

**Development Consent Conditions
(Medium Density Residential)**



Folder /DA No:	DA/489/2024
Property:	11 Jennifer Street, LITTLE BAY NSW 2036
Proposal:	Amending DA to the Stage 2 application to provided 15 additional dwellings to be used as affordable housing by adding additional storey to the 3 storey parts of the buildings, consolidating two northern buildings into a single building, new rooftop communal areas, amendments to apartment mix and layouts, reconfiguration of the basement and addition of a half basement resulting in addition 32 car spaces and dedicated bicycle parking area.
Recommendation:	Approval

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

Condition

- 1. Approved plans and documentation**
Development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>
<i>Architectural</i>		
A 2.020 Revision F	Hill Thalys	12/11/2024
A 2.026 Revision B	Hill Thalys	1/8/2024
A 2.027 Revision B	Hill Thalys	1/8/2024
A 2.028 Revision B	Hill Thalys	1/8/2024
A 2.100 Revision A	Hill Thalys	28/5/2024
A 2.108 Revision A	Hill Thalys	28/5/2024
A 2.109 Revision C	Hill Thalys	13/9/2024

Condition		
A 2.110 Revision B	Hill Thalys	2/8/2024
A 2.111 Revision B	Hill Thalys	2/8/2024
A 2.112 Revision B	Hill Thalys	2/8/2024
A 2.113 Revision B	Hill Thalys	2/8/2024
A 2.114 Revision B	Hill Thalys	2/8/2024
A 2.115 Revision B	Hill Thalys	2/8/2024
A 2.201 Revision B	Hill Thalys	2/8/2024
A 2.202 Revision B	Hill Thalys	2/8/2024
A 2.203 Revision B	Hill Thalys	2/8/2024
A 2.204 Revision B	Hill Thalys	2/8/2024
A 2.211 Revision A	Hill Thalys	28/5/2024
Landscape Design Concept Report	Turf	August 2023

<i>BASIX Certificate No.</i>	<i>Dated</i>
1349953M_07	05 August 2024
BASIX Compliance Report P00366	05 August 2024

In the event of any inconsistency between the approved plans and supplementary documentation, the approved drawings will prevail.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
2.	<p><u>Amending DA and Concept plan</u></p> <p>This consent must be implemented in conjunction with the development under DA/580/2022 including any associated modification applications.</p> <p>Condition reason: To ensure the amending DA is carried out in conjunction with the previous Detailed Stage 2 DA approval.</p>
3.	<p><u>Consent Requirements</u></p> <p>This determination made under DA/489/2024 amends the determination made under DA/580/2022 only in so far as the modifications referenced in</p>

Condition
condition 1 of this consent and any additional/amending conditions attached to this consent.

Condition Reason: To ensure any requirements under DA/580/2022 are retained inclusive of the amending components of this DA and are included in the Construction Certificate documentation.

4. **Affordable Rental Housing Component**

The units identified as affordable housing on plan A 2.020 Revision F by Hill Talis dated 12/11/2024 shall be provided as affordable housing in accordance with the SEPP (Housing) 2021.

- a) The dwellings to be used for the purposes of 'affordable housing', as per the provisions of the SEPP (Housing) 2021 shall be used as such for at least 15 years from the date of the issue of the Occupation Certificate.
- b) Two (2) of the dwellings referenced in a) above must be used as affordable housing in perpetuity. Details of the dwellings are to be submitted to and approved by Council's Manager Development Assessment prior to the issue of the Construction Certificate.
- c) The affordable housing component (secured for a minimum of 15 years including the 2 units in perpetuity) must be managed by a registered Community Housing Provider (CHP).
- d) The CHP must ensure compliance with the occupant restriction and others provisions of the regulatory code established through regulations under the Housing Act 2001.
- e) A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 that will ensure that the requirements a. and b. are met and that the terms of restriction may not be varied without Council's consent.
- f) Prior to an Occupation Certificate being granted, evidence must be provided to Council demonstrating that the section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

Condition Reason: To ensure the affordable housing component is provided in accordance with the consent and managed in accordance with the Housing SEPP.

5. **Housing and productivity Contribution**

- a) The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Housing and productivity contribution	Amount
Housing and productivity	\$40,000

Condition	
contribution (base component \$10,000 x 4 units)	
Total housing and productivity contribution	\$40,000

- b) The amount payable at the time of payment is the amount shown in condition a) as the total housing and productivity contribution adjusted by multiplying it by *consent PPI number*.

where:

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and consent PPI number is the PPI number last used to adjust HPC rates when consent was granted, and June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

- c) The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate

In the Table, **HPC Order** means the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

- d) The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
- e) If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
- the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with

condition b) at the time of payment.

Despite condition a), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Condition reason: To facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a contribution (a housing and productivity contribution) to be required.

6. **Aboriginal and archaeological heritage**

This site is relatively undisturbed, and in proximity to areas of indigenous provenance. Therefore, all contractors/trades persons involved in excavation works must be formally made aware of at least the possibility of archaeological remains or Aboriginal objects. In the unlikely event that such historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken, and the NSW Heritage Office notified under the requirements of the Heritage Act.

Condition Reason: To ensure aboriginal and archaeological heritage is protected.

7. **Heritage conservation**

The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.

8. **Section 7.12 Development Contributions**

In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$14,852,586 the following applicable monetary levy must be paid to Council: \$148,526.00 (in addition to the contributions required under DA/580/2022).

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone **9093 6000** or **1300 722 542** for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

IDC = ODC x CP2/CP1

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council
CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Condition Reason: To ensure relevant contributions are paid.

9. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.

Condition Reason: To ensure the long service levy is paid.

10. **Sydney Water**

All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

The Tap in™ service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

Condition Reason: To ensure the development satisfies Sydney Water requirements.

11. **Building Code of Australia**

In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 69 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).

Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.

Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.

12. **BASIX Requirements**

In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.

13. **Design Alignment Levels (This condition supersedes condition 52 in DA/580/2022)**

The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$6976 calculated at \$63.00 per metre (as of 1st July 2024) of Jennifer St site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

Condition Reason: To ensure fees align with the current fee schedule and to ensure payment of fees to Council.

14. **Site stability, Excavation and Construction work**

A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:

- a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties.
- b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
- c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
- d) Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.
- e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate.

Condition Reason: To control and manage site stability, excavation and construction work.

15. **Waste Management (This condition replaces condition 58 in DA/580/2022)**

The submitted operational waste management plan has not been approved a part of this consent. An amended Operational Waste Management Plan (OWMP) detailing the waste and recycling storage and removal strategy for operational phase of the development, is required to be submitted to and approved by Council's Lead Specialist Strategic Waste.

The Operational Waste Management plan is required to be prepared in accordance with Council's Waste Management Guidelines for Proposed Development and must include the following details (as applicable):

- The use of the premises and the number and size of occupancies.
- The type and quantity of waste to be generated by the development Waste storage facilities and equipment.
- Access and traffic arrangements.
- The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials.

NOTES

- Use of Compaction will not be permitted.
- Use of 1100L bins for kerbside collection is not permitted.

Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's Customer Service Centre.

Condition

Condition reason: To ensure the operational waste management plan meets Council requirements.

16. **Waste management. (This condition replaces condition 59 in DA/580/2022).**

The waste bin storage area/s in the basement shall be sized to contain a minimum of **18 x 660L** bins for garbage, **49 x 240L** bins for recycling and **8 x 240L** bins for FOGO waste. Plans submitted for the construction certificate shall demonstrate compliance with this requirement. Other bin sizes may be considered in the revised operational Waste Management Plan.

Condition Reason: to ensure appropriately sized bin area is provided.

17. **Landscape Plans (This condition replaces condition 65 in DA/580/2022).**

Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Design Concept by TURF, dwg's LA01-23, issue F, dated August 2024, (superseding landscape plans referenced in condition 59 of DA/580/2022), with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.

Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.

BEFORE BUILDING WORK COMMENCES

Condition

18. **Building Certification & Associated Requirements**

The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:

- a) a *Construction Certificate* must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a Registered (Building) Certifier must be appointed as the *Principal Certifier* for the development to carry out the necessary building inspections and to issue an occupation certificate; and
- c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the *Home Building*

Condition
<p><i>Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and</p> <p>d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and</p> <p>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p> <p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
<p>19. Occupation Certificate Requirements An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
<p>20. Post-construction Dilapidation Report A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p> <p>a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and</p> <p>b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent.</p> <p>The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.</p> <p>Condition reason: To ensure the applicant and the adjoining property owners rights and obligations are protect with regard to site conditions after</p>

development is completed.

21. **Sydney Water (This condition replaces condition 122 of DA/580/2022)**

A compliance certificate must be obtained for the amending DA from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to the issuing of an Occupation Certificate.

Condition Reason: To ensure adequate water services will be provided for the site.

22. **Landscape Certification (This condition replaces condition 128 in DA/580/2022).**

Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Design Concept by TURF, dwg's LA01-23, issue F, dated August 2024.

Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.

23. **BASIX Requirements**

In accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.

Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.

24. **Street and/or Sub-Address Numbering**

Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or

Condition
<p>unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.</p> <p><i>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>

OCCUPATION AND ONGOING USE

Condition
<p>25. Use of parking spaces</p> <p>The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>
<p>26. Fire Safety Statement</p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.</p> <p>Condition Reason: To ensure Fire safety certification is required under this consent.</p>
<p>27. Environmental Amenity</p> <p>External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition Reason: To protect the amenity of surrounding area.</p>
<p>28. Treatment of Site Fencing and Hoardings</p> <p>Any site hoarding or fencing, including temporary, construction, perimeter or safety fencing, are to incorporate artwork or historic images of the local</p>

Condition

area to improve the visual amenity of the site during demolition and for the interim period until construction is completed on the site.

Details of artwork and/or historic images, and of the fencing/hoarding, are to be submitted to and approved by Council's Manager Development Assessment prior to the commencement of any works on site including demolition.

The approved artwork/historic images are to remain on the fencing/hoarding throughout demolition works, and until such time as the construction works including the future development on site has been fully completed.

Any graffiti on the hoarding/fencing shall be removed at the expense of and by the developer/owner.

Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.
