



# **BUSINESS PAPER**

## **LOCAL PLANNING PANEL MEETING**

**Wednesday 27 September 2023  
at 4:00pm**



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### **GENERAL BUSINESS**

#### **Local Planning Panel**

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**1 DA/121/2022 - CONSTRUCTION OF A 5 STOREY RESIDENTIAL FLAT BUILDINGS  
COMPRISING 60 UNITS - 23-27 BALMORAL STREET, WAITARA**

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**EXECUTIVE SUMMARY**

<b>DA No:</b>	DA/121/2022 (Lodged on 8 February 2022)
<b>Description:</b>	Demolition of existing structures and construction of a 5 storey residential flat buildings comprising 60 units with basement parking
<b>Property:</b>	Lots 31 & 32 DP 856714, Lots 1 & 2 DP 843067, Lot 1 DP 103071, No. 23, 23A, 25, 25A & 27 Balmoral Street, Waitara
<b>Applicant:</b>	Greg Boston
<b>Owner:</b>	Godfrey Kit Jack Au, Yue Shing Chow, Ye Yee Yip & MKG Properties
<b>Estimated Value:</b>	\$22,504,960
<b>Ward:</b>	B Ward
<b>Clause 4.6 Request:</b>	Clause 4.3 Height of buildings in the HLEP R4 High density residential zone
<b>Submissions:</b>	22
<b>LPP Criteria:</b>	SEPP 65 development 10 or more unique submissions by way of objection
<b>Author:</b>	Matthew Miles, Team Co-ordinator and Tim Buwalda, Senior Town Planner
<b>COI Declaration:</b>	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

**RECOMMENDATION**

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/121/2022 for demolition of existing structures and construction of a 5-storey residential flat buildings comprising 60 units with basement parking at Lots 31 & 32 DP 856714, Lots 1 & 2 DP 843067 and Lot 1 DP 103071, No. 23, 23A, 25, 25A & 27 Balmoral Street, Waitara for subject to the conditions of consent in Schedule 1 of LPP Report No. LPP27/23.

## EXECUTIVE SUMMARY

- The application proposes demolition of existing structures and construction of a 5-storey residential flat building comprising 60 units with basement parking.
- The proposal does not comply with the height of buildings development standard contained within Clause 4.3 of the Hornsby Local Environmental Plan 2013. The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the Hornsby Local Environmental Plan 2013. The submission is considered well founded and is supported.
- A total of 22 submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Local Planning Panel as the proposal is a SEPP 65 affected development and more than 10 submissions by way of objection have been received.
- It is recommended that the application be approved.

## BACKGROUND

### Site History

On 13 August 2021, Council held a pre-lodgement meeting with the applicant to discuss the merits of a future development application proposing the demolition of existing structures and construction of 2 x 5-storey residential flat buildings comprising 64 units with basement parking. The pre-lodgement application was also forwarded to the Hornsby Design Excellence Panel (DEP) for their assessment having regard to the design excellence provisions under Clause 6.8 of the HLEP.

### Application History

On 8 February 2022, the subject development application was lodged for construction of 2 x 5-storey residential flat buildings comprising 64 units with basement carparking.

On 25 March 2022, Council received legal advice regarding whether the proposed development would result in the isolation of the adjoining property at No. 21 Balmoral Street. The advice has come to the conclusion that it is reasonably arguable that the adjoining site would not be isolated upon the submission of the following information:

- The inclusion of written evidence of the negotiations in the documents submitted with the development application, which must be based on at least one recent independent valuation and include other reasonable expenses likely to be incurred by the owner in the sale of the property.
- Evidence that the orderly and economic development of the isolated site can be achieved consistent with the provisions of HLEP 2013 and HDCEP 2013, including the submission of a schematic diagram of the possible redevelopment of No. 21 Balmoral Street in an amalgamated proposal involving Nos. 17-19 and 21 Balmoral Street, Waitara.

On 4 April 2022, Council requested additional information from the applicant to address the findings of Council's legal advice.

On 13 May 2022, the Hornsby Design Excellence Panel (DEP) held a meeting with the applicant to discuss the proposal. Following the completion of the DEP assessment, and Council's preliminary review, a request for additional information and amended detail was sent to the applicant on 27 June 2022. The request sought changes in relation to:

- Design excellence matters, including desired future character, building height, setbacks, privacy, landscaping, communal open space and solar access.
- Planning matters, including deep soil width, building separation, building height, setbacks, stormwater management, waste management and traffic.

On 22 August 2022, Council requested additional information in the form of amended Architectural Plans to enable Council to undertake a comprehensive height assessment comprising the provision of additional RL levels along the roof plane. In addition, Council requested additional written justification (or amended plans) supporting four key matters raised by the DEP and considered by Council as not having been addressed in the proposal as amended, namely:

- Building separation (Item No. 2 of DEP minutes).
- Consideration of deletion of central unit at ground floor level (Item No. 6 of DEP minutes).
- Solar shading devices (Item No. 8 of DEP minutes).
- Provision of an additional lift (within conclusion of DEP minutes).

Between 24 August and 12 October 2022, Council requested minor amendments to the bin carting route and the driveway gradient.

Between 19 August and 12 October 2022, Council received the requested additional information and amended plans (Revision J).

On 3 November 2022, Council held a meeting with the applicant to discuss Council's concerns with the proposal as amended including building separation, ventilation, boundary setbacks, landscaping and built form.

On 10 November 2022, Council received amended Architectural Plans (Issue K) seeking to address Council's concerns.

On 2 December 2022, Council met the applicant and advised that the application could not be supported due to numerous non-compliances with both the ADG and HDCP design provisions. Council stressed to the applicant that in the absence of a Floor Space Ratio applying to the site, the HDCP setbacks must be complied with in order to achieve an appropriate yield and that the proposal as submitted does not comply with any setback provision of the HDCP and accordingly was considered an overdevelopment of the site.

In addition, Council raised concerns that the design did not incorporate any recess/indent for the top storey, waste management issues had not been addressed, there were issues with numerous pathways and ramps that reduce landscaping on the site, concerns with blank walls along the northern elevation, privacy issues with the fifth floor due to balconies significantly encroaching into setbacks and lobby areas did not incorporate a window for ventilation and light.

In early July 2023, after numerous drafts, Council received amended plans that responded to Council's meeting on 2 December 2022. The amended design included a U-shape design and reduced the number of units from 64 to 60. The design resulted in the following changes:

- Compliance with the setback controls to Balmoral Street and side boundaries with variations proposed to the Park Lane setback due to surrounding complexes already creating an established setback.
- The upper level being setback 3m from the ground floor level.

- Wrap around balconies incorporated and windows introduced along corner units to improve aesthetics of development to street.
- Units increased in size to comply with ADG minimum requirements.
- The communal open space area widened from 9m to 10m in line with DEP commentary to improve this area, the area also now achieves solar access that meets the ADG minimum requirements.
- Reduction in single aspect apartments to improve natural ventilation.
- The accessibility ramp to the entrance foyer that extended to the entire Balmoral frontage significantly reduced as a result of a platform lift now providing accessibility.
- Tight corners and spaces avoided at front entrance with ability to see directly through the development.
- Numerous pathways at ground level deleted from private open space areas to increase landscaping as well as fire exit pathways changing from hard surface pathways to permeable pathways.
- More common landscaping provided around the periphery of the development with private open space areas reduced in area.
- Large window openings created at the lobbies for each level allowing for sunlight and ventilation, previously no light or windows were provided where lobbies were over 12m in length.
- Waste issues addressed via temporary bin storage area.

## SITE

The 3,040m<sup>2</sup> subject site comprises Nos. 23, 23A, 25, 25A & 27 Balmoral Street Waitara and is located on the corner of Balmoral Street and Park Lane. The site contains five dwelling houses with associated outbuildings and improvements. The Balmoral Street frontage has a width of 41.77m and the Park Lane frontage has a width of 67.19m.

The site experiences an approximate slope of 2m to north-western corner, representing an average gradient of 3%.

The site is not bushfire or flood prone.

The site contains a number of right of carriageway and drainage easements providing access and services to the existing battle-axe allotments.

The site does not contain a heritage item, is not in the vicinity of a heritage listed item and is not located within a heritage conservation area.

The eastern side of Balmoral Street is zoned R2 Low density residential in the HLEP with a predominant built form comprising 1-2 storey dwelling houses of brick and weatherboard construction.

The site is bounded by R4 High density residential zoning to the north, west and south. Five storey residential flat buildings adjoin the site to the rear at Nos. 4-6A, 8-10 and 12 Park Avenue and to the north-west at No. 16-20 Park Avenue.

The adjoining R4 zoned sites to the north across Park Lane at Nos. 29-31A Balmoral Street and No. 5 Park Lane have been approved for lot consolidation and construction of 2x 4-5 storey residential flat

buildings with a basement car park. The application (DA/1549/2016) was approved on 27 September 2019 and works have not yet commenced.

The site adjoining site to the south at No. 21 Balmoral Street has an approximate frontage width of 15m and contains a dwelling house.

## PROPOSAL

The application proposes demolition of existing structures and construction of a 5 storey residential flat building comprising a total of 60 apartments with basement parking.

A temporary bin holding enclosure is proposed to the south-eastern corner of the site adjacent to the Balmoral Street frontage.

The development provides for the following apartment mix:

- 1 Bedroom Units 5 (8%)
- 2 Bedroom Units 43 (72%)
- 3 Bedroom Units 12 (20%)

The 60 units will comprise a mix of:

- Silver Star Liveable Units 16 (26%)
- Adaptable Units 18 (30%)

The basement car parking would be accessed via a driveway from Balmoral Street enabling the Park Lane frontage to be pedestrianised and landscaped. The basement car parking levels provide for all resident (83 spaces) and visitor parking (7 spaces). Bike storage for 20 bikes is arranged in three locations, two secure bike storage enclosures (2x 8 bikes) are located on the B2 car park level, and lockable spaces (4 bikes) on ground level in the shared communal open space.

Landscaping would be provided to the perimeter of the site with a mixture of plantings and surface finishes, a protected entertainment area, timber decking with seating, and raised vegetable garden planting beds.

The proposed development would result in the removal of 33 trees.

The development would drain stormwater to Council's drainage system in Park Avenue via on site detention.

## ASSESSMENT

The development application has been assessed having regard to the Greater Sydney Region Plan - A Metropolis of Three Cities, the North District Plan and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

### 1. STRATEGIC CONTEXT

#### 1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling

targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District for the next 20 years. The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by contributing to achieving the dwelling targets for the region.

## **2. STATUTORY CONTROLS**

Section 4.15(1)(a) requires Council to consider “*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations*”.

### **2.1 Hornsby Local Environmental Plan 2013**

The proposed development has been assessed having regard to the provisions of the Hornsby Local Environmental Plan 2013 (HLEP).

#### **2.1.1 Zoning of Land and Permissibility**

The subject land is zoned R4 High density residential under the HLEP. The objectives of the R4 zone are:

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

The proposed development is defined as ‘residential flat building’ under the HLEP and is permissible in the zone with Council’s consent.

#### **2.1.2 Height of Buildings**

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 16.5m. The proposal has a maximum height of 16.7m and does not comply with this provision.

The application is supported by a submission pursuant to Clause 4.6 of HLEP to contravene the maximum height of buildings development standard, which is discussed below in Section 2.1.3 of this report.

#### **2.1.3 Exceptions to Development Standards**



The application has been assessed against the requirements of Clause 4.6 of the HLEP. This clause provides flexibility in the application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tender to hinder the attainment of the objectives of the zone.

The proposal would exceed the 16.5m maximum building height development standard in a small area of the roof in the north-western corner of the roof form which breaches the building height standard by 150mm (0.9%) and with the western lift overrun breaching the standard by 200mm (1.2%) as depicted on the building height blanket diagram below.



Figure 1: Building height breach blanket diagram.

The applicant has made a submission in support of the contravention to the development standard in accordance with Clause 4.6 of the HLEP. Clause 4.6 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2008] NSW LEC 118, Preston CJ clarified the correct approach to dealing with a written request under Clause 4.6 to justify the contravention of a development standard.

In relation to determining the matter under Clause 4.6(3)(a), the consent authority must be satisfied that the applicant's written request adequately addresses the matter as opposed to the determining authority making its own judgement regarding whether compliance is unreasonable or unnecessary. Additionally, the clause does not require that a non-compliant development should have a neutral or beneficial effect relative to a compliant development.

In relation to determining the matter under Clause 4.6(3)(b), the environmental planning grounds clause, non-compliant development is not required to result in a '*better environmental planning outcome for the site*' relative to a compliant development. Instead, the requirement is only that there are sufficient environmental planning grounds to justify the development standard contravention.

Council must be satisfied that the written request provided by the applicant under Clause 4.6 addresses both the unreasonable and unnecessary test and demonstrates sufficient environmental planning grounds to justify contravening the development standard. These matters are discussed below.

### 2.1.3.1 Unreasonable or Unnecessary Clause 4.6(3)(a)

There are five common methods by which an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the development. Initially proposed for objections under clause 6 of SEPP 1 in the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827 Pearson C summarised and applied these methods to written requests made under Clause 4.6 in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [61-62]. These five methods are generally as follows:

1. *The objectives of the standard are achieved notwithstanding noncompliance with the standard.*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
4. *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

It is not required to demonstrate that a development meets multiple methods as listed above, and the satisfaction of one can be adequate to demonstrate that the development standard is unreasonable or unnecessary.

The written request prepared by Boston Blyth Fleming, dated August 2023 provides a detailed assessment of the proposal with respect to the development standard sought to be contravened. The applicant states the proposed contravention is considered to be consistent with the objectives of the control being "*to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality*" and is justified as follows:

- *Response: The 5 storey building height proposed is consistent with those established by all surrounding residential apartment development and to that extent I consider this development will reflect the reasonable and anticipated development potential of the site notwithstanding the building height breaching element proposed.*
- *Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council [2005] NSW LEC 191 I have formed the considered opinion that most observers would not find the proposed development, in*

*particular the non-compliant building height breaching elements, offensive, jarring or unsympathetic having regard to the existing and desired future built form characteristics of adjoining development and development generally within the sites visual catchment.*

- *Further, the minor height of building variation does not lead to a development that is inappropriate having regard to the infrastructure capacity of the locality which is well serviced as reflected by its R4 High Density zoning.*
- *The building heights proposed reflect the reasonable development potential of the land and result in a building form which does not exceed the infrastructure capacity of the locality. The proposal is consistent with this objective notwithstanding the building height breaching element proposed.*
- *Having regard to the above, the non-compliant height components of the building will achieve the objectives of the standard to at least an equal degree as would be the case with a development that complied with the building height standard. Given the developments consistency with the objectives of the height of buildings standard strict compliance has been found to be both unreasonable and unnecessary under the circumstances.*

Council considers the applicants request to contravene the height development standard is considered well founded for the following reasons:

- The development would maintain a 5 storey height consistent with the objectives of the R4 residential zone.
- The height departure would not result in any significant amenity impact to surrounding neighbours in terms of overshadowing and privacy and the proposed over height building portions do not create unacceptable overshadowing to any adjoining residential development.
- The overall appearance of the building, when viewed from the street front, would be consistent with surrounding developments.
- The proposed development would not overly dominate surrounding built element or be obvious in its non-compliance.
- The proposed height contravention is appropriate considering the constraints of the site in terms of land slope.
- The application provides for the orderly and economic development of land, sufficient consideration of the surrounding residential area and associated amenity impacts and demonstrates adequate consideration and protection of the environmental and public interest.
- The proposed height non-compliance does not diminish the development potential of the site, or any surrounding development.
- The development would not overburden the infrastructure capacity of the locality and does not permit additional floor area or units on the subject site. The building would maintain a five storey design and would have a yield consistent with the strategic intent for the site; and
- The proposed development generally meets the objectives of Clause 4.3 Height of Buildings of the HLEP by way of being appropriate with respect to the constraints of the site and in regard to the development potential of the site.

For the reasons outlined above, it is considered that the written request to contravene the height of building standard adequately demonstrates that the objectives of the height of building development

standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding contravention of the standard.

### 2.1.3.2 Environmental Planning Grounds - Clause 4.6(3)(b)

In addition to demonstrating that compliance is unreasonable or unnecessary, Clause 4.6(3)(b) requires that there are sufficient environmental planning grounds to justify contravening the development standard. In demonstrating that sufficient environmental planning grounds exist it must be demonstrated that the planning grounds are particular to the circumstances of the development on the subject site (summarised from *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [60]).

The applicant provided the following planning grounds for the contravention of the development standard:

- *The building height breaching elements are appropriately described both quantitatively and qualitatively as minor and inconsequential in relation to their contribution to perceived height, bulk and scale and potential streetscape and physical impacts.*
- *The building height breaching element facilitates an appropriately articulated and drained roof form and passenger lift access to each level representing a skilful design which enhances the amenity and accessibility of the development without unacceptable environmental consequences.*
- *Further, consistent with the findings of Commissioner Walsh in *Eather v Randwick City Council* [2021] NSWLEC 1075 and Commissioner Grey in *Petrovic v Randwick City Council* [202] NSW LEC 1242, the particularly small departure from the actual numerical standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.*
- *The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:*
  - *The proposal promotes the orderly and economic use and development of land (1.3(c)).*
  - *The development represents good design (1.3(g)).*
  - *The building as designed facilitates its proper construction and will ensure the protection of the health and safety of its future occupants (1.3(h)).*

Council considers that the environmental planning grounds stated within the written request are sufficient with respect to Clause 4.6(3)(b) and that the stated grounds are specific to the proposed development and the circumstances of the development site. It is therefore considered that the written request adequately demonstrates compliance with the clause and is acceptable in this regard.

In demonstrating the unreasonable and unnecessary test, the applicant further established satisfactory environmental planning grounds with respect to the site and the surrounding constraints.

Council is therefore satisfied that Clause 4.6(3)(b) of the HLEP is adequately addressed.

### 2.1.3.3 Public Interest and Clause 4.6(4)

Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

- (a) *The consent authority is satisfied that:*

- (i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *The concurrence of the Planning Secretary has been obtained.*

With regard to part (a)(i), the written request is considered to adequately address the matter required to be demonstrated as outlined above.

With regard to part (a)(ii), the proposed development is considered to be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

With regard to (b), on 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice under cl. 64 of the Environmental Planning and Assessment Regulation 2000. The Secretary's concurrence may not be assumed by a delegate of council if:

- The development contravenes a numerical standard by greater than 10%.
- The variation is to a non-numerical standard.

Accordingly, it is considered that the written request satisfactorily responds to the relevant matters required to be addressed under Clause 4.6 and that the Panel, as consent authority, may rely upon the written request and grant development consent to the development application. Should the Panel resolve to approve the application, it should also provide a statement in the reasons for approval that it has satisfied itself of the matters in Clause 4.6(4).

#### **2.1.4 Heritage Conservation**

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. Accordingly, no further assessment regarding heritage is required.

#### **2.1.5 Earthworks**

Clause 6.2 of the HLEP states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

The site is relatively level. The proposal includes excavation works for a basement car park. The geology of the site is identified as bedrock comprising shale and laminate, overlying deeper sandstone. A condition has been included in Schedule 1 to requiring that the recommendations of the Geotechnical Assessment prepared by Green Geotechnics be applied including but not limited to the completion of dilapidation surveys/reports for adjoining buildings and structures prior to the commencement of works and inspections and monitoring of earthworks and footing excavations by Green Geotechnics.

In addition, all excavated material removed from the site must be classified by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's Waste Classification Guidelines and Protection of the Environment Operations (Waste) Regulation 2014 prior to disposal to a licensed waste management facility. Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the

Principal Certifier prior to the issue of an Occupation Certificate. A Council approved Construction Management Plan must also be complied with for the duration of works.

Subject to recommended conditions, the proposal is considered satisfactory in respect to Clause 6.2 of the HLEP.

#### **2.1.6 Design Excellence**

Clause 6.8 of the HLEP provides objectives to deliver the highest standard of architectural and urban design.

The development application and various amendments was referred to Council's Design Excellence Panel (DEP) on three separate occasions being 13 August 2021, 13 May 2022 and 15 February 2023 for review.

Council provided the detailed DEP assessment of the proposal to the applicant for consideration and the applicant supplied amended plans and further detail regarding the key considerations outlined above. Council reviewed the further detail provided by the applicant and requested further justification where the amended plans elected not to incorporate key considerations. The applicant provided further amended plans and design details outlining how they had considered the matters raised and why they had elected not to incorporate some of the suggestions of the DEP.

As the DEP identified that the key considerations were a prerequisite to achieving design excellence, a review of the additional detail and justification provided by the applicant for each of the eight considerations is provided below.

#### ***Desired future character Response***

*The amended architectural plans exhibit Design Excellence in their response to the existing and desired future character of the R4 High Density Residential precinct.*

*The amended architectural detailing locates all service functions behind the primary building alignment to Balmoral Street with the 10 metre front setback free from structures other than those necessary to facilitate both pedestrian and vehicular access to the development. The accompanying landscape plans have been updated to reflect the additional landscape opportunity available within the Balmoral Street setback with the landscaping proposed of a height and density able to soften and screen the building as viewed from the street.*

*We also note that the amended proposal provides compliant setbacks to the southern and western boundaries of the property and now complies with the maximum prescribed building height standard. The reduction in building footprint has created additional landscape opportunity around the perimeter of the development.*

*Accordingly, the consent authority can be satisfied that the proposal is consistent with the form of development anticipated in terms of the desired future character of the R4 High Density Residential area.*

#### ***Height/Separation Response***

*The overall height of the building predominately complies with the height limit with the exception of the lift overrun and a small area of the roof. The internal courtyard area has been redesigned to maintain appropriate visual privacy to surrounding apartments with building separation distances achieving the objectives at Part 3F of the Apartment Design Guide. In this regard, a minimum 12 metre separation is achieved between adjacent balconies and windows associated with habitable rooms. Where a 12*

*metre separation is not achieved the plans nominate solid walls or windows associated with non-habitable rooms as anticipated by the ADG.*

### **Setbacks Response**

*The primary building façade to Balmoral Street maintains a setback of 10 metres to the street frontage with minor balcony elements extending to within 8 metres of the boundary for not more than 1/3rd of the building width in strict accordance with the control. We note that a 6 metre setback applies to secondary frontages with the building compliant with this control at ground floor level with the exception of the fire stair and immediately adjacent bathroom elements. Various façade elements at the levels above project to within 4.5 m of this boundary with such setbacks entirely consistent with those established by the immediately adjoining property development to the west. In this regard, the setbacks proposed achieve the desired outcomes associated with the setback controls being well articulated building forms that are setback to incorporate landscaping, open space and separation between buildings a cohesive streetscape outcome is achieved.*

*The side boundary setbacks to the southern boundary of the property have also been increased such that the primary building façade maintains a setback of 6 metres to the boundary. Non-habitable rooms adjacent to the southern boundary of the property encroach within 4.5 metres of the side boundary with the extent of encroachment in strict accordance with the allowable encroachment provisions of the DCP.*

*The setbacks to the western side boundary of the property have also been increased such that the primary building façade is setback 7 metres from the boundary which exceeds the minimum 6 metre setback control. Projecting balcony elements do extend within 5 metres of the western boundary with the overall extent of building form located within 6 metres of the boundary consistent with that anticipated through strict compliance with the setback control. That is, the additional setback to the principal building façade offsets the minor reduction in setback associated with the cantilevered balcony elements. We are satisfied that a 12 metre separation distance is maintained to the principal living and balcony areas of the adjoining residential flat development to the west in accordance with the separation provisions at Part 3F of the ADG.*

*Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development.*

### **Building form and separation Response**

*As previously indicated, the central courtyard and adjacent circulation and foyer spaces have been redesigned to significantly enhance the amenity of the central courtyard area and access arrangement with concerns raised in relation to visual privacy addressed through a refinement in the design and configuration of apartments integrated landscape elements. Landscaping Response: This submission is accompanied by amended landscape plans which take advantage of the additional landscape opportunity around the perimeter of the site due to the reduction in building footprint and associated increased setbacks. We confirm that the basement, stormwater and waste management components of the development have been redesigned to maximise deep soil landscape opportunity adjacent to the Balmoral Street frontage and its intersection with Park Lane. The accompanying landscape plans clearly demonstrating that landscaping of a height and density capable of softening and screening the building is able to be provided along both street frontages.*

### **Open spaces Response**

*The Panel's suggestion has been adopted creating a more attractive courtyard with better landscaping, natural light and privacy for all units including more generous and well-defined foyer areas.*

**Privacy and security Response**

*The central courtyard has been amended to provide a more attractive space with better landscaping, natural light and privacy for all units including more generous and well-defined foyer areas.*

**Sunlight and ventilation Response**

*We refer to the accompanying expert solar report prepared by Walsh Analysis which provides the following commentary: 41/60 (68.3%) of the apartments are projected to achieve 2 hours or more sunlight to glazing and POS 9am - 3pm June 21. This is just short of the 70% compliance in design criterion 1 of the ADG Objective 4A-1; however, the architect has tried to maximise solar access and the reduction from full compliance is due to applicant having apartments facing the street for casual surveillance. If the east facing units that address the street are considered from 8am-10am, then the compliance figures would actually be 48/60 (80%) which would exceed compliance. We confirm that in excess of 60% of apartments are naturally cross ventilated in accordance with the ADG.*

**Environmental Sustainability Design (ESD)**

The panel requested the applicant incorporate ESD design aspects that go beyond the requirements of BASIX. The applicant has provided stormwater plans that incorporate water sensitive urban design into the development which aims to capture, treat and re-use stormwater and a condition is recommended that the car park must provide Electric Vehicle (EV) Ready Connections (minimum 'Level 2' electric vehicle circuitry) to at least 25% of allocated on-site parking spaces and that the carpark must provide EV Distribution Board(s) of sufficient size to allow connection of all EV Ready Connections.

The application has undergone a detailed design review with the objective of ensuring an adequate level of design excellence. Council considers that the considerations provided by the DEP have been adequately addressed and the development as proposed is consistent with the requirements of Clause 6.8 of the HLEP.

**2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The application has been assessed against the requirements of chapter 2 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

**2.2.1 Chapter 2 Vegetation in Non-Rural Areas**

Chapter 2 of this policy aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 2.3 of the policy states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1B.6.1 of the HDCP prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

Section 3.1.1 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCP.

**2.2.2 Chapter 6 Waterway Catchments**



The site is located within the catchment of the Hawkesbury-Nepean River. The aim of this chapter is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development are considered in the regional context. Part 6.2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, significant vegetation habitats, extraction, environmental heritage and scenic quality, recreation and tourism, and agriculture.

The plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; interrelationship of waterway and foreshore uses; foreshore and waterways scenic quality; maintenance, protection and enhancement of views and boat storage facilities.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would not impact on the water quality of the catchment and would comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

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

The application has been assessed against the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 which seeks to encourage sustainable residential development.

The proposal includes a BASIX certificate in accordance with the requirements of the SEPP including the list of commitments to be complied with at the construction stage and during the use of the premises. The BASIX certificate achieves the minimum scores for thermal comfort, water and energy.

The proposal is acceptable in this regard.

### **2.4 State Environmental Planning Policy (Resilience and Hazards) 2021**

The application has been assessed against the requirements of chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

#### **2.4.1 Chapter 4 Remediation of Land**

Section 4.6 of the Resilience and Hazard SEPP states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

An examination of Council's records and aerial photography has determined that the site has been historically used for residential purposes. It is not likely that the site has experienced any significant contamination, and further assessment under chapter 4 of the Resilience and Hazards SEPP is not required.

### **2.5 State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development (SEPP 65) provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State.

SEPP 65 adopts the Apartment Design Guide which prevails in the event of any inconsistency with a Development Control Plan. The Policy includes objectives to meet housing and population targets, affordable housing and to facilitate timely and efficient assessment of development applications. SEPP 65 makes further provision for design review panels; includes additional provisions for the determination of development application and for standards for car parking, visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage, which cannot be used as grounds for refusal of development consent.

The applicant has submitted a "Design Verification Statement" prepared by a qualified Architect stating how the proposed development achieves the design principles of SEPP 65. An assessment of the proposal against the design quality principles contained within Schedule 1 of SEPP 65 and the submitted design verification statement are addressed in the following table:

SEPP 65 - Schedule 1 Assessment	
Principle	Compliance
<b>1. CONTEXT AND NEIGHBOURHOOD CHARACTER</b>	<b>Yes</b>
<p><b>Comment:</b></p> <p>The site is located within the Balmoral Street Waitara precinct planned for five storey residential flat buildings in close proximity to Waitara Railway Station.</p> <p>The desired future character of the area, as outlined in the Hornsby Development Control Plan 2013, is that of a locality characterised by residential flat buildings of 5 storeys in height in landscape settings with basement car parking. The proposal reflects the desired urban form outlined in the HDCP.</p> <p>The building has been designed to comply with the HDCP setbacks and results in generous landscaping within the site and as a result the development would appropriately address the Balmoral Street frontage. The overall built form contributes positively to the identity and future character of the precinct.</p>	
<b>2. BUILT FORM AND SCALE</b>	<b>Yes</b>
<p><b>Comment:</b> The height of the development sits below the required 16.5m height limit with the exception of the lift overrun and unlike many five storey buildings within the precinct, the proposal does not include a mezzanine level and would sit lower than compared to existing buildings within the Waitara five storey precinct.</p> <p>The architectural composition achieves the desired built form of the ADG, and the proposal complies with the minimum setbacks, building separation and landscaping of the ADG and HDCP.</p> <p>The setbacks of the building meet the required HDCP landscaping and built form setbacks and the fifth floor is appropriately recessed which reduces additional bulk and scale at the top floor.</p> <p>The proposal incorporates high quality facades with a balanced composition of varied building</p>	

elements including a defined base, middle and top of the building and achieves an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements.	
<b>3. DENSITY</b>	<b>Yes</b>
<p><b>Comment:</b> The HLEP does not incorporate floor space ratio requirements for the site. The density of the development is governed by the height of the building and the required setbacks.</p> <p>The proposed density is sustainable as it responds to the regional context, availability of infrastructure, public transport, community facilities and environmental quality and is acceptable in terms of density.</p>	
<b>4. SUSTAINABILITY</b>	<b>Yes</b>
<p><b>Comment:</b> The development is supported by a BASIX certificate that demonstrates compliance with BASIX requirements.</p>	
<b>5. LANDSCAPE</b>	<b>Yes</b>
<p><b>Comment:</b> The application includes a landscape plan which provides landscaping along the street frontage, both sides and rear boundaries. Medium to large trees are proposed each boundary intercepted by shrubs and hedges which would soften the appearance of the development when viewed from the Balmoral Street and adjoining sites.</p> <p>Deep soil areas that incorporate canopy trees are provided around the building envelope which would enhance the development's natural environmental performance and provide an appropriate landscaped setting.</p> <p>The landscape design provides planting around the entire building, which softens the overall appearance of the building, integrates the new building into the existing landscaped area and provides screening to adjoining properties.</p>	
<b>6. AMENITY</b>	<b>Yes</b>
<p><b>Comment:</b> The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy.</p> <p>All units incorporate adequate indoor and outdoor spaces with balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas.</p> <p>Storage areas have been provided within each unit and in the basement levels. The proposal would provide efficient and safe access to service areas and all residential units via a central lift connecting the basement and all other levels.</p>	
<b>7. SAFETY AND SECURITY</b>	<b>Yes</b>
<p>The design orientates balconies and windows of individual apartments towards both street boundaries, providing passive surveillance of the public domain. Both the pedestrian and vehicular</p>	

entry points are secure and visibly prominent from the street.

Appropriate conditions of consent are recommended to ensure that there is a positive relationship between public and private spaces achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained.

#### 8. HOUSING DIVERSITY AND SOCIAL INTERACTION

Yes

**Comment:** The proposal incorporates a range of unit sizes to cater for different budgets and housing needs. The development does not comply with the housing choice requirements of the HDCP by not providing suitable a mix of 1, 2 and 3 bedroom dwellings, however this is acceptable as discussed in Section 2.8.8 of this report.

The proposal responds to the social context in terms of providing a range of dwelling sizes with good access to social facilities and services as the site is located in close proximity to Waitara Railway Station and shops.

#### 9. AESTHETICS

Yes

**Comment:** The architectural treatment of the building incorporates indentations and projections in the exterior walls with balcony projections to articulate the facades. The roof is flat to minimise building height and incorporates eaves to provide shade across the top storey wall.

The articulation of the building, composition of building elements, textures, recycled materials and colours would achieve a built form generally consistent with the design principles contained within the ADG and the HDCP.

Clause 30(2) of SEPP 65 provides that development consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to the design quality principles. As outlined in the table above, it is considered that that proposed development demonstrates adequate regard to the design quality principles.

## 2.6 Apartment Design Guide

Amendment No. 3 of SEPP 65 also requires consideration of the Apartment Design Guide (ADG), NSW Department of Planning and Environment 2015. The ADG includes development controls and best practice benchmarks for achieving the design principles of SEPP 65. The following table sets out the proposal's compliance with the ADG:

Apartment Design Guide			
Control	Proposal	Requirement	Compliance
Communal Open Space (3D-1)	25.2%	25% of site area	Yes
Solar Access (Communal open space areas) (3D-1)	>50%	50% direct sunlight access for 2 hours	Yes
Deep Soil Zone (3E-1)	33%	7% of site area	Yes
Building Separation (3F-1)			

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- <i>Side boundary (south)</i>	6m to habitable rooms (ground level)	6m to habitable rooms and balconies (levels G-3)	Yes
	4.5m to habitable rooms (levels G-3)	3m to non-habitable rooms (levels G-3)	Yes
	9m to habitable rooms (level 4)	9m to habitable rooms and balconies (level 4)	Yes
		4.5m to non-habitable rooms (level 4)	Yes
- <i>rear boundary (west)</i>	7m to habitable rooms and 5m to balconies (levels G-3)	6m between habitable windows and balconies. 3m to non-habitable	No
	10m to balconies and habitable rooms (level 4)	9m between habitable windows and balconies. 4.5m to non-habitable	Yes
- <i>Internal Separation</i>	10-13m to habitable rooms and balconies (levels G-3)	12m to habitable rooms and balconies (levels G-3)	No
	10-13m to non-habitable rooms (levels G-3)	6m to non-habitable rooms (levels G-3)	Yes
	19m to habitable rooms (level 4)	18m to habitable rooms and balconies (level 4)	Yes
	23m to non-habitable rooms (level 4)	9m to non-habitable rooms (level 4)	Yes
Car Parking (3J-1)	79 spaces	75 spaces	Yes
Solar Access (4A-1)			
- <i>Living rooms</i>	68.3% - 2 hrs	2 hours for 70%	No
- <i>Private open space</i>	68.3% - 2 hrs	2 hours for 70%	No
No Solar Access allowable for units (4A-1)	1.7% of units	15% of units (max)	Yes
Natural Cross Ventilation (4B-3)	60%	60%	Yes
Ceiling Height (4C-1)	2.7m habitable 2.4m non-habitable	2.7m habitable rooms 2.4m non-habitable	Yes

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Minimum Dwelling Size (4D-1)			
- 1 Bed units	>50m <sup>2</sup>	50m <sup>2</sup>	Yes
- 2 bed units	>70m <sup>2</sup>	70m <sup>2</sup>	Yes
- 3 bed +5m <sup>2</sup> for additional bathrooms	>90m <sup>2</sup>	90m <sup>2</sup>	Yes
Minimum Window Size (4D-1)	>10%	10% of the floor area of the room	Yes
Habitable Room Depth (4D-2)	8.9m	8m from a window (max for open plan) or 2.5x ceiling height	No
Apartment Layouts - Minimum Bedroom Size (4D-3)			
- Master bedroom	>10m <sup>2</sup>	min 10m <sup>2</sup>	Yes
- Other bedrooms	>9m <sup>2</sup>	min 9m <sup>2</sup>	Yes
Apartment Layouts - Combined Living / Dining Rooms Minimum Width (4D-3)			
- Studio/ 1 bed units	>3.6m	3.6m	Yes
- 2/3 bed units	>4m	4m	Yes
Apartment Layouts - Cross Through Apartments (4D-3)	>4m	min 4m width	Yes
Minimum Balcony Size (4E-1)			
- 1 Bed units	>9m <sup>2</sup> / 2m depth	8m <sup>2</sup> / 2m depth	Yes
- 2 bed units	>10m <sup>2</sup> / 2m depth	10m <sup>2</sup> / 2m depth	Yes
- 3 bed units	>12m <sup>2</sup> / 2m depth	12m <sup>2</sup> / 2m depth	Yes
Maximum Number of Units on a Single Level (4F-1)	7 units	8 units off a circulation core	Yes
Storage (4G-1)			
- 1 Bed units	>6m <sup>3</sup>	6m <sup>3</sup>	Yes
- 2 bed units	>8m <sup>3</sup>	8m <sup>3</sup>	Yes

- 3+ bed units	>10m <sup>3</sup>	10m <sup>3</sup>	Yes
- % located within unit	>50%	50%	Yes

As detailed in the above table, the proposed development contains generally complies with the numerical requirements of the ADG with the exception of solar access, internal separation and habitable room depth. Below is a brief discussion regarding the relevant development controls and best practice guidelines with respect to areas of non-compliance.

### 2.6.1 Solar Access

Objective 4A-1 of the ADG is for *“To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space”*.

The ADG Design criteria recommends a minimum of 70% of apartments should have the amenity of two hours winter sun between 9am and 3pm.

The amended application was supported by a solar access report prepared by Walsh Analysis architects dated 31 July 2023 which stated the following:

*“41/60 (68.3%) of the apartments are projected to achieve 2 hours or more sunlight to glazing and POS 9am - 3pm June 21. This is just short of the 70% compliance in design criterion 1 of the ADG Objective 4A-1; however, the architect has tried to maximise solar access and the reduction from full compliance is due to applicant having apartments facing the street for casual surveillance. If the east facing units that address the street are considered from 8am-10am, then the compliance figures would actually be 48/60 (80%) which would exceed compliance.”*

Council concurs with the Solar Access report and whilst strict compliance with the ADG is not achieved, if the eastern street facing units were included within the 8am to 10am period then the development would achieve an 80% compliance which is considered acceptable on its merits. Further, it is noted that the application has allowed for casual surveillance by having street facing apartments to the detriment of solar access requirements.

The ADG also requires that not more than 15% of apartments receive no solar access. The proposed development would only have one apartment (Unit 48) which would not receive solar access which represents 1.7% of the proposed 60 units.

Therefore, the development is considered to meet the objective of the ADG and is considered satisfactory on its merits.

### 2.6.2 Apartment Layout

Objective 4D-2 of the ADG provides that in open plan layouts, habitable room depth is to be no more than 8m from a window. The proposed RFB contains a number of units which have habitable room depths of up to 8.9m from a window.

In support of this non-compliance, it is noted that in all instances of this increased room depth to a window, the non-compliance occurs in open plan living areas that open directly onto a residential balcony. The open plan living areas are therefore serviced by large, floor to ceiling windows with large openable portions. Sufficient light and ventilation would be available for these rooms to allow for an adequate level of environmental performance.

For the reasons outlined above, no objections are raised regarding the proposed room depths.

### 2.6.3 Internal Separation

Objective 3F-1 of the ADG requires 12m of internal separation between habitable rooms and balconies.

The application proposes an internal building separation of 10m (Levels 1-3) which does not comply with this provision. However, it is noted that the internal walls 10m apart do not contain any windows to habitable rooms or balconies.

Windows to habitable rooms and balconies have an increased setback of 13m (Levels 1-3) and would therefore comply with this requirement.

### 2.6.4 Building Separation

The ADG and HDCP require a building separation of 6m between non-habitable rooms, 9m between habitable and non-habitable rooms, 12m between habitable rooms or balconies increasing to 18m from the fifth level, for two residential buildings on adjoining sites. Accordingly, all proposed developments are required to provide half of the building separation, as setbacks from boundaries.

The development would adjoin future 5 storey developments on the western boundary. The proposed development does not comply with the building separation requirements on the western side elevation as a 5m setback is proposed for Levels G-3 for the proposed balconies.

The ADG requires a 12m separation between units on separate sites. A review of the approved and constructed development at Nos. 8-10 (DA/1637/2015) and 12 Park Avenue (DA/1601/2014) notes that those units are setback 7m from the common boundary of the subject site. Therefore, whilst the proposed development does not comply with the 6m requirement, the proposed 5m setback coupled with the existing 7m setback of adjacent development would achieve the required 12m building separation and accordingly no objections are raised to the minor balcony encroachment.

The proposed development is assessed as satisfactory regarding building separation and the minor non-compliances are considered acceptable.

### 2.6.5 Storage

The proposed residential flat building includes storage areas within the apartments, accessed from either circulation or living areas and within the basement levels complying with the ADG requirements. To ensure that the storage provided is proportional to the size of the apartment, a condition is recommended that each dwelling within the development has a minimum storage area of 6m<sup>3</sup> for one bedroom units, 8m<sup>3</sup> for two bedroom units and 10m<sup>3</sup> for three bedroom units, where at least 50% is required to be located within the apartment and provided in addition to storage in kitchens, bathrooms and bedrooms.

## 2.7 Section 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions



contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

## 2.8 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2013 (HDCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Site Width	45m	30m	Yes
Height	5 storeys 16.7m	5 storeys 16.5m	Yes No
Lowest Residential Floor Above Natural Ground Level	Nil	1.5m (max)	Yes
Maximum Floorplate Dimension	35m	35m	Yes
Building Indentation	2m(w) x 5m(d)	4m x 4m	No
Front Setback (Balmoral St)	10m 8m < 1/3 building length	10m 8m < 1/3 building length	Yes Yes
Park Lane (Laneway)	4.5m - 6m	6m	No
Side Setback (Southern)	4.5m - 6m 4.5m to balconies	6m 7m (balconies)	No No
Side Setback (west)	7m to habitable rooms 5m (balconies)	6m 7m (balconies)	Yes No
Top Storey Setback from Ground Floor	3m	3m	Yes
Basement Ramp Setback	10.5m	2m	Yes
Deep Soil Landscaped Areas	9.5m 4.5m	8m frontage 4m side	Yes Yes
Communal Open Space with Minimum Dimensions 4m	10m >50m <sup>2</sup> combined >25%	Min dimension 4m 50m <sup>2</sup> (min) 25%	Yes Yes Yes
Solar Access	68.3%	70%	No

Housing Choice	8%	10% of each type (min)	No
Adaptable Units	30%	10%	Yes
Private Open Space			
- 1 Bed Unit	>8m <sup>2</sup> & >2m depth	Min 8m <sup>2</sup> & 2m width	Yes
- 2 Bed Unit	>10m <sup>2</sup> & >2m depth	Min 10m <sup>2</sup> & 2m width	Yes
- 3+ Bed Unit	>12m <sup>2</sup> & >2.4m depth	Min 12m <sup>2</sup> & 2.4m width	Yes
Cross Ventilation	76%	Min 60% of units	Yes
Car Parking			
- Total	79 spaces	75 spaces	Yes
- Motorcycle Parking	2 spaces	1 space	Yes
- Bicycle Parking	20 spaces	20 spaces	Yes
- Accessible Spaces	7 spaces	7 spaces	Yes

As detailed in the above table, the proposed development does not comply with a number of prescriptive requirements within the HDCP. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with the relevant performance requirements and Part 1C General Controls.

### 2.8.1 Desired Future Character

The site is included in the Balmoral Street, Waitara redevelopment precinct. The HDCP states that a development should demonstrate compatibility with the 'Desired Future Character Statement' which states the following:

*'The locality is characterised by 5 storey residential flat buildings in landscaped settings with underground car parking. Development footprints maintain landscape corridors around and through the development sites.'*

The proposal maintains height, setbacks, bulk and scale generally in accordance with the HDCP and retains significant trees within the street frontage where possible. The development would provide for a landscaped setting and a built form that is consistent with the desired future outcome for the Balmoral Street, Waitara Precinct.

The application proposes an appropriate landscape setting and built form, which would satisfy the desired future character statement of Part 3.4.1 of the HDCP.

### 2.8.2 Site Isolation

The subject site involves consolidation of five sites with the land at No.21 Balmoral Street, situated immediately to the south of the subject site, presently containing a two storey dwelling house and associated improvements. The land at No. 17-19 Balmoral Street, situated to the south of No. 21 Balmoral Street, presently contains a multi dwelling housing development comprising eight dwellings.

The land further to the south contains a 5 storey residential flat building. The land immediately to the west of No. 17-27 Balmoral Street along Park Avenue has been developed in recent times for the purposes of residential flat buildings.

The site isolation provisions are predominantly contained within Section 1C.2.12 of the HDCP, which states as follows:

*“1C.2.12 Avoiding Isolated Sites*

*Desired Outcomes*

- a) *The consolidation of sites in a manner that avoids adjoining sites becoming isolated so that they cannot be developed in accordance with the planning controls.*

*Prescriptive Measures*

- a) *The creation of isolated sites is not desirable.*
- b) *Where a development may result in the creation of an isolated site, the applicant should demonstrate that:*
- *Negotiations for amalgamations of sites commenced early, prior to the lodgement of a development application,*
  - *If negotiations are not successful, details of the negotiations should be provided with the development application submission, including at least one independent valuation (which considers the property as being part of a complying amalgamated site) and include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property, and*
  - *The orderly and economic development of the isolated site can be achieved that is consistent with the provisions of the HLEP and DCP. This should include the applicant providing an envelope for that site, indicating height, building form, setbacks and separations (building and basement) sufficient to understand the relationship between the proposed development and the isolated site and the streetscape implications.*
- c) *The development of an isolated site should not detract from the character of the streetscape and is to achieve a satisfactory level of amenity, including solar access, visual and acoustic privacy.*

The development application was accompanied by a Statement of Environmental Effects (“SOEE”) prepared by Boston Blyth Fleming town planners and an accompanying valuation report prepared by Preston Rowe Patterson with above market offers forwarded to the owners of the adjoining property by GRG Lawyers on 22nd December 2021 and 10th of January 2022.

The SOEE in essence argues that the land at No. 21 Balmoral Street would not be isolated by the proposed development because it could consolidate with the adjoining land at No. 17-19 Balmoral Street at a future time. The planning argument within the SOEE concludes that:

*“The site analysis has determined that there is no environmental planning or urban design benefit in attempting to consolidate No. 21 Balmoral Street, the property immediately to the south of the development site, into the development Lot given the need to retain the significant trees located adjacent to the common boundary of this adjoining property and the ability for the unconstrained southern portion of this adjoining site to be consolidated with what would otherwise be the isolated site further to its south, No. 17 - 19 Balmoral Street, at a*

future time. Such outcome would facilitate the orderly and economic use and development of these properties in a contextually appropriate, logical and environmentally sensitive manner.”

Council received legal advice which confirmed that the subject application does not isolate No. 21 Balmoral Street as the adjoining property can amalgamate with an alternative adjoining property being the townhouse complex at No.17-19 Balmoral Street which is not developed to its full potential being a residential flat building. Accordingly, the applicant submitted draft schematic plans of a future residential flat building at No.17-21 Balmoral Street and Council received evidence from No. 21 Balmoral Street indicating they do not wish to sell.

Council is therefore satisfied the subject development does not isolate any properties.

### **2.8.3 Site Requirements**

The HDCP requires sites to have a minimum frontage of 30m. The subject site has a frontage of 45m to Balmoral Street and 67m to Park Lane and complies with this requirement.

### **2.8.4 Height**

The proposed building would not comply with the maximum permissible height limit of 16.5m applicable to the site. As discussed in Section 2.1.3 of this report, the applicant has made a submission in accordance with Clause 4.6 ‘Exceptions to development standards’ of the HLEP to contravene Clause 4.3 ‘Height of Buildings’. The submission is considered well founded and is supported.

### **2.8.5 Building Indentation and Articulation**

The HDCP requires a 4m x 4m building indentation to be provided on all buildings with a floor-plate dimension of 25m. The proposal incorporates a floorplate dimension of 35m along the north-south axis which complies with this requirement.

The proposal incorporates a floor-plate dimension of 50m along the east west axis which requires the 4m x 4m building indentations to be provided on the northern and southern facades.

The application proposes a U-shaped building design with communal open space located centrally within the northern façade. The indentation for the communal open space has dimensions of 10m x 24m which is well in excess of the required 4m x 4m.

Furthermore, within the southern façade, the application proposes two, 2m x 5m indentations to provide natural light to the internal corridors. Whilst this does not strictly comply with the 4m x 4m indentation requirement, it is considered that the configuration of the U-shaped design more than compensates for the indentation requirements within the northern façade. It is also noted that balconies are proposed within the eastern and western facades which would enhance depth to the overall built form. In this regard, the non-compliance is considered satisfactory.

The articulation of the building facades has been achieved in the following ways:

- The facades have been divided into vertical ‘panels’.
- Indentations and projections in the alignment of exterior walls.
- The inclusion of wrap around balconies that project from exterior walls, vertical block elements, stepped levels of the building, rooftop terrace with landscaping above and large proportion of openings at the topmost storey.

- The building would incorporate a varied use of finishes including 30% of face brick, light render columns, light render edge of slabs and a dark toned colour palette with lightweight balconies.

The design of the floorplate, the proposed indentations and the articulation of the facades are in accordance with the '*Design*' element of the HDCP.

### 2.8.6 Setbacks

As noted in the table above, the proposal fails to comply with the Park Lane setback and side boundaries setbacks.

As the site contains two frontages, the southern and western boundaries are considered side boundaries. In addition, recent HDCP amendments allow for setbacks to laneways to encroach to within 6m.

Setbacks to each elevation are discussed below:

#### 2.8.6.1 Western Elevation

Whilst the building is setback 7m to the western boundary on Levels G to 3, which is in excess of the 4.5m for 1/3 of the building width and 6m minimum, the balconies along the western elevation for levels 1 to 3 are setback 5m which does not comply with the 6m prescriptive measure for balconies. As discussed in Section 2.6.4 of this report, the application would still achieve a 12m building separation with adjacent properties which is considered acceptable and generous landscaping is proposed between both properties.

#### 2.8.6.2 Northern Elevation

The northern elevation adjoining the Laneway proposes a 4.5m setback to some areas of the façade for levels 1 to 3 which fails to comply with the 6m prescriptive measure. In support of this non-compliance, it is noted that the non-compliance does not occur for the entire building length and accommodates 2 bedrooms and four wrap around balconies. The building elements, in particular the wrap around balconies, add to the building articulation and would not be out of character with the existing setback alignment of the two constructed and one approved residential flat buildings utilising this laneway which are each setback 4.5m to Park Lane. Therefore, the proposed development would be within the character of the existing well-established streetscape of Park Lane.

#### 2.8.6.3 Southern Elevation

The southern elevation does not comply with the 6m setback for balconies with two wraparound balconies for Units 26, 40, 54 and 18, 32 and 46 proposing a 4.5m setback for balconies. It is noted that this encroachment only occurs for the corner units and the remainder of the southern elevation complies with the HDCP setback provisions.

Whilst the wraparound balconies add visual interest to the façade, they do increase privacy impacts to the adjoining property to the south, accordingly, a condition is recommended that a fixed privacy screen is provided for the southern section of the balconies.

It is noted that bedrooms and ensuites located within the 4.5m setback do not contain windows within the southern façade and therefore, the minor encroachment is considered acceptable as it is generally considered to have negligible amenity impacts to adjoining properties.

#### 2.8.6.4 Upper level

The fifth level is recessed 3m in from the ground level which meets the HDCP requirements for the upper level. Additionally, the fifth level does not include a mezzanine level unlike the adjoining residential flat buildings and would be of a lower height and scale when compared to recently constructed apartment buildings in the vicinity of the site and the locality.

Subject to conditions, the non-compliance is assessed as satisfactory.

#### **2.8.7 Deep Soil Landscaping**

The landscaping provisions of the HDCP prescribe that a 7m wide landscaped area should be provided at the front and a 4m wide landscaped area to be provided along the side boundaries.

The design of the basement generally allows the development to comply with the prescriptive measures for deep soil landscaping.

It is noted that the western side boundary contains a 7m setback (5m to balconies) rather than the DCP minimum of 4m which allows for further deep soil landscaping and planting trees.

The landscape plan proposes 14 canopy trees to be planted at ground level interspersed with hedges and shrubs. The landscaping would include planting of locally indigenous trees in suitable locations that would contribute to the streetscape setting and the local tree canopy.

The submitted landscape plan is considered acceptable and would provide medium to large sized trees along the periphery of the development enhancing the tree canopy of the locality and providing privacy to adjoining development.

Further, a condition is recommended requiring the powerlines to be placed under ground along the Balmoral Street frontage which allows for planting of street trees in front of the subject site to further enhance the tree canopy.

#### **2.8.8 Housing Choice**

The proposal does not satisfy the housing mix requirements of the HDCP, which requires the development to comprise a minimum of 10% of each 1 bedroom, 2 bedroom and 3 bedroom dwellings as only 5 x 1 bedrooms are proposed which represents 8% of the unit mix.

It is considered the minor non-compliance is negligible in the overall context of the redeveloped precinct and responds to market demand with most of the units comprising 2 bedroom. The dwelling mix would assist to enhance the housing choice within the Waitara area as well as increase the amount of housing stock.

#### **2.8.9 Accessibility**

The HDCP requires 10% of proposed dwellings to be Adaptable Housing, designed to meet the needs of residents as they age and at least 20% of proposed dwellings should be Universal Design housing in accordance with the Liveable Housing Guidelines (2012) silver level design features.

The development proposes 18 adaptable living units (30%) and 16 units which can achieve silver design level which is above the required minimum of 6 adaptable units and 12 silver level designed units.

Therefore, the development meets the requirements for Adaptable Housing.

#### **2.8.10 Sunlight and Ventilation**

The HDCP requires at least 70% of the dwellings to receive 2 or more hours of sunlight to living room windows and private open space between 9am and 3pm on 22 June and 60% of units to be cross ventilated.

A total of 68.3% of residential apartments would receive a minimum of two hours of direct sunlight between 9am and 3pm in mid-winter. The non-compliant solar access is discussed in Section 2.6.1 of this report and is considered acceptable.

A total of 76% of units are naturally cross ventilated which complies with the HDCP and ADG requirements.

With regard to overshadowing to adjoining properties, the southern adjoining property No. 21 Balmoral Street would be overshadowed by the development as indicated in the submitted shadow diagrams.

As detailed above, it is anticipated that No. 21 Balmoral Street would be consolidated in the future with the townhouse development at Nos. 17-19 Balmoral Street and therefore developed together through the consolidation of these lots, the site would achieve appropriate solar access across the site as a whole.

### **2.8.11 Transport and Parking**

The proposed basement car park is accessed via a 6m wide driveway from Balmoral Street.

Parking provision within the basement levels complies with the minimum number of car spaces prescribed by the HDCP. The basement level includes storage areas for residents, bicycle/motor cycle parking areas, visitors and resident parking spaces and 7 accessible car spaces.

Subject to recommended conditions, the proposal is considered satisfactory in respect to the HDCP requirements for vehicle access and parking.

### **2.8.12 Waste Management**

The proposal includes a waste management plan with details of waste management during the demolition phase and the construction phase of building works.

The application proposes two garbage chutes located near the lift on each level. These chutes terminate at Basement 1 and the bin storage areas within Basement 1 have space for a 3x 660L bin linear track system and space to store spare and rotational bins.

Bulky waste storage is provided over two rooms, 4.6m<sup>2</sup> near the rear building lift and 11.6m<sup>2</sup> near the goods lift to the ground level temporary bin holding room.

The site will require 32x 240L recycling bins serviced weekly, 7x 660L garbage bins serviced twice weekly, 10x 240L food waste bins when the service commences, and 2x 660L paper/cardboard bins. The site will also require 2x 660L rotational garbage bins for under the garbage chutes on collection days and 10x 240L rotational recycling bins for use on collection days.

A goods lift has been provided to cart bins and bulky waste from the basement level to the ground level for collection services.

The recent amended plans have reduced the height of the temporary bin storage room to 1.5m which is less than the minimum non-habitable room height of 2.1m for not less than two-thirds of the floor area of the room in accordance with the National Construction Code (Section F5D2). Accordingly, a condition is recommended requiring amended plans to rectify this.

The collection area is sufficiently separated from the ground floor units and would not result in adverse amenity impacts due to noise and odour.

Subject to conditions, the proposed development is assessed as satisfactory with regard to on-going waste management operations on site and service vehicle access.

### **2.8.13 Privacy and Security**

The proposed development is appropriately designed for privacy with the majority of units having an orientation to the street or the northern side boundary. Habitable rooms and balconies have been strategically located to provide adequate building separation to approved residential flat buildings to the west of the site with a minimum 12m building separation provided between the subject site and adjoining complexes which meets the separation requirements for both the HDCP and ADG.

The proposed development would provide for casual surveillance of the public domain. Appropriate conditions are recommended for security access and crime prevention.

Subject to conditions, the proposal complies with the requirements of the HDCP.

## **2.9 Section 7.11 Contributions Plans**

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the development as it would result in an additional 55 residential dwellings in lieu of the 5 existing residences. Accordingly, the requirement for a monetary Section 7.11 contribution would be imposed should the development be approved.

## **3. ENVIRONMENTAL IMPACTS**

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

### **3.1 Natural Environment**

#### **3.1.1 Tree and Vegetation Preservation**

The subject site and adjoining properties contain 34 trees within the vicinity of the development as identified in the Arboricultural Impact Assessment prepared by Earthscape Horticultural Services dated 2 December 2021.

The application proposes the removal of 33 trees due to the proposed building footprint and required excavation for the basement car park.

While tree loss is not ideal, it is noted that the application proposes the replacement planting of 14 canopy trees capable of reaching a mature height of 5m or greater to offset the removal of trees. The proposed replacement planting is considered satisfactory and consistent within the deep soil areas to allow for the growth of the trees.

Conditions are recommended in Schedule 1 of this report requiring the protection and retention of trees numbered T1, T3, T14, T29, T30, T31, T32 and T33.

#### **3.1.2 Stormwater Management**



The proposed stormwater drainage system includes an on-site stormwater detention system and water quality treatment facility with overflow stormwater to be directed to Council's street drainage system within Park Lane.

Concerns were raised that the stormwater plans were not prepared by a suitably qualified engineer and that the stormwater connection would traverse across the adjoining property.

The stormwater plans were prepared by a structural and civil engineering company and were reviewed by Council's Development Engineer who raised no objections to the drainage solution subject to conditions included in Schedule 1. Further, the plans would connect into the existing Council drainage system in Park Lane and would not require an easement over downstream properties.

The proposed stormwater system is satisfactory in mitigating impacts on downstream water quality subject to recommended conditions.

### **3.2 Built Form**

The development achieves a scale consistent with the desired outcome for well-articulated buildings that are set back to incorporate landscaping, open space and separation between buildings. The proposal incorporates a high quality facade with a balanced composition of varied building elements including the use of vertical concrete building blocks extending from the ground level to Level 5, a mix of dark bricks and a mix of materials and colours to break up the development and reduce the overall bulk, which achieves an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements.

The proposed scheme has been designed to aesthetically fit within the envisaged future streetscape and character of the area and would present as a contemporary and coherent development. The façade structure and design would complement the surrounding and envisaged streetscape and respect the amenity of adjacent forms. Softscape landscaping has also been used to soften the edges of the site and provide privacy for existing residential dwellings to the south and existing units to the west.

The building would be located within a precinct identified with a future character of five storey residential flat buildings in a garden setting with underground car parking. The built form of the proposal would be consistent with the desired future character of the precinct.

### **3.3 Traffic**

The site has a frontage to Park Lane and Balmoral Street which are local roads. The application includes a traffic report prepared by SCT Consulting dated 22 May 2023. This report was reviewed by Council's Traffic Branch which concurred with the findings of the report that the proposal would generate 12 additional vehicle trips in the morning peak period and 10 vehicle trips during the afternoon peak period.

Considering the existing five houses (which generates around five car trips for both peak hours), the net increase of vehicular traffic associated with the development is estimated to be about seven and five vehicles per hour for the morning and afternoon peak periods. Therefore, traffic generation is generally considered to be acceptable.

Although this additional traffic may appear to be negligible when compared with the traffic volumes on the adjacent road network for this development alone, the cumulative traffic impacts of all sites earmarked for redevelopment in the precinct would be significant. The cumulative impact has been

considered in the strategic transport model for Council's Housing Strategy and the required traffic management improvements have been included in Council's Section 7.11 Contributions Plan.

### **3.4 Social Impacts**

The location of the development is in close proximity to Waitara Railway Station and the Hornsby Town Centre allowing direct access to retail, business, recreational, health and educational facilities for future residents.

The development delivers 55 additional dwellings in an area close to public transport, recreation and shops and contributes to the goals of the National Housing Accord by improving Housing supply which would have a positive social impact.

### **3.5 Economic Impacts**

The proposed development would have a positive economic impact by creating housing within a pre-defined high-density precinct. This will have flow on effects including demand for goods and services in the local area, in a locality that is highly serviced and well located within existing public transport networks.

## **4. SITE SUITABILITY**

Section 4.15(1)(c) of the Act requires Council to consider *"the suitability of the site for the development"*.

The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

## **5. PUBLIC PARTICIPATION**

Section 4.15(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

### **5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners on three separate occasions between 15 February 2022 and 10 March 2022, the 23 August 2022 and 13 September 2022 and the 11 July 2023 to 31 July 2023 in accordance with the Hornsby Community Engagement Plan. During these periods, Council received a total of 20 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



### NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
<p>Thirteen submissions were received from residents at No. 12 Park Lane.</p> <p>Two submissions were received from residents at No. 17-19 Balmoral Street.</p> <p>Three submissions received out of map range.</p>				

Twenty-one submissions objected to the development, on the following grounds:

- Privacy
- Overshadowing
- Garbage collection
- Tree Removal
- Building Height
- Traffic impacts
- Stormwater drainage
- Lack of deep soil
- Overshadowing
- Site Isolation

The merits of the matters raised in community submissions have been addressed in the body of the report with the exception of the following:

### 5.1.1 Construction impacts on traffic, pedestrian safety, air and noise pollution

Submissions have been received which raise concerns to the impacts of traffic particularly construction vehicles during construction, pedestrian safety along Park Lane and noise and air pollution from the construction works.

To address these concerns, a condition is recommended in Schedule 1 of this report requiring a Construction Traffic Management Plan (CTMP) be prepared by suitably qualified personnel detailing how construction traffic will be managed to ensure safety to other vehicles and pedestrians. The CTMP is also required to address how noise and air pollution will be managed during construction. The CMPT must be prepared in accordance with the relevant Australian Standard and best practices policies.

This CTMP is required to be approved by Council prior to the issuing of the construction certificate.

### 5.2 Public Agencies

The development application was not referred to any Public Agencies for comment.

## 6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council’s criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

## CONCLUSION

The application proposes the demolition of existing structures and construction of a 5 storey residential flat building comprising a total of 60 apartments with basement parking.

The development generally meets the desired outcomes of Council’s planning controls and the Apartment Design Guide and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Council received 22 submissions during the public notification period. The matters raised have been addressed in the body of the report.

Having regard to the circumstances of the case, approval of the application is recommended.

The reasons for this decision are:

- The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the Clause 4.3 Height of Buildings development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.





- The development delivers 55 additional dwellings in an area close to public transport, recreation and shops and contributes to the goals of the National Housing Accord by improving housing supply.
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Apartment Design Guidelines.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.

*Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.*

CASSANDRA WILLIAMS  
Major Development Manager - Development  
Assessments  
Planning and Compliance Division

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

**Attachments:**

1.  Locality Plan
2.  Clause 4.6
3.  Architectural Plans
4.  Landscape Plan

File Reference: DA/121/2022  
Document Number: D08689700

**SCHEDULE 1****GENERAL CONDITIONS****1. Approved Plans and Supporting Documentation**

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

*Approved Plans*

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
DA-A-030, Rev 0	Demolition plan	Quattro Architecture	6-8-2023	
DA-A-050, Rev S	Site plan	Quattro Architecture	6-8-2023	
DA-A-098, Rev S	Basement level 2 plan	Quattro Architecture	6-8-2023	
DA-A-099, Rev T	Basement level 1 plan	Quattro Architecture	6-8-2023	
DA-A-100, Rev V	Ground plan	Quattro Architecture	6-8-2023	
DA-A-101, Rev S	Level 1,2 & 3 plan	Quattro Architecture	6-8-2023	
DA-A-102, Rev S	Level 4 plan	Quattro Architecture	6-8-2023	
DA-A-103, Rev T	Roof plan	Quattro Architecture	6-8-2023	
DA-A-200, Rev 0	Elevations, sheet 1	Quattro Architecture	6-8-2023	
DA-A-201, Rev 0	Elevations, sheet 2	Quattro Architecture	6-8-2023	
DA-A-202, Rev 0	Elevations, sheet 3	Quattro Architecture	6-8-2023	
DA-A-203, Rev 0	Elevations, sheet 4	Quattro Architecture	6-8-2023	
DA-A-250, Rev S	Sections, sheet 1	Quattro Architecture	6-8-2023	
DA-A-251, Rev T	Sections, sheet 2	Quattro Architecture	6-8-2023	
DA-A-252, Rev S	Sections, sheet 3	Quattro Architecture	6-8-2023	
DA-A-260, Rev L	Detailed section	Quattro Architecture	6-8-2023	
DA-A-1000, Rev N	External finishes	Quattro Architecture	6-8-2023	
L-00, Rev D	Cover page	Space landscape	5.05.2023	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
		designs		
L-01, Rev D	Landscape plan	Space landscape designs	5.05.2023	
L-02, Rev D	Planting plan ground floor	Space landscape designs	5.05.2023	
L-03, Rev D	Planting plan ground floor	Space landscape designs	5.05.2023	

*Supporting Documentation*

Document Title	Prepared by	Dated	Council Reference
Drainage concept ground floor D1.00, Rev C	Bekker Engineers Design Buro	22.05.2023	D08683962
Drainage concept civil external, D1.01, Rev C	Bekker Engineers Design Buro	22.05.2023	D08683962
Drainage concept OSD, D1.05, Rev C	Bekker Engineers Design Buro	22.05.2023	D08683962
Drainage concept Roof, D2, Rev C	Bekker Engineers Design Buro	22.05.2023	D08683962
Drainage concept Basement 2, D3, Rev C	Bekker Engineers Design Buro	22.05.2023	D08683962
Drainage concept Sections/Details, D4, Rev C	Bekker Engineers Design Buro	22.05.2023	D08683962
Sediment & Erosion plan, SE01, Rev C	Bekker Engineers Design Buro	22.05.2023	D08683962
Water sensitive design report	Bekker Engineers Design Buro	8.08.2022	D08476892
BASIX Cert No. 1243848M_02	BSE	19.05.2023	D08683950
BCA Report	Atelier consultancy	7.10.2021	D08349454
Access report	Purely access	7.10.2021	D08349461
Waste management report demolition	No name	11.11.2021	D08349473
Waste management report operational	Elephants foot	10.11.2021	D08349465
Traffic impact assessment	SCT Consulting	22.05.2023	D08683943
Arborist report	Earthscape Horticultural	December 2021	D08349460
Survey	Hammond Smeallie & Co	14.05.2021	D08705467
Geotech report	Douglas partners	October 2021	D08349497

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

## 2. Amendment of Plans

- a) To comply with Councils requirement in terms of waste disposal, landscaping, ventilation and privacy, the approved plans are to be amended as follows:
  - i) The floor to ceiling height of the temporary bin holding area at ground level must be increased to ensure a minimum 2.1m ceiling height is achieved.
  - ii) The elevation plans must be amended to ensure the finished floor level of the temporary bin holding room is at RL 176.6 to enable a gradient no steeper than 1:14 and a distance less than 10m to the street.
  - iii) The wrap around balconies on levels 1 to 3 identified as U.18, U32, U.46 at the rear of the complex must include minimum 1.5m high fixed privacy screens along the western edge/elevation.
  - iv) The ventilation shafts for the complex must be relocated to outside of the bin room in accordance with Part F6 Light & Ventilation of the BCA.
  - v) The landscape plan must be amended to ensure the front fence is setback 1m from the Park Lane frontage to ensure landscaping in-front of the front fence and ensure the landscaping is consistent with the adjoining properties landscape frontage to the west.
- b) These amended plans must be submitted with the application for the Construction Certificate.

### 3. Removal of Trees

- a) This development consent permits the removal of trees numbered T2, T4, T5, T5A, T6, T7, T8, T9, T10, T11, T11A, T12, T13, T15, T16, T17, T18, T19, T19A, T19B, T20, T21, T22, T23, T24, T24A, T25, T25A, T26, T27, T28, T28A and T34 as identified in the Arboricultural Impact Assessment prepared by Earthscape Horticultural dated December 2021.
- b) No consent is granted for the removal of trees numbered T1, T3, T14, T29, T30, T31, T32 and T33 as these trees contribute to the established landscape amenity of the area and streetscape.

*Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013 (HDCP).*

*Reason: To identify only those trees permitted to be removed.*

### 4. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Principal Certifier Authority prior to the commencement of any construction works under this consent.
- b) A separate approval must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act 1993*.
- c) The Construction Certificate / Section 138 Roads Act Application plans must be consistent with the Development Consent plans.



*Reason: To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.*

## 5. Section 7.11 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.11 Development Contributions Plan 2020-2030*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$51,691.00
Open Space and Recreation	\$621,818.75
Community Facilities	\$382,984.10
Plan Preparation and Administration	\$5,282.40
TOTAL	\$1,061,776.25

Being for 60 units comprising 9 x 1 bedroom units, 39 x 2 bedroom units and 12 x 3 bedroom units and 5 lots to credit.

- b) The value of this contribution is current as at 31 August 2023. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.11 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\underline{\$C_{PY} = \$C_{DC} \times CPI_{PY}}$$

$$CPI_{DC}$$

Where:

$\$C_{PY}$  is the amount of the contribution at the date of Payment.

$\$C_{DC}$  is the amount of the contribution as set out in this Development Consent.

$CPI_{PY}$  is the latest release of the Consumer Price Index (Sydney - All Groups) at the date of Payment as published by the ABS.

$CPI_{DC}$  is the Consumer Price Index (Sydney - All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

- c) The monetary contribution must be paid to Council:
- Prior to the issue of the Subdivision Certificate where the development is for subdivision.
  - Prior to the issue of the first Construction Certificate where the development is for building work.

- iii) Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work.
- iv) Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

*Note: It is the professional responsibility of the Principal Certifier to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.*

*Note: In accordance with Ministerial Directions, the payment of contribution fees for development with a cost of works of over \$10 million can be deferred to prior to Occupation Certificate.*

*Note: Council's Development Contributions Plan may be viewed at [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au) or a copy may be inspected at Council's Administration Centre during normal business hours.*

*Reason: To ensure development contributions are paid to address the increased demand for community infrastructure resulting from the approved development.*

#### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

#### **6. Building Code of Australia**

Detailed plans, specifications and supporting information is required to be submitted to the Principal Certifier detailing how the proposed building work achieves compliance with the National Construction Code - Building Code of Australia. All building work must be carried out in accordance with the requirements of the National Construction Code - Building Code of Australia.

*Reason: Prescribed condition - EP&A Regulation section 69(1).*

#### **7. Fire System Boosters and Pumps**

When a fire rated wall is required to provide protection for fire hydrants, sprinkler boosters or pumps that are situated forward of the building line, an architectural plan shall be submitted to Council for approval demonstrating any screening treatment proposed that protects the visual amenity of the streetscape. The architectural plan shall be drawn to scale, detail the location, appearance and type of screening treatment proposed.

Architectural details can be forwarded to Hornsby Certifiers at:

[hornsbycertifiers@hornsby.nsw.gov.au](mailto:hornsbycertifiers@hornsby.nsw.gov.au), or 9847 6787.

*Reason: To ensure adequate protection is provided to NSW Fire & Rescue and to minimise the visual impact on the streetscape.*

#### **8. Fire Safety Schedule**

A schedule of all proposed essential fire safety measures to be installed in the building (e.g. hydrants, hose reels, emergency warning systems etc.) shall be submitted with the construction certificate application.

*Reason: To ensure all fire safety measures are identified to protect life and property.*

**9. Contract of Insurance (Residential Building Work)**

Where residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, this contract of insurance must be in force before any building work authorised to be carried out by the consent commences.

*Reason: Prescribed condition EP&A Regulation section 69(2).*

**10. Utility Services**

The applicant must submit written evidence of the following service provider requirements:

- a) Ausgrid (formerly Energy Australia) - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b) NBN - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

*Reason: To ensure the development is provided with the relevant utility services.*

**11. Sydney Water - Approval**

This application must be submitted to Sydney Water for approval to determine whether the development would affect any Sydney Water infrastructure, and whether further requirements are to be met.

*Note: Building plan approvals can be obtained online via Sydney Water Tap In™ through [www.sydneywater.com.au](http://www.sydneywater.com.au) under the Building and Development tab.*

*Reason: To ensure the development is provided with the relevant utility services.*

**12. Dilapidation Report**

- a) Prior to the commencement of any works on site, the applicant must submit for approval by the Principal Certifier (with a copy forwarded to Council) a 'Dilapidation Report' detailing the structural condition of the adjoining properties:
  - i) SP 97113, No.12 Park Avenue, Waitara.
  - ii) SP 94224, No. 8-10 Park Avenue, Waitara.
  - iii) Lot 4 DP 834145, No.21 Balmoral Street, Waitara.
- b) The report must include a photographic survey of the adjoining properties detailing their physical condition, both internally and externally, including such items as walls, ceilings, roof, structural members, and other similar items. The report must be completed by a chartered structural/geotechnical engineer. A copy of the dilapidation report must be submitted to Council.
- c) In the event access to adjoining allotments for the completion of a dilapidation survey is denied, the applicant must demonstrate in writing that all reasonable steps have been taken to advise the adjoining allotment owners of the benefit of this survey and details of failure to gain consent for access to the satisfaction of the Principal Certifier.

*Note: This documentation is for record keeping purposes only and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over*

damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.

*Reason: To record the condition of adjoining properties and public land to resolve any dispute over damage from works.*

### **13. Identification of Survey Marks**

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the *Surveying and Spatial Information Act 2002* and following the Surveyor General's Directions No.11 Preservation of Survey Infrastructure.

*Reason: To identify and protect the State's survey infrastructure.*

### **14. Stormwater Drainage**

The stormwater drainage system for the development must be designed in accordance with AUS-SPEC Specifications ([www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions)) and the following requirements:

- a) Connected directly to Council's piped drainage system in Park Lane.
- b) The Council piped drainage system shall be extended in Park Lane to facilitate a direct connection directly in front of the development site.
- c) Details of the existing inter-allotment drainage system within the existing Easement to Drain Water along the western boundary of the development site shall be shown on the stormwater design drawings and details provided to ensure that the existing system is protected and maintained

*Reason: To ensure appropriate provision for management and disposal of stormwater.*

### **15. On Site Stormwater Detention**

An on-site stormwater detention system must be designed by a chartered civil engineer generally in accordance with Project No. 64053 Drawing No. D1.00 Revision C dated 22.05.2023 by Bekker Engineers and the following requirements:

- a) Have a capacity of not less than 28.6 cubic metres, and a maximum discharge (when full) of 87 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system must be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed.
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

*Note: A construction certificate shall be obtained prior to the commencement of these works and are to be completed prior to the issue of an occupation certificate.*

*Reason: To manage stormwater flows to minimise potential flooding.*

#### **16. Water Saving Urban Design**

Stormwater quality treatment measures shall be designed generally in accordance with the Hornsby Council's DCP stormwater quality targets outlined in Table 1.C.1.2(b). A qualified engineer shall prepare a validation report using MUSIC-link for Hornsby Council and a design certificate shall be submitted to the Principal Certifier certifying that the design meets the stormwater quality targets outlined in Table 1.C.1.2(b) of the Hornsby Development Control Plan 2013.

*Reason: To manage the quantity and quality of stormwater to better protect the local environment and waterways.*

#### **17. Internal Driveway/Vehicular Areas**

The driveway and parking areas on site must be designed, constructed and a Construction Certificate issued in accordance with Australian Standards AS2890.1, AS2890.2, AS3727 and the following requirements:

- a) The access driveway shall be amended to incorporate the design levels at the front boundary obtained from Council by lodging an Application for Vehicular Crossing Boundary Levels.
- b) The driveway be a rigid pavement.
- c) Longitudinal sections along both sides of the access driveway shall be submitted to the Principal Certifier in accordance with the relevant sections of AS 2890.1. The grade for the first 6 metres into the property from the front boundary alignment shall have a maximum 1 in 20 (5%) grade. The maximum grade of the driveway shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.
- d) Prior to the issue of a construction certificate, a certificate from a qualified engineer shall be submitted to the Principal Certifier certifying that the access driveway, parking and services areas have been designed in accordance with Australian Standards AS 2890.1 and AS 2890.2.

*Reason: To provide safe vehicle and pedestrian access.*

#### **18. Footpath**

A concrete footpath must be designed along the full frontage of the development site in Balmoral Street and Park Lane in accordance with AUS-SPEC Specifications

([www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions))

and the following requirements:

- a) The existing concrete footpath along the full frontage of the development site in Balmoral Street and Park Lane shall be removed and reconstructed.

- b) Pouring of the concrete footpath to the full frontage of the subject site.
- c) The land adjoining the footpath to be fully turfed.
- d) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

*Reason: To provide safe pedestrian movement.*

#### **19. Public Road and Drainage Works**

Prior to the issue of a Construction Certificate, a separate approval under Section 138 of the *Roads Act 1993* must be obtained from Council by lodging an application via the NSW e-planning portal for works within the public road reserve. All road and drainage works approved under this consent must be designed in accordance with Council's AUS SPEC Specification and the following requirements:

- a) The public drainage system in Park Lane shall be extended up to the discharge point from the development site.
- b) The kerb and gutter, footpath and pavement along the full frontage of the development site in Balmoral Street and Park Lane, together with footpath formation, necessary drainage and sealing of road pavement between the existing pavement and lip of the gutter. This is to include the reconstruction of kerb and gutter and footpath to facilitate the extension of the Council pipe in Park Lane.
- c) The existing road pavement to be saw cut a minimum of 500mm from the existing edge of the bitumen and reconstructed.
- d) The existing bitumen speed hump in Balmoral Street shall be removed and relocated south of its existing location.
- e) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

*Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993.*

#### **20. Adaptable Units/Letter Boxes/Storage/Sun devices**

The following details must be provided with the Construction Certificate plans:

- a) The development is required to provide the following adaptable/Liveable housing:
  - i) 6 units designed as adaptable housing in accordance with Australian Standard AS4299-1995 Adaptable Housing pursuant to the requirements of 1C.2.2 of the Hornsby Development Control Plan 2013.
  - ii) 12 units must be Universal Design Housing in accordance with the Liveable Housing Guidelines (2012) silver level design features.
  - iii) 18 car parking spaces must be designed for people with a disability and allocated to the accessible and liveable units.
- b) Letter boxes must be located perpendicular to the road.
- c) Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) of 6m<sup>3</sup> for one bedroom units, 8m<sup>3</sup> for two

bedroom units and 10m<sup>3</sup> for three bedroom units, where 50% is required to be located within the apartment and accessible from either the hall or living area.

- d) All east, west and north facing windows shall incorporate solar shading devices that are, preferably, integrated design elements of the building.

*Reason: To ensure the development achieves the required accessibility provisions and storage provisions and to ensure the structures within the front setback are thoughtfully designed.*

## 21. Services

To provide a development that enhances the visual quality of the public domain, the following must be indicated on the Construction Certificate drawings:

- a) Heating, Ventilation and Air Conditioning (HVAC) must be grouped within designated areas in the basement and roof. No air conditioning units are permitted on private balconies.
- b) Wall-mounted equipment and associated pipework must be concealed into wall cabinets and duct.
- c) Powerlines along Balmoral Street must be underground on the road reserve at the front of the site.
- d) The above details must be shown on the Construction Certificate Plans.

*Reason: To ensure the development maintains the visual quality of the public domain.*

## 22. Fencing Details

The following fencing details must be provided on the construction certificate drawings:

- a) Within street setbacks, front fencing must have a maximum height of 1.2 metres.
- b) Planting at grade, or low walls screened by planting and/ or planter boxes are permitted at the interface between the private and public domain land.
- c) Enclosure of private courtyards within the front setbacks must achieve at least 50 percent transparency and be a maximum height of 1.5m above the adjacent communal space.
- d) Side and rear boundary fences should be a maximum of 1.8 metres high, sited behind the front building line.
- e) The above details must be shown on the Construction Certificate Plans.

*Reason: To ensure the proposal meets landscape requirements and maintains the visual quality of the public domain.*

## 23. Waste Management Details

The following waste management requirements must be complied with:

- a) Should there be any conflict or confusion between approved plans and/or consent conditions related to the waste management system or the waste collection vehicle travel path on site, then written clarification must be obtained from Council.
- b) The approved on-going waste management system must not be amended without the written consent of Council.

- c) Details of all changes to the waste management plans (including but not limited to, the extension of the temporary bin holding room, the chute system, bin storage/chute service rooms, bin carting paths, bulky waste storage) must be submitted to Council's waste team (which can be contacted via [devmail@hornsby.nsw.gov.au](mailto:devmail@hornsby.nsw.gov.au)) for written approval prior to the issue of a Construction Certificate.
- d) There must be no steps along any bin carting route. Ramps and service lifts are acceptable.  
  
*Note: bin carting routes include, but are not limited to, from the bin storage rooms to the ground level temporary bin holding room, from the ground level bin storage/holding room to the kerbside, from each commercial unit to the commercial bin storage room to the loading bay/dock.*
- e) For all bin carting routes, the path must be smooth hard surface. (Concrete pavement for example is acceptable, but pebbles, stepping stones, grass etc is not acceptable).
- f) A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the bin carting route from the ground level temporary bin holding room to the parked waste collection vehicle has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
  - i) Must be smooth hard surface.
  - ii) Must be no less than 2m wide (including through any gates or doors).
  - iii) Must be devoid of steps.
  - iv) Must have a gradient no steeper than 1:14 for 240L bins and 1:20 for 660L bins.
  - v) The first 6m of the driveway must have a gradient no steeper than 1:20 and must be designed to carry the load of a heavy rigid waste collection vehicle.
- g) Dedicated bulky waste storage area(s) totalling at least 16 square metres internal area must be provided at the basement level.
- h) There must be a waste facility (a garbage chute and a 240L recycling bin and 240L FOGO bin in a small room) on each residential level of each lift core of each building. Each waste facility must:
  - i) Be accessible by persons with a disability after the garbage chute and 240L recycling bin and 240L FOGO bin are installed.
  - ii) Comfortably house the required garbage chute and 240 L recycling bin and 240L FOGO bin.
  - iii) Have door(s) wide enough and positioned so that the 240 L recycling bin and 240L FOGO bin can fit through with ease.
  - iv) Includes mechanical ventilation to control odours and contaminants. The air handling system must not reduce the space required to store the bins.
  - v) The floor must be finished so that it is non-slip, sealed and impervious, and has a smooth and even surface coved at all intersections.



- vi) The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned.
- i) A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that all waste storage room(s) at the basement level and the temporary bin holding room at the ground level have been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
  - i) The floor is to be constructed of concrete at least 75mm thick and adequately graded to drain to a Sydney Water approved drainage fitting.
  - ii) The floor must be finished so that it is non-slip, sealed and impervious, and has a smooth and even surface coved at all intersections.
  - iii) The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned.
  - iv) The room is to be provided with artificial light controllable within the room and adequate forced ventilation.
  - v) The room is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - vi) The doors are to be robust and lockable, with a door opening of no less than 2m. The doors must be wide enough and positioned to fit the 660L bins through. The doors must be able to be opened from inside the room without a key.
- j) A design certificate and detailed plans are to accompany any Construction Certificate application, which confirms that the waste chute system for each building can be constructed to satisfy the Manufacturer's standard installation guidelines, the Waste Minimisation and Management Guidelines and specifically the following requirements:
  - i) Chutes, service openings and charging devices are constructed of metal or a smooth faced surface which is fire resistant and of impervious material.
  - ii) Chute is cylindrical in section, vertical and without bends as it passes through the floors.
  - iii) Chutes must terminate in the waste storage room and discharge into a waste bin.
  - iv) The chute system must comply with the manufacturers technical specifications and operational limitations.
  - v) The gradient of each chute must be no less than the minimum gradient recommended by the chute manufacturer.
  - vi) Each chute system must include volume handling equipment to automatically change the bin under the chute when it becomes full and thereby provide a minimum 3 day bin capacity under the chute.
  - vii) The required volume handling equipment for each chute system must not include compaction.

- viii) The chute service/garbage rooms must have sufficient space to comfortably house the required volume handling equipment and to load/unload bins from this equipment, and sufficient space to store the spare garbage and recycling bins for that building and to access and manoeuvre the bins.

*Note: The required volume handling equipment for each building is: 3 x 660L bin linear or carousel under each garbage chute.*

- k) The goods/garbage bin lift must be designed to permit the transport of no less than one 660L bin and one person between the basement level 1 and ground level. Design considerations include, but are not limited to, internal area, door opening width, maximum load limit.

*Note: 660L bins are 1370mm wide by 850mm deep; allow for ease around the bin - 75 mm is recommended. The door(s) need to be wide enough and positioned so that the bins can fit through. Maximum weight of 660L bin when full is 310 kg. 660L bins can be manoeuvred in any direction.*

- l) A Waste Management Plan Section One - Demolition Stage and Section Three - Construction Stage, covering the scope of this project and including the following details, is required to be submitted to Council:

- i) An estimate of the types and volumes of waste and recyclables to be generated.
- ii) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas.
- iii) How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed.
- iv) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.

*Note: the site(s) to which the waste materials are taken must be legally able to accept those wastes.*

*Reason: To ensure appropriate waste management for the development.*

#### **24. Appointment of a Project Arborist**

- a) To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.
- b) Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate/subdivision works certificate.

*Reason: To ensure appropriate monitoring of tree(s) to be retained.*

#### **25. Construction Management Plan (CMP)**

A Construction Management Plan (CMP) must be prepared by a suitably qualified consultant in consultation with a qualified traffic engineer and submitted to Council for review.

The CMP assists with the protection of the public, the environment, and Council's assets during all stages of construction works and must include the following:

- a) Description of the works
  - i) A general description of the scope of works.
  - ii) Details of the extent of earthworks including quantities of excavated and imported material to be transported to and from the site.
  - iii) Details of any staging of works.
- b) Construction traffic and management
  - i) The anticipated number and frequency of truck movements per day over the duration of the project (i.e., throughout demolition, earthworks, and construction phases) for fill importation and exportation. The number of trucks should correlate to the volume of fill material to be imported to/exported from the site.
  - ii) The vehicle traffic routes to and from the site, including any queuing locations. The vehicle routes should be identified on a plan attached to the PCMP.
  - iii) Size and types of construction vehicles to be used for importation and exportation of fill throughout the stages of works.
  - iv) Access and egress into the site, including any limitation on access for certain types of vehicles (determined via swept path analysis) due to site constraints.
  - v) Any required road closures/openings, work zones, crane permits, road occupancy licences and traffic control.
  - vi) Management measures to be implemented to minimise disruption to, and maintain the safety, of all road users.
- c) Pedestrian management
  - i) Potential impacts on pedestrian movements. This includes consideration of locations or times where footpaths are heavily trafficked (e.g. school arrival and departure; commuter peaks).
  - ii) Management measures to be implemented to minimise disruptions to pedestrians and maintain safety.
- d) Car parking
  - i) Impacts on on-street parking (e.g., use of work zones, construction access implications).
  - ii) Details of construction worker parking. Where limited car parking is available on site or nearby, details of alternative transport arrangements must be provided.
- e) Tree management and protection
  - i) Trees to be removed and retained on site consistent with other lodged Plans, including tree protection measures.

- f) Stormwater Management
  - i) Details of stormwater management and disposal during excavation and construction, consistent with other lodged Plans.
  - ii) Identification of existing watercourses.
  - iii) Sediment and erosion control measures.
- g) Noise and Vibration
  - i) Expected sources of noise and vibration during demolition, earthworks, and construction at sensitive receiver locations.
  - ii) Duration of works that are expected to emit higher than average levels of noise and vibration (e.g., rock breaking and rock sawing).
  - iii) Details of mitigation measures to minimise noise and vibration impacts
- h) Waste Management
  - i) Detail the reuse, recycling and disposal methods for all demolition and construction waste on site.
- i) Site plan
  - i) A site plan which identifies the following information at each stage of the development:
    - i. Existing and proposed buildings.
    - ii. Site boundaries.
    - iii. Extent of proposed earthworks (i.e., excavation and fill importation locations, and cut and fill locations).
    - iv. Existing trees and vegetation to be removed and retained and tree protection measures (consistent with TPP if required to be submitted as part of the Development Application).
    - v. Vehicle access and egress.
    - vi. On-site vehicle parking areas.
    - vii. Proposed hard-stand areas for loading and unloading materials, including the location of cranes and concrete pumps.
    - viii. Location of material storage on-site, stockpiles, site sheds, hoardings, waste storage.
    - ix. Location of sediment control measures (consistent with Erosion and Sediment Control plans submitted as part of the Development Application).
    - x. Potential Work Zone locations.
- j) Additionally, the detailed CMP must address the following issues noted in the Amended Traffic Report:
  - i) Section 5.1 states that 12000m<sup>3</sup> of material will be generated during construction. This is not consistent with the Construction Waste Management

Plan which states that 13305 m3 of waste will be generated during construction. The detailed CMP must clearly state how much waste will be generated during demolition, excavation and construction. If 12000 m3 of waste includes excavated spoil, clearly state how much of the excavated spoil will be reused on site and how much (m3) will be disposed offsite, including how many trucks this will require.

- ii) Section 5.4 states that two existing domestic driveways on Balmoral Street can potentially service the vehicular access during construction. However, swept paths have been only provided for the driveway between No. 25 and No. 27. As such, if driveway at No. 23 is to be used for site access / egress during construction, swept path diagrams for that driveway must be provided showing how trucks will enter without impacting the driveway at 21 Balmoral Street, Waitara.
- iii) If widening of access way is required, the detailed CMP must provide details of how this will be achieved, including but not limited to plans and construction drawings for the temporary driveway crossover.
- iv) The swept path diagrams must be amended to show complete ingress and egress within the site boundaries showing a forward entry and exit for all types of construction vehicles for all construction stages.
- k) The CMP must detail all responsible parties ensuring compliance with the document and include the contact information for developers, builder, principal certifier, and any emergency details during and outside work hours.

*Note: The CMP must be lodged via Council's Online Services Portal at: <https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx> and by selecting the following menu options: Applications > New Applications > Under 'Application Types': Management Plans.*

*Reason: To document construction measures to protect the public and the surrounding environment.*

## **26. Electric Vehicle (EV) Ready Connections**

Prior to the issue of the relevant Construction Certificate, the following must be demonstrated to the satisfaction of the Principal Certifier:

- a) The car park must provide Electric Vehicle (EV) Ready Connections (minimum 'Level 2' electric vehicle circuitry) to at least 25% of allocated on-site parking spaces.
- b) The carpark must provide EV Distribution Board(s) of sufficient size to allow connection of all EV Ready Connections.

*Note: EV Ready Connection is the provision of a dedicated spare 32A circuit provided in an EV Distribution Board to enable easy future installation of cabling from an EV charger to the EV Distribution Board and a circuit breaker to feed the circuit.*

*Note: EV Distribution Board is a distribution board dedicated to EV charging that is capable of supplying not less than 50% of EV connections at full power at any one time during off-peak periods and includes an EV Load Management System.*

*The EV Distribution Board should provide adequate space for the future installation (post construction) of compact meters in or adjacent to the distribution board, to enable individual EV usage to be measured.*

*Reason: To encourage and support the use of electric vehicles.*

## **BEFORE WORK COMMENCES**

### **27. Notice of Commencement for Demolition**

At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:

- a) Name.
- b) Address.
- c) Contact telephone number.
- d) Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor.
- e) The contact telephone number of council.
- f) The contact telephone number of SafeWork NSW (4921 2900).

*Note: The written notice to Council can be sent to [devmail@hornsby.nsw.gov.au](mailto:devmail@hornsby.nsw.gov.au).*

*Reason: To advise neighbours about the commencement of demolition work and provide contact details for enquiries.*

### **28. Hazardous Material Survey Before Demolition**

- a) Before demolition work commences, a hazardous materials survey of the site must be prepared by a suitably qualified person and a report of the survey results must be provided to council at least one week before demolition commences.
- b) Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint.
- c) The report must include at least the following information:
  - i) The location of all hazardous material throughout the site.
  - ii) A description of the hazardous material.
  - iii) The form in which the hazardous material is found, e.g. AC sheeting, transformers, contaminated soil, roof dust.
  - iv) An estimation of the quantity of each hazardous material by volume, number, surface area or weight.
  - v) A brief description of the method for removal, handling, on-site storage, and transportation of the hazardous materials.
  - vi) Identification of the disposal sites to which the hazardous materials will be taken.

*Note: The Hazardous Material Survey must be lodged via Council's Online Services Portal at: <https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx> and by selecting the following menu options: Applications > New Applications > Under 'Application Types': Management Plans.*

Reason: To require a plan for safely managing hazardous materials.

### 29. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
  - i) Showing the name, address, and telephone number of the principal Certifier for the work.
  - ii) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours.
  - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

*Reason: Prescribed condition EP&A Regulation, section 70(2) and (3).*

### 30. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction, or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects; and/or
- c) Involve the enclosure of a public place or part of a public place; and/or
- d) Have been identified as requiring a temporary hoarding, fence, or awning within the Council approved Construction Management Plan (CMP).

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

*Reason: To ensure public safety and protection of adjoining land.*

### 31. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:
  - i) Be a standard flushing toilet connected to a public sewer.
  - ii) Be a temporary chemical closet approved under the *Local Government Act 1993*.

- iii) Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

*Reason: To ensure adequate toilet facilities are provided.*

### **32. Cancellation of Waste Collection Service**

Prior to the commencement of any works, the on-going waste collection service must be cancelled, and the bins retrieved by the waste collection service provider.

*Note: For residential properties, Council is the waste collection service provider.*

*Reason: To ensure domestic waste bins are not used for demolition and construction waste.*

### **33. Garbage Receptacle**

A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.

- a) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- b) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- c) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

*Reason: To maintain the site in a clean condition and protect local amenity.*

### **34. Installation of Tree Protection Measures**

- a) Trees to be retained and numbered T1, T3, T14, T29, T30, T31, T32 and T33 as identified Arboricultural Impact Assessment prepared by Earthscape Horticultural dated December 2021 must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
  - i) For the duration of demolition works, in accordance with the Tree Protection Plan for prepared by Arboricultural Impact Assessment prepared by Earthscape Horticultural dated December 2021.
  - ii) For the duration of construction works, in accordance with Tree Protection Plan prepared by Arboricultural Impact Assessment prepared by Earthscape Horticultural dated December 2021.
- b) Tree protection fencing for the trees to be retained must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings.
- c) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.
- d) All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.



- e) Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the wood-chip must be covered with a layer of geotextile fabric and rumble boards.

*Reason: To minimise impacts on the water quality of the downstream environment.*

#### DURING DEMOLITION AND BUILDING WORKS

### 35. Demolition and Construction Work Hours

- a) All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday (unless otherwise approved in writing by Council due to extenuating circumstances).
- b) No work is to be undertaken on Sundays or public holidays.

*Reason: To protect the amenity of neighbouring properties.*

### 36. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with Australian Standard AS2601-2001 Demolition of structures and the following requirements:

- a) Demolition material must be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan; and
- b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by SafeWork NSW in accordance with the Work Health and Safety Regulation 2017 and be appropriately transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2014; and
- c) On construction sites where any building contains asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and measuring not less than 400mm x 300mm must be displayed in a prominent position visible from the street.

*Reason: To ensure the appropriate removal and disposal of demolition materials.*

### 37. Handling of Asbestos During Demolition

While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- a) Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling, and disposal of any asbestos material.
- b) Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste.
- c) Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on-line reporting tool Waste Locate.

*Reason: To ensure that the removal of asbestos is undertaken safely and professionally.*

**38. Environmental Management (Air Pollution)**

The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent. During construction, the Applicant must ensure that:

- a) Exposed surfaces and stockpiles are suppressed by regular watering.
- b) All trucks entering or leaving the site with loads have their loads covered.
- c) Trucks associated with the development do not track dirt onto the public road network.
- d) Public roads used by these trucks are kept clean.
- e) Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

*Reason: To minimise impacts to the natural environment and public health.*

**39. Street Sweeping**

During works and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.

The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.

*Reason: To minimise impacts to the natural environment.*

**40. Works Zone**

All construction vehicles associated with the proposed development are to be contained on site or in a Local Traffic Committee (LTC) approved "Works Zone" as follows:

- a) The site supervisor to be advised that the Works Zone will be deemed to be in effect, and fees will apply, between the dates nominated by the supervisor, or when parking spaces are managed for the sole use of construction vehicles associated with the site.
- b) The Works Zone signs shall be in effect only for the times approved by Council, and the time is to be noted on the sign. Eg, 'Works Zone Mon - Sat 7am - 5pm'.
- c) The applicant is required to supply a sign posting installation plan for referral to the Local Traffic Committee, noting on it the duration of the Works Zone.
- d) The Works Zone is only to be used for the loading and unloading of vehicles. Parking of workers' vehicles, or storage of materials, is not permitted.

*Note: A Works Zone Permit can be obtained via Council's Online Services Portal at: [Work Zone Permit | Hornsby Shire Council \(nsw.gov.au\)](https://www.hornsbyshire.nsw.gov.au/works-zone-permit).*

*Reason: To protect the amenity of neighbouring properties.*

**41. Council Property**

To ensure that the public reserve is kept in a clean, tidy, and safe condition during construction works, no building materials, waste, machinery, or related matter is to be stored on the road or footpath.

*Reason: To protect public land.*

#### **42. Disturbance of Existing Site**

During construction works, the existing ground levels of open space areas and natural landscape features, including natural rock-outcrops, vegetation, soil, and watercourses must not be altered unless otherwise nominated on the approved plans.

*Reason: To protect the natural features of the site.*

#### **43. Soil Management (Excavation and Fill)**

While site work is being carried out, the Principal Certifier or Council (where a principal certifier is not required) must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the Principal Certifier or Council (where a principal certifier is not required).
- b) Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the principal Certifier prior to the issue of an Occupation Certificate.
- c) Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming all fill material imported to the site must be:
  - i) Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997.
  - ii) A material identified as being subject to a resource recovery exemption by the NSW EPA.
  - iii) A combination of Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 and a material identified as being subject to a resource recovery exemption by the NSW EPA.
- d) The required Waste Classification Certificate must be provided to the Principal Contractor prior to fill being imported to the site and made available to Council at its request.

*Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.*

#### **44. Survey Report**

A report(s) must be prepared by a registered surveyor and submitted to the principal Certifier:

- a) Prior to the pouring of concrete at each level of the building certifying that:

- i) The building, retaining walls and the like have been correctly positioned on the site.
- ii) The finished floor level(s) are in accordance with the approved plans.

*Reason: To ensure buildings are positioned in the approved location and at the correct height.*

#### **45. Compliance with Construction Management Plan**

The Council approved Construction Management Plan must be complied with for the duration of works, unless otherwise approved by Council.

*Reason: To ensure implementation of construction measures to protect the public and the surrounding environment.*

#### **46. Unexpected Finds**

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the Principal Certifier and Council.

*Reason: To ensure the appropriate removal and disposal of contaminated materials.*

#### **47. Waste Management Details**

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition and throughout all construction works. When implementing the Waste Management Plan, the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*.
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*.
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
- e) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
- f) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

- g) Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifier within fourteen days of the date of completion of the works:
  - i) The identity of the person removing the waste.
  - ii) The waste carrier vehicle registration.
  - iii) Date and time of waste collection.
  - iv) A description of the waste (type of waste and estimated quantity).
  - v) Details of the site to which the waste is to be taken.
  - vi) The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
  - vii) Whether the waste is expected to be reused, recycled or go to landfill.

*Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance, regardless of whether it is reused, recycled or disposed to landfill.*

- h) From the commencement of works on site, until such time as the final occupation certificate is issued, the applicant is required to monitor the construction area and the immediate vicinity regularly for litter and illegal dumping. The applicant is to arrange removal of said material where required to avoid contamination of waterways and bushland as well as mitigating any further instances or compounding of illegal dumping.
- i) The on-going collection of waste from occupied buildings must not be impeded by construction works.

*Reason: To ensure the management of waste to protect the environment and local amenity during construction.*

#### **48. Road Opening Permit**

A road opening permit shall be obtained from the Council to permit a person to dig into Council assets, such as roads, footpaths and nature strips. The applicable fees for the restoration of any public asset by Council shall be at the applicant's full expense.

*Reason: To protect Council infrastructure by ensuring permits are applied for and approved by Council prior to any works in Councils assets.*

#### **49. Vehicular Crossing**

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be constructed in accordance with AUS-SPEC Specifications ([www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions)) and the following requirements:

- a) Design levels at the front boundary must be obtained from Council for the design on the internal driveway.

- b) Any redundant crossings must be replaced with integral kerb and gutter.
- c) The footway area must be restored by turfing.
- d) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

*Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.*

*Reason: To provide safe vehicle and pedestrian access.*

#### **50. Prohibited Actions within the Fenced Tree Protection Zone**

The following activities are prohibited within the approved fenced tree protection zones unless otherwise approved by Council:

- a) Soil cutting or filling, including excavation and trenching.
- b) Soil cultivation, disturbance, or compaction.
- c) Stockpiling storage or mixing of materials.
- d) The parking, storing, washing, and repairing of tools, equipment, and machinery.
- e) The disposal of liquids and refuelling.
- f) The disposal of building material.
- g) The siting of offices or sheds.
- h) Any action leading to the impact on tree health or structure.

*Reason: To protect trees during construction.*

#### **51. Maintaining the Health of Trees Approved for Retention**

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for trees to be retained.

*Reason: To ensure appropriate monitoring of tree(s) to be retained.*

#### **52. Maintaining Tree Protection Measures**

Tree Protection Measures must be maintained by the project arborist for the duration of works.

*Reason: To protect trees during construction.*

#### **53. Approved Works within Tree Protection Zone incursions**

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
  - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
  - ii) The maximum diameter of roots permitted to be cut is 80mm.

- b) Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
  - i) Excavations associated with the basement and building footprint and within the Tree Protection Zone of trees retained must be overseen by the AQF 5 project arborist for the first 1m undertaken manually to a depth of 1 metre to locate roots and allow for pruning in accordance with condition No. 8a.
- c) To minimise impacts within the Tree Protection Zone (TPZ) of trees retained on the approved plans, the installation of services must be undertaken as follows:
  - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
  - ii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
  - iii) For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.
- d) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
  - i) Installation of a 100mm deep layer of woodchip.
  - ii) Installation of geotextile fabric ground covering.
  - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

*Reason: To protect trees during construction.*

#### **54. De-watering of Excavated Sites**

Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in the pollution of waters, nuisance to neighbouring properties, or damage to neighbouring land and/or property.

*Reason: To document the safe removal of water during work to protect the public and the surrounding environment.*

### **BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

#### **55. Fulfilment of BASIX Commitments**

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

*Reason: Prescribed condition under section 75. EP&A Regulation.*

#### **56. Sydney Water - s73 Certificate**

A s73 Certificate must be obtained from Sydney Water and submitted to the PCA.

*Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

*Reason: To ensure compliance with the requirements of Sydney Water.*

#### **57. Certification of WSUD Facilities**

Prior to the issue of an Occupation Certificate a certificate from a Civil Engineer is to be obtained stating that the WSUD facilities have been constructed and will meet the water quality targets as specified in the Hornsby Development Control Plan 2013.

*Reason: To ensure compliance with WSUD commitments.*

#### **58. Preservation of Survey Marks**

A certificate by a Registered Surveyor must be submitted to the Principal Certifier, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 Preservation of Survey Infrastructure.

*Reason: To protect the State's survey infrastructure.*

#### **59. Creation of Easements**

The following matter(s) must be nominated on the plan of subdivision under s88B of the *Conveyancing Act 1919*:

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems, stormwater quality improvement devices and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system and stormwater quality improvement devices is to be clearly indicated on the title.
- b) To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system and stormwater quality improvement devices must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on-site detention system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

*Note: Council must be nominated as the authority to release, vary or modify any easement, restriction or covenant.*

*Reason: To create legal entitlements to facilitate the proper use and management of land.*

#### **60. Garbage Collection Easement**

For the purpose of waste collection, an easement entitling Council, its servants and agents and persons authorised by it, to enter upon the subject land and to operate thereon, vehicles and other equipment for the purposes of garbage collection must be granted to Council by the owner of the land.



*Note: The easement must be in a form prescribed by Council and must include covenants to the effect that parties will not be liable for any damage caused to the subject land or any part thereof or to any property located therein or thereon by reason of the operation thereon of any vehicle or other equipment used in connection with the collection of garbage and to the effect that the owner for the time being of the subject land shall indemnify the Council, its servants, agents and persons authorised by it to collect garbage against liability in respect of any such claims made by any person whomsoever.*

*Reason: To create legal entitlements to facilitate the proper use and management of land.*

#### **61. Works as Executed Plan**

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed on-site detention, council drainage, road pavement and kerb & gutter. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

*Reason: To ensure infrastructure is constructed and positioned in the approved location.*

#### **62. Construction of Engineering Works.**

All engineering works identified in this consent are to be completed and a Compliance Certificate issued prior to the release of the Occupation Certificate or Subdivision Certificate, whichever occurs first.

*Reason: To ensure engineering works are completed.*

#### **63. Waste Management Details**

- a) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

*Note: Waste and recycling management facilities includes everything required for on-going waste management on the site. For example, the garbage chute system, volume handling equipment, bin lifter, motorised bin trolley or similar, recycling bin storage on each residential level, bin storage areas, bulky waste storage area, bin collection area, waste collection vehicle access, bin carting routes, doors wide enough to fit the bin through, etc.*

- b) The bin storage/garbage rooms at the basement level and the temporary bin holding room at the ground level must include water or a hose for cleaning, graded floors with drainage to sewer, robust door(s), sealed and impervious surfaces, adequate lighting and mechanical ventilation, and must be lockable (but able to be opened from inside the room without a key).
- c) There must be a waste facility (a garbage chute and a 240 L recycling bin in a small room) on each residential level of each lift core of each building. Each waste facility must:
  - i) Be accessible by persons with a disability after the garbage chute and recycling bin are installed.

- ii) Comfortably house the required garbage chute and 240 L recycling bin and 240L FOGO bin.
- iii) Have door(s) wide enough and positioned so that the 240 L bins can fit through with ease.
- iv) Include sealed and impervious surfaces, adequate lighting and ventilation.

*Note: 240L bins are 600mm wide by 750mm deep; allow for ease around the bin - 75mm is recommended. The door(s) need to be wide enough and positioned so that the bins can fit through.*

- d) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, all external works including but not limited to the vehicular crossover and footpath, must be completed.
- e) A report must be prepared by an appropriately qualified person, certifying the following:
  - i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.

*Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report*

- ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.

*Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.*

- iii) All waste was taken to site(s) that were lawfully permitted to accept that waste.
- f) Each unit must be provided with an indoor waste/recycling cupboard for the interim storage of waste with two separate 15-20 litre containers installed, one each for general waste and recyclable materials.
- g) There must be a dedicated communal bulky waste storage area of at least 16 square metres at the basement level.
- h) Space must be provided for either individual compost containers for each unit or a communal compost container.

*Note: The location of the compost containers should have regard for potential amenity impacts.*

- i) The bin carting routes must be devoid of any steps.

*Note: Ramps and lifts between different levels are acceptable*

- j) The bin carting route from the temporary bin holding room at the ground level to the waste collection vehicle parked on the street must be smooth hard surface and have a gradient no steeper than 1:20.
- k) All lockable doors and gates, both pedestrian and vehicular, that are required to be opened by Council's waste collection contractor in the provision of waste collection services, must be able to be opened using a pin code. That is, locks requiring keys, remote controls, key fobs etc are not acceptable.
- l) Each garbage chute must be fitted with automatic waste volume handling equipment that automatically changes the bin under the chute when it becomes full, thereby providing no less than 3 days bin capacity under the chute. Access to the automatic waste volume handling equipment by unauthorised persons (including residents and waste collectors) must be prevented. The automatic waste volume handling equipment on the chute system must not include compaction.

*Note: Acceptable volume handling equipment includes 3 x 660L bin linear tracks or carousel or greater. A separate room or caging of the automatic volume handling equipment is acceptable.*

#### **64. Damage to Council Assets**

To protect public property and infrastructure, any damage caused to Council's assets including the removal, damage, destruction, displacement or defacing of the existing survey marks as a result of the construction or demolition of the development must be rectified by the applicant in accordance with Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

*Reason: To ensure public infrastructure and property is maintained.*

#### **65. Consolidation of Allotments**

All allotments the subject of this consent must be consolidated into one allotment.

*Note: The applicant is recommended to submit the plan of subdivision to consolidate allotments to the NSW Department of Lands at least 4-6 weeks prior to seeking an occupation certificate.*

*Reason: To ensure the orderly development of the site.*

#### **66. Retaining Walls**

All retaining walls must be constructed as part of the development and prior to the issue of an Occupation Certificate.

*Reason: To ensure the stability of the site and adjoining land.*

#### **67. Boundary Fencing**

- a) All fences along the Balmoral Street frontage and Park Lane Street frontage must be a maximum 1.2m high.
- b) Fencing must be erected along the southern and western property boundaries behind the front building alignment to a height of 1.8 metres.

- c) The exact location, design and costing for the erection of boundary fencing are to be the subject of negotiation and agreement in accordance with the relevant requirements of the Dividing Fences Act, 1991.

*Note: Alternative fencing may be erected subject to the written consent of the adjoining property owner(s).*

*Reason: To provide amenity to the site and adjoining development.*

#### **68. External Lighting**

- a) To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lighting.
- b) Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the Principal Certifier with the application for the Occupation Certificate.

*Reason: To ensure the safe operation of the premises and protect the amenity of the local area.*

#### **69. Unit Numbering**

All units are to be numbered consecutively commencing at No.1. The strata plan lot number is to coincide with the unit number, e.g Unit 1 = Lot 1. The allocated of unit numbering must be authorised by Council prior to the numbering of each units in the development.

*Reason: To maintain property numbering in accordance with Australian Standards.*

#### **70. Provision for National Broadband Network (NBN)**

Provision must be made for fibre ready passive infrastructure (pits and pipes) generally in accordance with NBN Co's pit and pipe installation guidelines to service the proposed development. A certificate from NBN Co or Telstra must be submitted to the PC that the fibre optic cabling provided for the development complies with MDU Building Design Guides for Development.

*Reason: To ensure the development is provided with telecommunications infrastructure.*

#### **71. Safety and Security**

This site must include the following elements:

- a) An intercom system must be installed at gate locations to ensure screening of persons entering the units.
- b) The entry doors to the pedestrian foyer is to be constructed of safety rated glass to enable residents a clear line of site before entering or exiting the residential apartments.
- c) Lighting is to be provided to pathways, building foyer entries, driveways and common external spaces.
- d) Security gate access is to be provided to the car parking areas allowing residents-only access to private car spaces.
- e) CCTV cameras must be installed at the entry and exit point and the around the mailbox.

- f) The communal open spaces within the site must be illuminated with high luminance by motion sensor lighting.
- g) The driveway and basement car parking must be illuminated with low luminance at all times.
- h) Security deadlocks are to be provided to each apartment door; and
- i) Peep holes are to be provided to individual apartment doors to promote resident safety.

*Reason: To ensure the development achieves the Crime Prevention Through Environmental Design requirements to protect the amenity of the local area and local residents.*

## **72. Fire Safety Statement - Final**

In accordance with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, upon completion of the building, the owner must provide Council with a certificate in relation to each fire safety measure implemented in the building.

*Reason: To ensure all fire safety measures are implemented to protect life and property.*

## **73. Planter Boxes / On slab planting**

On slab planter boxes must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch to ensure sustainable landscape is achieved.

*Reason: To ensure adequate waterproofing and drainage.*

## **74. Replacement Tree Requirements**

- a) The trees approved for removal under this consent must be offset through replacement planting of a minimum of 10 trees.
- b) All replacement plantings must be species selected from the 'Trees Indigenous to Hornsby Shire (as of 1 September 2011)' document available for viewing on the Hornsby Council's website <http://www.hornsby.nsw.gov.au/environment/flora-and-fauna/tree-management/indigenous-trees>.
- c) The location and size of tree replacement planting must comply with the following:
  - i) All replacement trees must be located in either front or rear setbacks and planted 4 metres or greater from the foundation walls of the approved development.
  - ii) The pot size of the replacement trees must be a minimum 45 litres.
  - iii) All replacement trees must be a minimum of 3 metres in height.
  - iv) All replacement trees must have the potential to reach a mature height greater than 10 metres.

*Reason: to compensate for the removal of trees and ensure the tree canopy of the site.*

## **75. Street Tree Plantings**

- a) 5x 'Lophostemon confertus (Brushbox) trees shall be planted in the front verge along Balmoral Street. Replacement planting to this front verge at 5 metre spacing.
- b) Trees are to be installed at minimum 25 Litre pot size and located in mulched planted beds 1000mm long and min 600mm wide, with 3 x hardwood stakes. Trees are to be located to ensure sight lines for cars leaving driveway are safe.
- c) The trees must be maintained and/or replaced until they reach a height of 3m.

*Reason: to enhance the tree canopy of the area.*

#### 76. Final Certification

The AQF 5 Project arborist must submit to the Principal Certifier a certificate that includes the following:

- a) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works.
- b) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans.
- c) Dates, times, and reasons for all site attendance.
- d) All works undertaken to maintain the health of retained trees.
- e) Details of tree protection zone maintenance for the duration of works.

*Note:* Copies of monitoring documentation may be requested throughout the development works.

*Reason: To ensure compliance with tree protection commitments.*

#### 77. Completion of Landscaping

A certificate must be submitted to the PCA by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

*Note:* Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au).

*Reason: To ensure compliance with landscaping commitments.*

### ONGOING USE

#### 78. Noise and Vibration

The ongoing use of the premises including any plant or equipment installed on the premises must not cause:

- a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the Noise Policy for Industry 2017.

- b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 Acoustics - Recommended design sound levels and reverberation times for building interiors.

*Reason: To protect the acoustic amenity of the local area.*

#### **79. Fire Safety Statement - Annual**

On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.

*Reason: To ensure fire safety measures are maintained to protect life and property.*

#### **80. Landscape Establishment**

- a) The landscape works including landscaping within private courtyards must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This must include but not be limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.
- b) The areas of communal open space that are located on the ground floor are to be managed by the owner's corporation and provide for the exclusive use to all units within the building.
- c) The landscaping of the vehicle access must not restrict sight distance to pedestrians and cyclists travelling along the Balmoral Street footpath.

*Reason: To ensure landscaping within the site is adequately maintained in perpetuity.*

#### **81. Car Parking and Deliveries**

All car parking must be constructed and operated in accordance with Australian Standard AS 2890.1-2004 Off street car parking and Australian Standard AS2890.2-2002 Off street commercial and the following requirements:

- a) All parking areas and driveways must be sealed to an all-weather standard, line marked and signposted.
- b) Car parking, loading and manoeuvring areas must be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads.
- d) All vehicular entry on to the site and egress from the site must be made in a forward direction.
- e) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
- f) Visitors must be able to access the visitor parking spaces at all times. These spaces are not to be used by residents as storage or parking spaces.

- g) Motorcycle parking spaces are to be designed in accordance with AS/NZS2890.1:2004 Figure 2.7.
- h) Bicycle parking spaces are to be designed in accordance with AS2890.3-1993 Bicycle parking facilities.

*Reason: To ensure car parking and vehicular movements on the site meet the relevant Australian Standard requirements.*

## 82. Waste Management

The waste management on site must be in accordance with the following requirements:

- a) The development must operate in full compliance with Council's waste management collection requirements.
- b) There must be a sufficient number of bins on site to contain the volume of waste and recycling expected to be generated between collection services. There must be a sufficient number of rotational bins on site for there to be a garbage bin under each chute and a recycling bin in each bin cupboard on each residential level on collection days.
- c) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas and signage, ensuring the chute systems and related devices are regularly checked and maintained in effective and efficient working order, maintaining and checking all waste management equipment, managing the communal composting area and worm farm, managing the bulky item storage area, managing the clothing/donation bins, arranging collections where the service is not provided by Council (e.g. clothing bins, e-waste), arranging the prompt removal of dumped rubbish, arranging for shopping trolleys to be promptly returned to the local shopping centre(s), ensuring the recycling bins are free of contamination (which includes but is not limited to garbage, plastic bags, clothing, etc.), addressing overflowing bins and pest infestations, liaising with Council on waste matters, and ensuring all residents are informed and kept up to date on the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.
- d) Bins must not be permanently stored in the ground level temporary bin holding room. All mobile garbage bins that are placed in the ground level temporary bin holding room for collection must be taken back to their bin storage room on the same day of service.

*Note: bins are to be placed in the holding room the day before the collection day, then returned to the basement bin storage rooms promptly after servicing.*

- e) No waste storage containers are to be located or placed outside of the approved waste storage area at any time except for collection purposes.
- f) Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. Signage is also to be



provided in locally appropriate culturally and linguistically diverse (CALD) community languages.

*Note: Council may be able to assist with signage.*

- g) Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste management system.
- h) Where the waste management system includes a chute system, there needs to be a contingency plan to allow for the continual disposal and collection of waste if the chute cannot be operated.
- i) All equipment required in the operation of the approved waste management system must be regularly checked and maintained in effective and efficient working order in accordance with the manufacturer's instructions by trained service technicians.

*Reason: To ensure waste management is implemented throughout the ongoing use of the development.*

#### - END OF CONDITIONS -

#### ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

#### Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A Principal Certifier to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

#### Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the Long Service Payments Corporation (LSC) at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au).

*Note: The rate of the Long Service Levy is 0.25% of the total cost of the work (including GST).*

*Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.*

#### Tree and Vegetation Preservation

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in State Environmental Planning Policy (Biodiversity and Conservation) 2021 and the *Environmental Planning and Assessment Act 1979*.

In accordance with these provisions a person must not cut down, fell, uproot, kill, poison, ringbark, burn, or otherwise destroy the vegetation, lop, or otherwise remove a substantial part of the trees or vegetation to which any such development control plan applies without the authority conferred by a development consent, or a permit granted by Council.

Fines may be imposed for non-compliance with the *Hornsby Development Control Plan 2013*.

*Note: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3m). (HDGP 1B.6.1.c).*

### **Disability Discrimination Act**

The applicant's attention is drawn to the existence of the *Disability Discrimination Act 1992*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act 1992*. This is the sole responsibility of the applicant.

### **Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

### **Dial Before You Dig**

Prior to commencing any works, the applicant is encouraged to contact Before You Dig Australia (BYDA) at [www.byda.com.au](http://www.byda.com.au) for free information on potential underground pipes and cables within the vicinity of the development site.

### **Telecommunications Act 1997 (Commonwealth)**

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on Phone Number 1800810443.

### **Asbestos Warning**

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.adfa.org.au](http://www.adfa.org.au)

[www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)

Alternatively, telephone the *SafeWork NSW* on 13 10 50.

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**Unit Numbering (Strata Units)**

All units are to be numbered consecutively commencing at No1. The strata plan lot No is to coincide with the unit number. E.g., Unit 1 = Lot 1.

**Rain Water Tank**

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. *NSW Health* recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

**ITEM 1**