p>
Report date	25 May 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **N/A**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

RECOMMENDATION

It is RECOMMENDED that the Sydney Eastern Planning Panel resolve pursuant to Section 4.56 of the *Environmental Planning and Assessment Act*, 1979, to approve the modification to Development Consent No. 2014/318/4 at No. 278 Bunnerong Road, Hillsdale, as indicated within the updated Schedule of Conditions and for the following reasons:

- a) The amended application is substantially the same as the original; and
- b) The amendments do not have a significant material impact on the surrounding development.

EXECUTIVE SUMMARY

Council received the subject Section 4.56 modification application to modify Development Consent No. 14/318 on 23 December 2017 to amend the approved development at No. 278 Bunnerong Road, Hillsdale. The subject modification application seeks to undertake the following amendments:

- a) Reconfigure the basement parking areas to provide an additional five (5) parking spaces;
- b) Internal reconfiguration across Levels 4 and 5;
- c) Modification to approved Unit A705 at Level 4 within Building A to be reconfigured from a 3 bedroom unit to a 1 bedroom unit;
- d) Relocate three 3 bedroom unit on Level 4 of Building A;
- e) Addition of 2 x 2 bedroom Units at Level 4 within Building A (A706 and A707);
- f) Addition of 1 x 3 bedroom Unit at Level 5 within Building A (A804).

The development is currently under construction on site.

This application is not subject to complying, prohibited, designated or advertised development provisions of the Act. There are no issues relating to endangered flora or fauna, watercourses or bushfire.

The proposal is a 4.56 to a development originally approved by the Panel that has a Capital Investment Value greater than \$30 million and as such the application is referred to the Regional Panel for determination as per Schedule 7 of the SEPP – State and Regional Development 2011.

The SEPP can be satisfied that the relevant considerations of Section 4.56 are met in this instance for the reasons contained within the below report. The subject application is recommended for approval, subject to conditions contained therein.

Background

HISTORY OF APPROVED DEVELOPMENT

The original Development Application was subject to a Land and Environment Court appeal (Case No. 2016/00163500) against Council's refusal of the application on 3 February 2016.

The matter was scheduled for a Section 34 Conciliation Conference on 6 June 2016 and resolved on 13 December 2016 with sealed orders issued on 16 December 2016.

The sealed orders were for a deferred commencement consent to address outstanding matters relating to the requirement of a stormwater plan; revised architectural plans and updated conditions to refer to the approved access report; revised landscape plans and the provision of a waste management plan. Council received the additional information as required to satisfy deferred commencement consent conditions and an operative consent was issued on 5 May 2017.

Council has since approved the following modifications to the subject site:

- DA-14/318/02 for a S96AA was lodged with Council on 5 June 2017 to relocate the communal room to the lower ground floor to B1 and add 1 x 2 bedroom unit (A201) on the lower ground floor of the Building; reconfigure the basement level carpark and extend the basement level to B3 and provide an additional 7 parking spaces; reconfigure L4 and L5 of Building A with a net addition of 1 x 2 bedroom and 1 x 3 bedroom units; relocate the communal terrace onto L5 and revised Unit A304 such that it is an adaptable unit.

Approved under Council delegation on 24 October 2017.

- DA-14/318/03 for a S96AA was lodged with Council on 11 August 2017 to amend Condition 66 to reduce the required number of arborist inspections on site, remove the casuarina plants and the southern boundary and concrete collar around the base of Tree 1.

Approved under Council delegation on 11 October 2017.

- DA-14/318/04 for a S96AA was lodged with Council to amend Conditions 29C and 30 of the Notice of Determination, as amended, to reflect the correct Section 94 Contributions applicable to the development.

PROPOSAL

The subject modification application seeks to undertake the following amendments:

- a) Reconfigure the basement parking areas to provide an additional five (5) parking spaces;
- b) Internal reconfiguration across Levels 4 and 5;
- c) Modification to approved Unit A705 at Level 4 within Building A to be reconfigured from a 3 bedroom unit to a 1 bedroom unit;
- d) Relocate three 3 bedroom unit on Level 4 of Building A;
- e) Addition of 2 x 2 bedroom Units at Level 4 within Building A (A706 and A707);
- f) Addition of 1 x 3 bedroom Unit at Level 5 within Building A (A804).

The proposed modifications results in an increase of 87 residential units to 90 and in the following mix:

1 bedroom	29
2 bedroom	54
3 bedroom	7

Additional contributions will be payable due to the net addition of three (3) residential units also. The following table is a comparison of the development statistics for both Blocks A and

B based on the current planning controls; existing approval and changes sought under the subject modification application:

Control	Maximum Permitted BBLEP 2013	Current Approval	Proposed Modifications
Clause 4.3 – Height	22 metres	Building A – 22m Building B – 22m	Building A – no change Building B – No change
Clause 4.4 – FSR	1.65:1	1.56:1	1.61:1
Gross Floor Area	-	7,167sqm	7,400sqm

EXISTING AND SURROUNDING DEVELOPMENT

The subject site is located approximately 40 metres north of the intersection of Bunnerong and Beauchamp Roads Hillsdale. Located on the north western side of Bunnerong Road with a primary frontage of 60.39 metres, the site is bound by several four storey residential flat buildings north and north west; a Sydney Water culvert and Sydney Water Land with Rhodes Street Reserve directly west; Matraville Public School directly south and Matraville Neighbourhood Centre located further south.



Figure 1. Aerial of subject site (www.maps.six.nsw.gov.au).

To the east of the site is Bunnerong Road, which is an RMS Classified size lane road with median dividing traffic directionally. Further east are low scale detached residential dwellings. Further north east is Heffron Park with Matraville Sports Centre.

The originally approved development is currently under construction.

PLANNING CONSIDERATION

The application is submitted pursuant to the provisions of Section 4.56 of the *Environmental and Planning Assessment Act, 1979*. The matters below are those requiring the consideration of the Sydney Eastern Planning Panel

4.56 Modification by consent authorities of consents granted by the Court (cf previous s 96AA)

- (1) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:*
 - (a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
 - (b) *It has notified the application in accordance with:*
 - (i) *The regulations, if the regulations so require, and*
 - (ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (c) *It has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
 - (d) *It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Council considers the modifications to satisfy the test for Section 4.56 for the following reasons:

Section 4.56(1)(a) – Substantially the same development

The development remains for the construction of two x 7 storey residential flat buildings and the proposed modifications are not considered to transform the consent given the nature of the amendments which will:

- Maintain the approved building height of 22 metres for both Building A (RL41.95) and Building B (RL39.70);
- Maintain a similar unit mix as that approved;
- The additional five (5) parking spaces are wholly contained within the approved Basement Level and do not contribute to the building bulk and scale;
- The reconfiguration and modifications to the building envelope at Levels 4 and 5 for Building A do not unreasonably affect the bulk and scale of the development due to the retention of staggered setbacks. The changes maintain the architectural integrity of the approved design with improved application whilst respecting setbacks to both the southern allotment boundary and Bunnerong Road.

Overall, the changes result in an increased density of 7%. The minor increase in GFA and resultant FSR (1.61:1) remain compliant with Clause 4.4 (1.65:1) of the BBLEP 2013. The three (3) additional units subject of the application achieve compliance with minimum unit size requirements under the ADG and overall, the development maintains compliance with the natural ventilation and solar access requirements contained therein.

Section 4.56(1)(b)(i) and (ii) – Notification of the modifications

The modification application was notified and advertised in accordance with the Regulations, 2000, and BBDCP 2013 from 19 January to 8 February 2018, inclusive. Reference is made to the Attachment A. Notification Letter dated 19 January 2018.

Section 4.56(1)(c) and (d) – Submissions made

The Panel can be satisfied that Council has notified and/or made reasonable attempts to notify, each of the persons who made a submission in respect to the relevant development application of the subject modification by sending written notice to the last address known to the consent authority of the objector or other person. Reference is made to Attachment B. Objectors Mailing List.

Notification and advertising of the modification application has yielded a total of two (2) submissions, one (1) of which is a petition comprised of 177 signatures from the Matraville Public School P & C Association.

Section 4.15 - Matters for Consideration

The relevant matters for consideration pursuant to Section 4.15 are addressed as follows:

(a) The provisions of any EPI, draft EPI, DCP, Planning Agreement, draft Planning Agreement and any other matters prescribed by the Regulations.

Draft EPI

There are no draft EPI's applicable to the subject site.

Planning Agreements

The proposal as modified is not subject to any current or draft planning agreement.

State Environmental Planning Policy (Infrastructure)

The original application was identified as *traffic generating development* and therefore considered under the remit of Clause 104 of the SEPP (Infrastructure). This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) *New premises of the relevant size or capacity, or*
- (b) *An enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

The proposed increase in residential units from 87 to 90 and net addition of five (5) parking spaces does not qualify as an *enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity*, and therefore does not trigger referral to the RMS.

The provisions of the SEPP (Infrastructure) remain satisfied in this instance.

State Environmental Planning Policy No.55 - Contaminated Land (SEPP 55)

Under the provisions of Clause 7 of SEPP 55, a consent authority must not consent to carrying out of development on land unless:

- (a) *It has considered whether the land is contaminated, and*
- (b) *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out, and*
- (c) *If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Matters relating to SEPP 55 were determined satisfactory under the original application. The amendments subject of this modification application will not affect the suitability of the site with regards to contaminated land and no further consideration is required in this regard.

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

The modification application is accompanied by an amended BASIX Certificate No. 595696M_06 which is dated Tuesday 5 December 2017. The Certificate is a revision of Certificate No. 595696M, lodged with the consent authority on 22 December 2014 with the original application DA-2014/318.

The revised Certificate demonstrates the proposed development, as modified, satisfies the relevant water; thermal and energy commitments as required by SEPP (BASIX).

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

In accordance with Clause 28(2) of this Policy, the consent authority must take into consideration the following:

- (a) *The advice of the Design Review Panel (DRP)*

The proposed modifications were considered relatively minor and therefore not required to be referred to the DRP for consideration.

- (b) *The design quality of the development when evaluated in accordance with the design quality principles*

The application is accompanied by an amended Design Verification Statement prepared by Nick Tayler of Krikis Tayler Architects Pty Limited and dated 21 December 2017 which confirms *'the design quality principles set out in Schedule 1 of SEPP 65 – Design Quality of Residential Apartment Development are achieved in the proposed development'*. The Statement is appended to this Report.

- (c) *The Apartment Design Guide (ADG)*

The proposed modifications to residential apartments within Building A are considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

Clause	Design Criteria	Comments	Complies
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3F – Visual privacy	<p>Min separation – side and rear boundaries:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 Storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Buildings on the same site combine required building separations. Gallery treated as habitable space</p>	Building height	Habitable rooms and balconies	Non habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 Storeys)	9m	4.5m	Over 25m (9+storeys)	12m	6m	<p>Building separation remains as per the approved with 18.09m separation between Building A and B and an 11.06m setback to the southern allotment boundary.</p> <p>The approved 7.065m setback to the northern allotment boundary remains unchanged as does the approved 4m primary setback from Bunnerong Road.</p>	Yes
Building height	Habitable rooms and balconies	Non habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 Storeys)	9m	4.5m													
Over 25m (9+storeys)	12m	6m													
4A – Solar and daylight access	<p>Living rooms and POS of at least 70% of apartments receive min 2hrs direct sunlight between 9am and 3pm midwinter.</p> <p>Max 15% apartments receive no direct sunlight between 9am and 3pm in midwinter.</p>	<p>The application is accompanied by <i>Sun View Diagrams</i>, Drawing No. SK180615, Issue 1, which demonstrates all six (6) residential units receive meet the minimum 2 hour solar access requirement in midwinter.</p> <p>In total, the development as modified will contain 90 residential units, of which 68 receive 2 hours, equating to 76%.</p>	Yes												
4B – Natural ventilation	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>The application is accompanied by Natural Ventilation Diagrams which confirms five (5) out of the six (6) units subject of the modifications receive natural ventilation. This equates to a total of 60% and</p>	Yes												

		<p>therefore satisfies the provisions of this Clause.</p> <p>All other approved units apartment sizes and layouts remain unaffected by the proposed modifications.</p>													
4C – Ceiling heights	<table><tr><td colspan="2">Minimum ceiling heights:</td></tr><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Two storey apartments</td><td>2.7m main living 2.4m first floor, area < 50% of apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge 30deg min slope</td></tr><tr><td>Mixed use area</td><td>3.3m for ground and first floor</td></tr></table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area	Attic spaces	1.8m at edge 30deg min slope	Mixed use area	3.3m for ground and first floor	<p>There are no changes to the approved RL's of Levels 4 and 5 under the subject application which remains as per the approved and satisfying the minimum ceiling heights as per the provisions of this Clause.</p> <p>Reference is made to Drawing A30, Revision 10 in this regard.</p>	Yes
Minimum ceiling heights:															
Habitable	2.7m														
Non-habitable	2.4m														
Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area														
Attic spaces	1.8m at edge 30deg min slope														
Mixed use area	3.3m for ground and first floor														
4D – Apartment size and layout	<p>Minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50M²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5sqm.</p> <p>Further bedrooms increase minimum area by 12sqm each.</p>	Apartment type	Minimum internal area	Studio	35m²	1 bedroom	50M²	2 bedroom	70m²	3 bedroom	90m²	<p>Building A Level 4 Unit A701 – 2 bed – 79sqm; Unit A705 – 1 bed – 56sqm; Unit A706 – 2 bed – 80sqm; Unit A707 – 3 bed – 96sqm. Building A Level 5 Unit A801 – 2 bed – 83sqm; Unit A804 – 3 bed – 103sqm.</p> <p>All other approved units apartment sizes and layouts remain unaffected by the proposed modifications.</p>	Yes		
Apartment type	Minimum internal area														
Studio	35m²														
1 bedroom	50M²														
2 bedroom	70m²														
3 bedroom	90m²														
4E – Private open space and balconies	Primary balconies as follows:	Building A Level 4 Unit A701 – 2 bed – 79sqm; Unit A705 – 1 bed – 56sqm;	Yes.												

	<table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bed</td><td>8m²</td><td>2m</td></tr><tr><td>2 bed</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bed</td><td>12m²</td><td>2.4m</td></tr></table> <p>Min balcony depth contributing to area is 1m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4m ²	-	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bed	12m ²	2.4m	<p>Unit A706 – 2 bed – 80sqm; Unit A707 – 3 bed – 96sqm. Building A Level 5 Unit A801 – 2 bed – 83sqm; Unit A804 – 3 bed – 103sqm.</p> <p>All other approved unit POS areas and depths remain unaffected by the proposed modifications.</p>	
Dwelling type	Minimum area	Minimum depth																
Studio	4m ²	-																
1 bed	8m ²	2m																
2 bed	10m ²	2m																
3+ bed	12m ²	2.4m																
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight (8).	<p>Building A Level 4 – 7 units max Building A Level 5 – 4 units max</p> <p>All other approved levels remain unaffected by the proposed modifications.</p>	Yes															
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m²</td></tr><tr><td>1 bed</td><td>6M²</td></tr><tr><td>2 bed</td><td>8m²</td></tr><tr><td>3 bed</td><td>10m²</td></tr></table>	Dwelling type	Storage size volume	Studio	4m ²	1 bed	6M ²	2 bed	8m ²	3 bed	10m ²	<p>The application is accompanied by an Apartment Storage Schedule which confirms that 50% of the storage is provided within the subject units and minimum volumes are satisfied.</p> <p>All other approved levels remain unaffected by the proposed modifications.</p>	Yes					
Dwelling type	Storage size volume																	
Studio	4m ²																	
1 bed	6M ²																	
2 bed	8m ²																	
3 bed	10m ²																	

The relevant principles of the ADG remain satisfied in this instance and the proposed modifications and development remains acceptable with regards to the considerations of SEPP 65.

Botany Bay Local Environmental Plan, 2013 (BBLEP 2013)

The relevant clauses that apply to the proposal as modified are listed below:

Clause	Control	Requirement	Proposed	Complies
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2.2	Zone	R3 – Medium Density Residential	Residential Flat Buildings (and modifications to these) are permitted with consent	Yes
4.3 (2A)	Height of Buildings	<i>If an area of land in Zone R3 Medium Density Residential exceeds 2,000sqm, the height of a building on that land may exceed the maximum height shown for the land on the Height of Buildings Map, but not exceed 22 metres.</i>	Building A – No changes to the approved height less than 22 metres (RL 40.95) for the roof and 22 metres for the lift overrun (RL 41.95). Building B – No changes to the approved height less than 22 metres (RL 38.70) for the roof and 22 metres for the lift overrun 22 metres (RL 39.70).	Yes
4.4(2A)	Floor Space Ratio	<i>If an area of land in zone R3 Medium Density Residential exceeds 2,000sqm, the FSR of a building on that land may exceed the maximum FSR shown for the land on the FSR map but must not exceed 1.5:1.</i>	Noted – this Clause is superseded by the application of Clause 4.4(B) below.	Yes
4.4(B)	Exceptions to Floor Space Ratio in Zone R3	<i>Despite clause 4.4, development consent may be granted to development for the purposes of residential flat buildings on land to which this clause applies that results in a FSR that does not exceed 1.65:1 if:</i>		
		<i>(a) The site area is equal to or greater than 2,000sqm</i>	The site area is 4,603sqm, being greater than the minimum requirement of 2,000sqm.	Yes

	<p><i>(b) The site area is land identified on the Acid Sulfate Soils Map</i></p>	<p>The site is identified as Class 5 on the LEP acid sulfate soils map.</p>	<p>Yes</p>
	<p><i>(c)(i) and (ii) The consent authority considers that the development is, or is likely to be, adversely affected by any of the following:</i></p> <ul style="list-style-type: none"> - Contamination, - Noise (including (aircraft, rail or road noise) 	<p>The subject site is affected by contamination. These matters were considered under the original application and determined acceptable with regards to residential use. No further consideration is required in this regard.</p>	<p>Yes</p>

		<p><i>(d) The consent authority is satisfied that (i) the development will be compatible with the desired future character in terms of building bulk and scale, and</i></p>	<p>The proposed modifications will continue to maintain appropriate bulk and scale and compatibility with the desired future character of the area for the following reasons:</p> <ul style="list-style-type: none"> - The existing access arrangement to Rhodes Street Reserve remains unaltered; - The approved four storey building height to Bunnerong Road remains with upper levels maintaining a staggered setback; - Overland flow considerations for the approved development, which is a flood affected site, will remain; - Buildings A and B continue to follow the natural topography of the site; - There are no changes to the total landscaped site area which remains at 42%. 	Yes
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	<p><i>(ii) the development will contribute to the amenity of the surrounding locality,</i></p>	<p>Based on the above, the modified development will continue to contribute positively to the amenity of the surrounding locality. The slop of the site, together with the increased setbacks of Building A from Bunnerong Road, and mansard roof form at Level 3 will continue to ensure that changes to Levels 4 and 5 are not highly discernable and will not create unreasonable effects for the locality.</p>	Yes
	<p><i>(iii) any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan.</i></p>	<p>Favourable consideration of the subject modification application will not result in the isolation of any allotment of land.</p>	Yes
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid Sulfate Soils; 6.2 – Earthworks; 6.3 – Stormwater Management; 6.8 – Airspace operations; 6.9 – Development in areas subject to aircraft noise;</p>		<p>The conclusions within the DA-14/318 remain unchanged.</p>	Yes

The minor increase in GFA will result in an increase in FSR from 1.56:1 to 1.61:1. It has been demonstrated above that the increase in GFA and resultant FSR will not significantly alter the approved building envelope and location of modifications within Building A will still maintain the staggered setback to provide appropriate articulation and modulation. It will not create any additional impacts in respect to overshadowing or privacy, particularly for the adjoining school to the south.

The proposed modifications are deemed satisfactory having regard to the relevant provisions of the BBLEP 2013.

Botany Bay Development Control Plan 2013 (BBDGP 2013)

The proposed modifications will comply to the same extent with the provisions and objectives of the DCP as the original development consent. The proposed modifications will not impact significantly upon the visible external appearance of the development when viewed from the public domain areas, nor adjoining educational establishment.

Development standards relating to Part 3A – Car Parking; Part 3C – Access and Mobility; Part 3H – Sustainability; Part 3K – Contamination; and Part 4C – Residential Apartment Buildings are superseded by those contained within SEPP 65 and associated ADG; SEPP (BASIX) and SEPP 55 – Remediation of Contaminated Land. These matters have been demonstrated satisfactory as per the above.

Environmental Planning and Assessment Regulations 2000

The subject modification application is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulations, 2000*.

(b) Likely impacts

The proposed modifications, including reconfiguration of the basement level to provide an additional five (5) parking spaces; internal reconfigurations across Levels 4 and 5; modifications to Unit A705 and additional Units at Level 4 and 5 are considered to have no significant adverse environmental; social or economic impacts on the locality.

The proposed modifications are also demonstrated to have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-14/318.

(c) Suitability of the site

The suitability of the site was addressed in the original approval of DA-14/318 and remain satisfactory in this regard.

(d) Submissions

The modification application was notified and advertised in accordance with the provisions of the Regulations, 2000, and BBDCP 2013. A total of two (2) submissions were received regarding the proposal. One (1) submission was from Sydney Water and one (1) received from the southern adjoining Matraville Public School accompanied by a petition with 177 signatures.

Items of concern and Council responses are provided below.

Concern:

Sydney Water object to the current modification plan as the original development proposal has not been approved by Sydney Water with respect to risk to critical infrastructure.

The development site has critical infrastructure on and adjacent to the site including the Southern and Western Suburbs Ocean Outfall Sewer (SWOOS), Bunnerong Stormwater Channel and a 1050mm stormwater pipe.

Site inspections and aerial images have confirmed that the developer has commenced earthworks on the site without any approvals from Sydney Water.

The developer was issued with a Section 45 Notice of Potential Damage in November 2017, in response to commencing works in site with potential for affecting the trunk sewer SWOOS. A key component of this Notice was instructions to cease works on site, and to seek approval for works that could affect these critical assets. At this stage the works that could affect these critical assets continue at the site.

Council comment:

Council requested confirmation from the Applicant of the above and documentation, including Sydney Water TapIn Ref No. 242286 was submitted demonstrating the above matters have been suitably responded to.

The Applicant has confirmed that the objection raised by Sydney Water does not relate to the subject modification application which does not seek amendments to the built form of the development, other than to Levels 4 and 5 of Building Block A. No changes are proposed to the built form of the basement nor inground works which were completed some time ago.

There are no further matters under heads of consideration in the assessment of this application.

Concern:

Representatives of the Matraville Public School, including Principal and P&C Committee submitted an objection dated 6 February 2018. The matters contained therein referred to *'overshadowing and loss of light to classrooms; gardens areas and solar panels located on the Library roof. We were also concerned that the proposed units would overlook the school and impact on the privacy of the students'*.

At a meeting held on 1 May 2018, the Applicant met with representatives from the Public School to advise that the following further amendments would be made to adequately address the concerns the School had made:

1. Remove the southern facing balconies on Level 4 to Units A707 and A706 to return to non-trafficable roof area;
2. Reorientate sliding doors and windows to bedroom A707 and living room in A706 to minimise the potential for overlooking to the southern adjoining Public School;
3. Removal of the communal rooftop terrace to Level 5;
4. Reconfigure the layout to A804 on Level 5 to minimise the potential for overlooking to the southern adjoining Public School. South facing windows to this Unit are highlight windows servicing bedrooms only; and
5. Increasing the southern edge of the roof terrace 6m from the slab edge to further minimise the potential for overlooking.

The Schools has confirmed the above listed modifications are satisfactory with regards to addressing concerns held by the school community and thanked the Applicant for working together *'to reduce the long term impact of the development on Matraville Public School'*.

(e) The public interest.

Having regard to the above, the proposed modifications are not contrary to the public interest.

CONCLUSION

The proposed development has been considered under sections 4.15 and 4.56 of the *Environmental Planning and Assessment Act, 1979*. The development, as modified, is

substantially the same form of development as that originally approved and will not substantially alter the built form or character of the development, and therefore ensure the development is continued to be carried out in an orderly manner.

The proposal as modified is consistent with the objectives of state and local controls and as such, recommended for approval in this instance.

SCHEDULE OF CONSENT CONDITIONS (AS MODIFIED)**GENERAL CONDITIONS**

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

Drawing No.	Author	Date
<i>Basement 3 Plan, Project No 0915, Drawing No. A02_A, Issue 07</i>	<i>Krikis Tayler Architects</i>	<i>10 November 2017</i>
<i>Basement 2 Plan, Project No 0915, Drawing No. A02, Issue 12</i>	<i>Krikis Tayler Architects</i>	<i>10 November 2017</i>
<i>Basement 1 Plan, Project No 0915, Drawing No. A03, Issue 13</i>	<i>Krikis Tayler Architects</i>	<i>10 November 2017</i>
<i>Lower Ground Plan, Project No 0915, Drawing No. A04, Issue 14</i>	<i>Krikis Tayler Architects</i>	<i>10 November 2017</i>
<i>Ground Level Plan, Project No 0915, Drawing No. A05, Issue 12</i>	<i>Krikis Tayler Architects</i>	<i>25 November 2016</i>
<i>Level 1-2 Plan, Project No 0915, Drawing No. A06, Issue 08</i>	<i>Krikis Tayler Architects</i>	<i>25 November 2016</i>
<i>Level 3 Plan, Project No 0915, Drawing No. A06_A, Issue 02</i>	<i>Krikis Tayler Architects</i>	<i>25 November 2016</i>
<i>Level 4 Plan, Project No 0915, Drawing No. A09, Issue 13</i>	<i>Krikis Tayler Architects</i>	<i>27 April 2018</i>
<i>Level 5 Plan, Project No 0915, Drawing No. A10, Issue 11</i>	<i>Krikis Tayler Architects</i>	<i>27 April 2018</i>
<i>Roof Plan, Project No 0915, Drawing No. A11, Issue 11</i>	<i>Krikis Tayler Architects</i>	<i>27 April 2018</i>
<i>Elevations 1, Project No 0915, Drawing No. A20, Issue 13</i>	<i>Krikis Tayler Architects</i>	<i>27 April 2018</i>
<i>Elevations 2, Project No 0915, Drawing No. A21, Issue 12</i>	<i>Krikis Tayler Architects</i>	<i>27 April 2018</i>
<i>Elevations 3, Project No 0915, Drawing No. A22, Issue 05</i>	<i>Krikis Tayler Architects</i>	<i>15 December 2015</i>
<i>Section A-A, Project No 0915, Drawing No. A30, Issue 04</i>	<i>Krikis Tayler Architects</i>	<i>15 December 2015</i>
<i>Section B-B, Project No 0915, Drawing No. A31, Issue 10</i>	<i>Krikis Tayler Architects</i>	<i>27 April 2018</i>

Apartment Schedule, Project No 0915	Krikis Tayler Architects	24 November 2016
Landscape Plan, Job No. 161114, Dwg No. LP.01/C, Sheet 1 of 1.	Narelle Sonter	December 2016
Material Board, Project No 0915, Drawing No. A60, Issue 06,	Krikis Tayler Architects	Dated 25 November 2016
Document Name	Author	Date
Parking & Traffic Impact Assessment, Ref: 14-196	Thompson Stanbury Associates	Dated December 2014 Received 22 December 2014
NaTHERS Thermal Performance Specifications (BASIX Thermal Comfort), Certificate Number 0001038340	Robert Mallindine	30 November 2016
<i>Revised BASIX Certificate No. 595696M_03</i>	<i>AGA Consultants</i>	<i>Tuesday 5 December 2017</i>
Acoustic Report, Reference No. 201141415.1/0912A/R1/BW	Acoustic Logic	9 December 2014
Preliminary Geotechnical Investigation Report, No. E22374 GA	Environmental Investigations Australia	28 November 2014
Access Report	Accessibility Solution (NSW) Pty Ltd	29 November 2016
Flood Advice for 278 Bunnerong Road, Hillsdale	Cardno	23 November 2016
Stormwater Management Plan, Rev: 14201-001-swmp-Rev A	ABC Consultants	Dated: September 2015 Received: 29 September 2015
Pedestrian Wind Environment Statement, WC297-01F02, Revision 2	Windtech Consultant Pty Ltd	15 December 2014
WC297-02F01- WS Memo	Windtech Consultant Pty Ltd	28 November 2016
Arboricultural Impact Assessment	Tree Wise Men	December 2016
Site Audit Report No. 0503-0705	JBS & G	Dated 22 July 2013 Received 22 December 2014
BCA Compliance Capability Report	Vic Lilli & Partner Consulting	28 November 2016

Further Plans and Documents:

Stormwater Plans approved pursuant to Schedule 1 Condition 1(a)

Revised Architectural Plans approved pursuant to Schedule 1 Condition 1(b)
Updated Access Report approved pursuant to Schedule 1 Condition 1(c)
A revised Landscape Plan approved pursuant to Schedule 1 Condition 1(d)
Waste Management Plan approved pursuant to Schedule 1 Condition 1(e)

[DA-2014/318/5 – S4.56 amended on 12 July 2018]

2. No construction works shall be undertaken prior to the issue of the Construction Certificate.
3. Building works must not encroach on to adjoining lands or other public places, unless authorised by this consent.
4.
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) All plumbing stacks, vent pipes and 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; and,
 - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view.
5. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant approved BASIX Certificate for the development are fulfilled.
 - a) Note Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or,
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate;
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
6. The finishes, materials and colour scheme and facade details approved by this consent shall not be altered or amended at the Construction Certificate stage without a separate Section 96 approval.
7. 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

8. The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 21 March 2015. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

- a) Lighting
 - i) 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.
 - ii) 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).
 - iii) 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.
- b) Space Management
 - i) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emerency.nsw.clov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- c) Access Control
 - i) The door and door frames to these premises should be of solid construction.
 - ii) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance

requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units.

- iii) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily openable without a key from inside that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- iv) Any sliding doors should be fitted with lockable bolts in the bottom and top of the door frame.

9. The proposed development is to comply with the conditions dated 6 November 2015 issued by Sydney Airport Corporation Limited (SACL). The conditions are as follows:

- a) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
- b) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- c) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
- d) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- e) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation. (f) The Secretary and the Airport, as applicable, may request further information before determining an application.
- f) The "Important Notes" must be read and accepted.
- g) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

10. The proposed development is to comply with the recommendations provided by the Roads and Maritime Services (RMS) dated 12 August 2015. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

- a) All buildings and structure, together with any improvements integral to the future use of the site are to wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary.

- b) The design and construction of the vehicular crossing on Bunnerong Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Manager Developer Works, Statewide Delivery, Parramatta (Telephone 8849-2138).

Detailed plans of the proposed vehicular crossing are to be submitted to Roads and Maritime for approval prior to the commencement of any road works.

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

- c) All construction activity associated with the proposed development is to be contained on site as no construction zones will be permitted on Bunnerong Road in the vicinity of the site.
- d) The post development stormwater discharge from the subject site into RMS drainage system should not exceed the pre-development discharge.
- e) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to RMS for approval prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

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

- f) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124
Telephone 8849 2114
Fax 8849 2766

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

below the base of the footings. The notice is to include complete details of the work.

- g) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of the Construction Certificate.
 - h) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.
 - i) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Bunnerong Road.
 - j) All vehicles are to enter and leave the site in a forward direction.
 - k) All vehicles are to be wholly contained on site before being required to stop.
11. The proposed development is to comply with the following advice provided by Ausgrid on 13 May 2015:
- a) Prior to the commencement of works, the developer shall obtain written approval from Ausgrid for any proposed building or infrastructure within 12 metres of the existing substation, S.5663, at No.276 Bunnerong Road. Safety clearances shall be provided for as detailed within Ausgrid publication NS141.
 - b) Prior to the commencement of works, the developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to determine the method of electrical supply for the development.
12. The proposed development is to comply with the following advice provided by Sydney Water on 11 May 2015:
- a) No buildings or permanent structures are to be proposed within 1m from the outside face of the stormwater channel/pipe wall. Permanent structures includes but not limited to basement car parks, hanging balconies, roof eaves, hanging stairs, stormwater pits, stormwater pipes and similar structures This clearance requirement would apply for unlimited depth and height.
 - b) If the development requires direct stormwater connection to Sydney Water's stormwater system, then the connection is to be carried out according to Asset Creation Process as part of the Section 73 application for this development. Further details regarding the Asset Creation Process could be obtained from the nominated Water Servicing Coordinator.
 - c) For the proposed development the drinking water main available for connection is the 100 mm main in Bunnerong Road.
 - d) For the proposed development, the wastewater main available for connection is the 150 mm main constructed under DL 2425.
 - e) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape

designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing> Developing> Land development or telephone 13 20 92.

- f) You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and storm water mains). The depth of the existing stormwater pipe shall be established as part of the building plan approval process. Prior to stamping your development plans by Sydney Water, you may also be required to carry out the CCTV / Dilapidation survey of the stormwater pipe. Bond money also needs to be lodged with Sydney Water prior to stamping the plans. Amount of the bond money is subject to review of the CCTV / Dilapidation survey report.

Release of the bond money is subject to the satisfactory completion of the construction work according to the conditions determined by Sydney Water, as part of the building plan approval process and review of the final

CONSIDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR STRUCTURE OR ISSUE OF ANY CONSTRUCTION CERTIFICATE

13. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
- a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This persons full name and address.
 - c) Details of Public Liability Insurance.
- 14.
- a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority.
 - b) The demolisher shall comply with Australian Standard 2601 - 1993 "Demolition of Structures".
 - c) All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
 - d) The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
 - e) No demolition materials shall be burnt or buried on the site.
 - f) Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.

15. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.
16. Prior to issue of any Construction Certificate, a Dilapidation Report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a Practising Structural / Geotechnical Engineer and submitted to Council. The report shall include records and photographs of the adjoining properties that will be impacted by the development:
- a) Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the all properties immediately adjoining the site;
 - b) In relation to Council's infrastructure, the report shall include at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure. The survey shall detail the physical conditions and identify any existing damage to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development.
 - c) Prior to commencement of the surveys, the applicant/ owner shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making any future claim regarding property damage. A copy of this communication shall be submitted to Council.
 - d) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.
 - e) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities, including Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
 - f) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of all works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners.
- (Note:** Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.)
17. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this

regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Bayside Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

18. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
19. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
 - a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
20. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
 - a) Occupational Health and Safety Act, 2000;
 - b) Occupational Health and Safety Regulation 2001;
 - c) Protection Of the Environment Operations Act 1997 (NSW); and
 - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
21. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
 - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
22. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
 - a) AS2601-2001 - Demolition of structure.

- b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings.
 - c) Requirements of the NSW WorkCover Authority.
23. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
 24. No demolition materials shall be burnt or buried on the site.
 25. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
 26. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
 27. The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
 - a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
 28. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.

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

29. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees, with details provided elsewhere within these conditions. A summary of the payments is as follows:-
 - a) Builders Damage Deposit \$120,000.00

- | | | |
|----|---|----------------|
| b) | Development Control | \$12,900.00 |
| c) | Section 94 Contributions | \$1,065,963.27 |
| d) | Tree Preservation Bond | \$150,000.00 |
| e) | Landscape Completion Bond | \$7,500.00 |
| f) | Street Tree Performance Bond | \$4,000.00 |
| g) | <i>Additional S7.11 Contribution for the DA-2014/318/5 \$48,440.06 as indexed for the 2018/19 financial year.</i> | |

[DA-2014/318/5 – S4.56 amended on 12 July 2018]

30. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the Botany Bay Section 94 Contributions Plan 2016, a contribution of \$1,065,963.27 (as indexed in September 2017) is to be paid to Council prior to the issue of the first Construction Certificate. The Section 94 Contributions are broken up as follows:

- | | | |
|----|----------------------------------|--------------|
| a) | Community Facilities - Citywide | \$182,916.18 |
| b) | Recreation Facilities - Citywide | \$794,550.74 |
| c) | Transport Management - Citywide | \$74,864.56 |
| d) | Administration | \$13,631.79 |

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

In accordance with the Botany Bay Section 94 Contributions Plan 2016, an additional contribution of \$48,440.06 as indexed for the 2018/19 financial year is payable prior to the issue of the relevant Construction Certificate. The Contributions are broken up as follows:

- | | | |
|----|---|--------------------|
| e) | <i>Community Facilities – Citywide</i> | <i>\$8,234.81</i> |
| f) | <i>Recreation Facilities – Citywide</i> | <i>\$15,985.22</i> |
| g) | <i>Parks and Public Domain</i> | <i>\$16,954.02</i> |
| h) | <i>Transport Management – Citywide</i> | <i>\$6,781.61</i> |
| i) | <i>Administration</i> | <i>\$484.40</i> |

[DA-2014/318/5 – S4.56 amended on 12 July 2018]

31. It should be noted that a basement car park stormwater pump-out system will be only considered after all avenues to draw the property by gravity are exhausted. The basement car park stormwater pump-out system will not cater for (a) subsoil water (which are not allowed to intrude into the carpark) and (b) any stormwater that

originates from a level that is above the top of the adjacent street kerb or, if no street kerb, the level of the existing ground at the property boundary at the road reserve.

In order to make satisfactory arrangements for the operation of the stormwater pump-out system, the system shall be designed and constructed to ensure the following are provided:

- a) A holding tank capable of storing the run-off from a 100 year ARI – 12 hour duration storm event allowing for pump failure.
 - b) Two pump system (on alternate basis) capable of emptying the holding tank at a rate equal to the lower of the permissible site discharge (PSD) rate; or the rate of inflow for the one hour, 5 year ARI storm event
 - c) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans
 - d) Submission of full hydraulic details and pump manufacturers specifications
 - e) Pump out system to be connected to the on-site infiltration system or a stilling sump and gravity line before discharge to the street drainage or, if no drainage, the gutter.
 - f) Plans and calculations are to be submitted and approved along with certification from the designer to indicate that the design complies with the above requirements, prior to the release of the Construction Certificate.
32. Stormwater plans shall to be submitted to Council or Principal Certifying Authority prior to the release of the Construction Certificate. The proposed stormwater drainage system shall be designed according to Council's current Guidelines for the Design of Stormwater Drainage Systems. The plans must be certified (by the appropriate practicing expert) that they have been "designed in accordance with Council's current Guidelines for the Design of Stormwater Drainage systems, and other current industry standards, codes and guidelines".
33. A drainage report is to be submitted that satisfactory address the following:
- a) The stormwater plans indicated proposal to dispose the site stormwater runoff to Sydney Water stormwater system via a combined OSD/Rainwater detention tank.
 - b) The provision of a stormwater drainage model utilized a time of concentration of 14.85 minutes without any qualification to support the adoption of such time to calculate the predevelopment flow. The model will need to be re-analysed using a "more detailed data" option to calculate the predevelopment flows. Additionally, the following have not been allowed for in the model:
 - i) All storm durations from 5 minutes to 3 hours inclusive are to be analysed for the 1 in 1 year to the 1 in 100 year ARI inclusive.
 - ii) Flows by-passing the basin and thus form part of the site total PSD has not been accounted for. The model showed a predevelopment site area

of 0.46ha, however only a catchment area of 0.364ha has been accounted for

- c) Further, the following deficiencies have also been identified which will need to be addressed.
 - i) The current design will lead to contamination of RWT reuse system as balcony runoff is proposed to be connected to the RWT and when the OSD water level RL 16.75 as there is no separation between the system.
 - ii) Proposal to drain sub-soil drainage to pump-out is not permitted. The basement shall be designed as a fully tanked structure and allow for free passage of sub-surface flow around the basement area.
 - iii) The driveway catchment draining to the basement of 540m² is excessive this must be limited to a maximum of 100m².
- 34. Prior to the issue of the Construction Certificate, a report is required from a practicing civil engineer (NPER) certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.
- 35. All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment prior to entering the public stormwater system. Details of the pollution control device shall be submitted to principal certifying authority prior to the issuing of the Construction Certificate.
- 36. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soil and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of the 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 SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 37. Access to the underground parking is to be above the 100 year ARI flood level.
- 38. The proposed traffic movements and parking arrangements within and adjoining the development shall conform to the current versions of Council's off-street parking DCP; Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation unless otherwise stipulated by another condition of consent. All off street resident, disabled, visitor and commercial parking shall be provided in accordance with the approved plans, Australian Standards AS 2890.6 and Council requirements
- 39. 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.
 - iii) As is made necessary by this development, any Ausgrid power or lighting poles along the Bunnerong Road frontage which Ausgrid requires to be decommissioned and new light pole(s) and associated underground infrastructure shall be provided as specified by Ausgrid, RMS and any other affected service provider. The location of the new electrical pillars shall be confirmed with Council prior to the issue of the Construction Certificate.
- c) Any costs in the relocation, adjustment, provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

These matters shall be determined prior to the issue of any Construction Certificate.

- 40. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$120,000.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 41. Provision shall be made for waste vehicles to access the loading bay and manoeuvring area. The access at a minimum is to be designed for a Medium Rigid vehicle (MRV) and turning templates are to be submitted, demonstrating compliance.
- 42. Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by the Consent Authority prior to issue of a Construction Certificate. All works must be approved by Council prior to issue of a Construction Certificate.
- 43. The Applicant is to submit payment for a Tree Preservation Bond of \$150,000.00 to ensure protection of trees # 2, 11, 13 and 16-19 on the adjoining property to the north from damage during construction. It is understood by both parties that the pruning of tree #13 may result in rapid decline of this tree. The duration of the Bond shall be limited to a period of 36 months after issue of the Occupation Certificate. At the completion of the 36 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
- 44. The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$7500.00 for a period of three (3) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in

accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to three (3) years.

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of any Occupation Certificate by the Principal Certifying Authority.

45. The Applicant is to submit payment of a Street Tree Performance Bond of \$4000.00. The duration of the Bond shall be limited to a period of 9 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover, Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
46. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
47. Prior to the issue of the Construction Certificate, the acoustic treatments recommended in the approved acoustic report are to be incorporated into the plans to be submitted with the Construction Certificate. If the applicant choses to install air conditioning to meet the mechanical ventilation requirements, the installation must be designed to meet the additional requirements, applying to air conditioners on residential properties contained in the Protection of the Environment Operations (Noise Control) Regulation 2000. (Information attached in the Advisory section). Details shall be submitted to Principal Certifying Authority prior to the release of the Construction Certificate
48. The following requirements apply to telecommunication facilities in the building:
 - a) Appropriate access and space within the plant area of the building shall be provided for telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
 - b) Appropriate ducting and cabling shall be provided for telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.

The details of (a) and (b) above shall be submitted for the approval of the certifying authority, prior to issue of a Construction Certificate for the building under the Environmental Planning and Assessment Act 1979.

49. Detailed mechanical ventilation system plans and specification prepared by a *professional practising engineer*, as defined by the Building Code of Australia, must be submitted to Principal certifying authority prior to the release of the Construction Certificate certifying compliance with AS/NZS 1668 *The Use of Mechanical Ventilation and Air Conditioning in Buildings*, Part 1-2002: *Fire and smoke control in multi-compartment buildings* and Part 2-2002: *Ventilation design for indoor air contamination control*. (Note: BCA has not yet adopted the 2002 Standards and still utilises the previous 1991 AS1668).
 50. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and AS1668.2. Details to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
 51. Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:
 - a) identify each item of plant and equipment;
 - b) the following additional criteria adopted by Bayside Council:
 - i) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
 - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.
 - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds L_{Aeq} 65dB(A) day time/night time.
 - iv) For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- Note** “sensitive” positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
52. A Waste Management Plan prepared in accordance with Council’s Waste Management and Minimisation Guidelines Development Control Plan shall be submitted to the Council for approval prior to the release of the Construction Certificate. The Waste Management Plan shall include the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities.
 53. Prior to the release of the 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.

54. Prior to the issue of the 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.
55. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
56. The proposed development will result in substantial excavation that has the potential to affect adjoining buildings and proposed public infrastructure.

Prior to the issue of the Construction Certificate, the applicant shall:

- a) seek independent advice from a Geotechnical Engineer on the impact of the proposed excavations on the adjoining properties;
- b) detail what measures are to be taken to protect those properties from undermining during construction; and
- c) provide Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties.

All recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

57. Prior to the issue of the Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority. Storage of Waste and recycling shall meet the following requirements.

The rooms for the storage of garbage and recyclable materials shall be:

- a) Fully enclosed;
 - b) Adequately ventilated;
 - c) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - d) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
 - e) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
58. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:-

- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- b) The proposed phases of construction works on the site and the expected duration of each construction phase.
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent.
- i) Proposed protection for Council and adjoining properties.
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- k) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
- l) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. Site access and egress is to be generally obtained from Bunnerong Road.
- m) Obtain Permits required under this consent.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR ABOVE GROUND WORKS

- 59. An experienced Landscape Contractor only shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period

of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

60. A public domain plan shall be submitted for approval by Council's Landscape Architect. The public domain and Council footpath area shall be upgraded with new paving, street tree planting and landscaping, to be installed by the Applicant. All improvements shall be in accordance with the Council approved public domain plan and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of any Occupation Certificate.
- a) Street trees species and spacing to be in accordance with Council's Street Tree Masterplan
 - b) Trees shall be sourced from a reputable supplier that grows to AS2303:2015.
 - c) A Dial-Before-You-Dig service enquiry is required prior to all street tree planting.
 - d) Planting methodology shall be in accordance with Council's Street Tree Masterplan.
 - e) Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post planting.
61. Prior to the issue of the construction certificate, the architectural plans shall be amended to include gas and water tap connections to each private open space area.
62. Circulation spaces shall be well lit at night, with any lighting on the site 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.

All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and the installation of solar power to external space lighting. Details are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

63. Appropriate noise insulation shall be provided between common walls within residential apartments. Details shall be provided to the Principal Certifying Authority

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

64. The applicant shall conduct all construction and related deliveries wholly on site or shall make a separate application to Council's Engineering Services Department for a "Work Zone" adjacent to the development site. This application should be submitted one (1) month prior to the planned commencement of building works on the development site. Application forms are available at Council's Customer Service Counter.
65. A Traffic Management Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with the requirements of current Australian Standard 1742.3 (Traffic Control Devices for Works on Roads) and current RMS Traffic Control at Work Sites

manual. Any persons preparing such traffic control layout plans shall be RMS accredited.

66. In order to ensure that all trees on the adjoining property to the north of the site, that is, trees :

#2 (16 x 20m Port Jackson Fig)

11 (20m Tallowwood)

13 (16m Wallangarra White Gum)

16-19 (various Eucalypts and Port Jackson Fig 9-22m high),

as identified in the Arborist Report by Tree Wise Men Australia Pty Ltd dated December 2016, are protected at all times during construction, and their health and structural stability ensured, the following is required :

- a) The Applicant must engage the Consultant Arborist *Tree Wise Men Australia Pty Ltd* for erection of the TPZ, all tree root and canopy pruning work to trees required to facilitate construction and comply with the tree protection plan contained within the report from *Tree Wise Men Australia Pty Ltd* dated December 2016.
- b) The above trees to be retained and protected are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the report of *Tree Wise Men Australia Pty Ltd* dated December 2016..
- c) Prior to commencing demolition the trees are to be physically protected by fencing underneath the canopy dripline or as specified by the project Arborist using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall contain signage notifying of the TPZ and requirements for access.
- d) The fence shall remain in place at all times until construction is completed.
- e) The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The Applicant is to notify the owners of the adjoining property if pruning is required.
- f) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails) in accordance with Arborist recommendations. Ground protection measures must also be installed including mulch to a depth of 100mm and rumble boards or track mats on top of the mulch. The project Arborist must ensure that this ground protection is maintained and in workable conditions at all times.
- g) Before any demolition or construction works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.

- h) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- i) All TPZ's are strictly a "No-Go" zone. There shall be no access, 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 the Consultant Arborist.
- j) Where unavoidable foot access is required in the TPZ and as approved by the project Arborist, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- k) Excavation within the canopy dripline AND within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance.
- l) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of the Project Arborist only, after a site inspection so as not to impact the tree.
- m) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. Canopy pruning is to be undertaken by the Project Arborist and shall be undertaken by in accordance with AS 4373.
- n) The pruning of tree #2 must be carried out in accordance with the report dated December 2016 from The Tree Wise Men. A detailed pruning specification must be provided by Tree Wise Men with all branches which are proposed to be pruned marked with tape or paint and clearly numbered. The exact location of the final cut must be clearly indicated. The pruning must be done under direct supervision of the report's author and council must be notified of the scheduled date so that a council officer may attend to inspect the works if so desired. Final pruning cuts are to be no more than 1m clear of the proposed structure adjacent to the branch to be pruned and any foliage that does not directly conflict with the proposed structure is to be retained.
- o) If piling rigs are to be used for the basement construction, the specified pruning must be completed prior to piling. The size of the piling rig must be minimised to prevent additional damage to the tree canopy by the piling rig mast. There is to be no additional pruning for machinery access. Any branches which conflict with the piling rigs operation must be tied back or carefully manipulated with a hand winch in order to maintain clearance of the machinery. Any use of piling rigs must be directly supervised by the project Arborist at all times. The project Arborist is to prepare a certification report to document this process. Prior to piling, council and the project Arborist must be provided with a proposed schedule so that a site inspection can be arranged to inspect the machinery and confirm that canopy protection is adequately managed.
- p) The project Arborist shall make weekly visits to site to check on the condition of the trees to be retained and to ensure that all tree protection measures are in place and are effective. The project Arborist shall provide a written monthly inspection report to council noting any changes to the trees condition and providing potential options for remediation if required. If any significant changes

in tree health are noted or tree protection measures are not being adhered to, the project Arborist is required to contact council immediately.

- q) Any masonry boundary fencing/walls or retaining walls on the northern site boundary shall be of pierced or bridged construction to minimise damage to tree roots. Trench or strip footings are NOT permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.
- r) There shall be no change in existing levels or trenching for new subsurface utilities within the primary root zone of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- s) All waste concrete and debris shall be removed from areas to be landscaped on the site, not buried, to minimise soil contamination.
- t) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council or the Consultant Arborist at the completion of construction.

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

- 67. A detailed plan shall be provided for the design of a public access pathway, adjoining the southern boundary of the site, linking Bunnerong Road with Rhodes Reserve. The Applicant shall consult with Council's Engineering and Landscape Departments to ensure materials, dimensions and location are suitable. The path location shall be contiguous with the approved plans and be inclusive of landscaping and tree planting.
- 68. Existing structures and or services on this and adjoining properties are not to be endangered during any excavation or construction work associated with the above project. The application is to provide details of any shoring, piling or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilize any adjacent structures.
- 69. The Principal Certifying Authority must be satisfied that: -
 - a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the

definition of *owner builder work* in Section 29 the Home Building Act 1989.

70. 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.
71. 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:
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - c) Permit for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve
 - e) 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.
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands
 - h) 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.
 - i) 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).

Copies 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.

72. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
73. Erosion and sediment control devices shall be installed and in function prior to the commencement of any 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, including the Protection of the Environment Operations Act 1997. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

74. Excavation associated with this development shall cease immediately should groundwater be encountered, with
- i) Groundwater then being tested by a laboratory accredited by the National Association of Testing Laboratories (NATA) to NSW Office of Water suite of analytes; and
 - ii) No de-watering from the site will occur until (i) above has taken place.

A separate development application is required for dewatering works.

- 75.
- 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) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - c) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - 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) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
76. Care must be taken to protect Council's roads, including the made footway, kerbs, etc and where plant and vehicles enter the site. Protecting constructions shall be maintained in a state of good repair and condition throughout the course of construction and kept in a safe condition. The area must be safe for pedestrian traffic at all times. Any damage to Council's road reserve will be repaired and the full cost shall be borne by the applicant.
- 77.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - c) 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.
78. Council's footway is to be kept clean, tidy, washed and maintained at the applicant's expense.
79. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.

80. 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: -
- a) Approved Erosion and Sediment Control Plan;
 - b) Approved Construction Traffic Management Plan;
 - c) Approved Construction Management Plan; and
 - d) Approved Waste Management Plan.

81. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

82. Council requires an application to discharge water to a Council road or stormwater system. The application must be made in writing to Council estimating volume and number of days involved and must be accompanied by a current dewatering license from the NSW Office of Water. For water to be permitted to go to stormwater the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. If the groundwater does not meet these guideline levels a Trade Waste Permit from Sydney Water must be sought to put the groundwater to sewer.
83. All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.
84. 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.
85. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish

particulars of the excavation to the owner of the building being erected or demolished;

- d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
 - ii) Adequate provision must be made for drainage.
86. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
87. 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*.
88. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
89. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.

90. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2005.

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

91. 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.
92. 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 other plant and equipment.
93. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
94. 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.
95. During demolition, excavation, construction and any associated delivery 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.
96. The development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise
 - i) 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:

- 1 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:
 - 1 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
 - i) Monday to Friday 07:00am to 06:00pm
 - ii) Saturday 07:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
- d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.
97. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
98. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Soil and Water Management Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
99. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
100. The new fence proposed for the entire length of the northern boundary of the property is to be constructed at the expense of the applicant.

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

101. A Flood Emergency Response Plan (FERP) is to be prepared by an experienced flood engineer. The FERP is to detail how flood risks to people and property are to be safely managed in a flood. The FERP is to include procedures for maintenance and implementation of the FERP before, during and after a flood. Safety risks of all persons on site are to be addressed including people in the basement carpark. The FERP is also to show how people can safely evacuate to a flood free refuge above the reach of the probable maximum flood (PMF).

102. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site.
103. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of any Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.
104. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards
105. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
 - a) Restriction on Use of Land for On-Site Stormwater Detention / Infiltration System. Refer to Appendix B of Council's Stormwater Management Technical Guidelines for suggested wording.
106. A copy of the approved kerb and guttering plans showing Work as Executed details together with an electronic copy shall be prepared by a registered surveyor and submitted to Council prior to the issue of any Occupation Certificates.
107. The public access pathway shown on the approved plans, adjoining the southern boundary of the site, linking Bunnerong Road with Rhodes Reserve shall be completed to the satisfaction of Council prior to the issue of any Occupation Certificate.
108. The landscaped areas on the property shall be installed and maintained at all times in accordance with the approved landscape documentation, the conditions of consent and BBDCP2013.
109. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the issue of any Occupation Certificate.
110. The Council nature strip shall be repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
111. A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
112. To ensure satisfactory growth and maintenance of all 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.

113. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :
- a) Ensure planter soil depths in accordance with Council's BBDCP2013 (minimum 1 metre depth for trees).
 - b) 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.
 - c) 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.
 - d) 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.
 - e) 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.
 - f) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
114. Any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location 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. The fire booster assembly must be housed within the external face of the building structure OR within a suitable masonry enclosure with screen doors to ensure screening from public domain and entry areas.
115. Prior to the issue of any Occupation Certificate, the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the approved acoustic report has been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
116. 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 any Occupation Certificate

117. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
118. All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.
119. 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.
120. All vehicular crossings are to be constructed. Prior to the issuing of any Occupation Certificate (or the completion of work or the use of the building), the applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted. The footway area must be restored by turfing.
121. Prior to the issue of any Occupation Certificate, the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied:-
 - a) Written confirmation / completion certificate obtained from Council's engineers;
 - b) Inspection reports (formwork and final) for the works on public domain and road reserve area obtained from Council's engineer; and
 - c) 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.
122. Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
 - a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - b) The development as built stands within the subject land.
123. The car parking spaces shall be made available to occupants and visitors at all times, with such spaces being clearly marked and signposted prior to issue of any Occupation Certificate. The Allocation of the car parking shall be as indicated on the

approved plans, except where modified by these conditions. A minimum of half of the approved adaptable dwellings shall be provided with an accessible parking spaces.

124. The floor surface of the entry area, kitchen and internal storage, of each two-bedroom and three-bedroom apartment, are to be water-resistant and easy to be cleaned and maintained, i.e. not carpet.
125. Street numbers shall be clearly displayed with such numbers being of contrasting colour, of adequate size and location for viewing from the footway and roadway, and in accordance with the NSW Addressing Policy.

All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction. Letter boxes shall be located in lobbies or perpendicular to the street alignment, with no interference with proposed landscaping.

Details of street numbering, letter boxes, and apartment numbers, shall be submitted to Council for approval prior to the issue of the Occupation Certificate.

126. A copy of any Building Management Statement and By-Laws shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 14/318 and include:
 - a) 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. 14/318;
 - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 14/318;
 - c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, 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;
 - d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are available for collection adjacent to the lower ground level loading bay depicted on the approved plans, 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 before 12.00 noon;
 - e) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
 - f) 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;

- g) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, 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;
- h) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- i) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
- j) CCTV surveillance of all public areas within the development site; and

127.

- a) Residents of this development are not eligible to participate in Council's on-street resident parking scheme. Before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised of this by the owner of the building.
- b) Prior to the issue of any Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building;
- c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.

128. A suitable intercom system linked to all units within the development shall be provided at pedestrian and vehicle entrances to ensure that any legitimate visitors to the site can gain access to the development, including the visitor parking located in the car parking area. The details of the intercom system shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

129. Each apartment and non-residential unit shall be provided with individual water meters.

130. Written evidence is required to be provided to Council prior to the issue of any Final Occupation Certificate from all service providers such as Sydney Water, Energy Australia and their telecommunication provider, confirming that adequate infrastructure can and/or has been provided to the development.

131. The car parking spaces within the basement shall be made available to occupants and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate. The Allocation of the car parking shall be as indicated on the approved plans.

132. The applicant must prepare and register on title a restriction on use in favour of Council under section 88B and a positive covenant under Section 88E of the *Conveyancing Act 1919* burdening the owner of the property with the following:

- a) The Flood Emergency Response Plan (FERP) prepared pursuant to Condition 100 of this consent is to be implemented and is to be updated should flood conditions change for the site.

The terms of the 88B and 88E instruments are to be submitted to Council for review and approval prior to registration. Proof of registration at LPI Office shall be submitted to the PCA and Council prior to the issue of the Occupation Certificate.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

133. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.

134. The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction, and in accordance with conditions of consent, approved landscape plans and BBDCP 2013, at all times. There shall be no trimming of trees within the property without the permission of Council nor the removal of trees by individual owners or the strata. The automatic drip irrigation system shall be maintained in working order at all times.

135. Adaptable dwellings shall be provided as indicated within the approved plans

136.

- a) All waste and recycling containers shall be stored in the designated waste storage areas within the building. 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.
- b) The adaptable apartments approved under this development consent are to remain as adaptable apartments at all times;
- c) Any storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times;
- d) The approved Waste Management Plan shall be complied with at all times during the on-going use of the site / premises;
- e) No waste or waste containers shall be placed on the public way (including: footpaths, roadways and reserved) at any time.

137.

- a) The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
 - b) New street trees shall be maintained by the Applicant/Owner/Strata for 12 months after planting. Maintenance includes twice weekly watering to sustain adequate growth and weed removal but does not include trimming or pruning the trees under any circumstances at any time.
 - c) 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.
138. Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
139. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
140. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
141. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
142. Any air conditioning units shall comply with the following requirements:
- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.

143. Any intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
144. The Flood Emergency Response Plan is to apply to the property in perpetuity and must be upgraded should flood conditions change for the site.
145. All loading bays are common property and are to be used for loading only.
146. The Bulky Waste area is to be kept clean, tidy and contained.
147. No garbage bins are to be placed or picked up on the Bunnerong Road Street Frontage. If the Council is not prepared to pick up the garbage this will be picked up by a private contractor.
148. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

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

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

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Advisory Note

149. The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 21 March 2015. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

- a) Surveillance

- i) 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. It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.

- ii) Any proposed landscaping and vegetation should adhere to the following principles:

- 1 Shrubs, bushes, plants should remain under 900mm in height.

- 2 Branches of large trees should start at a height of two (2) metres and higher. This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- iii) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
 - iv) 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.
 - v) 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.
- b) Lighting
- i) 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 business.
 - ii) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.
- c) Territorial Reinforcement
- i) Clear street number 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 (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
 - ii) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - 1 Warning, trespasser will be prosecuted
 - 2 Warning, these premises are under electronic surveillance
 - iii) Directional signage should be posted at decision making points (e.g. 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.
 - iv) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment

Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.

- v) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
 - vi) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
 - vii) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
 - viii) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
- d) Access Control
- i) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks which comply with the Australian Standard — Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such as wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
 - ii) 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.
 - iii) The main entry/egress doors to the development should have an electronically operated lock which requires a 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.