ATTACHMENTS

LOCAL PLANNING PANEL MEETING

Wednesday 30 April 2025
at 2:00 PM

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LOCAL PLANNING PANEL

ITEM 1

ATTACHMENT/S

REPORT NO. LPP12/25

ITEM 1

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Consultant Assessment Report
Prepared by: Donna Clarke - Landmark Planning Pty Ltd

DA No:	DA/907/2024 (PAN-460378 - Lodged on 9 August 2024)
Description:	Demolition of existing buildings and construction of a Residential Flat Building containing 39 Units
Property:	Lot 24 DP 23965, Pt Lot 23 DP 23965, Lot 22 DP 23965, Nos. 454-458 Peats Ferry Road, Asquith
Applicant:	D.R. Design (NSW) Pty Limited
Owner:	Mr John Mark Mallia
Estimated Cost:	$19,077,391
Ward:	A
Clause 4.6 Request:	Clause 4.3 Height of Buildings
Submissions:	Three (3) submissions over two notification periods
LPP Criteria:	Proposal contravenes a development standard by more than 10% Council State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment development)
Author:	Donna Clarke - Landmark Planning Pty Ltd
COI Declaration:	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 approve Development Application No. DA/907/2024 for demolition of existing buildings and construction of a residential flat building containing 39 units at Lot 24 DP 23965, Pt Lot 23 DP 23965, Lot 22 DP 23965 and Lot 58 DP 226074,Nos. 454-458 Peats Ferry Rd, Asquith subject to the conditions of consent detailed in Attachment 2 of LPP Report No. LPP12/25.

EXECUTIVE SUMMARY

- The application involves demolition of existing buildings and construction of a residential flat building containing 39 units at Nos. 454-458 Peats Ferry Road, Asquith.
- The application is considered to be council-related development due to the commercial interest in Lot 58 DP 226074 that the owner intends to purchase from Hornsby Shire Council. In accordance with Council's adopted Policy '*Proposed Council Developments'* an independent assessment of the development application has been undertaken by Donna Clarke of Landmark Planning Pty Ltd.
- The proposal does not comply with the maximum height of buildings control. The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the Hornsby Local Environmental Plan 2013 to contravene Clause 4.3 Height of Buildings. The submission is considered well founded and is supported.
- A total of three (3) submissions have been received in respect of the application, comprising two (2) from the original notification period and one (1) from the same person for the second notification period.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal contravenes a development standard by more than 10%; and State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment development) applies.
- It is recommended that the application be approved.

BACKGROUND

Site History

On 18 August 2022, a pre-lodgement meeting was held with the applicant for the proposed development under PL/39/2022. The application sought preliminary planning advice for the demolition of existing structures, site consolidation and development of a 5 storey residential flat building comprising 39 apartments and two levels of basement parking with rooftop common open space.

The pre-lodgement application was also considered by Council's Design Excellence Panel (DEP) on 8 July 2022.

Application History

On 9 August 2024, this development application (DA/907/2024) was lodged.

On 6 September 2024, Council Officers advised the applicant that without the purchase of Lot 58 DP 226074, the proposed development would not comply with the prescribed front boundary setback requirements which have been incorrectly calculated to the road reserve boundary instead of the boundary with Lot 58 DP 226074. The non-compliance with the actual front boundary setback has resulted in additional floor space being provided to the development and therefore, the proposed development is looking to benefit from the Lot 58 DP 226074 while not purchasing the lot. Council Officers recommended that the owner reconsider the decision to not pursue the purchase of Lot 58 DP

226074. The owner/developer has advised that they intend to purchase Lot 58 and enter into negotiations with Council to progress the purchase.

On 18 October 2024, the application was considered by Council's Design Excellence Panel (DEP). At this meeting, the panel recommended design changes.

On 18 December 2024, the application was considered by Council's Development Advisory Panel. At this meeting, the Panel recommended a meeting be held with the applicant to discuss opportunities to address building materials and finishes, including the use of face brick on 1/3 of each façade, and articulation of the building to create pavilion style roof with cut outs to the front and rear façade.

On 31 January 2025, the Applicant submitted additional information addressing the concerns of the Design Excellence Panel and Council's assessment staff and Development Advisory Panel. The amendments also included the incorporation of a parcel of land at the front of the site being Lot 58 DP 226074 into the development. This parcel of land is owned by Council.

On 12 March 2025, Council considered a confidential item on the disposal of Lot 58 DP 226074 being operational land and former road widening land. It was resolved:

"THAT Council:

1. *Approve the sale of the land identified within Confidential Director's Report No. CS6/25 in accordance with the terms of sale outlined in Confidential Director's Report No. CS6/25.*
2. *Authorise the General Manager to use reasonable discretion to negotiate the detailed terms and conditions of the sale agreement, generally in accordance with the terms of sale outlined in Confidential Director's Report No. CS6/25 and to execute documents in relation to the sale, as deemed appropriate by Council's legal advisers.*
3. *Authorise the use of its Seal on the Contract for the Sale of Land, Transfer or any legal or other documents related to the sale of the properties identified within Confidential Director's Report No. CS6/25, as deemed appropriate by Council's legal advisers."*

SITE

The development site comprises three allotments (total area 2158m² for the three dwelling sites on the south-eastern side of Peats Ferry Road, Asquith being Lot 24 DP 23965, Pt Lot 23 DP 23965 and Lot 22 DP 23965.

The three allotments, being Nos. 454-458 Peats Ferry Road currently contain dwelling houses and associated outbuildings in a landscaped setting. A small 90m² parcel of operational land and former road widening land (Lot 58 DP 23965) is located between the road and front boundary of No. 456 which is the central lot in the overall site.

The site is approximately 67m long and 27.4-39.3m deep and is irregular in shape with the north-eastern portion of the site being narrower.

The site experiences a fall of approximately 3m across the site towards the side eastern boundary and front north-eastern corner of the site.

A footpath exists along the frontage of the site, a telegraph pole and light is located in front of the central part of the site and shrubs are located on the verge. A bus stop is located directly opposite the site.

The site is not bushfire or flood prone land and is not burdened by any easements or restrictions.

The site is located within an area which has undergone transition from single dwellings to medium to high density housing. Immediately adjacent to the site, with the exception of a single dwelling and BP Service Station to the north-east, are residential flat buildings.

Railway lines are located approx. 65m to the south-east of the site and Asquith Boys High School is located on Peats Ferry Road, approximately 100m to the west of the site. Further to the west approx. 400m from the site in Lodge Street is Asquith Bowling Club and Council's open space, playing fields, playground and community centre known as Storey Park.

To the north-east of the site is a neighbourhood commercial and retail centre comprising a supermarket and specialty shops. Asquith Railway Station is located opposite the shops and is within a 400m walk of the site. Peats Ferry Road is serviced by regular bus services.

Figure 1 – Aerial Photograph (source: www.nearmap.com)

PROPOSAL

A Development Application has been received for the proposal for the demolition of existing buildings and construction of a five-storey residential flat building containing 39 residential units over Ground level and Levels 1 to 4.

The building has been designed to appear as two towers with the central portion stepped in and two separate lobbies and access from the street and basement proposed to each core.

Two levels of basement, with vehicular access from the north-eastern portion of the site, comprising:

- Basement 1 - 7 residential car spaces (including 1 accessible space and 6 stacked spaces), 7 visitor car spaces (including 1 accessible space), 14 bicycle spaces, 2 motorcycle spaces, lifts and stairs, loading bay, storage, EV charging, caretaker's toilet, and waste and services rooms.
- Basement 2 – 32 residential car spaces (including 3 accessible spaces), lifts and stairs, storage, EV charging and main switch room.

A roof top garden is proposed as communal open space and comprises paved areas with barbeques and seatings areas, and landscaping around the perimeter of the roof and toilet. Servicing elements of the building including the lift overruns and fire stairs are centrally located above each core.

The unit mix would comprise:

- 5 x 1 bed units
- 26 x 2 bed units
- 7 x 3 bed units
- 1 x 4 bed unit

Four of the units would be adaptable units being Unit 0.01, 1.01, 2.02 and 3.01.

Waste storage and collection is proposed from basement Level 1 via a Small Rigid Vehicle, with a flashing light in the basement which is activated when a waste vehicle is entering or leaving the basement.

Stormwater would be managed through on-site detention with a tank proposed at the front of the site which is then piped to Council's drainage system on Peats Ferry Road.

The plans indicate that the proposal seeks to retain T1, T2, T3, T4, T5, T17 and T18 on site and includes the removal of 13 trees for the development. The proposal includes landscaping, incorporating replacement trees, deep soil planting, shrubs, screening plants and ground covers at ground level.

A Clause 4.6 written request to contravene Clause 4.3 of the LEP relating to Height of Buildings has been provided with the application, in relation to a portion of the roof, roof garden elements and lift overruns and fire stairs exceeding the maximum height limit.

The materials and finishes comprise a mix of rendered paint, Colorbond steel cladding, aluminium in a timber look, brick veneer and stone cladding for the walls, glass balustrades, and a variety of colours within the earthy tones.

The amended plans made changes to the proposal as follows:

- Further setting back the roof form above the central recess to create the appearance of a stronger cut out at the front façade. To retain a degree of protection to the front balconies to Units 4.03 and 4.04 below, a lightweight, visually permeable pergola is proposed within the recess.
- Materials and finishes altered including increasing the proportion of brick on the facades to at least 1/3 of the façade, reducing the extent of timber look cladding at Level 1-4 and replacing

with face brick, providing a more limited extent of timber look cladding at the lift core and extended up to Level 4, and the amount of face brick has been increased on the rear elevation and a glass balustrade added to the roof garden.

Below are extracts from the plans to indicate the proposed development:

Figure 2 – Street Perspective Amended (source: Architectural Plans prepared by Dickson Rothschild)

Figure 3 – North and East Elevations Amended (source: Architectural Plans prepared by Dickson Rothschild)

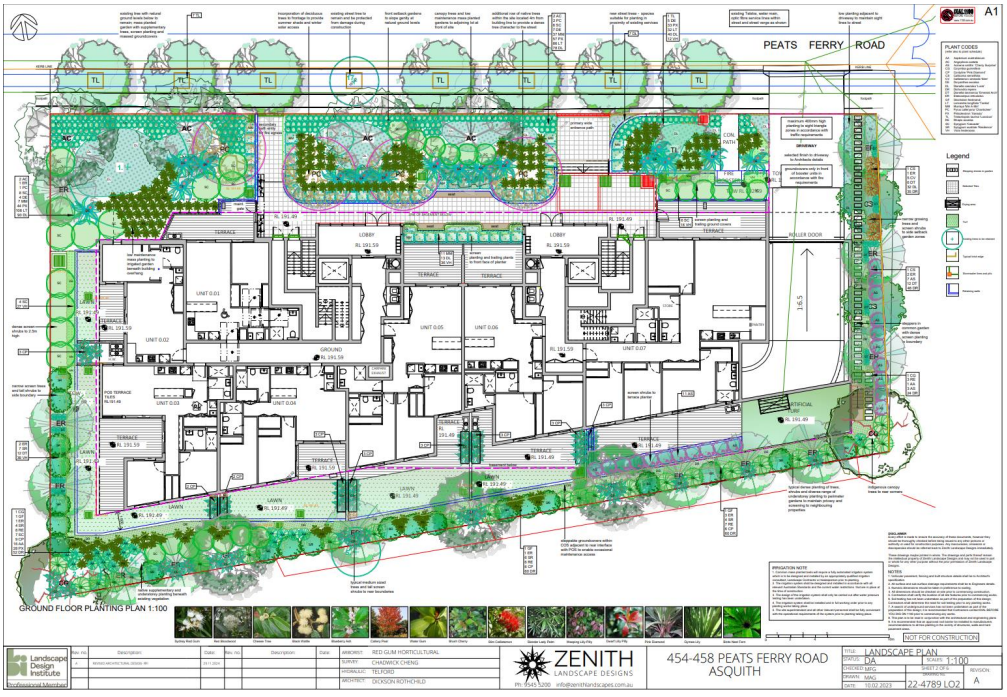

Figure 4 – Landscape Plan Amended (source: Landscape Plans prepared by Zenith Landscape Designs)

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 over 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 over the next 20 years which aim 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 provide 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 a high-density residential development and complies with the zone objectives by providing a variety of housing types and new housing stock. The proposed development is defined as a 'residential flat building' and is permissible in the R4 zone with Council's consent.

The subject land incorporates Lot 58 DP 226074 at the front of the site being previous road widening which is zoned SP2 Infrastructure (Roads) under the HLEP. The objectives of the SP2 zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Council has resolved to dispose of this parcel of land zoned SP2 as it is not needed for road purposes and execute the sale of the land to the applicant.

The proposed development on this portion of land zoned SP2 is for landscaping purposes, consistent with the current use, and remains ancillary to the road reserve. Residential Flat Buildings are not permitted on the SP2 land and whilst the land can be included in the development with a varied zoning, no part of the proposed works associated with the RFB are proposed on this portion of the site zoned SP2. The proposed landscaping on the SP2 land is permissible and remains consistent with the zone objectives.

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 19.89m at the highest point and does not comply with this provision, as detailed under the discussion against Clause 4.6 below.

The request for variation to the maximum Height of Buildings control of 16.5m is addressed against Clause 4.6 below.

2.1.3 Exceptions to Development Standards

A Clause 4.6 variation request to Clause 4.3 of the HLEP relating to Height of Buildings has been provided with the application, in relation to a portion of the roof, roof garden elements and lift overruns and fire stairs exceeding the maximum height limit of 16.5m.

Clause 4.6 of HLEP allows the applicant to make a written request to vary the applicable development standard that is contravened. In this case, the proposed development does not comply with the maximum height of buildings as required by Clause 4.3(2) of HLEP, being greater than the maximum height of buildings shown on the Height of Buildings in relation to that land. The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain standards to particular development, and to achieve a better outcome for and from the development by allowing some flexibility.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other

environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

As previously noted above, the proposal contravenes the prescribed development standard for minimum lot size as required by Clause 4.3(2) of HLEP, exceeding the maximum height limit of 16.5m.

(3) 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

The applicant has submitted a written Clause 4.6 Variation Request to vary the applicable exceeding the maximum height limit of 16.5m as required by Clause 4.3(2) of HLEP, which outlines the variation, addresses the matters under Clause 4.6 and details how strict compliance is unreasonable or unnecessary in the circumstances of this case.

The Clause 4.6 Variation Request has been considered with respect to the "*5 Part Test*" for the assessment of a development standard variation established by the NSW Land and Environment Court in *Wehbe v Pittwater Council [2007] NSWLEC 827* and the principles outlined in *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46* and *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*. The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* provides guidance in respect of the operation of Clause 4.6 subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130* where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has demonstrated the matters required to be demonstrated by cl 4.6(3).

The variation is outlined below:

- Development Standard - Maximum height limit of 16.5m as required by Clause 4.3(2) of Hornsby Local Environmental Plan 2013.
- Proposed - maximum height of 19.89m at the highest point.
- Variation - 5.1% to 20.55%.

The extent of variations are detailed below:

- 19.89m at the top of the lift overrun (RL 210.94m AHD) at the east lift core, representative of a 3.39m breach or 20.55% variation to the 16.5m maximum building height development standard.
- 19.66m at the top of the communal open space shade structures (RL 210.44m AHD) at the east lift core, representative of a 3.16m breach or 19.15% variation.
- 18.79m at the top of the lift overrun at the west lift core (RL 210.94m AHD) representative of a 2.29m breach or 13.88% variation.

- 19.24m at the COS roof awning/pergola (RL 210.44m AHD) at the west lift core representative of a 2.74m breach or 16.61% variation.
- 18.35m at the eastern portion of the roof integrated planters & balustrade (RL 208.84m) representative of a 1.85m breach or 11.21% variation.
- 17.34m at the eastern portion of the roof form (RL 207.84m) representative of a 0.84m breach or 5.1% variation.

The areas of non-compliance with the maximum building height control is indicated in the extract from the Architectural plans below.

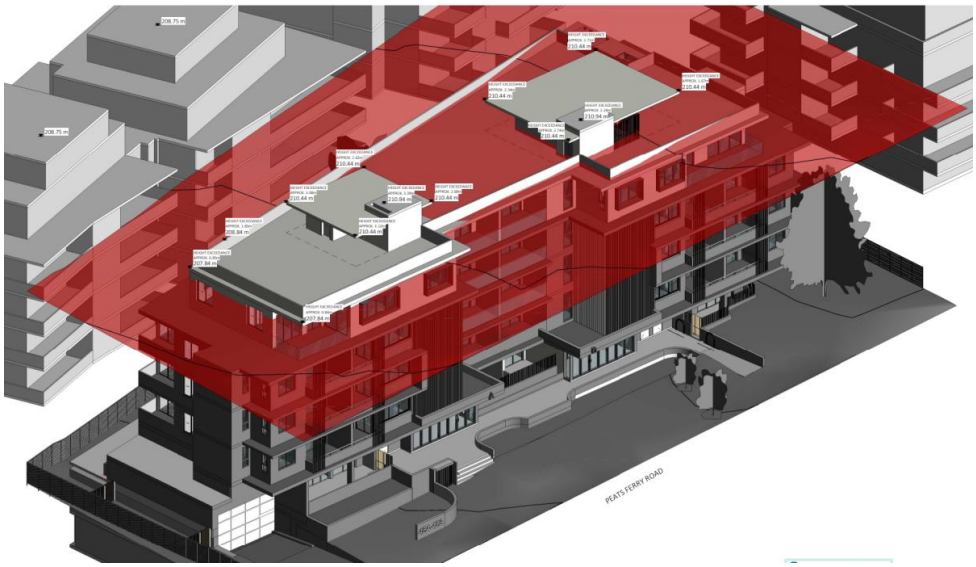

Figure 5 – Height Plane Diagram (source: Architectural Plans prepared by Dickson Rothschild)

Clause 4.3 states:

> *" 4.3 Height of buildings*
>
> *(1) The objectives of this clause are as follows—*
>
> *(a) to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.*
>
> *(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map."*

The Clause 4.6 Variation Request forms an Attachment to this Report and indicates that the height non-compliance arises from the following:

- Sloping topography.
- Clearance to achieve SRV access to basement on a shallow site where basement ramp length is constrained.

- Increased floor-to-floor heights to satisfy provisions of new BCA/NCC requirements and maximise residential amenity.
- Noting the height limit when the R4 zone was established was 17.5m and is what is reflected in all neighbouring residential flat buildings (built and consented), which creates an immediate context of a height greater than what is indicated in the LEP.
- Provision of accessible roof garden for common open space to maximise amenity on a site where the rear setback is south facing and where common open space in the traditional location at the rear setback would be overshadowed.

It is concluded that the application has demonstrated that compliance with Clause 4.3 is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental grounds to justify contravening the development standard, for the following reasons:

- The site constraints including topography, lot shape and depth have been managed well in the architecturally designed outcome to provide high quality residential built form, with the height variations limited.
- Adverse environmental or amenity impacts are unlikely as a result of the non-compliance.
- The proposed building height, form and overall bulk and scale is consistent, or lower than, the existing RFB developments in the locality.
- The site's shape which narrows at the north-eastern portion and does not have depth makes it difficult to accommodate a building envelope at and requires a skilled architectural design response.
- Amenity impacts are limited due to the variation, which will not be highly discernible when viewing the lots from the public domain or adjoining properties.
- The development complies with the other key planning controls applicable to the site, including compliance with the ADG design requirements.
- The design provides adequate space for tree retention and replacement trees and landscaping around the building, as well as landscaping on the rooftop on all four sides to assist with screening of the portions of the roof, roof garden elements and lift overruns and fire stairs exceeding the maximum height limit.
- The variation assists with satisfying the zone objectives by way of providing for the housing needs of the community within a high density residential environment.
- Strict compliance would not have an improved environmental outcome and would result in less housing stock or reduced amenity for the residents.
- The variation assists with satisfying the objectives of Clause 4.3 by way of proposing a sufficient sized residential flat building which provides for a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land and locality.
- Orderly and economic development of the land is achieved despite the departure from the development standard.

Therefore, in this instance the development standard is considered to be unreasonable as the major matters regarding residential flat buildings are still met in a thoughtful design. In this regard, it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) 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 Director-General has been obtained

(a) The applicant's written request as detailed above is considered satisfactory in addressing the matters required by subclause (3), particularly noting that the extent of the variation to the development standard is minor in nature.

The objective of the development standard is stated above.

The key objectives of this clause are to ensure that the proposed residential flat building is compatible with the environmental capabilities of the land including site constraints and infrastructure capacity; and to ensure development potential is consistent with relevant development controls.

It is considered that the intent of the control and the objective with respect to a maximum height of buildings is to ensure that residential sites are capable of accommodating built form in accordance with the ADG and Hornsby DCP controls relating to landscaped areas, front, side and rear setbacks, building envelopes, stormwater management and parking. All of these controls work to limit the amount of development that can be achieved on a residential site, particularly with regard to building envelopes and separation and the overall number of units.

The Applicant's Request indicates that the residential flat building will result in a density reflecting, or less than, the existing built form, pattern and infrastructure capacity of the locality, satisfying the objectives of the control. The Request also demonstrates the variation is justified with sufficient environmental planning grounds. Finally, the request outlines that the proposed development is in the public interest as it will enable generous landscaped setback to the street and highly articulated elevations, aiming to enhance streetscape, will provide access to the basement for waste collection on-site which assists from a safety and traffic management perfective and promotes street amenity and contributes to pedestrian safety.

Therefore, in consideration of the above it is concluded that the proposal is in the public interest, subject to conditions, as it meets the objectives of the maximum height limit for the site. An appropriate degree of flexibility can be applied in this case.

(b) A standard delegation was issued by the Director-General in regard to obtaining concurrence and outlined that development that contravenes a standard by less than 10% could be determined under the normal delegations of Council, whilst contraventions more than 10% would be determined by the Local Planning Panel. In this case, the proposed non-compliance varies between 5.1% to 20.55%. and therefore, the application will be determined by the Local Planning Panel.

As such, the Clause 4.6 written request to contravene Clause 4.3(2) of the HLEP is supported.

2.1.4 Floor Space Ratio

The HLEP does not set a floor space ratio control for the site.

2.1.5 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 necessary.

2.1.6 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 application proposes excavation associated with a two-level basement.

No fill is proposed to facilitate the building footprint. Minor fill would be required for retaining walls for landscaping. Excavation would be required to facilitate construction of the basement level. Retaining walls at the front of the site have been reduced in height, to a maximum height of 900mm, reducing the extent of fill required. This excavation would entail the removal of approximately 5139.4m³ of material from the site. At its deepest point, the excavation would be 7.5m below the existing ground level, with the majority of the excavation works being confined within the building footprint. As the topography falls towards the font of the site excavation depth reduces with some fill being proposed for the rear of the site to create a level building platform. Minor landscaping work is also proposed.

The matters for consideration listed under Clause 6.2 of the HLEP have been considered in the assessment.

The application was accompanied by a Geotechnical Investigation Report prepared Alliance Geotechnical (dated 31 October 2019), which included a number of recommendations for the construction of the building. Accordingly, it is recommended in Attachment 1, that the recommendations of the Geotechnical Investigation prepared by Alliance Geotechnical (dated 31 October 2019) 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 by a geotechnical engineer.

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 and Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant. Further, 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.

2.1.7 Clause 6.8 - Design Excellence

Clause 6.8 of the HLEP sets out matters for consideration to determine whether a proposed development exhibits a high standard of design. The Clause applies to development proposals on land with a permitted height limit over 29.5m (10 storeys or more) as well as attached dwellings, multi dwelling housing, residential flat buildings and shop top housing.

Clause 6.8 states that development consent must not be granted to development to which this Clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

To enable the implementation of 'Clause 6.8 Design Excellence' in the HLEP, Council has established a panel of suitably qualified architecture and urban design professionals to undertake a review of the design quality of relevant developments. A Design Excellence Panel Meeting was held 15 October 2024. A summary of the Design Excellence Panel advice is provided below:

> *"In July 2022 the Panel reviewed preliminary plans for a 5-storey building with 2 levels of car parking. The Panel made a number of recommendations including:*
>
> - *Delete the proposed wintergardens and provide open balconies instead.*
> - *Delete the shade structure on the roof that connects the 2 lifts.*
> - *Provide a more legible and direct entry sequence from the street to the lift lobbies.*
> - *Ensure privacy for the ground floor units at the interface between the balconies and common area.*
> - *Provide details of the private open space within the rear setback area.*
> - *Provide BBQ facilities, seating, amenities and shade on the rooftop common open space.*
> - *Bathroom and bedroom doors directly off living areas were not supported.*
> - *Landscape the SP2 zoned property in front of the development with paths, canopy trees, seating and lighting.*
>
> *The Panel considers it essential to incorporate the Council owned property (Lot 58) to achieve a well-designed forecourt area and entry to the building and to provide useable common open space at ground level.*
>
> *The Panel was advised that to date no offer has been made to purchase Lot 58.*

It remains unclear as to how the entry forecourt would be satisfactorily landscaped and managed if it is not part of the development. It also raises issues regarding setbacks, open space, deep soil, streetscape and disabled access. The on-going maintenance of this parcel of land is also in question if it is not in the ownership of the Applicant."

The Panel did not raise any concerns regarding the proposed height of the building and also provided comments regarding desired future character, setbacks, building form and separation, landscaping, open spaces, privacy and security, sunlight and ventilation, housing choice, vehicle access and parking, public domain and traffic management and environmentally sensitive design.

The application as also considered by Council's Development Advisory Panel on 18 December 2024, who resolved as follows:

"The Panel considered the matter and provided the following comments/ advice:

- *Convene a meeting with applicant to discuss opportunities to address the following:*
  - *Building materials and finishes, including the use of face brick on 1/3 of each façade*
  - *Articulation of the building - create pavilion style roof with cut outs to front and rear façade.*
- *The Panel notes that the Hornsby Local Planning Panel is the consent authority for the application."*

The application responded to the 2022 feedback in the application as lodged and in response to the above limited 2024 feedback, the Applicant submitted additional information. The amendments also included the incorporation of a parcel of land at the front of the site being Lot 58 DP 226074 into the development. This parcel of land is owned by Council currently however Council has resolved to sell the parcel of land to allow it to be incorporated into the development.

The amended plans made changes to the proposal as follows:

- Further setting back the roof form above the central recess to create the appearance of a stronger cut out at the front façade. To retain a degree of protection to the front balconies to Units 4.03 and 4.04 below, a lightweight, visually permeable pergola is proposed within the recess.
- Materials and finishes altered including increasing the proportion of brick on the facades to at least 1/3 of the façade, reducing the extent of timber look cladding at Level 1-4 and replacing with face brick, providing a more limited extent of timber look cladding at the lift core and extended up to Level 4, change to garage door appearance, and the amount of face brick has been increased on the rear elevation and a glass balustrade added to the roof garden.
- Minor changes to internal architectural and landscaping design to respond to amenity and safety comments.

Following a detailed review of the final set of amended plans, it is noted that the refinements requested by the Design Excellence Panel and Council's Development Advisory Panel have been implemented. It is considered that the development demonstrates satisfactory urban design quality.

2.2 State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021 commenced on 26 November 2021. The provisions of State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development (SEPP 65) were transferred into Chapter 4 of the Housing SEPP on 14 December 2023.

On 15 March 2024 the NSW Government published the State Environmental Planning Policy Amendment (Housing) 2024. This document revised the transitional provision set out in section 8(1) of Schedule 7A of the Housing SEPP. The Housing SEPP now applies to all pending development applications, even those lodged before 14 December 2023. The relevant design quality principles are in Schedule 9 of the Housing SEPP.

Chapter 4 of the Housing SEPP provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State and 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.

Chapter 4 of the Housing SEPP 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.

An assessment of the proposal against the design quality principles contained within Schedule 9 of the Housing SEPP is addressed in the following table:

State Environmental Planning Policy (Housing) 2021 - Schedule 9 Assessment	
Principle	**Compliance**
1. CONTEXT AND NEIGHBOURHOOD CHARACTER	**Yes**
Comment: The site is located within a precinct planned for five storey residential flat buildings in close proximity to Asquith Railway Station and the Asquith Retail and Commercial Centre. The desired future character of the area, as outlined in the HDCP, is that of a locality characterised by residential flat buildings of 5-storeys in height in landscape settings with underground car parking. Development should seek to complement and enhance the adjacent public domain environment and building footprints by maintaining landscape corridors around and through development sites. The proposed development is considered to adequately respond to the desired future character of the area by proposing a built form that is generally consistent with Council's controls. The proposed development is of a five storey built form and has adequate landscaping to appropriately integrate the built form with the surrounding development.	
2. BUILT FORM AND SCALE	**Yes**
Comment: Despite the minor height non-compliance, it is considered that the proposed development achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. The proposed built form responds to the site constraints resulting from	

the triangular shape of the overall area which results in a reduced site depth and narrowing of the site in the north-eastern portion. The building presents as highly articulated and of appropriate proportions and materiality. The concept would contribute to the character of the streetscape and offer residents a high level of amenity. The proposal is consistent with the built form and scale of the adjoining development immediately to the north, south and west.	
3. DENSITY	**Yes**
Comment: 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. As outlined above and in the body of this report, the proposed development does not comply with the height of building development standard, however, does comply with the side setback requirements. The density of the proposed development is considered to be satisfactory and a reasonable response to the desired future character of the site and the precinct.	
4. SUSTAINABILITY	**Yes**
Comment: The applicant has submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction. The proposal promotes the longer-term sustainability of the local area as follows: • Natural ventilation is provided to at least 60% of apartments. • Over 2 hours of sun are provided to at least 70% of units between 9-3pm on the 21 June. • Balconies provide shelter from the summer sun while allowing winter sun to penetrate well into living areas. This will reduce the need for mechanical heating and cooling. • Substantial communal open space is provided with well-designed landscaping area and amenities.	
5. LANDSCAPE	**Yes**
Comment: The proposed development provides for landscaping along the site frontage with ground covers, shrubbery, and feature trees. Seven street trees are also proposed. The landscape areas accommodate for canopy trees, the landscape design enhance the development performance and contribute to the local context. The communal open space is also well incorporated into the development providing a range of recreational opportunities for future residents, providing a transition between indoor and outdoor entertaining including tables and seating, and barbeque facilities. Landscaped areas are provided to the front, rear and side of the ground level where possible. Retaining walls at the front of the site have been minimised and sloping gardens at natural ground level is proposed, contributing to the landscape character of the streetscape and neighbourhood.	
6. AMENITY	**Yes**
Comment: 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. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas.

The proposed units will have considerable internal amenity and are compliant with the minimum sizes contained within the Apartment Design Guide. They are of a sufficient size and appropriate room dimension to meet the needs of future occupants. Storage is provided within all units. The outdoor areas (communal and private) are of sufficient size to meet the recreational needs of future occupants.

The building has been designed in compliance with the principal development standards to achieve high levels of internal and external amenity with 74% of units achieving the solar access requirements, and 72% of units achieve cross ventilation.

7. SAFETY AND SECURITY	**Yes**

Comment: The design orientates the balconies and windows of individual apartments towards the street, and rear providing passive surveillance of the public domain and communal open space areas. Both the pedestrian and vehicular entry points are secured and visibly prominent from Thornleigh Street.

A condition of consent would require that the main ground level entry be secured and fitted, with an intercom for visitors. The entry to the building's two lobbies are accessed from the street frontages of the property and is transparent, maximising the potential for casual surveillance. The basement carparking is accessed from a secure garage entry.

The proposed layout provides a high level of privacy and security. A condition of consent requires that CCTV cameras must be installed at the entry and exit point and the around the mailbox.

Adequate lighting to be provided for the lobby, car parks and communal open spaces. A condition of consent requires that communal open spaces within the site must be illuminated with high luminance by motion sensor lighting.

Security deadlocks are to be provided to each apartment door; and peep holes are to be provided to individual apartment doors to promote resident safety as required by conditions of consent.

It can be concluded that the proposed development has been designed in accordance with the objectives and better design practice of the Crime Prevention through Environmental Design (CPTED).

8. SOCIAL DIMENSIONS AND HOUSING AFFORDABILITY	**Yes**

Comment: The proposal incorporates a range of unit sizes to cater for different budgets and housing needs. The development complies with the housing choice requirements of the HDCP by providing a component of adaptable housing and a mix of 1, 2, 3 and 4 bedroom dwellings. 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 Asquith Railway Station and shops.

9. AESTHETICS	**Yes**

Comment: As outlined in the body of this report, and the commentary of the Design Excellence Panel, the proposed development considered to be of an acceptable design and is supported.

2.3 Apartment Design Guide

The Apartment Design Guide (ADG), NSW Department of Planning and Environment 2015 provides design criteria and best practice benchmarks for achieving the design principles of the Housing SEPP. The following table sets out the proposal's compliance with the ADG:

Apartment Design Guide			
Control	**Proposal**	**Requirement**	**Complies**
Deep Soil Zone (3E)	13.7%	7% of site area	Yes
Communal Open Space (3D-1)	25.72%	25% of site area	Yes
Solar Access (Communal open space areas) (3D-1)	>50% solar access between 12pm-3pm	50% direct sunlight access for 2 hours	Yes
Building Separation (3F-1)			
- *Side boundaries*	6m	6m between habitable windows and balconies up to 4 storeys	Yes
	9m	9m for 5th floor	Yes
- *Rear boundary*	6m	6m between habitable windows and balconies up to 4 storeys	Yes
	9m	9m for 5th floor	Yes
Solar Access (4A-1)			
- *Living rooms*	74%	2 hours for 70% units	Yes
- *Private open space*	74%	2 hours for 70%	Yes
No Solar Access allowable for units (4A-1)	10.3% (4 units)	15% of units (max)	Yes
Natural Cross Ventilation (4B-3)	72%	60%	Yes
Ceiling Height (4C-1)			
- *Habitable rooms*	2.95m	2.7m	Yes

- *Non-habitable rooms*	2.95m	2.4m	Yes
Minimum Dwelling Size (4D-1)			
- *1 bed units*	50m²	50m²	Yes
- *2 bed units*	76m²	70m²	Yes
- *3 bed +5m² for additional bathrooms (x1)*	96m²	90m²	Yes
Minimum Window Size (4D-1)	>10%	10% of the floor area of the room	Yes
Habitable room depth (4D-2)	>8m	Max. 8m from a window	Yes
Apartment Layouts - Minimum Bedroom Size (4D-3)			
- *Master bedroom*	>10m²	Min. 10m²	Yes
- *Bedroom*	>9m²	Min. 9m²	Yes
Apartment Layouts - Combined Living / Dining Rooms Minimum Width (4D-3)			
- *Studio and 1 bedroom*	3.6m	3.6m	Yes
- *2 and 3 bedrooms*	4m	4m	Yes
Minimum Balcony Size (4E-1)			
- *1 bed units*	8m² 2m depth	Min. 8m² 2m depth	Yes
- *2 bed units*	10m² 2.2m depth	Min. 10m² 2m depth	Yes
- *3 bed units*	13m² 2.4m depth	Min. 12m² 2.4m depth	Yes
- *Ground Level Apartments*	>15m² >3m	Min 15m² 3m depth	Yes

Maximum Number of Units on a Single Level (4F-1)	5 units	Max. 8 units off a circulation core	Yes
Car Parking (3J-1)			
- *Resident*	39 spaces	37 spaces	Yes
- *Visitor*	7 spaces	8 spaces	No
- *Total*	46 spaces	45 spaces	Yes
Total Storage Area (4G-1)			
- *1 bed units*	min. 6m^3	Min 6m^3	Yes
- *2 bed units*	min.8m^3	min. 8m^3	Yes
- *3 bed units*	min.10m^3	min. 10m^3	Yes
- *% storage in units*	min.50%	min. 50%	Yes

2.3.1 Visitor Car Parking

The ADG requires the provision of 45 spaces, including 8 visitor spaces based on rates for sites within 800 metres from a railway station.

The development provides for 46 parking spaces, being 39 residential and 7 visitor parking space. Whilst there is a shortfall of 1 visitor space, there compliance with the overall minimum car parking requirements of the ADG and with RTA Guide to Traffic Generating Developments. A condition of consent is proposed which requires one space to be allocated from residential to visitor which would result in being 38 residential and 8 visitor parking spaces which is compliant with the ADG.

2.4 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.

2.4.1 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 1.2.6.1 of the HDCP prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

It is proposed to remove 13 trees to facilitate development of the site.

Section 2.8.1 of this report provides an assessment in accordance with Part 1.2.6.1 Tree and Vegetation Management of the HDCP.

2.4.2 Part 6 Water Catchments

The site is located with the Sydney Harbour catchment. Part 6 Division 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Policy. Groundwater seepage was observed at a depth of 7.5m (RL 183.8) in BH2 and while the recommended groundwater depth from the investigation is at RL184.8 AHD, this was stated to be an estimate as it is not based on long term monitoring. The report further provides that due to the slight seepage rate observed, if groundwater seepage is encountered during the construction works, it is anticipated that dewatering can be carried out using the pump-sump method. Based on this information, a referral to Water NSW is not necessary.

The development is considered to comply with Part 6 Water Catchments of the Biodiversity and Conservation SEPP.

2.5 State Environmental Planning Policy (Resilience and Hazards) 2021

2.5.1 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.

A Preliminary Site Investigation (PSI) Report was prepared by Sydney Environmental Group (dated 26 October 2022). The PSI was assessed by Council's Environmental Protection Officer and found to be satisfactory.

The site history review has determined that there is a low potential for land contaminating activities to have been undertaken on the site, which is supported by aerial imagery. The BP service station located to the north-east is listed on Council's system as contaminated land however, the EPA's list of contaminated sites has it listed as not requiring regulation under the CLM Act. Additionally, there are no EPA notices for the service station. Whilst the 10.7 certificate for this property references an historic database of sites listed on the EPA's register, there is no information to suggest that the site is contaminated or causing contamination to neighbouring properties. The subject site for this proposed development is also upgradient of the service station, further reducing any potential risk of contamination.

The site walkover by Council's Environmental Protection Officer has informed the areas of environmental concern and conceptual site model. The areas of concern are identified as fill materials within the southern portion of the site and hazardous building materials in structures. These are typical and not unexpected.

Conditions of consent require the preparation of a Hazardous Materials Survey and Construction Management Plan.

Subject to conditions, the proposal complies with Section 4.6 of the Resilience and Hazard SEPP and is considered acceptable.

2.6 State Environmental Planning Policy (Sustainable Buildings) 2022

The application has been assessed against the requirements of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage sustainable residential development. The proposal includes a BASIX certificate in accordance with the requirements of the Sustainable Buildings 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.

2.7 State Environmental Planning Policy (Transport and Infrastructure) 2021

The application has been assessed against the requirements of Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

2.7.1 Infrastructure

Written notice to regarding electricity infrastructure was not required in accordance with Chapter 2, division 5 of the Transport and Infrastructure SEPP.

2.7.2 Roads and Road Infrastructure

Written notice to Transport for NSW was not required in accordance with Chapter 2, division 17 of the Transport and Infrastructure SEPP as the site does not have frontage to a classified road, nor trigger the requirements for Traffic Generating Development, nor is it adjacent to a railway corridor.

2.8 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.

2.9 Hornsby Development Control Plan 2024

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2024 (HDCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Hornsby Development Control Plan 2024 - Part 3.4			
Control	**Proposal**	**Requirement**	**Compliance**
Site Width	67.06m	30m	Yes
No. of storeys	5 storeys (excluding lift overrun)	5 storeys	Yes
Basement car parking protrusion above existing ground level	1.2m	1m (max)	No
Maximum Floorplate Dimension	54.5m (E/W) 22.4m (N/S)	35m 25m	No Yes
Building Indentation	3.4m by 15.9m Front 3m x 4.5m Rear	4m x 4m	No
Setbacks			
- *Front*	Ground Floor - 10m 8.8m for 26.1% building length Levels 1, 2 & 3 - 8m 7m (balconies) for 28.1% building length	10m 8m < 1/3 building length	Yes No
- *Side (Eastern)*	Ground Floor - 9m Level 1, 2 & 3 Floor - 6.2m 4.4m for 25% building length	6m 4.5m < 1/3 building length	Yes Yes
- *Side (Western)*	Ground Floor - 6m 4m for 37% building length Level 1, 2 & 3 Floor - 6m 4m for 37% building length	6m 4.5m < 1/3 building length	Yes No Yes No

- *Rear*	6m	10m 8m < 1/3 building length	No
- *Fifth Storey setback*	3m front boundary 3m side 3m most of rear boundary	3m additional setback for exterior walls of the fifth storey, measured from the walls of the lowest storey	Yes Yes
- *Basement Ramp*	2m	2m	Yes
Deep Soil Landscaped Areas			
- *Front*	8m	8m	Yes
- *Side (Eastern)*	2m (basement driveway)	2m	Yes
- *Side (Western)*	4m	4m	Yes
- *Rear*	2-6m	7m	No
Private Open Space			
- *1 bed units*	8m^2 / 2m depth	8m^2 / 2m depth	Yes
- *2 bed units*	10m^2 / 2.2m depth	10m^2 / 2m depth	Yes
- *3 bed units*	13m^2 / 2.4m depth	12m^2 /2.4m depth	Yes
- *Ground Level*	>15m^2 / >3m depth	15m^2 / 3m depth	Yes
Communal Open Space			
- *minimum area*	25.72% (555m^2)	min. 25%	Yes
- *Level*	100% is provided as roof top	Provided at ground level	No
- *minimum dimension*	10.7m	4m	Yes
Parking			
- *Resident*	39 spaces	42 spaces	No
- *Visitor*	7 spaces	6 spaces	Yes
- *Bicycle*	14 spaces	12 spaces	Yes

- *Motorbike*	2 spaces	1 space	Yes
Solar Access	74%	At least 70% of dwellings receive 2 or more hours of sunlight access to at least half of the dwellings' principal living room windows and principal private open space. Principal communal open space should receive a minimum 50% direct sunlight to for a minimum of 2 hours.	Yes
Housing Choice			
- *1 bed units*	13%	min. 10%	Yes
- *2 bed units*	67%	min. 10%	Yes
- *3+ bed units*	20%	min. 10%	Yes
Adaptable Units	10% (4 units)	min. 10% (4 units)	Yes

As detailed in the above table, there are a number of non-compliances with the HDCP controls which are discussed below including a brief discussion on compliance with relevant performance requirements.

2.9.1 Scale

The scale of future development, as outlined in Part 3.4.1 Desired Future Character of the HDCP, is that of a locality characterised by residential flat buildings of 5-storeys in height in landscape settings with underground car parking. The building is generally well articulated and is appropriately setback to provide sufficient landscaping and streetscape presentation. The application was reviewed by Council's Design Excellence Panel with the design advice considered and amended plans provided which improved the overall appearance of the building and emphasised the two podiums to reduce overall bulk.

It is considered that the proposed development would meet the desired outcome for the housing precinct for well-articulated five storey residential flat buildings in garden settings with basement car parking. The building is generally well articulated and is appropriately setback to provide sufficient landscaping and streetscape presentation and appropriate in scale to surrounding residential flat buildings. The proposed built form responds to the site constraints resulting from the triangular shape of the overall area which results in a reduced site depth and narrowing of the site in the north-eastern

portion, with the minor non-compliances with the HDCP minimised but unavoidable as a direct consequence of the site shape and depth. Despite the reduced site depth compared to the adjoining residential flat buildings, the proposed design provides a development which will enhance the streetscape.

The application was supported by a Site Context and Built Form Analysis prepared by Dickson Rothschild (dated 5 December 2024) which considered the site context, nothing that it is strongly established and has spatial characteristics arising from the previous version of the LEP and DCP which had the following key controls which have subsequently been amended including a building height of 17.5m, 7m front setbacks permitted for the first 4 storeys and 4m side setbacks for 1/3 of side facades. It is also noted that the subject site is one of only a few developments in the R4 zone not yet approved for a 5 storey residential flat building, concluding that the context is already established in accordance with the previous controls and resulting built form and not emerging. The Analysis of the surrounding built form and integration of components from those developments into the proposed development, whilst still respecting the current DCP controls, has resulted in a development on the site which fits well within the site context and achieves a built form that is compatible with the local area notwithstanding the minor DCP variations sought.

The proposal complies with the key development principles of HDCP and is considered acceptable.

2.9.2 Height

The desired outcome of Part 3.4.4 Height of HDCP is "*A built form not exceeding 5 storeys in height and comprising residential flat buildings*". This desired outcome is supported by prescriptive controls that require:

- Basement car parking that protrudes more than 1 metre above existing ground level is counted as a storey.
- That the height of the building must not exceed 16.5 metres.
- Roof fixtures and lift overruns or service plants should be incorporated into the design of the roof, to minimise visual intrusiveness and support an integrated building design.

The proposed 5 storey building has a maximum height of 19.89m at the highest point and does not comply with the maximum Height of Buildings control of 16.5m. A Clause 4.6 variation request to Clause 4.3 of the LEP relating to Height of Buildings has been provided with the application, in relation to a portion of the roof, roof garden elements and lift overruns and fire stairs exceeding the maximum height limit of 16.5m and is deemed acceptable. The propped components exceeding the height limit are minor and have been incorporated into the overall building design and landscape design to minimise the visual intrusiveness.

The building presents as a 5 storey building, consistent with Part 3.4.4 Height of HDCP.

2.9.3 Setbacks

The desired outcomes of Part 3.4.5 Setbacks of HDCP are to encourage "*well-articulated building forms that are set back to incorporate landscaping, open space and separation between buildings*", "*developments which have coordinated basement and services located to minimise loss of landscaped*

open space and reduction of deep soil zones" and "*setbacks that preserve and protect existing trees around the perimeter of sites and provide effective deep soil areas that are able to create a garden setting, including substantial tree canopy to all sides of the building*". The inability to fully satisfy the setback requirements of HCDP results from the triangular shape of the overall area which provides a reduced site depth and narrowing of the site in the north-eastern portion. As detailed below, the proposed design includes minor non-compliances with the front, side and rear setback requirements, with potential impacts minimised through the design to ensure a well-articulated built form with landscaped setbacks and separation to the adjoining residential flat buildings, and enhances the streetscape. The proposed setbacks are discussed below:

2.9.3.1 Front Setback

Without the purchase of Lot 58 DP 226074 which is land owned by Council at the front of the site, the proposed development would not comply with the prescribed front boundary setback requirements which have been incorrectly calculated to the road reserve boundary instead of the boundary with Lot 58 DP 226074. The non-compliance with the actual front boundary setback has resulted in additional floor space being provided to the development and therefore, the proposed development is looking to benefit from the Lot 58 DP 226074 while not purchasing the lot. In this regard, owner/developer has advised that they intend to purchase Lot 58 and negotiate with Council to progress the purchase and Council resolved on 12 March 2025 to approve the sale of the land. As such, the front setback has been calculated including Lot 58 DP 226074 and a Deferred Commencement condition recommended to ensure sale of the sale is complete to enable the land to be included within the site before an active consent is issued for the development.

The HDCP requires a 10m front setback, which can be reduced to 8m for a maximum of 1/3 of the building width. The proposed front setback complies with this requirement except for balconies, and primarily comprises tree retention and new landscaping including replacement trees. This is seen to be compatible and compliant in the context of the prevailing streetscape setbacks. Appropriate landscaping within the front setback would visually soften the development within the streetscape and the proposal is considered acceptable in this regard.

2.9.3.2 Side setbacks

As noted in the table above, the proposal fails to comply with the side boundaries setbacks. The HDCP requires a minimum building side setback of 6m, which can be reduced to 4.5m for a maximum of one-third (33%) of the building width for non-habitable rooms. The eastern elevation complies with the side setback requirement.

There are non-compliance's with the side setback with respect to the western elevation as follows:

- Ground Floor, Level 1, 2 & 3 Floors - 4m for 37% building length.

Whilst the one-third of the building width has been achieved, the setback is 4m rather than 4.5m, being a variation of 0.5m.

In support of these variations, it is noted that the portions of the western elevation which are setback 4m are blank, with windows and balconies setback considerably greater than 4.5m and therefore do

not give rise to any privacy issues. The setback non-compliance would be suspended over the basement and would not result in any loss of deep soil landscaping to the side boundary.

The proposal generally complies with the desired outcomes of Part 3.4.5 Setbacks of HDCP and is considered acceptable.

2.9.4 Building Indentation

The desired outcomes of Part 3.4.6 Building Form and Separation of HDCP are to encourage "*buildings that are limited in width and depth, incorporating articulated facades and separated by garden areas*" and "*quality architecture that evolves from the guidelines of the Apartment Design Guide*". The HDCP requires a 4m x 4m building indentation to be provided on all buildings with a floor-plate dimension of 25m. The proposal provides the following building indentations:

- 3.4m by 15.9m Front
- 3m x 4.5m Rear

Whilst not strictly complying with this requirement, the amended proposal has been adjusted to create the appearance of a stronger cut out at the front façade by further setting back the roof form above the central recess and the recess on the rear elevation was also amended through materials selection including the use of brick flanking the recess visually extended up to roof level and provision of a glass balustrade above the recess at roof level. When viewing the proposal, the intendents are obvious and assist with breaking up the mass of the building and provides high quality architecture.

The proposal complies with the desired outcomes of Part 3.4.6 Building Form and Separation of HDCP and is considered acceptable.

2.9.5 Landscaping

The desired outcomes of Part 3.4.7 Landscaping of the HDCP are to encourage "*landscaping that integrates the built form with the locality and enhances the tree canopy*", *"development that retains existing landscape features such as trees, flora and fauna habitats and urban stream*", "*development that incorporates green roofs and walls to improve air quality, amenity, ambient air temperature, building insulation, bird habitat and aesthetic quality of the urban environment*". The HDCP prescribes deep soil landscape area within all boundary setbacks, to allow for the growth of canopy trees in the front and rear of the site, as well as feature trees within side setbacks. Landscaping should integrate the built form with the existing vegetated locality and be 8m wide in front setbacks, 4m wide to side setbacks and 7m wide in the rear.

Compliant deep soil setbacks are provided to the front and side boundaries. A deep soil setback of 7m is required to the rear boundary. A deep soil setback of varying width of 2-6m is proposed. The basement, which is essential, has restricted the full width for the deep soil, which is a direct result of the angular nature of the lot boundaries, site depth and narrowing towards the north-east portion. The development application is supported by Landscape plans prepared by Zenith Landscape Designs (dated 29 November 2024). With reference to the proposed landscaping in the rear setback, the landscaping is provided as deep soil but not for the full required width of 7m, with a structured landscape design including screen planting along the boundaries and feature canopy trees to provide a green corridor between adjoining developments. In summary, it is considered that the side landscaped areas

achieve the intent of the HDCP despite the numerical non-compliance with deep soil planting width in the rear setback. No objections are raised to the proposed landscaping design.

The proposal generally complies with the desired outcomes of Part 3.4.7 of HDCP and is considered acceptable.

2.9.6 Open Space

The desired outcomes of Part 3.4.8 Open Spaces of HDCP are to encourage "*development that incorporates passive and active recreation areas with privacy and access to sunlight"* and "*communal open space comprising landscaped setbacks, landscaping between dwellings, and a principal communal open space area*".

The proposal provides all communal open space on the roof top, contrary to the DCP requirement, which allows for the ground floor setbacks to be utilised for landscaping. The HDCP mirrors the ADG in terms of required site area for open space, including the roof top communal area. Provision of the communal open space on the roof top allows for a large usable area with good solar access to be achieved, with the ground floor areas available primarily for landscaping. The roof top communal area is planted around all sides to assist with reducing opportunity for overlooking and improve the visual amenity of the building, in accordance with HDCP.

All units meet the minimum open space area and width requirements for their respective dwelling size.

The proposal generally complies with the desired outcomes of Part 3.4.8 Open Spaces of HDCP and is considered acceptable.

2.9.7 Privacy and Security

The desired outcome of Part 3.4.9 Privacy and Security of HDCP is to encourage "*development designed to provide reasonable privacy to proposed and adjacent residential properties and high levels of security"*. These desired outcomes are supported by the following prescriptive controls requiring the development to "*orient dwellings living rooms and principal private open space areas primarily towards the front and rear of the site to promote privacy to dwellings*" and "*balconies, terraces or bedroom windows near ground level should be screened or separated from the street and active communal areas by landscaping to protect the privacy of dwelling occupants*".

The proposed development is appropriately designed for privacy with the majority of units having an orientation to the street or rear boundary. Habitable rooms and balconies have been strategically located to provide adequate building separation to adjoining residential flat buildings to the south and west and the existing dwelling to the east. Balconies within the development do not adjoin each other and would be obscured from view of each other by the walls of the building. Proposed windows have been located to minimise overlooking into adjoining properties. The proposed development would provide for casual surveillance of the public domain.

It is noted that one submission was received in relation to potential noise and privacy concerns for the immediately adjoining residential dwelling to the north-east, as well as concerns potentially being raised in the future by occupants of the units with respect to the service station operations. These specific concerns are addressed in Section 5.1 below.

Appropriate conditions are recommended for security access and crime prevention. Subject to conditions, the proposal complies with the desired outcome of Part 3.4.9 Privacy and Security of HDCP and is considered acceptable.

2.9.8 Materials, Finishes and Services

The desired outcome of Part 3.4.10 Materials, Finishes and Services of HDCP is "*development that enhances the visual quality of the public domain*". A prescriptive measure of the HDCP requires façade elements to use a range of materials and finishes, with a minimum of 30% exposed brick or natural material cladding.

The proposal incorporates a high-quality facade with a balanced composition of varied building elements including a mix of materials and colours to break up the development and reduce the overall bulk. The design of the proposal achieves an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements. The amended plans propose change in materials and an indentation at the front and rear of the building has been incorporated to minimise bulk and height of the building. The materials and finishes comprise a mix of rendered paint, Colorbond steel cladding, aluminium in a timber look, brick veer and stone cladding for the walls, glass balustrades, and a variety of colours within the earthy tones. To respond to the DCP requirement, the materials and finishes altered including increasing the proportion of brick on the facades to at least 1/3 of the façade, reducing the extent of timber look cladding at Level 1-4 and replacing with face brick, providing a more limited extent of timber look cladding at the lift core and extended up to Level 4, and the amount of face brick has been increased on the rear elevation.

The proposal generally complies with the desired outcomes of Part 3.4.10 Materials, Finishes and Services of the HDCP and is considered acceptable.

2.9.9 Sunlight Access

The desired outcomes of Part 3.4.11 Sunlight and Ventilation of the HDCP are "*development designed to provide reasonable solar access to living areas and open space areas*" and "*development designed to provide natural cross ventilation"*. A prescriptive measure of 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. A further prescriptive measure requires that the principal communal open space should receive a minimum 50% direct sunlight to for a minimum of 2 hours.

The proposed units and communal open space comply with the minimum solar access requirements of the HDCP.

The proposal generally complies with the desired outcomes of Part 3.4.11 Sunlight and Ventilation of the HDCP and is considered acceptable.

2.9.10 Housing Choice and Adaptability

The desired outcome of Part 3.4.12 Housing Choice is to encourage "*a range of dwelling types that match the demographic diversity of Hornsby Shire and are accessible or may be adapted to meet the needs of people who have limited physical mobility*". The desired outcomes are supported by prescriptive controls that state that development should include a mix of 1, 2 and 3 bedroom dwellings.

For developments with 10 or more dwellings, at least 10% of each dwelling type should be provided. At least 10% of proposed dwellings should be adaptable housing, designed to meet the needs of residents as they age.

The proposed development includes a mix of one, two, three and four bedroom units including the required adaptable and liveable units and the proposed housing mix is considered acceptable in this regard:

- 5 x 1 bed units (13%)
- 26 x 2 bed units (67%)
- 7 x 3 bed units and 1 x 4 bed unit (20%)

Four of the units would be adaptable units (10%) comprising Unit 0.01, 1.01, 2.02 and 3.01.

The proposal generally complies with the desired outcome of Part 3.4.12 Housing Choice of HDCP and is considered acceptable.

2.9.11 Vehicular Access and Parking

The desired outcomes of Part 1.3.2.1 Transport and Parking of HDCP are "*development that manages transport demand around transit nodes to encourage public transport usage"*, "*car parking and bicycle facilities that meet the requirements of future occupants and their visitors*" and "*development with simple, safe and direct vehicular access".* The desired outcomes of Part 3.4.13 Vehicle Access and Parking of HDCP is "*development that provides sufficient and convenient parking for residents and visitors with vehicular access that is simple, safe and direct*".

A discussion on parking, access and traffic generation is provided below.

2.9.11.1 Car Parking

HDCP has a residential parking requirement for sites within 800m of a railway station of 0.75 spaces for one-bedroom units, 1 space for two bedroom units, and 1.5 spaces for three or more-bedroom units. In addition, visitor parking is to be provided at the rate of 1 space per 7 dwellings. In accordance with HDCP there is a requirement for:

- 5 x 1 bed units – 3.75 spaces generated
- 26 x 2 bed units – 26 spaces generated
- 7 x 3 bed units and 1 x 4 bed unit – 12 spaces generated
- Visitors – 6 spaces generated

This is a requirement for 42 residential parking spaces and 6 visitor parking spaces under HDCP. The proposal includes a total of 46 parking spaces, being 39 residential and 6 visitor parking spaces and does not comply with HDCP.

The RTA Guide to Traffic Generating Developments, Issue 2.2, 2002, has a parking requirement of 0.6 spaces for 1-bedroom units, 0.9 spaces for 2-bedroom units, and 1.4 spaces for 3 or more- bedroom units with visitor spaces provided at 1 space per 5 units. In accordance with RTA Guide to Traffic Generating Developments rates, there is a requirement for 45 spaces. Further, the ADG requires the

provision of 45 spaces. A condition of consent is proposed which requires one space to be allocated from residential to visitor which would result in being 38 residential and 8 visitor parking spaces which is compliant with the ADG. The development provides for 46 parking spaces, being 39 residential and 7 visitor parking spaces, and therefore complies with the minimum car parking requirements of the ADG (subject to condition regarding allocation of one residential space as a visitor space) and with RTA Guide to Traffic Generating Developments, despite not complying with HDCP. In this instance, the ADG would override HDCP to the extent of inconsistency.

HDCP requires 10% of dwellings are adaptable dwellings and therefore 4 disabled parking spaces are required for the development. The proposed development provides 4 disabled parking spaces, being 3 residential and 1 visitor space. All parking for people with disabilities is to comply with AS/NZS 2890.6:2022 Off-street parking for people with disabilities.

2.9.11.2 Bicycle Parking

The HDCP has a requirement for bicycle parking at the rate of 1 space per 5 units for residents and 1 space per 10 units for visitors in the car park area, giving a requirement for 12 bicycle spaces. 14 bicycle parking spaces are provided on-site. Bicycle parking spaces are to be designed in accordance with Australian Standards AS2890.3-1993 Bicycle parking facilities.

2.9.11.3 Motorcycle Parking

The HDCP has a requirement for motorcycle parking at the rate of 1 space per 50 car parking spaces, or part thereof, giving a requirement for 1 motorcycle space. 2 motorcycle parking spaces have been shown on the drawings. Motorcycle parking spaces are to be designed in accordance with AS/NZS2890.1:2004 Figure 2.7.

2.9.11.4 Traffic Generation

A traffic and parking assessment by Express Traffic Engineering Solutions (dated November 2024) has been submitted with the proposal which estimates that the proposed development would generate an additional peak vehicle movement of 5 vehicles per hour. Council's Traffic Engineer considers that traffic generation is not an issue with the proposed development.

2.9.11.5 Access

The proposed basement car park is accessed via a combined entry/exit driveway from Peats Ferry Road, greater than 2m from the side boundary to allow for landscaping. The maximum ramp grade has been reduced on the amended plans from 1.6m to 1.65 in accordance with AS2890.2-2018 and is acceptable.

The submitted "Waste Operational Traffic Control Plan" shows a Flashing Light in the basement. The light is activated when an SRV is in the loading bay, however it is necessary for all vehicles entering/departing the site to know that there is a potential conflict with a manoeuvring SRV.

From the Ground Floor Plan, it appears that the driveway cross over could conflict with the School Zone sign. If the School Zone sign needs to be relocated, the developer is to consult with TfNSW on its relocation.

All vehicles are to enter and leave the site in a forward direction.

Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath. A Sight triangle in accordance with AS/NZS2890.1:2004 is to be provided.

2.9.11.6 Storage Units

The basement level car park layouts appear to show storage bins on stands at the back of parking bays. Council's Traffic Engineer considers that the reliance on storage bins is not acceptable as some vehicles will be unable to park under them, which will encourage owners to park on-street in limited on-street parking spaces.

2.9.12 Waste Management

The desired outcomes of Part 1.3.2.3 Waste Management of HDCP are to encourage "*development that maximises the re-use and recycling of building materials*" and "*waste storage and collection facilities that are designed to encourage recycling, located and designed to be compatible with the streetscape, accessible, clean and safe for users and collectors*". The development application is supported by a Waste Management Plan prepared by Dickens Solutions, dated December 2024) and Traffic Impact Assessment prepared by Express Traffic Engineering Solutions (dated January 2025) which were both updated to reflect the amended plans and address issues raised by Council Officers during assessment.

The waste collection for the site is to be serviced by a small rigid vehicle (SRV) entering the site in a forward direction, driving to the basement level, reversing into the loading bay, then forwarding out of the site. The Traffic Report has been amended to include the site entry and exit manoeuvres for the SRV waste collection vehicle. The turning paths indicate there must not be a car parked 4m south of the driveway to permit the left exit manoeuvre and 2m north of the driveway to permit the left entry manoeuvre. "*No Parking*" signs for this length of street frontage are required by recommended conditions of consent.

The vehicular ramp gradient has been redesigned so that it now complies with AS2890.2 for an SRV.

Adjustments have been made to the floor to ceiling height to ensure that the minimum vertical clearance of 3.5m for compliance with AS2890.2 is maintained with ceiling mounted objects (e.g. pipes, light fittings, cable trays, ventilation shaft, roller door).

The Traffic Report now includes a Waste Operational Traffic Control Plan. The amended Operational Traffic Control Plan was confirmed as adequate by Council's Traffic Engineer.

The Landscape Plan has been amended so that ground level landscape elements do not impact on the sight distance triangle required by the SRV to enable sight distances to be in accordance with AS2890.2 and take into consideration the exit manoeuvre travel path of the SRV waste collection vehicle. Appropriate conditions of consent are recommended in this regard.

Each of the two garbage chutes will have a ventilation flue (minimum cross-sectional area 0.035m² to recommended full chute bore of 0.51m diameter) extending above the roof to such a height as to carry foul air away from the building and air intakes, the location of which has now been considered in the amended landscape design for the roof top communal area.

Provision of the following waste requirements for each unit is as follows:

- a dual pull-out under bench waste bins must be incorporated into the joinery of the kitchen
- two containers approximately 15-30 litres each, one each for general waste and recycling, must be provided and stored within a kitchen cupboard.

Waste disposal facilities are provided on each residential level for each lift core. These facilities consist of a garbage chute in a cupboard and a cupboard with sufficient space to comfortably house recycling bin(s) and a FOGO bin.

A separate dedicated bulky waste storage room of 14m² has been provided, which is an acceptable size and location.

The site will need 5 x 660L garbage bins serviced twice weekly, 20 x 240L recycling bins serviced weekly (two bins for each level of each lift core), 1 x 660L paper/cardboard bin serviced weekly, 10 x 240L FOGO bins serviced weekly.

There is sufficient space in the bin room for all of the required bins.

The proposal generally complies with the desired outcomes of Part 1.3.2.3 Waste Management of HDCP and is considered acceptable subject to recommended conditions of consent.

2.9.13 Tree and Vegetation Management

The subject site contains trees that would be impacted by the development and are protected by the Tree Preservation Measures contained in Part 1.2.6.1 of the HDCP. An Arborist Report was prepared by Redgum Horticultural Arboricultural and Horticulture Consultants (dated 1 March 2023).

It is proposed to remove thirteen (13) trees to facilitate development of the site being T6, T7, T8, T9, T10, T11, T12, T13, T14, T15, T16, T19 and T20. The removal of these trees will be offset by a condition of consent requiring the replacement planting of a minimum of thirteen (13) trees.

Council's Tree Management Officer has no objections to the proposal subject to conditions of consent.

The proposal generally complies with Part 1.2.6.1 Tree and Vegetation Management of the HDCP 2024 and is considered acceptable.

2.9.14 Stormwater Management

The desired outcomes of Part 1.3.1.2 Stormwater Management of the HDCP are "*development that protects waterways from erosion, pollution and sedimentation, and maintains or improves water quality and aquatic habitats"* and "*water management systems that minimise the effects of flooding and maintains natural environmental flows*." These desired outcomes are supported by prescriptive controls that "*on-site detention (OSD) system, designed in accordance with the HSC Civil Works Specification, should be provided for the following types two or more dwellings"*, and "*stormwater should be gravity drained to Council's drainage system, which may require inter-allotment drainage*".

The submitted stormwater management plans prepared by Telford Civil (dated 2 December 2024) detail that stormwater would be discharged via on-site detention within the front setback and then piped to Council's drainage system on Peats Ferry Road.

Council's engineering review raises no objection to the proposed stormwater disposal method, subject to appropriate conditions recommended in Attachment 1 of this report.

The proposal generally complies with the desired outcomes of Part 1.3.1.2 Stormwater Management of the HDCP 2024 and is considered acceptable.

2.9.15 Earthworks and Slope

The desired outcomes of Part 1.3.1.4 Earthworks and Slope of the HDCP are "*development that is designed to respect the natural landform characteristics and protects the stability of land*" and "*development that limits landform modification to maintain the amenity of adjoining properties and streetscape character*." These desired outcomes are supported by prescriptive controls that "*earthworks involving filling should not exceed 1 metre in height from the existing ground level*", and "*excavation that extends outside of the building platform should be limited to a depth of 1 metre from the existing ground level, unless the excavation is required to achieve a high-quality built form or provide for safe vehicular access to the site*."

A bulk earthworks design plan was not provided, however, the submitted Waste Management Plan documents there will be 12,000 cubic metres of excavated material from the basement excavation.

Minor fill will be required to create level landscape areas supported by retaining walls. It is expected that this fill would be sourced from the material excavated from the site. Further information will be required to be provided within a construction management plan as a condition of consent.

The proposed basement car parking protrusion above existing ground level is up to 1.2m, which exceeds the requirement of 1m. The control allows for unless the excavation to exceed 1m where a high-quality built form is achieved or safe vehicular access to the site is provided, and the amenity of adjoining properties and the desired streetscape character is maintained. The resulting protrusion allows for safe vehicular access from the street to the basement. Having regard to the design of the residential flat building, the proposed setbacks, separation and landscaping, the likely amenity impacts from the 0.2m exceedance are minimal and are considered to have been addressed through design.

A Geotechnical Investigation was prepared by Alliance Geotechnical (dated 31 October 2019) in support of the development application. Recommendations of the geotechnical investigation have been incorporated into the conditions of consent in Attachment 2. Section 5.1 of the Geotechnical Investigation indicates that groundwater seepage was observed at a depth of 7.5m (RL 183.8) in BH2 and while the recommended groundwater depth from the investigation is at RL184.8 AHD, this was stated to be an estimate as it is not based on long term monitoring. The report further provides that due to the slight seepage rate observed, if groundwater seepage is encountered during the construction works, it is anticipated that dewatering can be carried out using the pump-sump method. Based on this information, a referral to Water NSW is not necessary.

Subject to conditions, the desired outcomes of Part 1.2.1.4 Earthworks and Slope of the HDCP and is considered acceptable.

2.9.16 Noise and Vibration

Part 1.3.2.5 of the HDCP applies to the development and aims to attenuate noise as best as possible on the occupants of residential dwellings and other noise sensitive land uses.

An Acoustic report was not required for the development. Notwithstanding this, conditions can be applied to ensure compliance with the SEPP noise limits as there remains a high likelihood of noise impacts on this development from rail noise further to the east and the adjoining busy road.

It is noted that one submission was received in relation to potential noise and vibration during the construction process. A construction management plan would be required to be submitted prior to the issue of a Construction Certificate and would include the requirement for a Construction Noise and Vibration Management Plan (CNMP).

The Geotechnical Investigation was prepared by Alliance Geotechnical (dated 31 October 2019) and at Section 5.3 indicates that "*a dilapidation survey on nearby structures and infrastructure is recommended to be undertaken prior to the commencement of any site excavations*" and states "*given that the entire of the basement excavation is expected to be within the soil profile and very low to low strength shale it is unlikely that the civil contractor will require large hydraulic hammers during excavation. Therefore, issues associated with vibration attenuation are unlikely to be experienced during construction*". The dilapidation survey will address concerns raised in one of the submissions.

Subject to conditions, the proposal is considered satisfactory in regard to the objectives of Part 1.3.2.5 of the HDCP.

2.10 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 39 residential dwellings in lieu of the 3 existing residences. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

2.11 Housing and Productivity Contribution

The Housing and Productivity Contribution applies to the development as it would result in 39 residential dwellings in lieu of the 3 existing dwellings. Accordingly, the requirement for a monetary Housing and Productivity contribution is recommended as a condition of consent.

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

It is proposed to remove thirteen (13) trees to facilitate development of the site, which will be offset by a condition of consent requiring the replacement planting of a minimum of thirteen (13) trees.

3.1.2 Stormwater Management

It is proposed to discharge stormwater via on-site detention and then piped to Council's drainage system on Peats Ferry Road. Council's engineering review raises no objection to the proposed stormwater disposal method, subject to appropriate conditions.

3.2 Built Environment

3.2.1 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 a mix of materials and colours to break up the development and reduce the overall bulk. The design of the proposal achieves an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements. Proposed change in materials and an indentation at the front and rear of the building has been incorporated to minimise bulk and height of the building. Accordingly, the built form of the proposal would be consistent with the desired future character of the area.

3.2.2 Traffic

A traffic and parking assessment by Express Traffic Engineering Solutions (dated November 2024) has been submitted with the proposal which estimates that the proposed development would generate an additional peak vehicle movement of 5 vehicles per hour. The proposal would not cause any unacceptable impact from the additional vehicle movement increase to the site. Council's engineering assessment of the traffic impacts of the development concludes that traffic generation is not considered as an issue for the proposed development.

3.3 Social Impacts

The residential development would improve housing choice in the locality by providing a range of house hold types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

The location of the development is in close proximity to Asquith Railway Station, commercial centre, recreational areas and education facilities which provide services for future residents. The development delivers 39 additional dwellings in an area close to public transport, recreation and shops and contributes to the goals of the National Housing Accord 2022 by improving housing supply which would have a positive social impact.

3.4 Economic Impacts

The proposed development would have a positive economic impact by creating housing within a predefined 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 between 26 August 2024 and 16 September 2024 in accordance with the Hornsby Community Engagement Plan. During this period, Council received two submissions.

The amended application including incorporation of a parcel of land at the front of the site being Lot 58 DP 226074 into the development and design changes was placed on public exhibition and was notified to adjoining and nearby landowners between 27 February 2025 and 3 April 2025. During this second period, Council received one submission from one of the original submitters.

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	N W E S

The submissions objected to the development, generally on the grounds that the development would result in:

- Amenity impacts for adjoining dwelling, with business, to the north-east.
- Loss of privacy and natural light to adjoining dwelling to the north-east.
- Noise impacts from entrance to undercover parking adjacent to adjoining dwelling to the north-east.
- Noise and vibration impacts and potential damage during construction.
- Proposed residential development needs to be designed to minimise any potential concerns from future residents with respect to the service station development which operates 24 hours a day, 7 days a week.
- Excessive windows and balconies proposed facing the service station development and should be reduced.
- Isolation of No. 460 has not been addressed, with no plans for redevelopment of service station or amalgamation.

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

5.1.1 Adjoining Uses at No. 460 Peats Ferry Road and Potential Amenity impacts

The property immediately to the north-east is No. 460 Peats Ferry Road and contains a residential dwelling. The submission indicates that a business is also operated from the property, however no details were provided of the nature of the business and no development consents are in place for the site. A site visit indicates the business is for an Acupuncturist and Herbalist and the entry is located close to the common boundary. Concerns were raised in the submission regarding amenity impacts on the dwelling and business as discussed below:

- Amenity impacts for adjoining dwelling with business, to the north-east.
- Loss of privacy and natural light to adjoining dwelling to the north-east.
- Noise impacts from entrance to undercover parking adjacent to adjoining dwelling to the north-east.
- Noise and vibration impacts and potential damage during construction.

The proposed driveway and building is located 2m and increasing from the common side boundary with No. 460. The proposed driveway begins to slope downwards from the existing ground level immediately at the lot boundary and enters the enclosed basement 10m from the front boundary. The existing dwelling is setback approx. 15m from the front boundary and for the portion adjacent to the site, the ramp is below ground providing access into and out of the basement. A solid wall is proposed on the south-eastern side of the building (identified as East Elevation on the plans) which assists greatly with containing noise from vehicle movements.

The proposed Landscape Plan details planting of landscaping in the area between the building and driveway and the common side boundary, which will comprise narrow growing trees with a mature height of 7m and shrubs and screen planting with a mature height of 2-3m. This dense landscaping and tree canopy, combined with boundary fencing will provide a high level of screening between the new built form and the existing dwelling and business at No. 460.

Given the location of the new building to the south-west of the existing dwelling at No. 460, no overshadowing will occur from the new building. The building is stepped to be 4m from the side boundary for Levels 1, 2 and 3 and 9m for Level 4. Further, the narrow part of the proposed building will face towards No. 460 and a further recessed Level 4 and rooftop, as displayed on the East Elevation on the plans. It is acknowledged that the built form will be different to that experienced from the existing single dwellings, however loss of daylight is anticipated to be minimal and overshadowing will not occur.

The design with blank walls and stepped setbacks of upper levels have been proposed to consider potential privacy impacts for the adjoining dwelling at No. 460 and is consistent with the minimum requirements of the ADG (as discussed earlier tin this report).

Appropriate conditions of consent have been imposed to minimise noise impacts during construction works and any adverse ongoing noise impacts are controlled by *Protection of the Environment Operations Act 1997*.

Appropriate conditions of consent have been imposed to require a dilapidation report to be undertaken to ensure any damage on adjoining properties and infrastructure is rectified by the applicant.

5.1.2 Adjoining Uses at No. 462 Peats Ferry Road (BP service station) and Potential Amenity impacts

The property further to the south-east is No. 462 Peats Ferry Road and contains a service station. The submission indicates that the service station has been in operation since the 1960s and benefits from existing use rights and unrestricted 24-7 hours of operation. A review of the approvals applicable to the site confirms this assertion.

Concerns were raised in the submission primarily regarding potential amenity impacts on the future occupants of the units with respect to the design and its relationship to the existing business as discussed below:

- Proposed residential development needs to be designed to minimise any potential concerns from future residents with respect to the service station development which operates 24 hours a day, 7 days a week.
- Excessive windows and balconies proposed facing the service station development and should be reduced.

The submission indicates that windows and other openings facing the side (eastern) boundary do not appear to be limited, with Levels 1 to 3 all having an 8m² balcony predominantly facing the eastern boundary and one bedroom on each of these levels has a sole, eastern-facing window and Level 4 has a 16m² balcony facing both north and east. The submission requests that further consideration should be given to the extent of openings on the proposed development's eastern elevation, particularly with respect to the open balconies over Levels 1 to 3, with openings further reduced.

The south-eastern side of the building (identified as East Elevation on the plans) is proposed as follows:

- A solid wall is proposed at ground floor, no openings.
- Levels 1, 2 and 3 - the building is stepped to be 4-6m from the side boundary, windows are to bedrooms not primary living areas, balcony on eastern corner of the building associated with living area on each level.
- Level 4 - 9m from the side boundary.
- Further, the narrow part of the proposed building will face towards No. 460 and No. 462 further.

The concerns are noted from the service station landowners and operators regarding the proposed windows and balconies. The subject site is separated from the service station by the existing dwelling at No. 460 and it is necessary for the eastern elevation to contain windows and balconies in order to provide adequate sunlight and solar access to the future occupants. It is considered that the openings have been limited or set back or orientated to a different orientation where possible. This separation combined with the proposed setbacks, design and new trees and landscaping will assist with reducing potential privacy and noise impacts.

A purchaser of a unit will visually identify the proximity of the service station when viewing the site and any enquiries to Council can confirm the absence of restrictions on the service station through the current consents. However, any adverse ongoing noise impacts are controlled by *Protection of the Environment Operations Act 1997* and could be investigated under that legislation if a complaint is received from an existing or future neighbour.

The submission notes that the proposed driveway is in close proximity to the egress driveway of the service station. The proposed driveway is approximately 40m from the egress driveway of the service station, which Council's Traffic Engineer considered adequate separation distance between the driveways to avoid conflict, also noting the presence of No. 460 between the two sites.

5.1.3 Amalgamation

Concern has been raised that No. 460 is isolated and cannot be redeveloped as the service station at No. 462 has no plans for redevelopment. The two parcels of land to the north-east comprising No. 460 and No. 462 are zoned R4 High Density Residential under the HLEP. Whilst the landowners of both properties have indicated they have no plans for redevelopment, neither site is considered to be isolated and are capable of being developed together in the future if desired.

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 and relevant agencies' 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 demolition of existing buildings and construction of a residential flat building containing 39 Units.

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

Council received a total of 3 submissions during the public notification periods. 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 clause 4.3 Building Height of the HLEP 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 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.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Donna Clarke from Landmark Planning Pty Ltd.

RECOMMENDATION

THAT:

1. That the contravention to the Building Height development standard under Clause 4.6 of Hornsby Local Environmental Plan 2013 be supported.
2. Development Application No. DA/907/2024 for demolition of existing buildings and construction of a residential flat building containing 39 units at Lot 24 DP 23965, Pt Lot 23 DP 23965, and Lot 22 DP 23965, Nos. 454-458 Peats Ferry Road, Asquith be approved subject to the conditions of consent detailed in Attachment 2 of LPP Report No. LPP12/25.

DRAFT CONDITIONS OF CONSENT

Deferred Commencement

1. Pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*, this consent does not operate until evidence of the sale of Lot 58 DP 226074 from Hornsby Shire Council to the landowner of the adjoining Lot 23 DP 23965 is submitted to Council.
2. Such information must be submitted within 24 months of the date of this notice.

Upon Council's written satisfaction of the above information, the following conditions of development consent apply:

Reason: To ensure the allotments of land are created prior to the operation of the consent.

GENERAL CONDITIONS

Condition

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 Plan

Plan No.	Plan Title	Drawn by	Dated	Council Reference
DA-0-111 Rev BB	Site Plan	Dickson Rothschild	4 December 2024	
DA-0-151 Rev L	Demolition Plan	Dickson Rothschild	24 June 2024	
DA-0-210 Rev FF	Basement 2	Dickson Rothschild	4 December 2024	
DA-0-211 Rev HH	Basement 1	Dickson Rothschild	31 January 2025	
DA-0-212 Rev JJ	Ground Floor Plan	Dickson Rothschild	31 January 2025	
DA-0-213 Rev DD	Level 1 Floor Plan	Dickson Rothschild	4 December 2024	
DA-0-214 Rev M	Level 2-3 - Floor Plan	Dickson Rothschild	4 December 2024	
DA-0-215 Rev CC	Level 4 - Floor Plan	Dickson Rothschild	4 December 2024	
DA-0-216 Rev DD	Roof Top	Dickson Rothschild	31 January 2025	

DA-0-217 Rev M	Roof Plan	Dickson Rothschild	31 January 2025	
DA-0-301 Rev W	Elevations - Sheet 01	Dickson Rothschild	31 January 2025	
DA-0-302 Rev U	Elevations - Sheet 02	Dickson Rothschild	31 January 2025	
DA-0-401 Rev BB	Section AA	Dickson Rothschild	4 December 2024	
DA-0-402 Rev Y	Section BB	Dickson Rothschild	4 December 2024	
DA-0-403 Rev E	Section CC & DD - Driveway Ramp	Dickson Rothschild	4 December 2024	
DA-0-404 Rev C	Section EE - Loading Dock	Dickson Rothschild	4 December 2024	
DA-0-913 Rev N	Adaptable Units	Dickson Rothschild	4 December 2024	
DA-0-941 Rev N	External Finishes & Materials	Dickson Rothschild	4 December 2024	
C000 Rev A	General Notes, Locality Plan & Drawing Schedule	Telford Civil	5 December 2024	
C101 Rev A	Civil Works Layout Plan	Telford Civil	5 December 2024	
C201 Rev A	Driveway Profile - Longitudinal Sections	Telford Civil	5 December 2024	
C301 Rev A	Construction Notes and Details Sheet	Telford Civil	5 December 2024	
000 Rev A	Cover Sheet Plan	Telford Civil	22 November 2022	
101 Rev F	Stormwater Concept Plan Basement Level 2 Sheet 1 of 2	Telford Civil	6 December 2024	
102 Rev D	Stormwater Concept Plan Basement Level 2 Sheet 2 of 2	Telford Civil	4 December 2024	
103 Rev F	Stormwater Concept Plan Basement Level 1	Telford Civil	6 December 2024	
104 Rev G	Stormwater Concept Plan Ground Level	Telford Civil	6 December 2024	

105 Rev D	On-Site Detention Details and Calculations	Telford Civil	6 December 2024	
106 Rev F	Catchment Plan and Music Results	Telford Civil	6 December 2024	
107 Rev A	Sediment and Erosion Control Plan & Details	Telford Civil	22 November 2022	
108 Rev C	Miscellaneous Details Sheet	Telford Civil	4 December 2024	
22-4789 LO1 Rev A	Landscape Plan - Ground Floor Levels and Surfaces Plan	Zenith Landscape Designs	29 November 2024	
22-4789 LO2 Rev A	Landscape Plan - Ground Floor Planting Plan	Zenith Landscape Designs	29 November 2024	
22-4789 LO3 Rev A	Landscape Plan - Level 1 Planting Plan	Zenith Landscape Designs	29 November 2024	
22-4789 LO4 Rev A	Landscape Plan - Roof Planting Plan	Zenith Landscape Designs	29 November 2024	
22-4789 LO5 Rev A	Landscape Plan - Existing Tree Plan	Zenith Landscape Designs	29 November 2024	
22-4789 LO6 Rev A	Landscape Plan - Plant Schedules	Zenith Landscape Designs	10 February 2023	

Supporting Documentation

Document Title	**Prepared by**	**Dated**	**Council Reference**
Traffic Impact Assessment Ref: ETSJ352__Peats Ferry Rd Flats	Express Traffic Engineering Solutions	January 2025	D09058886
Fire Engineering Letter Ref: 2025008-L01-V01	Fire Safety Studio	24 January 2025	D09058884
BASIX Certificate No. 1364196M_03	LC Consulting Engineers	6 December 2024	D09028718
BASIX Thermal Specification	-	Undated	D09028717
NatHERS Certificate No. 0008430460	LC Consulting Engineers	6 December 2024	D09028714

Document Title	Prepared by	Dated	Council Reference
Amended Waste Management Plan Ref: 22320	Dickens Solutions	December 2024	D09028715
Geotechnical Investigation Report No. 9755-GR-1-1	Alliance Geotechnical	31 October 2019	D08945660
Construction Traffic & Pedestrian Management Plan	Express Traffic Engineering Solutions	March 2023	D08945652
Arboricultural Impact Assessment and Tree Management Plan	Redgum Horticultural	1 March 2023	D08945647

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

2. Construction Certificate

1. A Construction Certificate is required to be approved by Council or a Principal Certifier prior to the commencement of any construction works under this consent.
2. A separate Roads Act Approval must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act 1993*.
3. The Construction Certificate 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.

3. Section 7.11 Development Contributions

1. 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	$33,243.25
Open Space and Recreation	$399,107.55
Community Facilities	$245,814.15
Plan Preparation and Administration	$3,390.75
TOTAL	$681,555.70

being for 5x one-bedroom units, 26x two-bedroom units and 7x three or more-bedroom units in lieu of the existing 3 dwellings.

2. The value of this contribution is current as at 1 April 2025. 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:

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

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.

3. The monetary contribution must be paid to Council:

   a) Prior to the issue of the Subdivision Certificate where the development is for subdivision; or

   b) Prior to the issue of the first Construction Certificate where the development is for building work; or

   c) Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or

   d) 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 or a copy may be inspected at Council's Administration Centre during normal business hours.

   Note: To arrange a Payment Advice for the monetary contributions, please contact Council's Customer Service Team on 9847 6666.

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

4. Housing and Productivity Contribution

Before Construction Certificate**,** the housing and productivity contribution (**HPC**) set out in the table below is required to be made.

Housing and productivity contribution	**Amount**
Housing and productivity contribution (base component)	$385,583.51
Total housing and productivity contribution	**$385,583.51**

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Reason: To require contributions towards the provision of regional infrastructure.

5. Retaining Walls

To ensure the stability of the site, structural details of all required retaining walls must be submitted with the application of the Construction Certificate.

Reason: To ensure the stability of the site and adjoining properties.

6. No Clearing of Vegetation

1. Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.
2. Details demonstrating compliance are to be submitted to the Certifier prior to issue of Construction Certificate.

Reason: To protect vegetation on the site.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

7. Building Code of Australia

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority 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).

8. Fire System Boosters and Pumps

A sprinkler system is required to be installed in accordance with the Fire Engineering Letter from Fire Safety Studio, Reference No. 2025008-L01-V01, dated 24 January 2025. The retaining wall and screening treatment of the hydrant booster and sprinkler booster is not to be higher than RL 192.69.

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

9. 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. The schedule shall distinguish between existing and proposed fire safety measures.

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

10. 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).

11. Utility Services

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

1. Ausgrid (formerly Energy Australia) - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
2. 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.

12. Sydney Water Building Plan Approval

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in® to apply.

Note: Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

Reason: To ensure the development complies with the requirements of Sydney Water.

13. Dilapidation Report

1. 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:
   a) CP SP 96514, No. 450 Peats Ferry Road (west)
   b) Lot 21 DP 23965, No. 460 Peats Ferry Road (east)
   c) CP SP 97963, No. 139 Jersey Street (south); and
   d) CP SP 95612, No. 135-137 Jersey Street (south-west) for the extent of the development which adjoins the site.
2. 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.

3. 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.

14. Car Parking and Deliveries

All car parking must be designed in accordance with Australian Standard AS2890.1-2004 Off street car parking and Australian Standard AS2890.2-2002 Off street commercial and the following requirement:

1. All parking areas and driveways must be sealed to an all-weather standard, line marked and signposted.
2. Car parking, loading and manoeuvring areas must be used solely for nominated purposes.
3. Vehicles awaiting loading, unloading, or servicing must be parked on site and not on adjacent or nearby public roads; and
4. All vehicular entry on to the site and egress from the site must be made in a forward direction.
5. Car parking allocation must be amended to reflect 38 residential spaces and 8 visitor parking spaces.

Reason: To ensure parking facilities and vehicle manoeuvring areas are designed in accordance with Australian Standards.

15. 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) and the following requirements:

1. Connected directly to Council's Street drainage system via an on-site detention system.
2. Pump out storage to be designed in accordance with Australian Standard AS3500.3.

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

16. On-Site Stormwater Detention

An on-site stormwater detention system must be designed by a chartered civil engineer in accordance with the following requirements:

1. Have a capacity of not less than 20 cubic metres, and a maximum discharge (when full) of 55 litres per second.
2. Have a surcharge/inspection grate located directly above the outlet.

3. 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.
4. Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed; and
5. Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

Reason: To manage stormwater flows to minimise potential flooding.

17. Water Saving Urban Design

A Water Saving Urban Design (WSUD) is to be designed generally in accordance with the engineering report and plans prepared. The Water Quality Targets as detailed within the report and Hornsby Development Control Plan 2024 are to be achieved in the design and supported by a MUSIC model.

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

18. Internal Driveway/Vehicular Areas

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

1. A Boundary Levels application must be obtained from Council for the design on the internal driveway The driveway be a rigid pavement.
2. The driveway grade must not exceed 25 percent and changes in grade must not exceed 12 percent.
3. Longitudinal sections along the access driveway shall be submitted to the Principal Certifier in accordance with the relevant sections of AS 2890.1. The maximum grade 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.

Reason: To provide safe vehicle and pedestrian access.

19. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the Roads & Traffic Authority's Traffic Control at Worksites Manual 1998 and Australian Standard 1742.3 Traffic control for all work on a public road. The Traffic Management Plan shall be submitted and approved in writing by Council's Development Engineers (devmail@hornsby.nsw.gov.au) prior to the issue of a construction certificate. The TCP must detail the following:

1. Arrangements for public notification of the works.
2. Temporary construction signage.
3. Permanent post-construction signage.
4. Vehicle movement plans.

5. Traffic management plans; and
6. Pedestrian and cyclist access/safety.

Reason: To ensure the management of construction traffic to maintain road and pedestrian safety.

20. 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.

21. Road Works

All road works approved under this consent must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

1. New kerb & gutter to be constructed across the frontage of the site.
2. The new kerb and gutter and pavement must be in line with the existing kerb and gutter at the adjacent property
3. The existing road pavement to be saw cut a minimum of 600 mm from the lip of the new the kerb and gutter.
4. 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.
5. Detailed engineering plans are to be submitted to Council for approval.
6. A separate Roads Act application must be submitted to Hornsby Council for approval under S138 of the *Roads Act 1993* prior to commencement of work

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

22. 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".

1. 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.
2. The Works Zone signs shall be in effect only apply for the times approved by Council, and the time is to be noted on the sign. Eg, 'Works Zone Mon - Sat 7am - 5pm'.
3. 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.
4. 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.

Reason: To provide safe vehicle and pedestrian access.

23. Noise Impact on Residential Building

Prior to the issue of a Construction Certificate written certification from a suitably qualified person(s) shall be submitted to the Principal Certifier and Council, stating that appropriate design and construction materials are to be utilised within the development to ensure compliance with the following noise criteria specified for managing the noise impact on residential buildings from rail corridors and/or busy roads:

1. In any bedroom in the building: 35dB(A) between 10pm - 7am
2. Anywhere else in the building (other than a garage, hallway, kitchen, or bathroom: 40dB(A) at any time.

Reason: To ensure buildings are designed and constructed to minimise noise and vibration impacts from transport corridors.

24. Construction Management Plan (CMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist and submitted to Council's Compliance Team via Council's Online Services Portal for review and written approval prior to issue of a Construction Certificate.

The Construction Management Plan (CMP) must include the following details:

1. Description of the works
    a. A description of the scope of works for all stages of development.
    b. Site plans for all stages of works including the location of site sheds, concrete pump, and crane locations, unloading, and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
    c. The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
    d. A statement confirming that no building materials, work sheds, vehicles, machines, or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
    e. If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
    f. The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
    g. 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.
2. A Construction Traffic Management Plan (CTMP) including the following:

a. The order of construction works and arrangement of all construction machines and vehicles being used during all stages.

b. The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.

c. The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:

   i. Public notification of proposed works.

   ii. Long term signage requirements.

   iii. Short term (during actual works) signage.

   iv. Vehicle Movement Plans, where applicable.

   v. Traffic Management Plans.

   vi. Pedestrian and Cyclist access and safety.

d. Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.

e. Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.

f. Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.

g. Swept path analysis for ingress and egress of the site for all stages of works.

h. The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.

i. The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.

j. The maximum number of trucks travelling to and from the site on any given day for each stage of works.

k. The maximum number of truck movements on any given day during peak commuting periods for all stages of works.

l. If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.

3. A Pedestrian Access Management Plan (PAMP) detailing how pedestrian movements will be changed and managed during various stages of development, particularly during any partial or total closure of footpaths.

4. A Construction Waste Management Plan detailing the following:

   a. A table of information detailing cut and in-situ fill calculations for all stages for works. The table must include specified dimensions (WxLxD) and total cubic metres

b. Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.

c. A scaled site plan including levels of the extent of cut and fill on the site, forming part of the proposed development.

d. Asbestos management requirement and procedures for removal and disposal from the site in accordance with AS 2601-2001 - 'The Demolition of Structures', and the Protection of the Environment Operations (Waste) Regulation 2005.

e. General construction waste details including construction waste skip bin locations and litter management for workers.

5. A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:

   a. A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.

   b. Construction methodology to avoid damage to trees proposed to be retained during construction works.

   c. Specifications on tree protection materials used and methods within the TPZ or SRZ.

   d. Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.

6. A Construction Noise and Vibration Management Plan (CNMP) which includes:

   a. Existing noise and vibration levels within the proximity of the proposed development site.

   b. Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.

   c. The maximum level of noise and vibration predicted to be emitted during each stage of construction.

   d. The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.

   e. Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.

   f. Details of a complaints handling process for the surrounding neighbourhood for each stage of works.

7. An Erosion and Sediment Control Plan (ESCP) that describes all erosion and sediment controls to be implemented in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th Edition), which includes:

   a. A site survey which identifies contours and approximate grades and the direction(s) of fall.

   b. Locality of site and allotment boundaries.

   c. Location of adjoining road(s) and all impervious surfaces.

   d. Location of site access and stabilisation of site access.

   e. Provision for the diversion of run off around disturbed areas.

f. Location of material stockpiles.

g. Proposed site rehabilitation and landscaping; staging of construction works.

h. Maintenance program for erosion and sediment control measures.

i. Provide a plan of how all construction works will be managed in a wet-weather events (i.e. storage of equipment, stabilisation of the Site)

8. A de-watering plan that describes all controls to be implemented for the disposal of water that accumulates within any site excavation areas.

9. A site specific 'Unexpected Finds Protocol' describing the management measures and controls to be implemented in the event contamination is discovered (including asbestos).

10. 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.

25. Waste Management Details

The following waste management requirements must be complied with:

1. Should there be any conflict or confusion between approved plans and/or consent conditions related to the waste management system or waste collection vehicle access, then written clarification must be obtained from Council.

2. The approved operational waste management system must not be amended without the written consent of Council.

3. Details of all changes to the waste management plans (including but not limited to, the bin storage rooms, ramp gradients, bin carting paths, bulky waste storage) must be submitted to Council's waste team (which can be contacted via devmail@hornsby.nsw.gov.au) for approval prior to the issue of a Construction Certificate.

4. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the waste carting route from each dwelling to their waste disposal point(s) has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:

a. The route is direct, does not cross into a private lot, and is wholly within property boundaries (does not include the public footpath or road); and

b. The route is as short as possible and does not exceed 30m walking distance; and

c. The route is an accessible path of travel for persons with a disability in accordance with AS1428 Design and Access for Mobility.

5. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that all bin carting routes (including but not limited to from the bin cupboards on each residential level to the waste room at the basement level to the loading

bay) have been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:

a. The path must be smooth hard surface. Concrete pavement or tiles for example are acceptable, but carpet, mulch, pebbles, stepping stones, grass etc is not acceptable.

b. The path must be no less than 2 metres wide (including through any gates or doors).

c. There must be no steps along any bin carting route. Ramps and service lifts are acceptable.

d. The gradient must be no steeper than 1:14 for 240L bins and 1:30 for 660L or 1100L bins.

6. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the waste room has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:

   a. The room must be roofed.

   b. The room must not be used for any other purposes. Meters, communications and electrical control boards/panels, piping and other obstacles must not be located in waste rooms (including bulky waste rooms). Waste rooms must be free from obstructions.

   c. The floor must be constructed of concrete at least 75mm thick and adequately graded to drain to sewer through a Sydney Water approved drainage fitting with bucket trap. It must not discharge into a stormwater drain.

   d. The floor must be finished so that it is non-slip when wet, sealed and impervious, and has a smooth and even surface coved at all intersections with walls.

   e. There must be no step or lip between the bin storage room and the access path. The floor of the room must transition smoothly through the door opening to the pathway.

   f. The walls must be masonry or other thermally insulated fire-rated material finished with smooth faced durable non-absorbent material capable of being cleaned. The walls must be no less than 1.5m high to provide screening of the bins.

   g. The bin storage room must be well lit and have artificial lighting available 24 hours a day controlled by a switch located inside the room adjacent to the entrance doorway.

   h. The bin storage room must be provided with adequate mechanical ventilation in compliance with AS1668.2 The use of ventilation and air-conditioning in buildings Part 2: Mechanical ventilation, including a continuous exhaust flow rate of 5 litres per second per square metre of floor area with a minimum rate of 100 litres per second and no less than 6 air changes per hour. The room exhaust venting must be located away from doors, windows and air intakes of other rooms.

   i. Noise associated with the waste room is not to give rise to “offensive noise” as defined under the Protection of the Environment Operations Act 1997.

   j. The room must be provided with a cleaner’s sink (allow 600mm wide by 500mm deep) and an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock located in a position where it cannot be damaged.

   k. The doors must be robust, close fitting and self-closing. The doors must be lockable and be able to be opened from inside the room without a key. The communal bin storage

room must have double doors with width no less than 2000mm wide. The doors must not be obstructed by bin placement. The door swing must not block access to the bins and must not block the pathway for moving bins to the waste collection room or waste collection vehicle. The doors should open outwards 180 degrees and must be able to be locked open.

l. The room must be designed and constructed to prevent the entry of insects, vermin, birds and other nuisance species.

m. The communal bin storage room must be designed to restrict or deter access by non-residents.

n. Fire protection measures (e.g., extinguishers, sprinklers, alarms) must be in accordance with the National Construction Code.

o. Construction must be in compliance with the National Construction Code.

7. A dedicated bulky waste storage room of no less than 8 square metres for every 50 dwellings or part thereof must be provided within the building footprint.

8. There must be a waste disposal facility (a garbage chute and a 240L recycling bin and 240L FOGO bin in a cupboard or small room) on each residential level of each lift core of each building. Each waste facility must:

   a. be accessible by persons with a disability after the garbage chute and 240L recycling bin and 240L FOGO bin are installed; and

   b. comfortably house the required garbage chute and 240 L recycling bin and 240L FOGO bin; and

   c. have door(s) wide enough and positioned so that the 240 L recycling bin and 240L FOGO bin can fit through with ease.

   d. Include mechanical ventilation to control odours and contaminants. The air handling system must not reduce the space required to store the bins.

   e. 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.

   f. The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned.

   g. There must be no access to the residential garbage chute and recycling chute on any commercial/non-residential levels.

9. The recycling bin cupboard on each residential level must have internal dimensions of no less than 1350mm wide by 900mm deep, and double doors of total width no less than 1300mm.

   Note: a 240L recycling bin is 600mm wide by 750mm deep; allow for ease around the bin - 75 mm is recommended. Internal dimensions do not include wall thickness, door thickness, ventilation ducting etc, which must be added. The chute system supplier must be consulted for chute space requirements. AS1428.1 requires at least 800mm clear doorway opening for wheelchair access.

10. 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:

a. Chutes, service openings and charging devices are constructed of metal or a smooth faced surface which is fire resistant and of impervious material.

b. Chute is cylindrical in section, vertical and without bends as it passes through the floors.

c. Chutes must terminate in the chute service room at the basement level and discharge into a waste bin.

d. The chute system must comply with the manufacturers technical specifications and operational limitations.

e. The chute extension is the straight or sometimes offset section added to the lower end of the chute to direct the fall of waste into a bin. The chute extension must be as near to vertical as possible, but if offset, the angle of inclination to the horizontal (angle of elevation) must not be less than 60º. A small offset is desirable to slow the fall of the material which reduces the impact in the bin and bin breakages. The chute extension must be designed to contain splash within the bin as much as possible and must be securely fixed so that it remains attached when subjected to blows from falling waste and objects protruding from the bin.

f. 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 days bin capacity under the chute.

g. Note: The required volume handling equipment for each building is: 2x 660L bin linear or carousel or equivalent under each garbage chute.

h. The volume handling equipment must not include compaction.

i. The chute service/waste 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/lift core and to access and manoeuvre the bins.

j. The volume handling equipment must be caged or walled off from the other functions of the room (for safety since bags of garbage and glass can explode when hitting the bin from height).

11. The rooftop communal area landscape design must consider odour from the chute vents.

Reason: To ensure appropriate waste collection.

26. Waste Collection Vehicle Access

1. The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must be designed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.

   Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel and 1:8 for reverse travel, a minimum vertical clearance of 3.5 m, and minimum loading dock/service bay dimensions of 3.5 m x 6.4 m. These dimensions do not include wall thickness, support columns, ventilation shafts etc. AS2890.2-2002 also requires that when a loading dock/service bay is of minimum width a driver needs to be able to place the body of the vehicle or trailer into its final alignment at the point of entry into the bay.

2. A design certificate from a qualified traffic engineer and detailed plans are to accompany the Construction Certificate application that confirms that the waste can be directly collected from the basement level as detailed in the Waste Management Plan and the Traffic Report. The design certificate is to specifically confirm that the:

    a. Waste collection vehicle is able to enter the site in a forward direction, adequately manoeuvre into position near the bins, load bins and exit the site in a forward direction.

    b. Vertical clearance of 3.5m is provided along the entire route of travel of the waste collection vehicle on site and loading bay

    c. The installation of ceiling mounted cable trays, pipes, ducting, lights, signs etc will not reduce the vertical clearance of the waste collection vehicle travel path on site to less than 3.5m.

    d. The waste collection vehicle must be able to manoeuvre in the basement with limited need for reversing.

    e. The grades along the entire travel path of the waste collection vehicle on site must not exceed the maximum grades of AS2890.2 for a small rigid vehicle. The maximum gradient of 1:6.5 for forward movements and 1:8 for reverse movements must not be exceeded. Vehicle performance assessments using Council's small rigid waste collection vehicle have shown gradients steeper than 1:6.5 are not safe in all conditions.

    f. The vehicle ground clearance is sufficient to prevent scraping.

    g. All pavement has been designed to carry the load of the small rigid vehicle.

3. The electrical transformer/substation enclosure and the fire hydrant booster enclosure must be located such that compliance is achieved with the Australian Standard AS2890.2 sight distance requirements for the approved small rigid waste collection vehicle exit manoeuvre turning path. In applying the Australian Standard, the driveway/accessway must be regarded as one-way for the small rigid waste collection vehicle movements.

4. The Landscape Plan must be such that ground level landscape elements do not and will not with future plant growth, impact compliance with the Australian Standard AS2890.2 sight distance requirements for the approved small rigid waste collection vehicle exit manoeuvre turning path.

5. Details of the Operational Traffic Control Plan are to be submitted to Council for approval prior to the issue of a Construction Certificate. The Operational Traffic Control Plan must include:

    a. Details of the proposed method of signalising the driveway ramp including details of:

        i) The location and type of signals; and

        ii) A priority system for cars entering the site from Peats Ferry Road, to avoid queuing onto the public road.

    b. Flashing light visible to vehicles approaching to enter the site notifying incoming vehicles that the loading bay is occupied. This is to prevent trucks entering the site and finding they are unable to turn around because the loading bay is occupied, then having to reverse up the ramp and onto Peats Ferry Road.

    c. Convex mirrors, Stop/Give Way signs etc. where appropriate.

Reason: To ensure appropriate access for waste collection.

27. Appointment of a Project Arborist

1. 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.
2. 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.

28. External Lighting

Before the issue of a construction certificate, plans detailing external lighting must be prepared by a suitably qualified person. The lighting plan must be consistent with the approved plans and documents, and the following requirements:

1. Comply with Australian Standard AS1158: Lighting for roads and public spaces.
2. Comply with Australian Standard AS4282: Control of obtrusive effects of outdoor lighting.
3. Lighting must be placed at all entrances to, and exits from, the premises.
4. Lighting must provide coverage of the premises and surrounding areas for visibility and to reduce hidden areas.
5. Lighting must not interfere with traffic safety.
6. Lighting must not give rise to obtrusive light or have adverse impacts on the amenity of surrounding properties; and
7. External lighting must not flash or intermittently illuminate unless required for safe ingress/egress of vehicles crossing a pedestrian footway or approved vehicle entrance.

The lighting plan must be submitted to the Principal Certifier:

Note: All above documents refer to the version in effect at the time the consent is granted.

Reason: To ensure external lighting is provided for safety reasons and to protect the amenity of the local area.

29. Synthetic Landscaping

Prior to the issue of the relevant Construction Certificate, the Landscape Plan is to be amended to remove any synthetic or artificial materials within the ground floor setbacks and replace with grass, paving or landscaping.

Reason: To ensure a suitable landscaped environment.

30. 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:

1. Provide at least one EV ready connection for each dwelling/apartment that is allocated a car parking space.
2. Provide EV distribution board(s) of sufficient size to allow connection of all EV ready connections.

3. All car share spaces and spaces allocated to visitors must have access to an on-premises shared EV connection.
4. The car park must provide at least one dedicated space and charging point to be used for electric bicycles and mobility scooters.
5. All EV charging infrastructure is to comply with the applicable Electric Vehicle safety and energy consumption data collection requirements of the National Construction Code.

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: Shared EV connection is the provision of a minimum Level 2, 40A fast charger and power supply to a car parking space connected to an EV distribution board.

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.

Note: 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 BUILDING WORK COMMENCES

Condition

31. Site Sign

1. A sign must be erected in a prominent position on any site on which any approved work involving excavation, erection or demolition of a building is being carried out detailing:
   a. The name, address, and telephone number of the Principal Certifier.
   b. 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; and
   c. Unauthorised entry to the work site is prohibited.
2. The sign must be maintained during excavation, demolition and building 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).

32. 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:

1. Could cause a danger, obstruction, or inconvenience to pedestrian or vehicular traffic.
2. Could cause damage to adjoining lands by falling objects; and/or
3. Involve the enclosure of a public place or part of a public place; and/or

4. 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.

33. Toilet Facilities

1. 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.
2. Each toilet must:
   a. Be a standard flushing toilet connected to a public sewer; or
   b. Be a temporary chemical closet approved under the *Local Government Act 1993; or*
   c. Have an on-site effluent disposal system approved under the *Local Government Act 1993.*

Reason: To ensure adequate toilet facilities are provided.

34. Erosion and Sediment Control Measures

Install and maintain adequate sediment and erosion control measures for the duration of all works, until such a time that sediment, sediment laden water or any other material/substance can no longer migrate from the premises. The measures are to be installed and maintained in such a manner as to prevent sediment, sediment-laden water, or any other materials and substances migrating from the site onto neighbouring land, the roadway, waters and/or into the stormwater system, and in accordance with:

1. The publication Managing Urban Stormwater: Soils and Construction 2004 (4th edition) - 'The Blue Book'.
2. *Protection of the Environment Operations Act 1997*; and
3. The approved plans

Controls are to be monitored and adjusted where required throughout the works to ensure compliance with the above

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning. If you are unsure in how to achieve compliance with this condition during works, you may need to engage the services of a suitably qualified environmental, soil or geotechnical consultant to assist.

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

35. Compliance with Geotechnical Report

All control measures nominated in the Geotechnical Investigation Report No. 9755-GR-1-1 prepared by Alliance Geotechnical, dated 31 October 2019 must be implemented.

Reason: To ensure the operational measures implemented protect the amenity of the local area.

36. Garbage Receptacle

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

1. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
2. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
3. 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.

37. Waste Management Details

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.

38. Installation of Tree Protection Measures

1. Trees to be retained and numbered T1, T2, T3, T4, T5, T17 and T18 as identified on the Tree Location Plan must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
   a. For the duration of demolition works, in accordance with the Tree Protection Plan.
   b. For the duration of construction works, in accordance with Tree Protection Plan.
2. Tree protection fencing for the trees to be retained numbered T1, T2, T3, T4, T5, T17and T18 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.
3. 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.
4. The installation of all required tree protection fencing must be in accordance with the tree protection plan found in the AIA.
5. Tree crown protection measures are required and must be installed by the AQF 5 project arborist.
6. The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
7. Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.

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

DURING BUILDING WORK

Condition

39. Council Property

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

Reason: To protect public land.

40. Construction Work Hours

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

Reason: To protect the amenity of the surrounding area.

41. Removal of Trees

This development consent permits the removal of tree(s) numbered T6, T7, T8, T9, T10, T11, T12, T13, T14, T15, T16, T19 and T20 as identified on page 36 of Appendix F contained in the Arboricultural Impact Assessment prepared by Redgum Horticultural Arboricultural and Horticulture Consultants dated 1 March 2023.

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.

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

42. Tree Pruning

1. This development consent only permits the pruning of tree(s) numbered T1 as identified in the Tree Location Plan on page 36 of Appendix F contained in the Arboricultural Impact Assessment prepared by Redgum Horticultural Arboricultural and Horticulture Consultants dated 1 March 2023.
2. Works can be undertaken in the form of canopy modification as follows:

Tree number	**Work prescribed**
T1	As per the specification written in the AIA. Refer to 14.2 page 20.

3. All pruning work must be undertaken by an arborist with minimum AQF3 qualifications.

Note: The pruning 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.

Reason: To minimise the impact on trees to be retained.

43. Environmental Management (Air Pollution)

The Applicant must take all reasonable steps to minimise dust generated during all works (including remediation, demolition, earthworks and construction) authorised by this consent. During works, the Applicant must ensure that:

1. Exposed surfaces and stockpiles are suppressed by regular watering.
2. All trucks entering or leaving the site with loads have their loads covered.
3. Trucks associated with the development do not track dirt onto the public road network.
4. Public roads used by these trucks are kept clean; and
5. Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

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

44. Street Sweeping

1. During works (including remediation, demolition, earthworks and construction) and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.
2. The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.

Note: The above Item does not permit for sediment and/or any other materials/substances to exit the site in a way that constitutes water pollution as defined in the Protection of the Environment Operations Act 1997 or in a manner that contravenes other conditions in this consent. The directions under this condition, however, serve to prevent further water pollution from occurring.

Reason: To minimise impacts to the natural environment.

45. Council Property

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

46. Survey Report

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

1. Prior to the pouring of concrete at each level of the building certifying that:
    a. The building, retaining walls and the like have been correctly positioned on the site; and
    b. The finished floor level(s) are in accordance with the approved plans.
2. Confirming that the waste collection vehicle turning area complies with Australian Standard AS2890.1-2004 and AS20890.2-2002 for small rigid vehicles (SRV).

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

47. 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:

1. 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).
2. 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.
3. 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:
    a. Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*, or
    b. A material identified as being subject to a resource recovery exemption by the NSW EPA, or
    c. 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.
4. 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.

48. Maintenance of Public Footpaths

Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.

Reason: To maintain safe pedestrian movement.

49. Compliance with Construction Management Plan

The Council approved Construction Management Plan (CMP) 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.

50. 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 (compliance@hornsby.nsw.gov.au).

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

51. 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.

52. Erosion and Sediment Control

1. Works are not to result in the discharge of sediment and or run-off onto the adjoining properties or public land.
2. The person having the benefit of this consent must ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

Reason: To minimise impacts on neighbouring properties and public land.

53. Soil and Water Management (Stockpiles)

1. Stockpiles of topsoil, sand, aggregate, soil or other material shall be protected with adequate sediment controls and must not be located on any drainage line or easement, natural watercourse, footpath or roadway.
2. The storage of stockpiled topsoil, sand, aggregate, soil or other materials must not result in the discharge of sediment or run-off onto the adjoining properties or public land.

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

54. Storage and Removal of Waste

All demolition and/or construction waste must be stored in a waste receptacle and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.

1. All garbage and recyclable materials generated during work must be stored in a waste receptable and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.
2. All waste must be stored within the boundaries of the development site at all times.
3. Litter and illegal dumping must be promptly removed from public land adjacent to the development site.

Reason: To ensure the site is maintained to an appropriate standard cleanliness and prevent any nuisance or danger to health, safety or the environment.

55. Maintain Waste Removal Records

For all waste removal from the site, written records must be maintained detailing the following information. Such information must be made available to Council at its request and is to be submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works with the Construction/Demolition Waste Report:

1. The identity and driver's licence details of the person removing the waste.
2. The waste carrier vehicle registration.
3. Date and time of waste collection.
4. A description of the waste (type of waste and estimated quantity).

5. Details of the site to which the waste is to be taken.
6. The corresponding weighbridge tip docket/receipt from the site to which the waste was transferred (noting date and time of delivery, vehicle registration, description (type and quantity) of waste).
7. 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.

Reasons: To ensure waste removed from the site is appropriately disposed of and to protect the environment and local amenity during work.

56. Waste Collection Vehicle Onsite Travel Path

For the approved waste collection vehicle travel path on site, the following requirements must be complied with:

1. A report must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the pouring of concrete for the waste collection vehicle travel path on site (including but not limited to the driveway and ramp to the basement), certifying that the gradient of the finished pavement will be no greater than 1:6.5.
2. Prior to the pouring of any concrete support columns on the basement level, a report must be prepared by a registered surveyor and submitted to the principal certifying authority, certifying that: no support columns are positioned within the approved travel path or low speed manoeuvring clearance of the waste collection vehicle.
3. Prior to the pouring of concrete on the level over the waste collection vehicle travel path, a report must be prepared by a registered surveyor and submitted to the principal certifying authority, certifying that the vertical clearance for the waste collection vehicle travel path will be no less than 3.5 metres. The floor to ceiling height will need to exceed this if there are to be ceiling mounted objects (e.g. pipes, cable trays).
4. The driveway and vehicular ramp concrete pavement should be rough textured and should not be sealed. If sealing is necessary, then the coating must include anti-slip aggregates.
5. The installation of overhead or ceiling mounted cable trays, pipes, ventilation ducting, signs, light fittings, awnings, roller doors etc must not reduce the vertical clearance over the waste collection vehicle travel path on site to less than 3.5 metres**.**
6. No walls, support columns or other structure or object is to be constructed or installed within the onsite travel path or low speed manoeuvring clearance of the waste collection vehicle.

Reason: To ensure appropriate access for waste collection.

57. 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:

1. Soil cutting or filling, including excavation and trenching.
2. Soil cultivation, disturbance, or compaction
3. Stockpiling storage or mixing of materials

4. The parking, storing, washing, and repairing of tools, equipment, and machinery.
5. The disposal of liquids and refuelling
6. The disposal of building materials
7. The siting of offices or sheds
8. Any action leading to the impact on tree health or structure.

Reason: To protect trees during construction.

58. 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 numbered T1, T2, T3, T4, T5, T17 and T18 on the approved plans.

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

59. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with Condition No. 38 of this consent for the duration of works.

Reason: To protect trees during construction.

60. Approved Works within Tree Protection Zone incursions

1. 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:
   a. Using sharp secateurs, pruners, handsaws, or chainsaws with the final cut being clean.
   b. The maximum diameter of roots permitted to be cut is 30 mm.
2. Where the building footprint enters or transects the Tree Protection Zones of tree to be retained numbered T1, sensitive construction techniques in accordance with the AIA section 14.2 page 20 must be followed.
3. Approved excavations within the Tree Protection Zone of trees to be retained numbered T1 not associated with installation of services must be undertaken as follows:
   a. Excavations associated with the basement and building footprint and within the Tree Protection Zone of trees numbered T1 must be overseen by the AQF 5 project arborist for the first 1m undertaken manually to locate roots and allow for pruning in accordance with condition No. 8.1(a) (b).
   b. Excavations for the construction and/or installation of the house/deck/driveway/piers in the Tree Protection Zone of trees to be retained numbered T3 and T4 on the approved plans must be supervised by the project arborist for the first 500mm undertaken manually to locate roots and allow for pruning in accordance with condition No. 8.1(a) (b).
4. No changes of grade within the Tree Protection Zone of trees to be retained on the approved plans, are permitted.
5. To minimise impacts within the Tree Protection Zone (TPZ) of trees numbered T1 on the approved plans, the installation of services must be undertaken as follows:

a. The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.

b. The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.

c. 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.

6. Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:

a. Installation of a 100mm deep layer of woodchip.

Reason: To protect trees during construction.

61. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, wastewater or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

Reason: To protect trees during construction.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

62. 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.

63. Sydney Water - Section 73 Compliance Certificate

A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. The Sydney Water assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to their mains. Sydney Water recommends that an early application for the certificate be made, as there may be assets to be built and this can take some time.

A Section 73 Compliance Certificate must be obtained from Sydney Water and submitted to the Principal Certifier before an Occupation Certificate or Subdivision Certificate will be issued.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Note: Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

Reason: To ensure the development complies with the requirements of Sydney Water.

64. 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.

65. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions. 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.

66. 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 comply with requirements under Hornsby Development Control Plan 2024.

Reason: To ensure public infrastructure and property is maintained.

67. Creation of Easements

The following matter(s) must be nominated on the title of property in accordance with the *Conveyancing Act 1919*:

1. The creation of an appropriate "Positive Covenant" and "Restriction as to User" over the constructed on-site detention/retention systems, WSUD system and outlet works, within the development in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
2. To register the OSD easement, the restriction on the use of land "works-as-executed" details of the on-site-detention system 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 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.

68. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways, and on-site detention system. 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.

69. 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.

70. 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.

71. 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.

Reason: To ensure engineering works are completed.

72. Asbestos Clearance Certificate

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Principal Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

Reason: To ensure the appropriate removal and disposal of contaminated materials and the site is suitable for its approved use.

73. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions. 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.

74. 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.

Reason: To ensure compliance with landscaping commitments.

75. 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.

76. Boundary Fencing

1. 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*.
2. Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres.

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.

77. 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 PCA 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.

78. Safety and Security

This site must include the following elements:

1. An intercom system must be installed at gate locations to ensure screening of persons entering the units.
2. Lighting is to be provided to pathways, building foyer entries, driveways and common external spaces.
3. Security gate access is to be provided to the car parking areas allowing residents-only access to private car spaces.
4. CCTV cameras must be installed at the entry and exit point and the around the mailbox.
5. The communal open spaces within the site must be illuminated with high luminance by motion sensor lighting.
6. The driveway and basement car parking must be illuminated with low luminance at all times.
7. Access to the basement must be restricted to residents and visitors via a card access system, numerical pad or similar device. a. Access to visitor spaces must be available at all times. An intercom or other device is to be provided to allow residents to provide access for visitors to the basement.
8. Security deadlocks are to be provided to each apartment door; and
9. Peep holes are to be provided to individual apartment doors to promote resident safety.

Reason: To ensure safety measures are implemented for crime prevention.

79. Submission of Excavated Material Tipping Dockets to Principal Certifier

Tipping dockets for the total volume of excavated material that are received from the licensed waste facility must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To confirm appropriate disposal of excavated material.

80. 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 waste collection must be granted to Council by the owner of the land. The waste collection easement must be registered with the NSW Land Registry Services prior to issue of the occupation certificate.

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 ensure appropriate access for waste collection.

81. Waste Management Facilities

The following waste management requirements must be complied with:

1. The use must not commence and any Occupation Certificate must not be issued before the Private Certifier has received written notification from an authorised Council waste officer that (1) all waste and recycling management facilities provided in the development have been inspected and (2) confirming that these facilities have been constructed in accordance with the approved plans and consent conditions, and (3) that the development can be serviced safely by Council's standard waste collection vehicles, and (4) that all defects have been addressed to Council's satisfaction.

   Note: Waste and recycling management facilities includes everything required for the ongoing management of waste on the site. For example the bin storage areas, bulky waste storage area, bin collection area, waste collection vehicle access, doors wide enough to fit the bin through, accessibility, bin carting routes etc.

2. Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must have written evidence that:

   a. Arrangements have been made with and confirmed by Council for the delivery of domestic bins for the residential dwellings, and for the commencement of Council's scheduled domestic waste management services upon issue of the Occupation Certificate.

   b. Arrangements are in place for a site caretaker/cleaner to commence employment at the site before or no later than 7 days after the issue of the Occupation Certificate.

   c. For every dwelling, integrated within the kitchen design, dual pull-out under bench waste bins must be incorporated into the joinery of the kitchen. Every residence must be

provided with two containers approximately 15-30 litres each, one each for general waste and recycling, stored within a kitchen cupboard.

d. Space must be provided for either individual compost containers for each dwelling or a communal compost container.

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

e. All bin carting routes must be devoid of steps.

Note: Ramps and service lifts between different levels are acceptable

f. There must be a dedicated on-site communal bulky waste storage area of at least 8 square metres for every 50 dwellings or part thereof.

g. The car wash bay adjacent to the bulky waste storage room must include signage indicating the car wash bay is for washing cars only (not parking) and that the driver is not to leave the vehicle unattended at any time.

h. 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.

i. The doors to the waste room must be robust, close fitting and self-closing. The doors must be lockable and capable of being opened from the inside without a key. The doors must be able to be opened using a PIN code. Any door swing must not block access to the bins and must not block the pathway for moving bins to the collection vehicle. Swing doors should open outwards 180 degrees and must be able to be locked open. No bins are to be stored within the door swing.

j. The floor covering must not be carpet along the waste carting route from each residential dwelling on every residential level to the waste disposal facilities on each floor and to the waste room at the basement level including in lift(s). Tiles, linoleum, sealed concrete or other sealed smooth hard surface is acceptable.

k. All bin storage room(s), bin collection/holding room(s), chute service room(s), and bulky waste storage room(s) must be free from meters, power boards, piping and any other obstructions.

l. The waste room at basement 1 level must include a cleaner's sink with water for cleaning, graded floors with drainage to sewer, smooth sealed and impervious surfaces, and have artificial lighting, mechanical ventilation in compliance with AS1668.2, robust door(s) and must be lockable (but able to be opened from inside the room without a key).

m. The waste disposal room/cupboard on each residential level must include smooth sealed and impervious surfaces, artificial lighting, mechanical ventilation in compliance with AS1668.2, and robust doors.

Reason: To ensure all necessary infrastructure is provided for the efficient and effective management of waste for the full operational life of the development.

82. Provision of Equipment to Manage Waste

Prior to any Occupation Certificate being issued (including staged development with Occupation Certificates limited to a portion of the development) or the use commencing, whichever is earlier, all equipment required in the management of waste must be provided.

1. Each 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. Unauthorised persons must not be able to access to the automatic waste volume handling equipment. The automatic waste volume handling equipment on the chute system must not include compaction.

Note: For 3 days bin capacity, the development requires no less than: 2x660L bin linear tracks or carousel or equivalent under each chute.

2. The volume handling equipment must be caged or walled off from the rest of the waste room (for safety - glass and bags of garbage can explode when dropped from height).

Reason: to ensure all necessary equipment is provided for the safe, efficient and effective management of waste for the full operational life of the development.

83. Construction and Demolition Waste Report

Within 14 days of the completion of each stage of works, a report must be prepared by an appropriately qualified person and submitted to the principal certifying authority, certifying the following:

1. 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, including what can be done to improve the management of waste in future projects.

2. That at least 80% of the waste generated during the demolition and construction phase of the development was reused or recycled.

   Note: If the 80% diversion from landfill cannot be achieved in the Construction or Demolition Stage, the Report is to include the reasons why this occurred, what can be done to improve diversion from landfill in future projects, 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.

3. All waste was taken to site(s) that were lawfully permitted to accept that waste.

   Note: Records of waste removed from the site must be matched to tipping dockets/receipts from recycling depots, transfer stations and landfills to verify the destination of all waste removed from the site (which are to be attached to the report), along with a licence check or similar verification that the site was lawfully permitted to accept that waste.

Reason: to verify all waste removed from the site was appropriately disposed of.

84. Completion of external works

Prior to any Occupation Certificate being issued (including staged development with Occupation Certificates limited to a portion of the development) or the use commencing, whichever is earlier, all external works including but not limited to the vehicular crossover and footpath, must be completed. A temporary vehicular crossover is not acceptable.

Reason: to ensure appropriate access for waste collection.

85. Waste Collection Vehicle On-Site Access

The following requirements must be complied with:

1. A survey of the finished access way (including ramp, waste collection vehicle turning area, loading bay and site entry/exit) to be used by the waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority and to Council. The survey is to include dimensions, gradients and vertical clearance. Written confirmation must be submitted to Council and to the Principal certifying authority from a qualified Traffic Engineer, that this survey confirms the finished access way within the waste collection vehicle travel path was designed and constructed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles (for layout, dimensions, manoeuvring clearances, gradients, rates of change of grade, vertical clearance, vehicle ground clearance). Vehicle performance assessments using Council's small rigid waste collection vehicle have shown gradients steeper than 1:6.5 are not safe in all conditions.
2. The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must comply with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.

   Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel, 1:8 for reverse travel and a minimum vertical clearance of 3.5 *m. Encroachments of the small rigid vehicle turning path and low speed manoeuvring clearance (300 mm both sides) into parking spaces cannot be tolerated.*
3. The 3.5 metre clearance height within the waste collection vehicle travel path must not be reduced by ducting, lights, pipes or anything else.
4. "No parking" signs must be erected to prohibit parking in the waste collection loading bay and turning area.
5. "No Parking" signs are to be installed restricting parking for 4m of the street both north and south of the driveway to ensure the waste collection vehicles can safely make the entry and exit manoeuvres.
6. Site security measures implemented on the property, including electronic gates, must not prevent access to the collection point by waste removal services.
7. A warning system that indicates if the loading bay is occupied must be visible to vehicles about to enter the site.
8. 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. The vehicle sensors of automatically opening doors/gates must be set up for both small rigid vehicles and cars.

9. The traffic safety measures in the approved operational traffic control plan must be installed and operational.

Reason: to ensure appropriate access for waste collection.

86. Replacement Tree Requirements

1. The trees approved for removal under this consent, being trees numbered T6, T7, T8, T9, T10, T11, T12, T13, T14, T15, T16, T19 and T20 must be offset through replacement planting of a minimum of 13 trees.
2. 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
3. The location and size of tree replacement planting must comply with the following:
    a. All replacement trees must be located in either the front or rear setbacks and planted 4 metres or greater from the foundation walls of the approved development.
    b. The pot size of the replacement trees must be a minimum 45 litres.
    c. All replacement trees must be a minimum of 3 metres in height.
    d. All replacement trees must have the potential to reach a mature height greater than 10 metres.

Reason: To ensure replacement planting to maintain tree canopy.

87. Final Certification

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

1. All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works; and
2. All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans; and
3. Dates, times, and reasons for all site attendance; and
4. All works undertaken to maintain the health of retained trees; and
5. 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.

OCCUPATION AND ONGOING USE

Condition

88. 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.

89. Car Parking

1. All car parking must be constructed and operated in accordance with Australian Standard AS/NZS2890.1:2004 Off-street car parking and Australian Standard AS2890.2:2002 Off-street commercial vehicle facilities.
    a. All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
    b. Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
    c. Vehicles awaiting loading, unloading or servicing shall 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 shall be made in a forward direction.
2. All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.
3. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath and be maintained at all times.
4. Provision of storage bins on stands at the rear of parking bays is not permitted as this will hinder vehicle access.

Reason: To provide safe vehicular access and parking

90. Domestic Waste Management

Waste management within the development must be in accordance with the approved waste management plan and the following requirements:

1. The development must operate in full compliance with Council's waste management collection requirements.
2. 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 use (for example under each chute) on collection days.
3. The lid of each bin must be kept closed at all times, other than when waste is being deposited.
4. A site caretaker must be employed and be responsible for transferring all bins when and where required, washing bins, cleaning and maintaining waste storage areas and signage, ensuring the chute systems and related devices are regularly cleaned checked and maintained in effective and efficient working order, maintaining and checking all waste

management equipment (e.g. mechanical ventilation), managing the loading bay to ensure that it is sufficiently available for all necessary waste collection services to take place, managing the communal composting area and worm farm, managing the bulky item storage area, transferring bulky waste from the bulky waste storage room to the kerbside collection point, 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.

5. 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 and aligning with days of Council's scheduled collections.

6. No bins are to be located or placed outside of the approved waste storage area(s) at any time except for collection purposes.

7. All bins that are left on the kerbside for collection must be taken back within the property boundary on the same day of service.

8. The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. The on-site collection point is to be kept clear of obstructions at all times so not to restrict the collection of waste and recycling bins.

9. 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 disposal points and 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 and identifying where bulky waste is to be stored. Signage is also to be provided in locally appropriate culturally and linguistically diverse (CALD) community languages. Contact details for the site caretaker/cleaner/manager are to be provided at each waste disposal point (bin storage room/area) to enable residents to report waste management issues (e.g. bins overflowing).

   Note: Council may be able to assist with signage.

10. Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste management system.

11. The Owners Corporation or property owner via an authorised representative, must explain to all new tenants their roles and responsibilities and the waste management policies and procedures of the development, including but not limited to the following:

    a. an explanation and demonstration of how to dispose of each type of waste. Waste types may include, as applicable, items for supplier take back schemes (e.g. crates, pallets), recyclables (e.g. paper/cardboard, plastic packaging, plastic containers, metals), activity specific wastes (e.g. medical waste, food waste), liquid wastes (e.g. waste oil), bulky waste (e.g. broken furniture), other wastes (e.g. printer cartridges, batteries, textiles), and general waste.

    b. an explanation of the purpose of the different container types/bin colours, including what goes into each.

c. an explanation of how to clean and separate out recyclables from general waste items, including removing leftovers from food receptacles and a direction not to place recyclables in plastic bags.

d. a walk-through of all waste disposal, storage and collection facilities relevant to their roles and responsibilities.

e. an explanation of all relevant signage.

f. an explanation of how bulky waste is managed and how/when/where such items are to be presented for collection.

g. an explanation of how to dispose of packaging and boxes left over after moving in or purchasing large items.

h. any relevant written information/educational flyers from Council.

i. direction to sources of additional information such as Council's website.

j. an explanation and demonstration of how bins are to be presented for collection (if relevant).

k. a copy of the by-laws and requiring the Occupier to confirm in writing that they have read and understood its terms (if relevant);

l. This must be done within 2 working days of occupiers taking up residence in the development. Records of this training must be maintained and provided to Council upon request.

12. The Owners Corporation or property owner via an authorised representative, must report back to owners and occupiers at regular intervals (no less than annually) regarding the how well waste streams have been separated into the correct bins, proper use of the bulky waste system, any investigations and corrective actions for non-conformances, and any other operational waste issues.

13. 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.

14. All equipment required in the operation of the approved waste management system must be provided and available for use for the life of the development and must be regularly checked and maintained in effective and efficient working order in accordance with the manufacturer's instructions by trained service technicians.

15. In these consent conditions, recycling and recyclables refers to all waste streams that are recycled (including but not limited to mixed recycling (glass and plastic bottles, steel and aluminium cans etc), paper/cardboard, food organics, and garden organics) and are collected separately from general waste (garbage) that goes to landfill.

Reason: to ensure the efficient and effective on-going management of waste for the operational life of the development.

91. Waste Collection Vehicle Access

1. Access for waste collection vehicles must be maintained at all time.

2. All surfaces trafficable by the waste collection vehicle must be kept in good and substantial repair.

3. The waste collection vehicle travel path must be kept clear of obstructions.
4. Vegetation adjacent to the driveway/accessway/roadway must be regularly pruned to maintain a 4.5m vertical clearance over the driveway/accessway/roadway and to ensure the vegetation does not encroach on the vehicular travel path.
5. All signage and equipment required in the operational traffic control plan must be provided and available for use for the life of the development and 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 appropriate access for waste collection.

92. Noise and Vibration

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

1. 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.
2. 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.

93. External Lighting During Ongoing Use

During ongoing use of the premises, all lighting must be operated and maintained in accordance with the approved plans.

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

94. Landscape Establishment

The landscape works 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.

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

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition

95. 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:

1. 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
2. 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
3. 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.

96. Site Sign

1. A sign must be erected in a prominent position on any site on which any approved work involving excavation, erection or demolition of a building is being carried out detailing:
   a. The name, address, and telephone number of the Principal Certifier.
   b. 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; and
   c. Unauthorised entry to the work site is prohibited.
2. The sign must be maintained during excavation, demolition and building 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).

97. Asbestos Removal Signage

1. Before demolition or remediation work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

Reason: To alert the public to any danger arising from the removal of asbestos.

98. Unexpected Finds Protocol

A site specific 'Unexpected Finds Protocol' is to be developed and submitted to Council. The Unexpected Finds Protocol must be made available for reference for all occupants and/or site workers in the event contamination is discovered, including asbestos.

Note: The Unexpected Finds Protocol 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 ensure that the land is suitable for its proposed use and poses no risk to the environment and human health.

99. 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:

1. Could cause a danger, obstruction, or inconvenience to pedestrian or vehicular traffic.
2. Could cause damage to adjoining lands by falling objects; and/or
3. Involve the enclosure of a public place or part of a public place; and/or
4. 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.

100. Hazardous Material Survey Before Demolition

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.

Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint.

The report must include at least the following information:

1. The location of all hazardous material throughout the site
2. A description of the hazardous material
3. The form in which the hazardous material is found, e.g. AC sheeting, transformers, contaminated soil, roof dust
4. An estimation of the quantity of each hazardous material by volume, number, surface area or weight
5. A brief description of the method for removal, handling, on-site storage, and transportation of the hazardous materials
6. 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.

101. 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:

1. Name
2. Address,

3. Contact telephone number,
4. Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor,
5. The contact telephone number of council and
6. The contact telephone number of SafeWork NSW (4921 2900).

Note: The written notice to Council can be sent to devmail@hornsby.nsw.gov.au.

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

102. Toilet Facilities

1. 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.
2. Each toilet must:
   a. Be a standard flushing toilet connected to a public sewer; or
   b. Be a temporary chemical closet approved under the *Local Government Act 1993; or*
   c. Have an on-site effluent disposal system approved under the *Local Government Act 1993.*

Reason: To ensure adequate toilet facilities are provided.

103. Erosion and Sediment Control Measures

Install and maintain adequate sediment and erosion control measures for the duration of all works, until such a time that sediment, sediment laden water or any other material/substance can no longer migrate from the premises. The measures are to be installed and maintained in such a manner as to prevent sediment, sediment-laden water, or any other materials and substances migrating from the site onto neighbouring land, the roadway, waters and/or into the stormwater system, and in accordance with:

1. The publication Managing Urban Stormwater: Soils and Construction 2004 (4th edition) - 'The Blue Book'.
2. *Protection of the Environment Operations Act 1997*; and
3. The approved plans

Controls are to be monitored and adjusted where required throughout the works to ensure compliance with the above

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning. If you are unsure in how to achieve compliance with this condition during works, you may need to engage the services of a suitably qualified environmental, soil or geotechnical consultant to assist.

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

104. Compliance with Geotechnical Report

All control measures nominated in the Geotechnical Investigation Report No. 9755-GR-1-1 prepared by Alliance Geotechnical, dated 31 October 2019 must be implemented.

Reason: To ensure the operational measures implemented protect the amenity of the local area.

105. Waste Management Details

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.

106. Garbage Receptacle

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

1. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
2. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
3. 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.

107. Waste Management Details

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.

108. Waste Management

All work must be carried out in accordance with the approved waste management plan.

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

109. Installation of Tree Protection Measures

1. Trees to be retained and numbered T1, T2, T3, T4, T5, T17 and T18 as identified on the Tree Location Plan must have tree protection measures for the ground, trunk and canopy installed by the project arborist for the duration of demolition works, in accordance with the Tree Protection Plan.
2. Tree protection fencing for the trees to be retained numbered T1, T2, T3, T4, T5, T17and T18 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.
3. 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.

4. The installation of all required tree protection fencing must be in accordance with the tree protection plan found in the AIA.
5. Tree crown protection measures are required and must be installed by the AQF 5 project arborist.
6. The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
7. Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.

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

DURING DEMOLITION WORK

Condition

110. Hours of Work

1. All work on site (including remediation, demolition, construction, earth works and removal of vegetation), must only occur between 7am and 5pm Monday to Saturday.
2. No work is to be undertaken on Sundays or public holidays.

Reason: To protect the amenity of neighbouring properties.

111. 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:

1. 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
2. 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
3. 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.

112. Handling of Asbestos

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

1. 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;
2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and

3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

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

113. Environmental Management (Air Pollution)

The Applicant must take all reasonable steps to minimise dust generated during all works (including remediation, demolition, earthworks and construction) authorised by this consent. During works, the Applicant must ensure that:

1. Exposed surfaces and stockpiles are suppressed by regular watering.
2. All trucks entering or leaving the site with loads have their loads covered.
3. Trucks associated with the development do not track dirt onto the public road network.
4. Public roads used by these trucks are kept clean; and
5. Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

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

114. Street Sweeping

1. During works (including remediation, demolition, earthworks and construction) and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.
2. The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.

Note: The above Item does not permit for sediment and/or any other materials/substances to exit the site in a way that constitutes water pollution as defined in the Protection of the Environment Operations Act 1997 or in a manner that contravenes other conditions in this consent. The directions under this condition, however, serve to prevent further water pollution from occurring.

Reason: To minimise impacts to the natural environment.

115. Compliance with Environmental Management Plan (EMP)

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

Reason: To ensure the required site management measures are implemented during construction

116. Council Property

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

Reason: To protect public land.

117. Maintenance of Public Footpaths

Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.

Reason: To maintain safe pedestrian movement.

118. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, wastewater or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

Reason: To protect trees during construction.

119. Erosion and Sediment Control

1. Works are not to result in the discharge of sediment and or run-off onto the adjoining properties or public land.
2. The person having the benefit of this consent must ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site.

   Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

Reason: To minimise impacts on neighbouring properties and public land.

120. Storage and Removal of Waste

1. All demolition and/or construction waste must be stored in a waste receptacle and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.
2. All garbage and recyclable materials generated during work must be stored in a waste receptable and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.

Reason: To ensure the site is maintained to an appropriate standard cleanliness and prevent any nuisance or danger to health, safety or the environment.

121. Storage and Removal of Waste

1. All demolition and/or construction waste must be stored in a waste receptacle and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.
2. All garbage and recyclable materials generated during work must be stored in a waste receptable and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.
3. All waste must be stored within the boundaries of the development site at all times.
4. Litter and illegal dumping must be promptly removed from public land adjacent to the development site.

Reason: To ensure the site is maintained to an appropriate standard cleanliness and prevent any nuisance or danger to health, safety or the environment.

122. Maintain waste removal records

For all waste removal from the site, written records must be maintained detailing the following information. Such information must be made available to Council at its request and is to be submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works with the Construction/Demolition Waste Report:

1. The identity and driver's licence details of the person removing the waste.
2. The waste carrier vehicle registration.
3. Date and time of waste collection.
4. A description of the waste (type of waste and estimated quantity).
5. Details of the site to which the waste is to be taken.
6. The corresponding weighbridge tip docket/receipt from the site to which the waste was transferred (noting date and time of delivery, vehicle registration, description (type and quantity) of waste).
7. 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.

Reason: To ensure waste removed from the site is appropriately disposed of and to protect the environment and local amenity during work.

123. Prohibited Actions within the Fenced Tree Protection Zone

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

1. Soil cutting or filling, including excavation and trenching.
2. Soil cultivation, disturbance, or compaction
3. Stockpiling storage or mixing of materials
4. The parking, storing, washing, and repairing of tools, equipment, and machinery.
5. The disposal of liquids and refuelling
6. The disposal of building materials
7. The siting of offices or sheds
8. Any action leading to the impact on tree health or structure.

Reason: To protect trees during construction.

124. 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 numbered T1, T2, T3, T4, T5, T17 and T18 on the approved plans.

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

125. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with Condition No. 109 of this consent for the duration of works.

Reason: To protect trees during construction.

126. Approved Works within Tree Protection Zone incursions

1. 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:
    a. Using sharp secateurs, pruners, handsaws, or chainsaws with the final cut being clean.
    b. The maximum diameter of roots permitted to be cut is 30 mm.
2. Where the building footprint enters or transects the Tree Protection Zones of tree to be retained numbered T1, sensitive construction techniques in accordance with the AIA section 14.2 page 20 must be followed.
3. Approved excavations within the Tree Protection Zone of trees to be retained numbered T1 not associated with installation of services must be undertaken as follows:
    a. Excavations associated with the basement and building footprint and within the Tree Protection Zone of trees numbered T1 must be overseen by the AQF 5 project arborist for the first 1m undertaken manually to locate roots and allow for pruning in accordance with condition No. 8.1(a) (b).
    b. Excavations for the construction and/or installation of the house/deck/driveway/piers in the Tree Protection Zone of trees to be retained numbered T3 and T4 on the approved plans must be supervised by the project arborist for the first 500mm undertaken manually to locate roots and allow for pruning in accordance with condition No. 8.1(a) (b).
4. No changes of grade within the Tree Protection Zone of trees to be retained on the approved plans, are permitted.
5. To minimise impacts within the Tree Protection Zone (TPZ) of trees numbered T1 on the approved plans, the installation of services must be undertaken as follows:
    a. The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
    b. The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
    c. 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.
6. Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
    a. Installation of a 100mm deep layer of woodchip.

Reason: To protect trees during construction.

127. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, wastewater or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

Reason: To protect trees during construction.

ON COMPLETION OF DEMOLITION WORK

Condition

128. Asbestos Clearance Certificate

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Principal Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

Reason: To ensure the appropriate removal and disposal of contaminated materials and the site is suitable for its approved use.

129. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions. 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.

130. Construction and Demolition Waste Report

Within 14 days of the completion of each stage of works, a report must be prepared by an appropriately qualified person and submitted to the principal certifying authority, certifying the following:

1. 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, including what can be done to improve the management of waste in future projects.

2. That at least 80% of the waste generated during the demolition and construction phase of the development was reused or recycled.

   Note: If the 80% diversion from landfill cannot be achieved in the Construction or Demolition Stage, the Report is to include the reasons why this occurred, what can be done to improve diversion from landfill in future projects, 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.

3. All waste was taken to site(s) that were lawfully permitted to accept that waste.

   Note: Records of waste removed from the site must be matched to tipping dockets/receipts from recycling depots, transfer stations and landfills to verify the destination of all waste removed from the site (which are to be attached to the report), along with a licence check or similar verification that the site was lawfully permitted to accept that waste.

Reason: To verify all waste removed from the site was appropriately disposed of.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Tree and Vegetation Preservation

Hornsby Development Control Plan Tree Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* under 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 HDCP.

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). (HDCP 1B.6.1.c).

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. Eg Unit 1 = Lot 1. The allocated of unit numbering must be authorised by Council prior to the numbering of each units in the development.

Waste Management

The Strata by-laws are to clearly set out the management responsibilities for the developments waste management system.

ATTACHMENT 3 - ITEM 1

Clause 4.6 Variation
Height of Buildings

Clause 4.3 – HOB the Hornsby Local Environmental Plan 2013

Proposed Residential Flat Building
454-458 Peat Ferry Road, Asquith NSW 2077

Project 22-048
24 June 2023
Revision B

Prepared by Dickson Rothschild
Suite 1 & 2, Level 5, Grafton Bond Building
201 Kent Street
Sydney NSW 2000

ATTACHMENT 3 - ITEM 1

REV	DESCRIPTION	DATE	AUTHOR	CHECK
A	For DA Lodgement	03/05/2023	SZ	ND
B	For DA Lodgement (updated as per amended Clause 4.6 of LEP)	24/06/2024	KM	

Dickson Rothschild
D.R. Design (NSW) Pty Limited
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Table of Contents

1. Introduction

This request to vary a development standard has been prepared by Dickson Rothschild (D.R. Design (NSW) Pty Limited) in relation to a development application for the construction of a five-storey residential flat building at 454-458 Peats Ferry Road, Asquith (**site**). This request is made pursuant to clause 4.6 of Hornsby Local Environmental Plan 2013 (**HELP 2013**).

This document constitutes the written request referred to in Clause 4.6(3) in relation to the Development Application's proposed breach of the height of building development standard. This request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgments:

1. *Wehbe v Pittwater Council* [2007] NSWLEC 827;
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009;
3. *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130;
4. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118;
5. *Baron Corporation Pty Ltd v The Council of the City of Sydney* [2018] NSWLEC 1552
6. *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386;
7. *Moskovich v Waverley Council* [2016] NSWLEC 1015; and
8. *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112

2. Standard to be Varied

With a maximum building height of 19.89m, the proposed development is non-compliant with the 16.5m maximum building height prescribed by clause 4.3 of HLEP 2013. The height limit prescribed by clause 4.3 is a development standard, as defined by the EP&A Act:

> *"**development standards** means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: …*
>
> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work…"*

Accordingly, the provisions of clause 4.6 of HLEP 2013 can be applied.

Pursuant to clause 4.6(2) of HLEP 2013, consent may be granted for development even though the proposal contravenes a development standard prescribed by an environmental planning instrument. Whilst this clause does not apply to those standards expressly excluded from this clause, the building height development standard of clause 4.3 of HLEP 2013 is not expressly excluded and thus, the provisions of clause 4.6 can be applied in this instance.

3. Extent of the Proposed Breach

The proposed development reaches a maximum height of 19.89m at the top of the lift overrun (RL 210.94m AHD) at the east lift core, representative of a 3.39m or 20.55% variation to the 16.5m maximum building height development standard. The application also involves other area of non-compliance, including:

- the top of the communal open space shade structures (RL 210.44m AHD) at the east lift core with a maximum height of 19.66m (3.16m breach or 19.15% variation),
- the top of the lift overrun at the west lift core (RL 210.94m AHD) with a maximum height of 18.79m (2.29m breach or 13.88% variation),
- the COS roof awning/pergola (RL 210.44m AHD) at the west lift core with a maximum height of 19.24m (2.74m breach or 16.61% variation),
- the eastern portion of the roof integrated planters & balustrade (RL 208.84m) with a maximum height of 18.35m (1.85m breach or 11.21% variation).
- the eastern portion of the roof form (RL 207.84m) with a maximum height of 17.34m (0.84m breach or 5.1% variation).

The extent of non-compliance with the maximum building height development standard is highlighted in the 3D Height Plane Diagram by Dickson Rothschild (Figure 1).

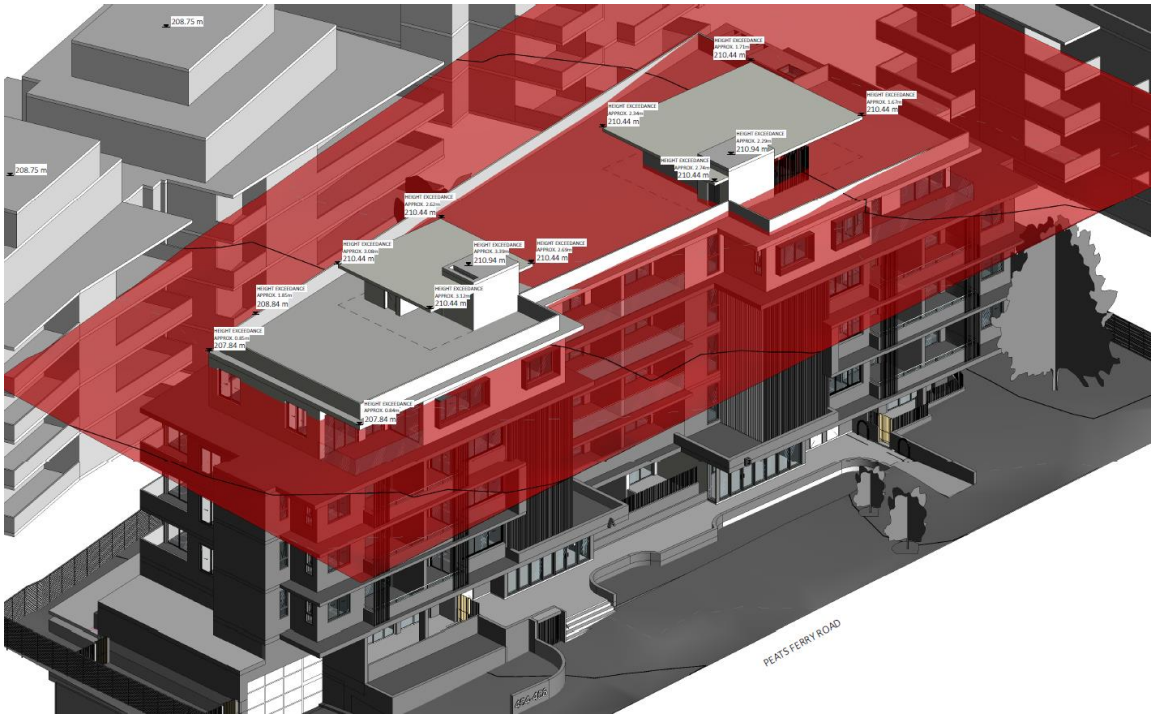


Figure 1: 3D Height Plane Diagram - 16.5m LEP height of buildings standard

It is noted that the volume of structures which exceed the height limit on site are limited. The areas that exceed the height limit are at the fifth storey and above and all elements are setback from the building edge of fourth storey below.

4. Grounds for Clause 4.6 Variation

Clause 4.6(3)(a) of HLEP 2013 requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In accordance with the decision of the NSW LEC in the matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827 and as confirmed in the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard.

Compliance with the height control is unreasonable and unnecessary in the circumstances of this proposal because the objectives of the development standard (building height) are achieved, notwithstanding the non-compliance with the height control. The proposed variation achieves the objectives of the development standard contained at clause 4.3 of the LEP, as outlined below. Further, the height non-compliance itself is related to achieving a better planning outcome than what would otherwise be achieved by a building that strictly complied with the height limit. This is also discussed below.

The proposed development is consistent with the objectives of the building height development standard, as prescribed by clause 4.3(1) of HLEP 2013, as follows:

a) to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.

Comment:

The maximum building height exceedance is associated with the eastern portion of roof and structures associated with the communal open space (COS) including the lift overrun and COS roof awnings, which are setback from the building edge.

The site constraints include the shallow depth of the site. Waste collection is proposed to occur in the basement which minimises traffic impacts by allowing an SRV to enter and exit the site in a forward direction as well as avoiding any potential traffic impacts that may arise from a truck collecting bins kerbside. Collecting waste in the basement also minimises potential visual and olfactory impacts on the public domain by allowing waste collection to occur within the basement rather than on or near the public domain. To provide for waste collection in the basement, maintain reasonable ramp grades and providing sufficient clearance, the building height is slightly increased in comparison to a development where waste collection was not in the basement. The raising of the ground level to provide sufficient clearance for the SRV contributes to the height breach that occurs at the upper levels of the development.

The site is also in a highly accessible location, not only near the railway station but also existing retail as well as schools. The site is not in a strictly residential area. Objective 4C-1 (and associated criteria and guidance) of the Apartment Design Guide (ADG) seeks to achieve sufficient natural ventilation and daylight access and considers provision of more generous ceiling heights for accommodating ceiling fans. Objective 4C-3 states: Ceiling heights contribute to the flexibility of building use over the life of the building", and guidance states that ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria (ADG pg. 87)." The proposal has taken into consideration these objective and guidance. In proposing

increased height at ground level with a floor-to-floor of 3.25m which improves daylighting and ventilation for the ground level units and provides a degree of flexibility of use, increases the overall height of the building and contributes to the proposed variation in height occurring at the top level of the building. This slightly increase in ceiling height, together with the setting of the ground level of the building to allow for SRV clearance into the basement contributes to the overall height variance in a way that directly relates to the site's context and the site's particular constraints.

The other key constraint relating to the site is how it is oriented in relation to the provision of communal open space (COS). The typical location of COS for a residential flat building is behind the front of the building and usually within the rear setback. Due to site orientation to the north-west, ground floor COS on the site would have limited amenity because it would be overshadowed by any development on the subject site. So, while the site is well oriented to achieve good solar access for apartments, it is constrained in regard to its COS provision. To address this constraint, a high amenity rooftop COS is proposed. To ensure amenity and equitable access to the COS, it is proposed to bring the lift up to the COS level. Given the ample sunlight the COS will enjoy, it is proposed to include shade structures to provide residents shade and weather protection. To maximise amenity to the COS, it is proposed to integrate the space with landscape planting with raised planters proposed above the roof level.

Rooftop communal open spaces are considered a reasonable solution (ADG, 3D-1) providing a high-quality facility for future residents. In *MGT 6 Pty Ltd v The Council of the City of Sydney [2017] NSWLEC 1211*, Martin SC and Dixon C considered a request to vary the building height standard that arose from the extension of the lift to the roof in order to provide accessible access. Dixon C found at [50]

> *"Without the lift overrun and the breach of the standard the communal open space would need to be accessed by a chair lift (and stair) which is less equitable access to the area. Maintaining the standard would result in a sub- optimal outcome for all residents, with a reduction in the amount and type of communal open space provided in the development."*

The extent of the proposed variation arises in order to achieve a high quality rooftop communal open space which is a direct response to site constraints. The proposed development would result in a sub-optimal outcome for all residents if strict compliance with the standard was required.

While the maximum proposed variation is 20.33%, the extent of built form that is above the height limit is limited to a portion of the roof and the roof elements associated with the communal open space and green roof elements.

Those elements above the height limit will not adversely impact the amenity of adjoining properties. Given the overall height of the building, it is unlikely that the integrated planters around the perimeter of the communal area at roof at the west portion will be readily visible or generate a perceptible impact from surrounding developments. Nonetheless, if they are able to be seen from other adjacent buildings, the planters give the appearance of a green roof, act to screen the lift core, and do not attribute to an unreasonable visual impact or loss of solar access. The rooftop plantings significantly enhance the amenity of the communal area, whilst also providing a buffer to prevent overlooking of adjacent development.

The non-compliant portion of the roof form on the eastern side of the building will be visible from the public domain, however it is the same level as the western side of the roof form. This non-compliance is simply a consequence of the topography of the land, the need for SRV clearance

and the maximising of daylighting to the proposed apartments as opposed to an increased or differing roof level on the eastern side of the building.

The height exceedance, which is generally associated with the roof communal area, does not result in any adverse impacts upon the privacy of occupants of the development or adjoining sites, with sufficient setbacks and integrated planting to mitigate any overlooking.

The height non-compliance is appropriate to the site's development potential. The proposed building is 5-storeys in height and no mezzanine level is proposed. This is in keeping with the intent of the 16.5m height limit which is expected to result in a 5 storey building scale. The height variation does not result in a building with additional storeys. Instead the additional height is a result of:

- Clearance to achieve SRV access with a 3.5m height required to basement to allow for waste collection on-site; and
- Increased floor-to-floor heights to satisfy provisions of new BCA/NCC requirements (services, fire safety, etc.) and maximise residential amenity.

The building height of 16.5m applicable to the site since 2020 is not reflected in the site context. Residential Flat Buildings developed to the west, south and north (across Peats Ferry Road) near the proposed development were approved when the applicable height of buildings for the area was 17.5m. The other residential flat building development in the vicinity of the subject site are five storeys plus mezzanine as part of the fifth storey. This is noted in the site analysis plan by Dickson Rothschild (DA-0-102). It is also apparent in reviewing the panorama view of the site context in Nearmap. Refer to the figure below, with the subject site highlighted in red.

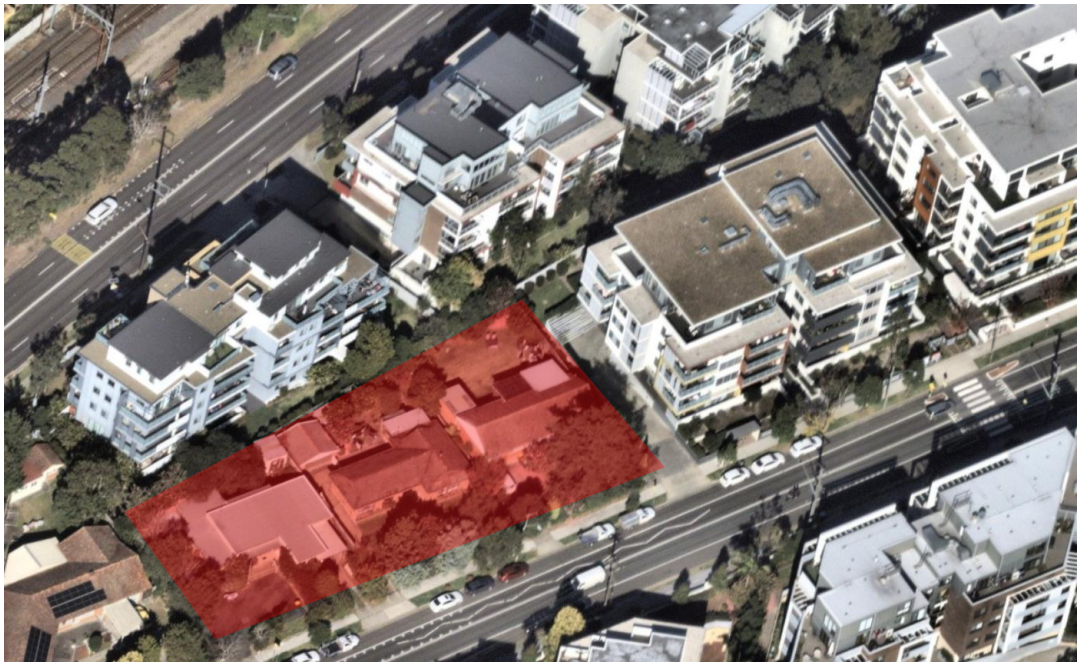


Figure 2: Nearmap Panorama View of Peats Ferry Road from the north looking south, showing predominance of 5th storey mezzanine forms on adjoining sites.

Fifth storey mezzanines occur at:

- 450 Peats Ferry Road
- 442-446A Peats Ferry Road
- 319-323 Peats Ferry Road
- 325-331 Peats Ferry Road
- 2 Bouvardia Street
- 135-137 Jersey Street North
- 139-141 Jersey Street North

It is understood that the reduction in height limit resulted in part to disallow mezzanine levels at the top of buildings. The proposed development satisfies this objective with no mezzanine proposed. The proposed development is five storeys with no mezzanine wholly consistent with the intent of the revised 16.5m height limit. The parts of the building which are above the height limit and are not part of the roof garden structures are the upper portion of the fifth storey at the eastern end of the site above the driveway ramp. These areas have a maximum height non-compliance of 0.85m, or an overall height of 17.35m. Refer to the figure below.

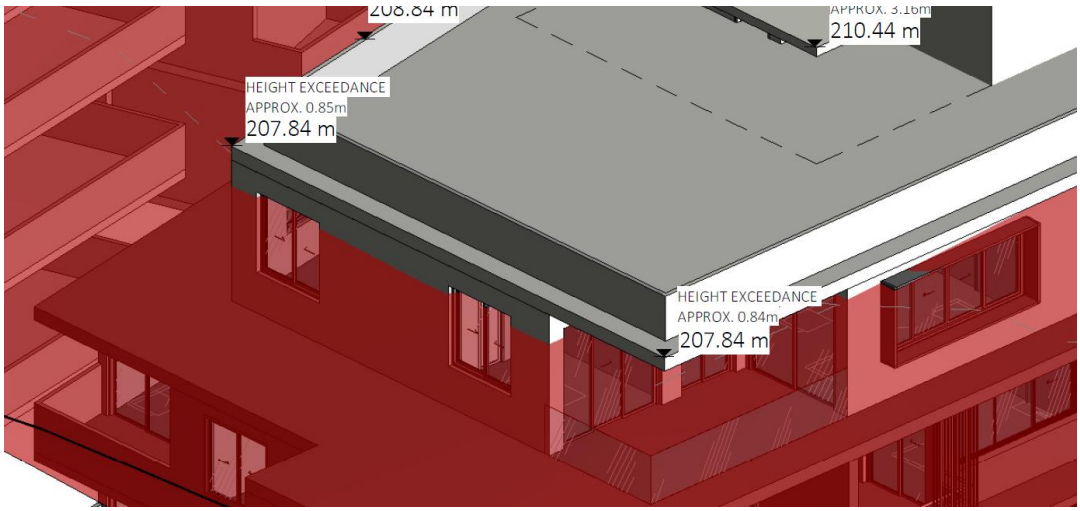


Figure 3: Excerpt, Height Plane Diagram showing maximum exceedance of the part of the building not comprising roof structures are less than 1m above the current height limit

These parts of the building are therefore consistent with the site context and scale of development in the immediate site context which reflect the previous 17.5m height limit. The part of the building above 17.5m in height which is the height limit well established in the area is for the purposes of the proposed accessible roof garden and overruns only and does not comprise habitable space.

The part of the building which does not comply with the height limit is minor. It comprises the upper part of the top-level units at the building's eastern end, the roof and the proposed planters and balustrades associated with the roof garden, a disabled toilet to maximise accessibility and amenity of the roof garden and the overrun to access the garden.

The proposed development's variation with the height limit does not result from excessive development on the site. The development is 5 storeys, providing sufficient car parking and

servicing on the site as well as deep soil zones which meet ADG criteria.

The objective is achieved despite the non-compliance.

As such, strict compliance with the maximum building height development standard is unreasonable and unnecessary in the circumstances of this case.

5. Sufficient Environmental Planning Grounds

Clause 4.6(3)(b) of HLEP 2013 requires the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravention of the standard. The specific environmental planning grounds to justify the proposed contravention of the height standard are as follows:

5.1. Topography

The site experiences a fall of 2.71m from the southwest corner of the site (RL192.83m AHD) to the northeast corner of the site (RL189.50m AHD). The 3.33m (maximum) non-compliance associated with the roof COS on the eastern side of the development is related to the cross fall of the land, noting that the floor levels have been designed to align with and address the existing ground levels of the western side of the site.

Strict compliance with the height control would require:

- Elimination of the rooftop communal open space, and
- the introduction of a step in every floor plate, which is a poor outcome with regard to accessibility and construction feasibility, or
- reduced ceiling heights limiting amenity, or
- the introduction of a step at roof COS, which will discourage accessibility.

Despite the associated height non-compliance, the proposed design solution is considered to be the superior outcome in consideration of the cross-fall of the land. Allowing for the height breach associated with the roof form in response to the topography of the site promotes good design and amenity of the built environment, allow for SRV waste collection on-site, and the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, consistent with objectives (g) and (h) of the EP&A Act.

The non-compliance facilitates a rational and orderly floor plate which addresses the Site's street frontages and provides for a superior built form outcome and streetscape than a strictly compliant building.

5.2. Lack of impact

The breach associated with the communal open space at roof pergolas and lift overruns is relatively slight, with a maximum exceedance of 20.55% associated with the lift core, reducing down to a maximum of 5.1% associated with the roof at the eastern side of Level 5 of the development. In consideration of the scale of the development as a whole as well the site context, the proposed variations are reasonable.

The non-compliant elements do not contribute to any unreasonable impacts on the future occupants' amenity or neighbouring sites, nor do they affect the wider public domain. The non-compliance related to the lift overruns and roof pergolas in the communal area will not be visible from the public domain. Similarly, the non-compliance on the eastern side of the COS roof will not be prominently visible, considering the overall height of the development and its alignment with the western side of the building.

The proposed roof top communal open space provides for the enhancement of amenity for future

residents of the proposed development, with an area of open space with high levels of amenity available for use by all residents of the development. The communal open space is sensitively designed and located to ensure against any unreasonable impacts upon neighbouring properties.

Regardless of the height variation the building retains a five-storey scale, consistent with the site context and the DCP's intended number of storeys for the area. The additional height is also a result of increased ceiling heights to what would have been considered when the LEP was formulated to meet new NCC/BCA standards and to maximise the amenity of apartments within the development.

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* [2021] NSW LEC 1242, the particularly 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.

Most of the structures relating to the COS could be considered Architectural Roof Features as defined in Clause 5.6 of the LEP, with the exception of the disabled toilet and lobby spaces which are GFA as defined by the LEP. It is also relevant that the roof structures are limited in their volume and they are setback from the building edge to minimise both visual and overshadowing impacts.

Overshadowing impacts arising from the part of the building exceeding the height limit are negligible and acceptable. Views from the Sun Diagrams and Shadow Analysis Sheets by Dickson Rothschild show the non-compliant elements of the development do not result in any unreasonable impacts upon solar access.

Key findings are:

- From 9am to 11am in midwinter, the additional overshadowing associated with the portion of the development above the 16.5m height plane is nominal and does not reduce solar access to the adjacent buildings to the southeast. It is noted that the balustrades/courtyard walls at the ground floor level of the Jersey Street North development are solid and therefore overshadowing of the Ground Level apartments and their POS is minimised. Views from the sun (each hour, midwinter between 9 a.m. and 3 p.m.) are included in the Architectural Plans by Dickson Rothschild, DA-0-961 and DA-0-962 and a view of the rear of 139-141 Jersey Street North is provided below for reference:

Figure 4: View of rear/north facing facade of 139-141 Jersey Street North (K.McDowell)

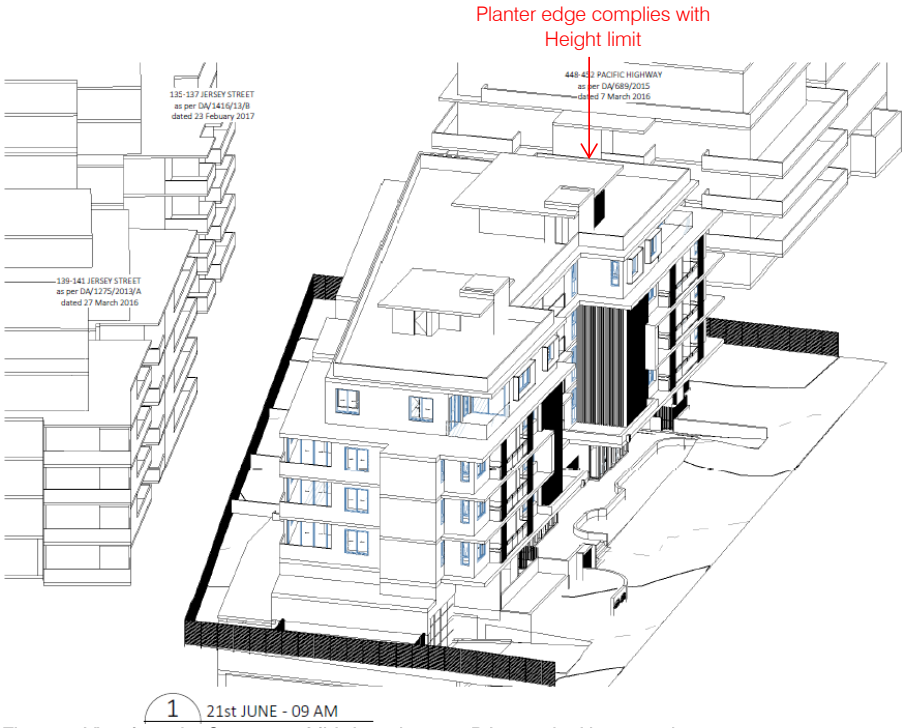


Figure 5: View from the Sun 9 a.m. Midwinter (excerpt DA-0-961) with annotations

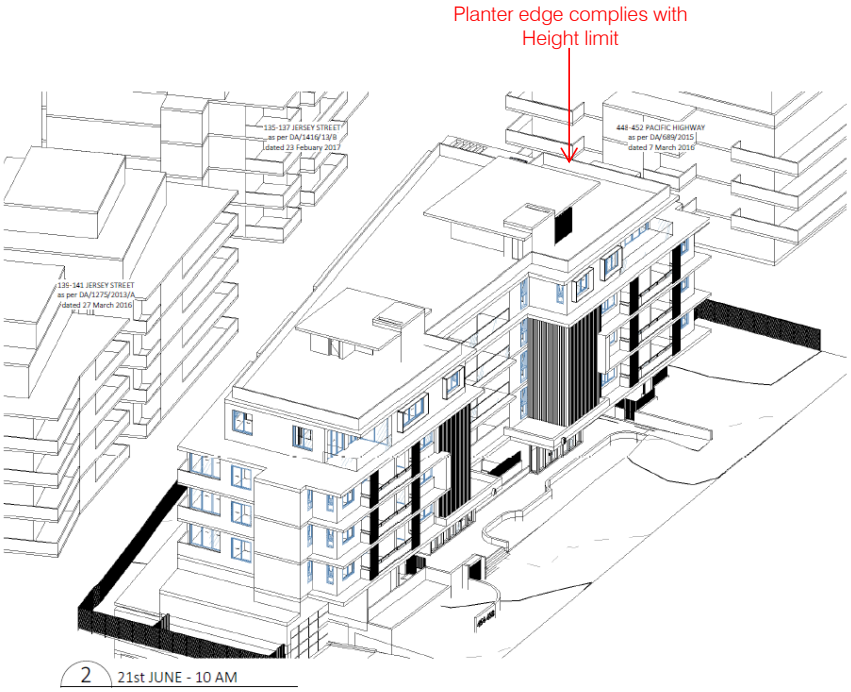


Figure 6: View from the Sun 10 a.m. Midwinter (excerpt DA-0-961)

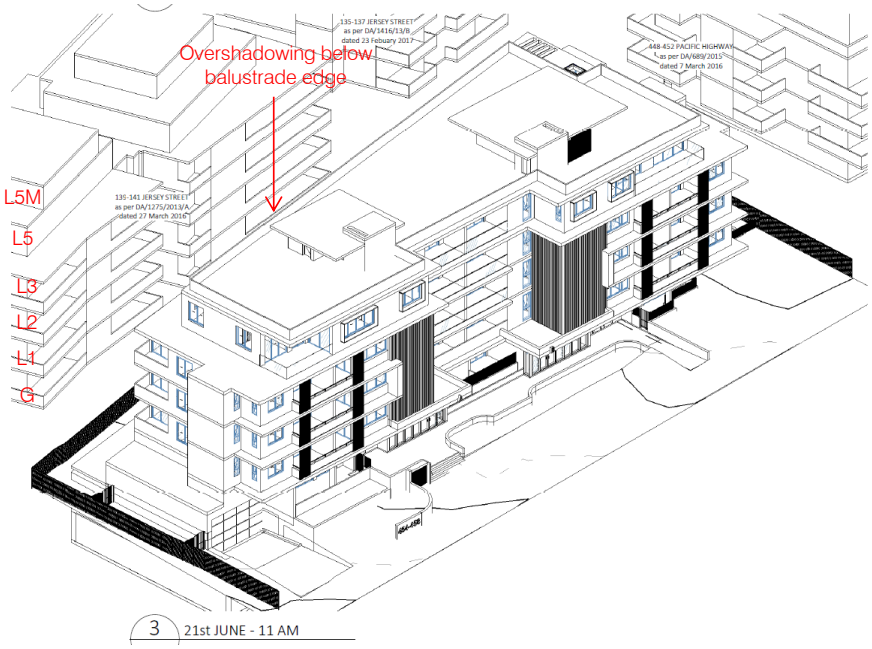


Figure 7: View from the Sun 11 a.m. Midwinter (excerpt DA-0-961) with annotations

- At 12 pm in midwinter, the additional overshadowing associated with the portion of the development above the 16.5m height plane maintains solar access to the balconies of the adjoining buildings. The proposed planters align with the balustrades of the adjoining building while still allowing solar access to the apartments whose balustrades are affected by the proposed height variation. It is

noted that the balustrades of the adjoining building are solid or opaque glass and thus impacts from the proposed development are minimal. The shade structures add no material overshadowing to the adjoining site since they are setback from the proposed building edge.

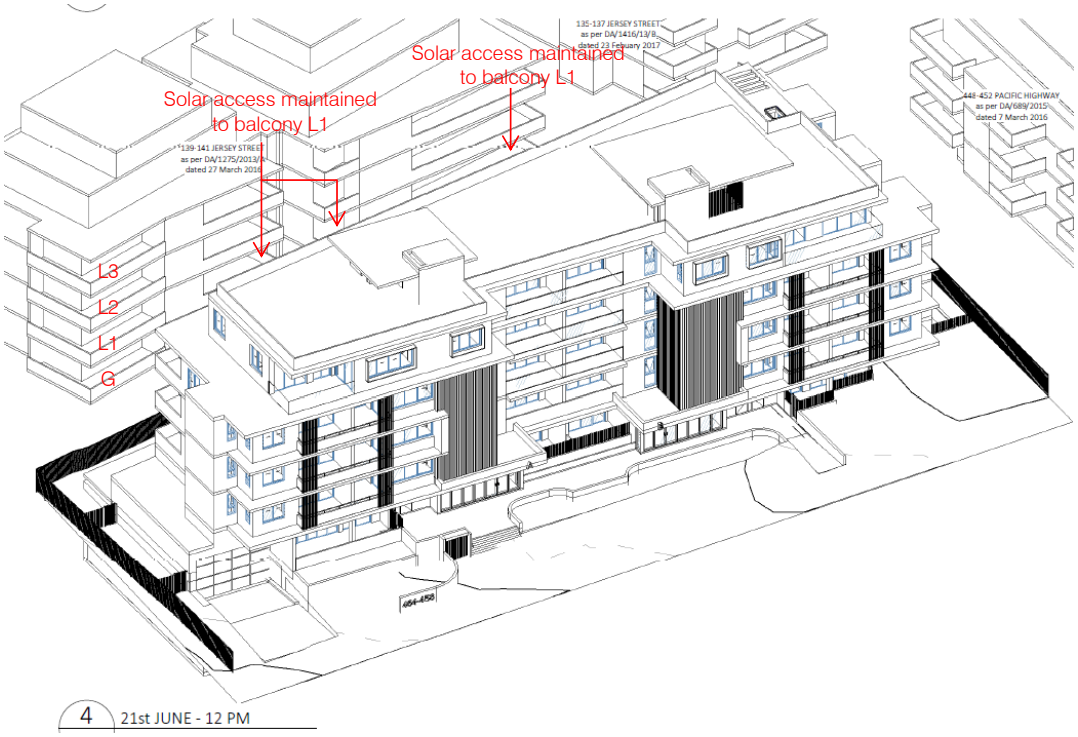


Figure 8: View from the Sun 12 p.m. Midwinter (excerpt DA-0-961) with annotations

- At 1:00 p.m. in midwinter the parts of the building that do not comply with the height limit are again only impacting the balustrade area of the adjoining building which preserves solar access to the balconies and windows of the adjacent development.

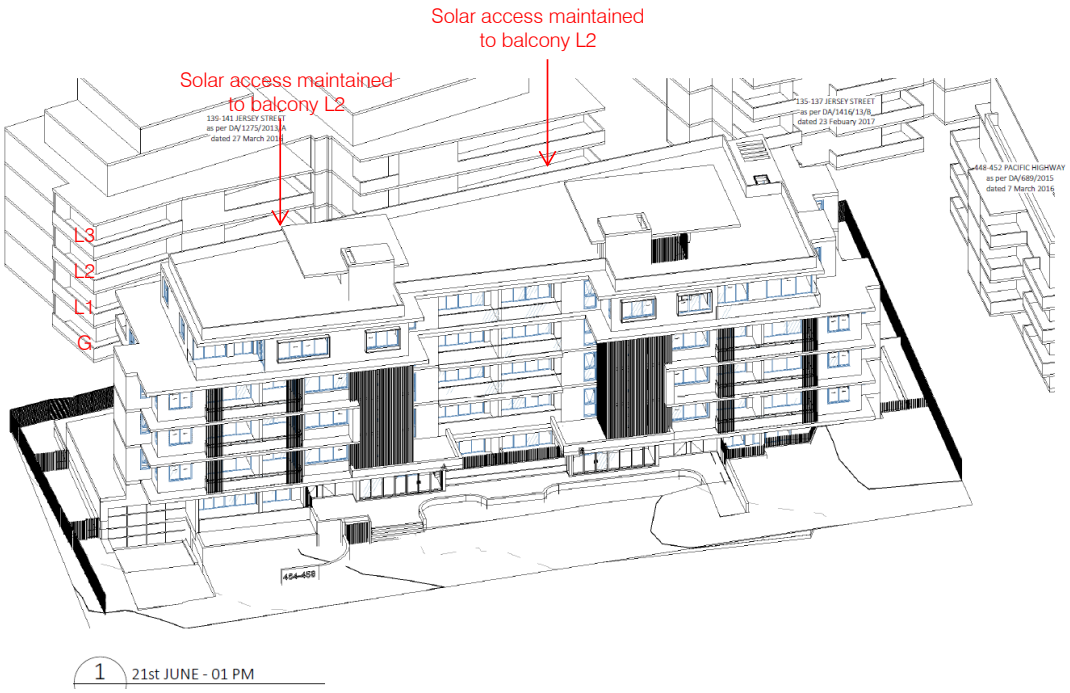


Figure 9: View from the Sun 1 p.m. Midwinter (excerpt DA-0-962) with annotations

- At 2:00 p.m. the part of the building over the height limit has a very limited impact on the adjoining building, again impacting primarily balustrade areas.

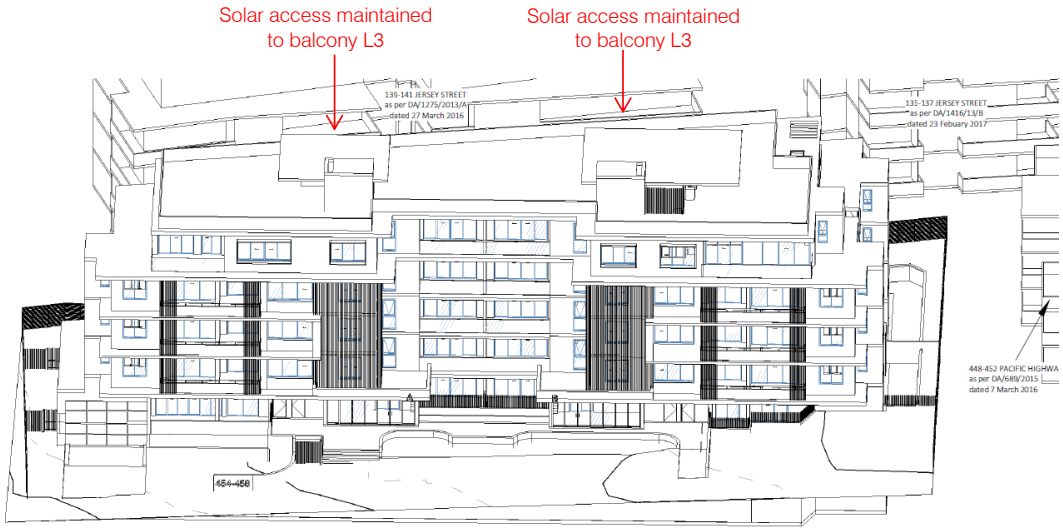


Figure 10: View from the Sun 2 p.m. Midwinter (excerpt DA-0-962) with annotations

- At 3:00 p.m. the part of the building over the height limit casts shadow on the roof of the fourth storey of the adjoining building where the adjoining building increases setbacks at its 5th storey. The fourth storey units at 139-141 are partially impacted by the proposed height non-compliance; however, these units still maintain at least 5 hours full, direct solar access in mid-winter, and the overshadowing that arises between 2 p.m. and 3 p.m. is partial. The overshadowing arising from the proposed development does not compromise the amenity of the adjoining units.

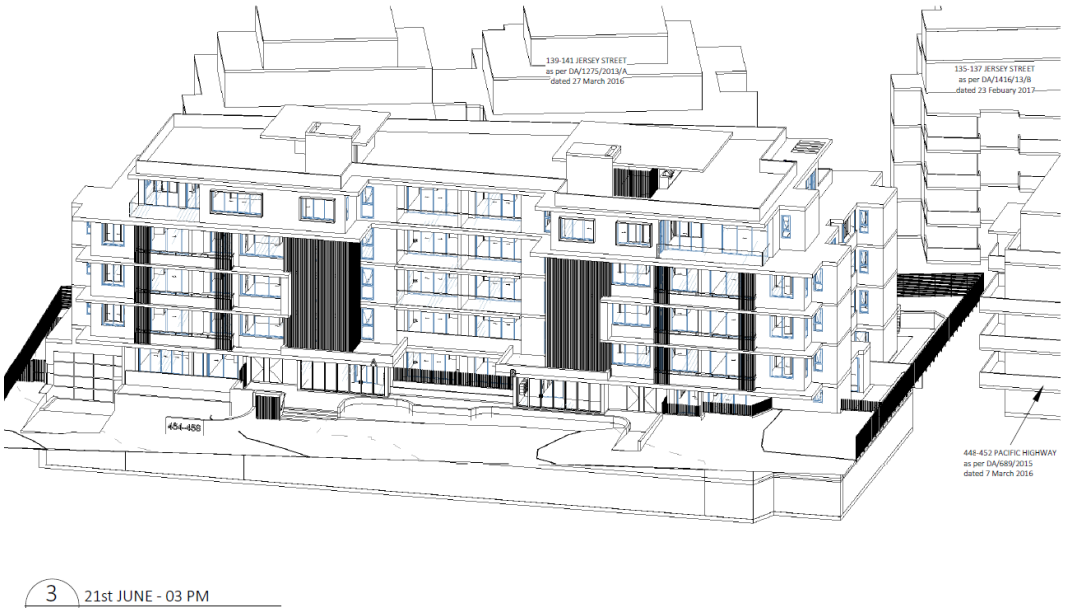


Figure 11: View from the Sun 3 p.m. Midwinter (excerpt DA-0-962) with annotations

- The minor extent of overshadowing as described above is negligible in midwinter. The extent of overshadowing arising from the proposed height exceedance is materially the same as would arise if those non-compliant parts of the proposal were removed.

5.3. Equitable Access and Amenity

The proposed communal roof terrace provides an area of high amenity that all residents of the development and their guests can enjoy. The continuation of the lift to the rooftop ensures equitable access to the proposed communal space, where the expansive views can be enjoyed by all, not just those with units at the upper floor of the development.

In particular, the rooftop communal open space will provide unimpeded views to the Berowra Valley Regional Park, Berowra Creek and Berowra Valley Nation Park in the south-westerly direction and north-westerly direction, the Ku-ring-gai Chase Nation Park in an easterly direction, which are not readily visible from the lower-level areas of communal open space.

The rooftop communal open space also provides a high-quality landscape outcome, giving the appearance of a green roof from buildings of an equivalent height and screening the necessary lift overrun and future solar panel areas. Landscaping on the roof is also a more sustainable outcome than a typical flat roof, maximising water infiltration and thermal efficiency.

The provision of a roof garden and providing structures above the height limit to ensure access and amenity has also been considered acceptable in other cases such as *MGT 6 Pty Ltd v The Council of the City of Sydney [2017] NSWLEC 1211.*

The incorporation of an accessible area of communal open space at the rooftop promotes good design and amenity of the built environment, consistent with Object 1.3(g) of the EP&A Act.

5.4. Redistribution of Bulk

The proposed development has adopted a sensitive design which incorporates generous setbacks to the front boundary of the site and an equitable setback to the rear boundary to retain a solar access to the adjacent development at 139-141 Jersey Street. The distribution of built form as proposed, as well as the provision of communal open space on roof, facilitates an improved planning and design outcome, providing a higher level of amenity to dwellings in the proposed development and neighbouring buildings.

The proposed massing of the building is considered to be an appropriate contextual response to the development of the site, promoting good design and amenity, consistent with Object 1.3(g) of the EP&A Act.

5.5. Public Benefit

The proposed development has been designed with a generous setback to the street and highly articulated elevations, aiming to enhance streetscape.

The proposal allows for a small ridge vehicle to access basement for waste collection on-site which further promotes street amenity and contributes to pedestrian safety.

Overall, there are sufficient environmental planning grounds to justify contravention of the maximum height development standard.

5.6. Meeting the Objectives of the Zone

As identified above, the proposed development is consistent with the objectives of the building height development standard. Furthermore, the proposal is consistent with the objectives of the R4 High Density Residential zone, as follows:

- *To provide for the housing needs of the community within a high density residential environment.*

Comment:

The proposed development provides high amenity, high density development in the proximity of public transport, Asquith Train Station. The proposal includes a mix of housing that responds to the demand. Adaptable housing and liveable housing (to a silver level of service) is provided.

- *To provide a variety of housing types within a high density residential environment.*

Comment:

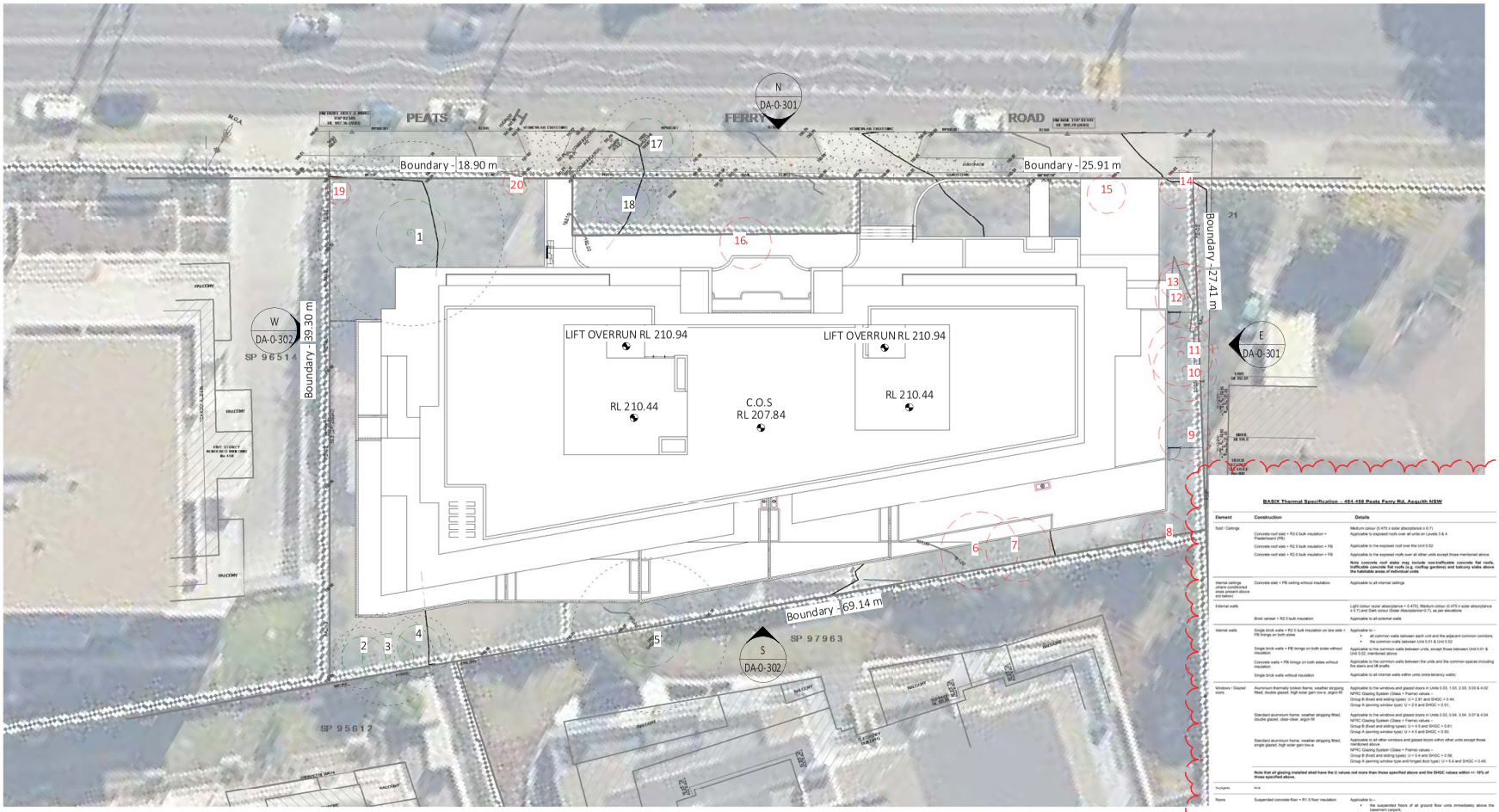
The proposed development provides a suitable mixed-use development within an accessible location so as to maximise public transport patronage and encourage walking and cycling.

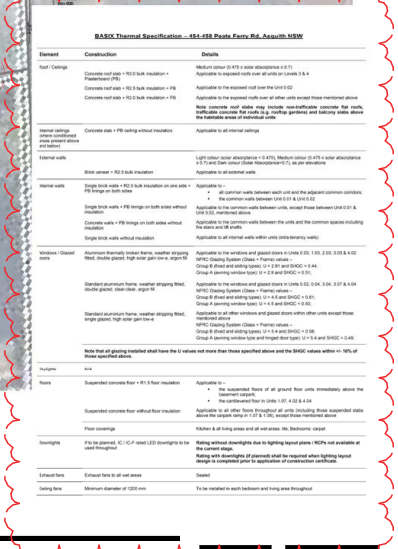
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposed development provides a suitable mixed-use development within an accessible location to maximise public transport patronage and encourage walking and cycling.

Council can be satisfied that there are sufficient environmental planning grounds for contravening the development standard on this particular site, in so far as it is consistent with both the objectives of the zone and the objectives of the maximum height limit.





BASIX Thermal Specification – 454-458 Peats Ferry Rd, Asquith NSW

Element	Construction	Details
Roof / Ceilings	Concrete roof slab + R3.0 bulk insulation + Predermond (PB)	Medium colour (0.475 ≤ solar absorptance ≤ 0.7) Applicable to exposed roofs over all units on Levels 3 & 4
	Concrete roof slab + R2.0 bulk insulation + PB	Applicable to the exposed roof over the Unit 0.02
	Concrete roof slab + R2.0 bulk insulation + PB	Applicable to the exposed roofs over all other units except those mentioned above Note concrete roof slabs may include non-trafficable concrete flat roofs, trafficable concrete roofs (e.g. roof gardens) and balcony slabs above the habitable areas of individual units
Internal ceilings (where conditioned space is present above and below)	Concrete slab + PB ceiling without insulation	Applicable to all internal ceilings
External walls	Brick veneer + R2.5 bulk insulation	Light colour (solar absorptance ≤ 0.475), Medium colour (0.475 ≤ solar absorptance ≤ 0.7) and Dark colour (Solar Absorptance>0.7), as per elevations Applicable to all external walls
Internal walls	Single brick walls + R2.0 bulk insulation on one side + PB linings on both sides	Applicable to – • all common walls between each unit and the adjacent common corridors; • the common walls between Unit 0.01 & Unit 0.02
	Single brick walls + PB linings on both sides without insulation	Applicable to the common walls between units, except those between Unit 0.01 & Unit 0.02, mentioned above
	Concrete walls + PB linings on both sides without insulation	Applicable to the common walls between the units and the common spaces including fire stairs and lift shafts
	Single brick walls without insulation	Applicable to all internal walls within units (intra-tenancy walls)
Windows / Glazed doors	Aluminium thermally broken frame, weather stripping fitted, double glazed, high solar gain low-e, argon fill	Applicable to the windows and glazed doors in Units 0.03, 1.03, 2.03, 3.03 & 4.02 NFRC Glazing System (Glass + Frame) values – Group B (fixed and sliding types): U = 2.91 and SHGC = 0.44; Group A (awning window type): U = 2.9 and SHGC = 0.51;
	Standard aluminium frame, weather stripping fitted, double glazed, clear-clear, argon fill	Applicable to the windows and glazed doors in Units 0.02, 0.04, 3.04, 3.07 & 4.04 NFRC Glazing System (Glass + Frame) values – Group B (fixed and sliding types): U = 4.9 and SHGC = 0.61; Group A (awning window type): U = 4.8 and SHGC = 0.50;
	Standard aluminium frame, weather stripping fitted, single glazed, high solar gain low-e	Applicable to all other windows and glazed doors within other units except those mentioned above NFRC Glazing System (Glass + Frame) values – Group B (fixed and sliding types): U = 5.4 and SHGC = 0.59; Group A (awning window type and hinged door type): U = 5.4 and SHGC = 0.49;
		Note that all glazing installed shall have the U values not more than those specified above and the SHGC values within +/- 10% of those specified above.
Skylights	N/A	
Floors	Suspended concrete floor + R1.5 floor insulation	Applicable to – • the suspended floors of all ground floor units immediately above the basement carpark; • the cantilevered floor in Units 1.07, 4.02 & 4.04
	Suspended concrete floor without floor insulation	Applicable to all other floors throughout all units (including those suspended slabs above the carpark ramp in 1.07 & 1.08), except those mentioned above
	Floor coverings	Kitchen & all living areas and all wet areas: tile; Bedrooms: carpet
Downlights	If to be planned, IC / IC-F rated LED downlights to be used throughout	Rating without downlights due to lighting layout plans / RCPs not available at the current stage. Rating with downlights (if planned) shall be required when lighting layout design is completed prior to application of construction certificate.
Exhaust fans	Exhaust fans to all wet areas	Sealed
Ceiling fans	Minimum diameter of 1200 mm	To be installed in each bedroom and living area throughout

Dickson Rothschild
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Suite 1 & 2, Level 5, Grafton Bond Building
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ABN: 35 134 237 540
Phone: +61 2 8540 8720

Nominated Architects:
Robert Nigel Dickson
NSW ARB #5364
Paul Oreshkin
NSW ARB #7774
www.dicksonrothschild.com.au

REV	DESCRIPTION	DATE	ISSUED	CHECKED
T	DRAFT SET FOR CONSULTANTA	09/02/2023	RD	KM
U	DRAFT SET FOR CONSULTANTA	15/02/2023	RD	KM
V	DRAFT SET FOR CONSULTANTA	17/02/2023	AY	ND
W	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
X	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
Y	ISSUE FOR DA LODGEMENT	09/06/2024	RD	KM
Z	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM
AA	ISSUE FOR RFI	27/11/2024	HF	PO
BB	ISSUE FOR RFI	04/12/2024	HF	PO

PROJECT
Peats Ferry Road

454-458 Peats Ferry Rd, Asquith NSW 2077

CLIENT
John Mallia

Development Application

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DRAWING
SITE PLAN

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-111	BB	04/12/2024
SCALE @ A3		DRAWN	AUTHORISED
1 : 300		RD	ND

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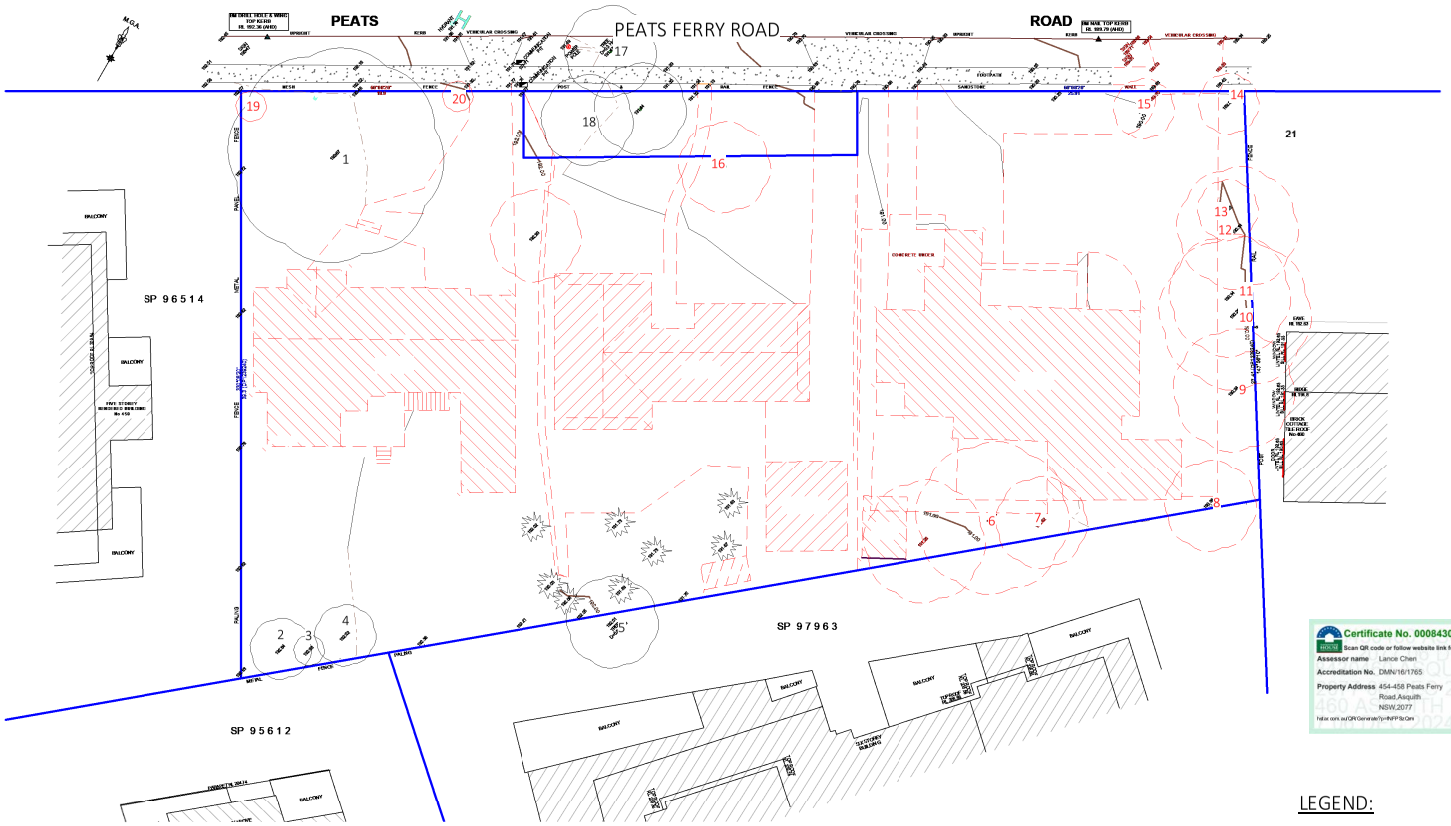
ATTACHMENT 4 - ITEM 1



Certificate No. 0008430460
Scan QR code or follow website link for rating details.
Assessor name Lance Chen
Accreditation No. DMN/16/1765
Property Address 454-458 Peats Ferry Road,Asquith NSW,2077

LEGEND:

TO BE DEMOLISHED

NOTES:
ALL WORKS TO COMPLY WITH AS 2601-2001

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Nominated Architects:
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NSW ARB #5364
Paul Oreshkin
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REV	DESCRIPTION	DATE	ISSUED	CHECKED
C	DRAFT SET FOR INTERNAL REVIEW	25/01/2023	RD	
D	DRAFT SET FOR CONSULTANTA	08/02/2023	RD	KM
E	DRAFT SET FOR CONSULTANTA	09/02/2023	RD	KM
F	DRAFT SET FOR CONSULTANTA	15/02/2023	RD	KM
G	DRAFT SET FOR CONSULTANTA	17/02/2023	AY	ND
H	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
J	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
K	ISSUE FOR DA LODGEMENT	03/06/2024	RD	KM
L	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM

PROJECT
Peats Ferry Road

454-458 Peats Ferry Rd, Asquith NSW 2077

CLIENT
John Mallia

Development Application

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DRAWING
DEMOLITION PLAN

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-151	L	24/06/2024

SCALE @ A3	DRAWN	AUTHORISED
1 : 300	RD	ND

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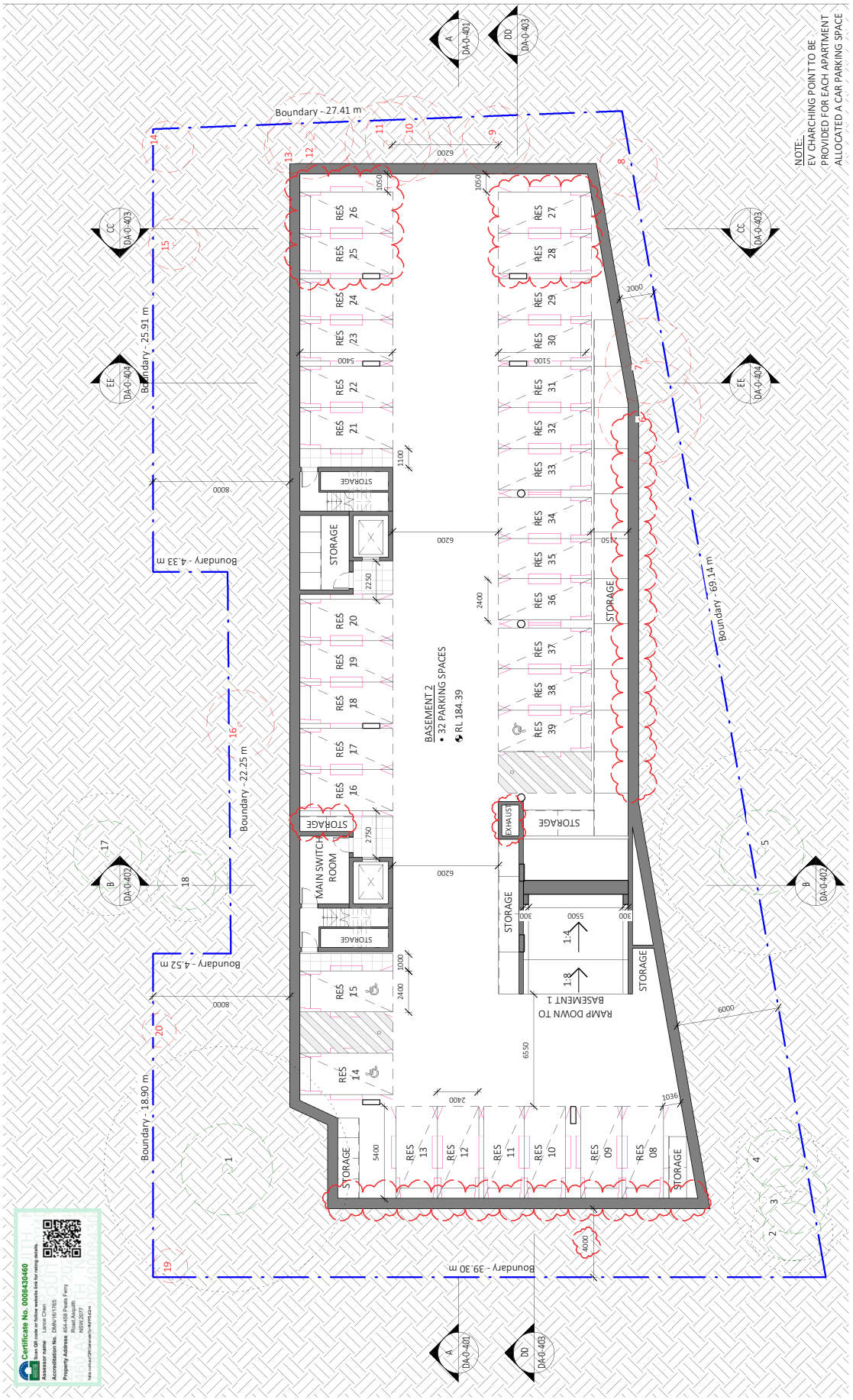
ATTACHMENT 4 - ITEM 1



Certificate No. 0008430460

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201 Kent Street, Sydney NSW 2000
ABN: 35 134 237 540
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Nominated Architects:
Robert Nigel Dickson NSW ARB #5364
Paul Oreshkin NSW ARB #7774
www.dicksonrothschild.com.au

REV	DESCRIPTION	DATE	ISSUED	CHECKED
X	DRAFT SET FOR CONSULTANTA	15/02/2023	RD	KM
Y	DRAFT SET FOR CONSULTANTA	17/02/2023	AY	ND
Z	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
AA	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
BB	ISSUE FOR DA LODGEMENT	03/06/2024	RD	KM
CC	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM
DD	FOR CONSULTANTS	21/11/2024	HF	PO
EE	ISSUE FOR RFI	27/11/2024	HF	PO
FF	ISSUE FOR RFI	04/12/2024	HF	PO

PROJECT: Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
CLIENT: John Mallia
Development Application
D:\Revit Local Documents\20-068 DA-0-414 CEN (Peats Ferry Road)_Thanh4AK.rvt

DRAWING: BASEMENT 2

PROJECT NO.	DRAWING NO.	REVISION	DATE
2C-048	DA-C-210	FF	04/12/2024

SCALE @ A3	DRAWN	AUTHORISED
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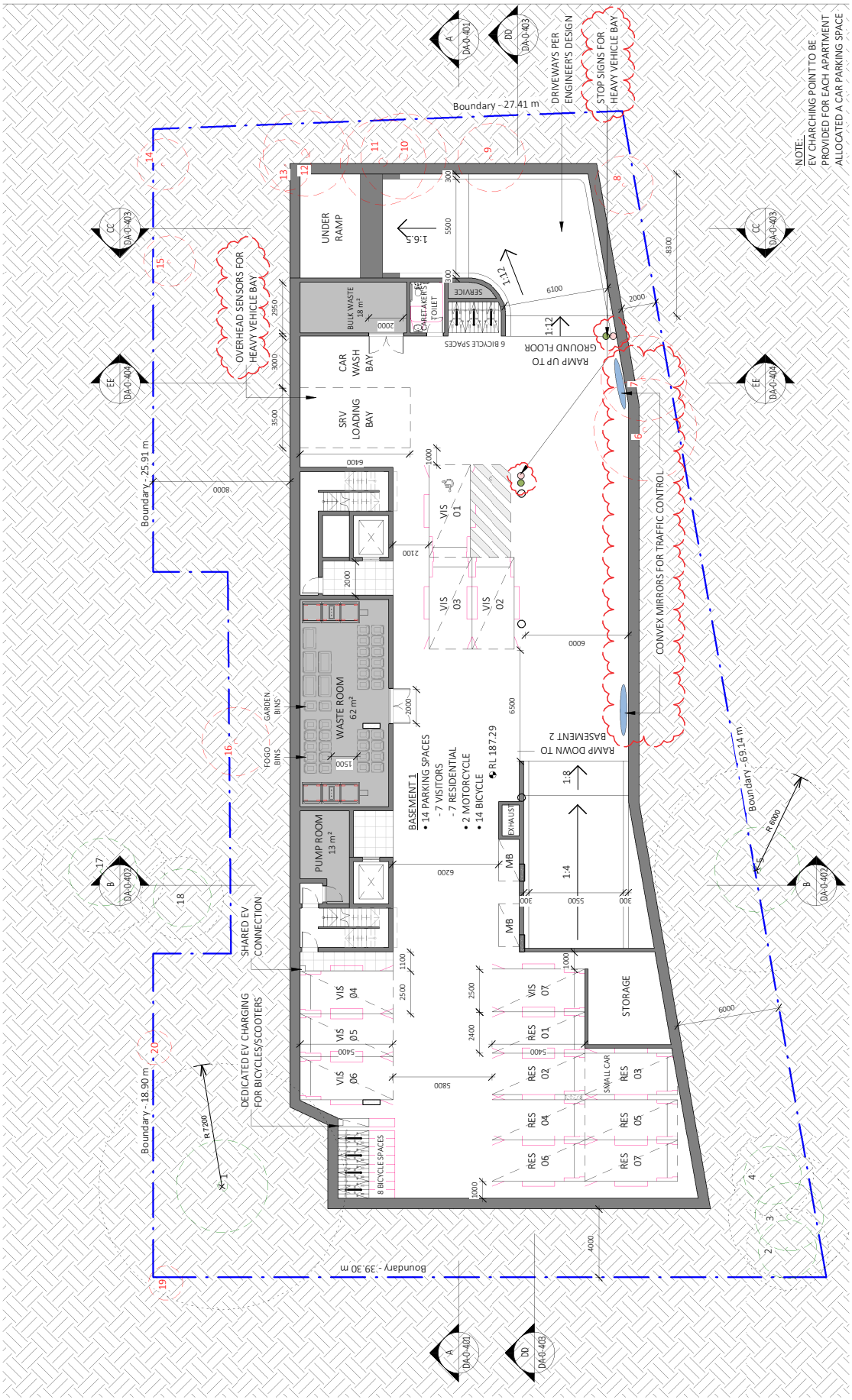

REV	DESCRIPTION	DATE	ISSUED	CHECKED
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AA	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
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CC	ISSUE FOR DA LODGEMENT	03/06/2024	RD	KM
DD	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM
EE	FOR CONSULTANTS	21/11/2024	HF	PO
FF	ISSUE FOR RFI	27/11/2024	HF	PO
GG	ISSUE FOR RFI	04/12/2024	HF	PO
HH	ISSUE FOR RFI	31/01/2025	IP	PO

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PROJECT: Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
CLIENT: John Mallia
Development Application
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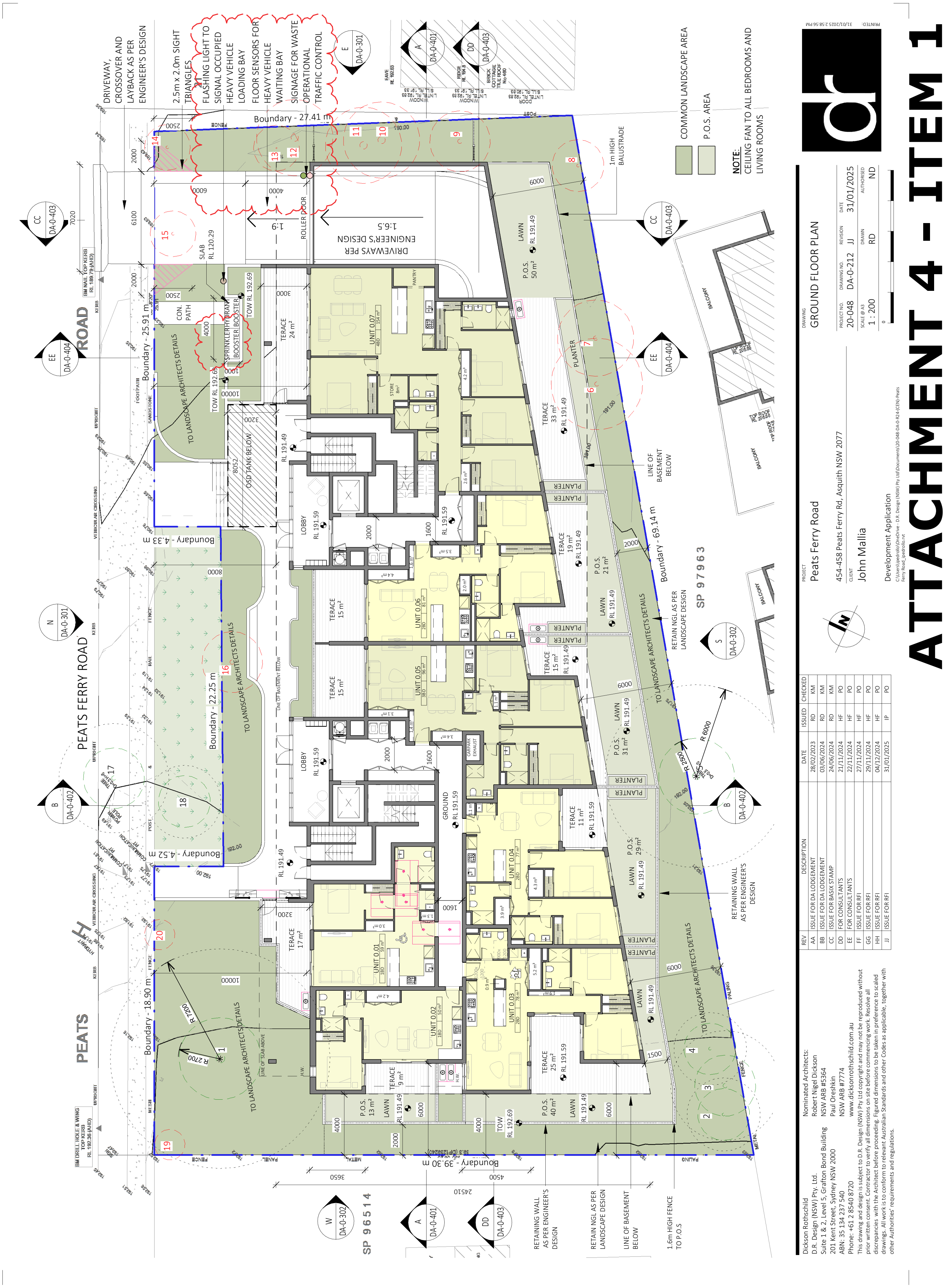
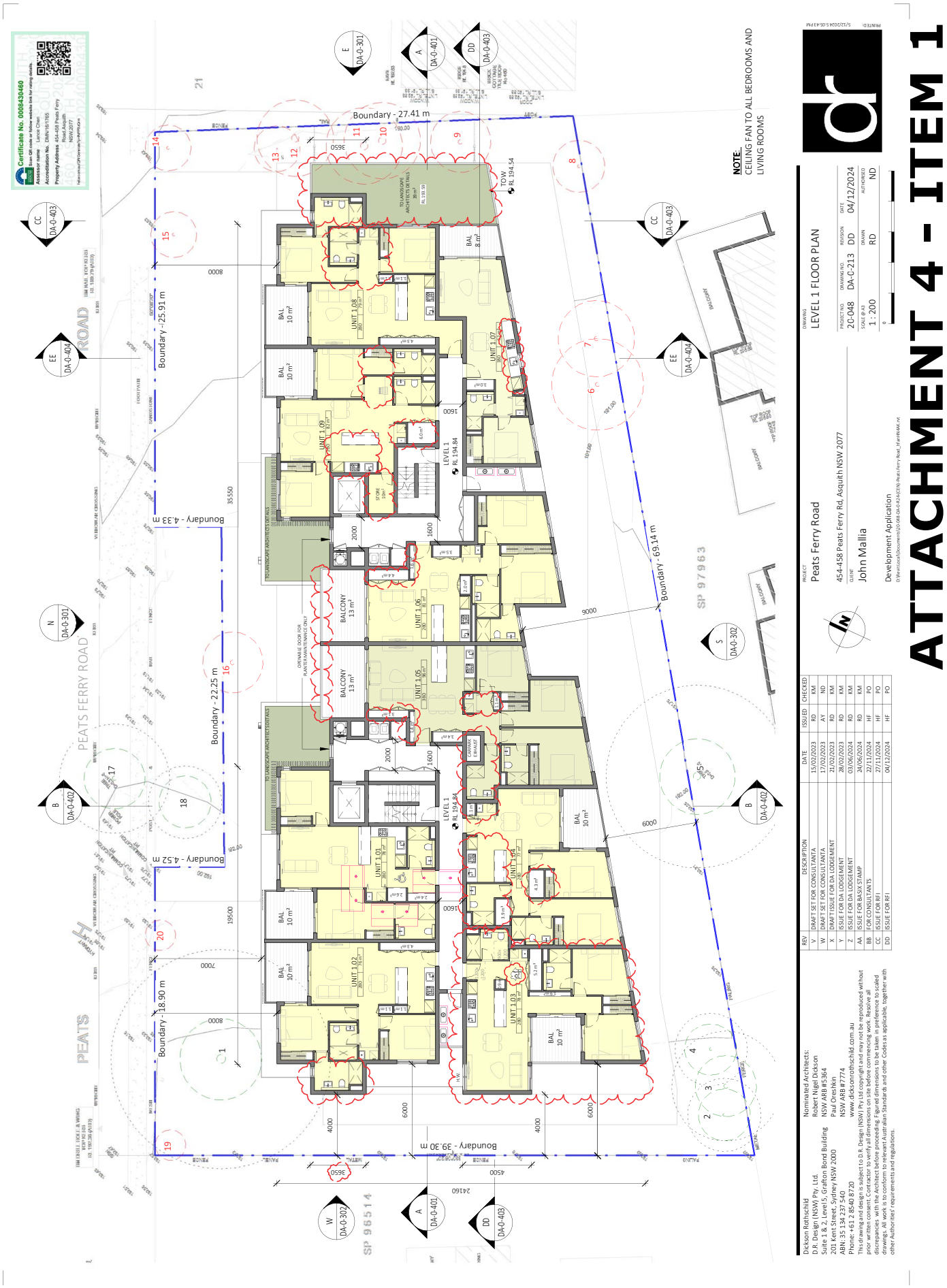
DRAWING: BASEMENT 1
PROJECT NO. 20-048
DRAWING NO. DA-0-211
REVISION HH
DATE 31/01/2025
SCALE @ A3 1 : 200
DRAWN RD
AUTHORISED ND

ATTACHMENT 4 - ITEM 1


ATTACHMENT 4 - ITEM 1
PEATS FERRY ROAD
SP 97963
SP 96514
GROUND FLOOR PLAN
Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
John Mallia
Development Application
20-048
DA-0-212
1 : 200
31/01/2025
NOTE: CEILING FAN TO ALL BEDROOMS AND LIVING ROOMS
COMMON LANDSCAPE AREA
P.O.S. AREA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NOTE:
CEILING FAN TO ALL BEDROOMS AND LIVING ROOMS
Boundary - 27.41 m
Boundary - 25.91 m
Boundary - 4.33 m
Boundary - 22.25 m
Boundary - 4.52 m
Boundary - 18.90 m
Boundary - 39.30 m
Boundary - 69.14 m
PEATS FERRY ROAD
SP 97963
SP 95514
PROJECT
Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
CLIENT
John Mallia
Development Application
DRAWING
LEVEL 1 FLOOR PLAN
PROJECT NO. 2C-048
DRAWING NO. DA-C-213
REVISION DD
DATE 04/12/2024
SCALE @ A3 1 : 200
DRAWN RD
AUTHORISED ND
Dickson Rothschild
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REV | DESCRIPTION | DATE | ISSUED | CHECKED
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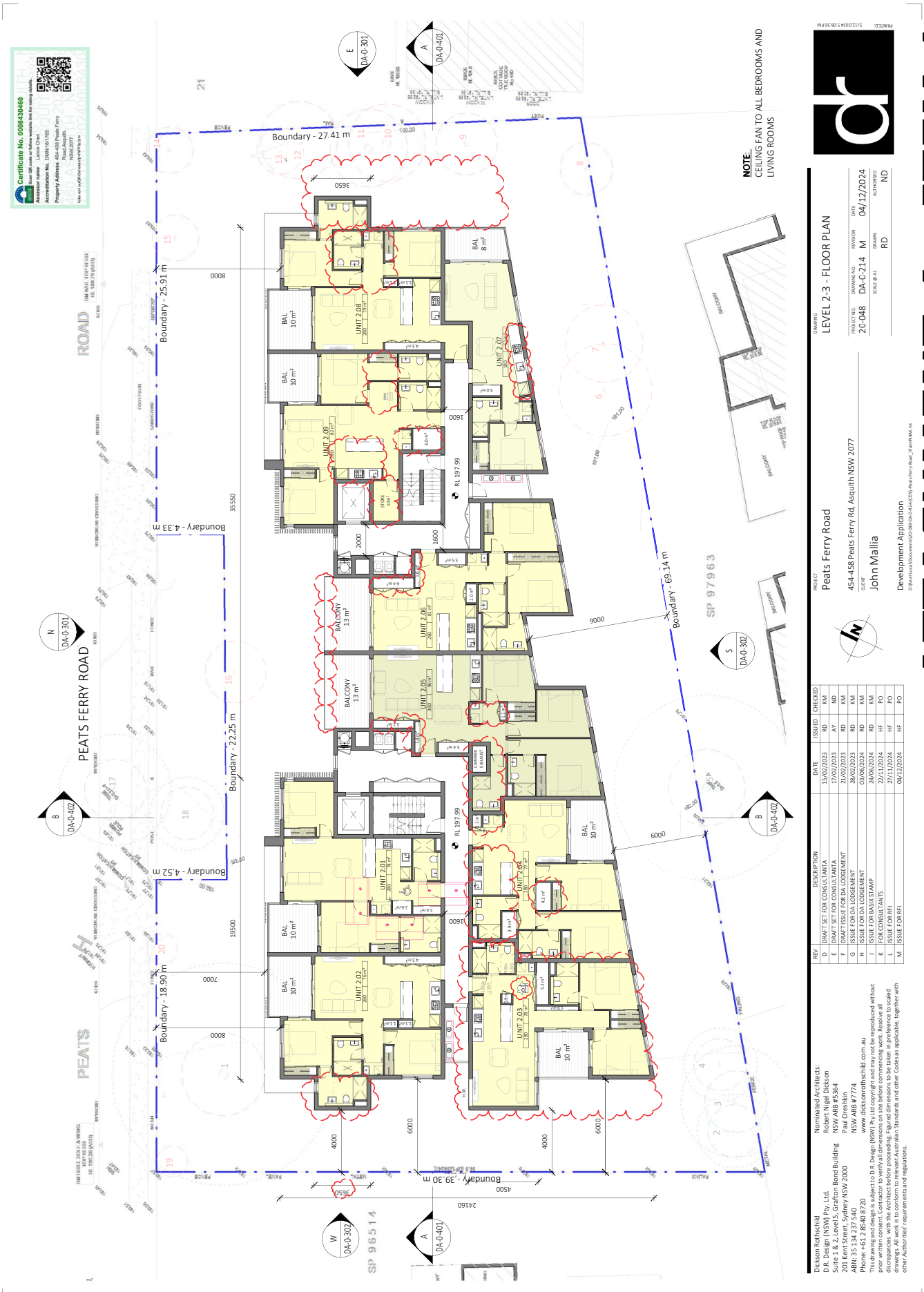
W | DRAFT SET FOR CONSULTANTA | 17/02/2023 | AY | ND
X | DRAFT ISSUE FOR DA LODGEMENT | 21/02/2023 | RD | KM
Y | ISSUE FOR DA LODGEMENT | 28/02/2023 | RD | KM
Z | ISSUE FOR DA LODGEMENT | 03/06/2024 | RD | KM
AA | ISSUE FOR BASIX STAMP | 24/06/2024 | RD | KM
BB | FOR CONSULTANTS | 22/11/2024 | HF | PO
CC | ISSUE FOR RFI | 27/11/2024 | HF | PO
DD | ISSUE FOR RFI | 04/12/2024 | HF | PO



PROJECT
Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077

CLIENT
John Mallia

Development Application

DRAWING
LEVEL 2-3 - FLOOR PLAN

PROJECT NO.	DRAWING NO.	REVISION	DATE
2C-048	DA-C-214	M	04/12/2024
SCALE @ A1	DRAWN		AUTHORISED
	RD		ND

REV	DESCRIPTION	DATE	ISSUED	CHECKED
D	DRAFT SET FOR CONSULTANTA	15/02/2023	RD	KM
E	DRAFT SET FOR CONSULTANTA	17/02/2023	AY	ND
F	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
G	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
H	ISSUE FOR DA LODGEMENT	03/06/2024	RD	KM
J	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM
K	FOR CONSULTANTS	22/11/2024	HF	PO
L	ISSUE FOR RFI	27/11/2024	HF	PO
M	ISSUE FOR RFI	04/12/2024	HF	PO

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Paul Oreshkin NSW ARB #7774
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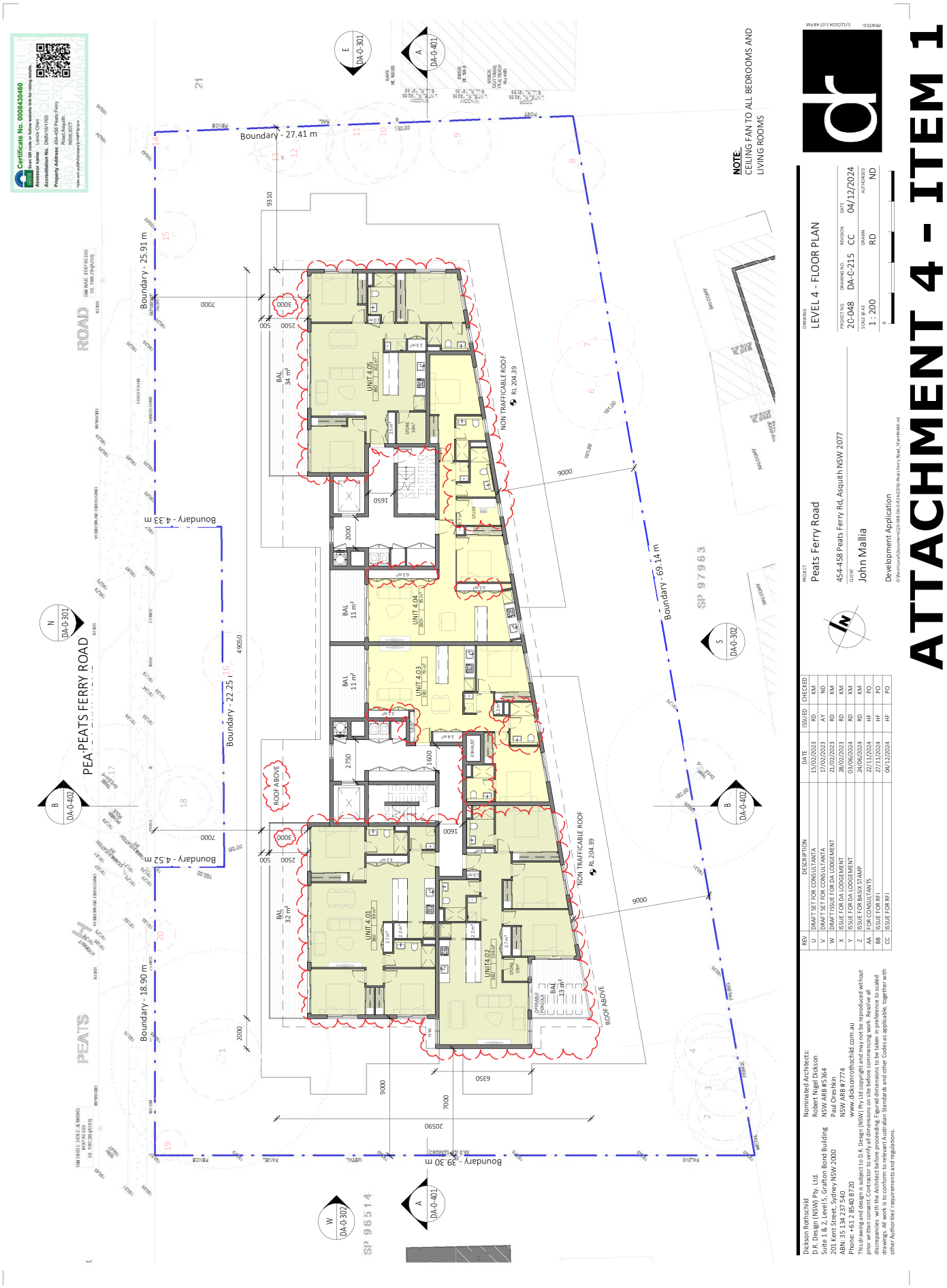
ATTACHMENT 4 - ITEM 1


ATTACHMENT 4 - ITEM 1
LEVEL 4 - FLOOR PLAN
Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
John Mallia
Development Application
NOTE:
CEILING FAN TO ALL BEDROOMS AND LIVING ROOMS
Boundary - 27.41 m
Boundary - 25.91 m
Boundary - 4.33 m
Boundary - 22.25 m
Boundary - 4.52 m
Boundary - 18.90 m
Boundary - 69.14 m
Boundary - 39.30 m
PEATS FERRY ROAD
NON TRAFFICABLE ROOF RL 204.39
ROOF ABOVE
UNIT 4.05
UNIT 4.04
UNIT 4.03
UNIT 4.01
UNIT4.02
BAL 34 m²
BAL 11 m²
BAL 32 m²
BAL 13 m²
SP 97963
SP 95514
PEATS
ROAD
Dickson Rothschild
D.R. Design (NSW) Pty. Ltd.
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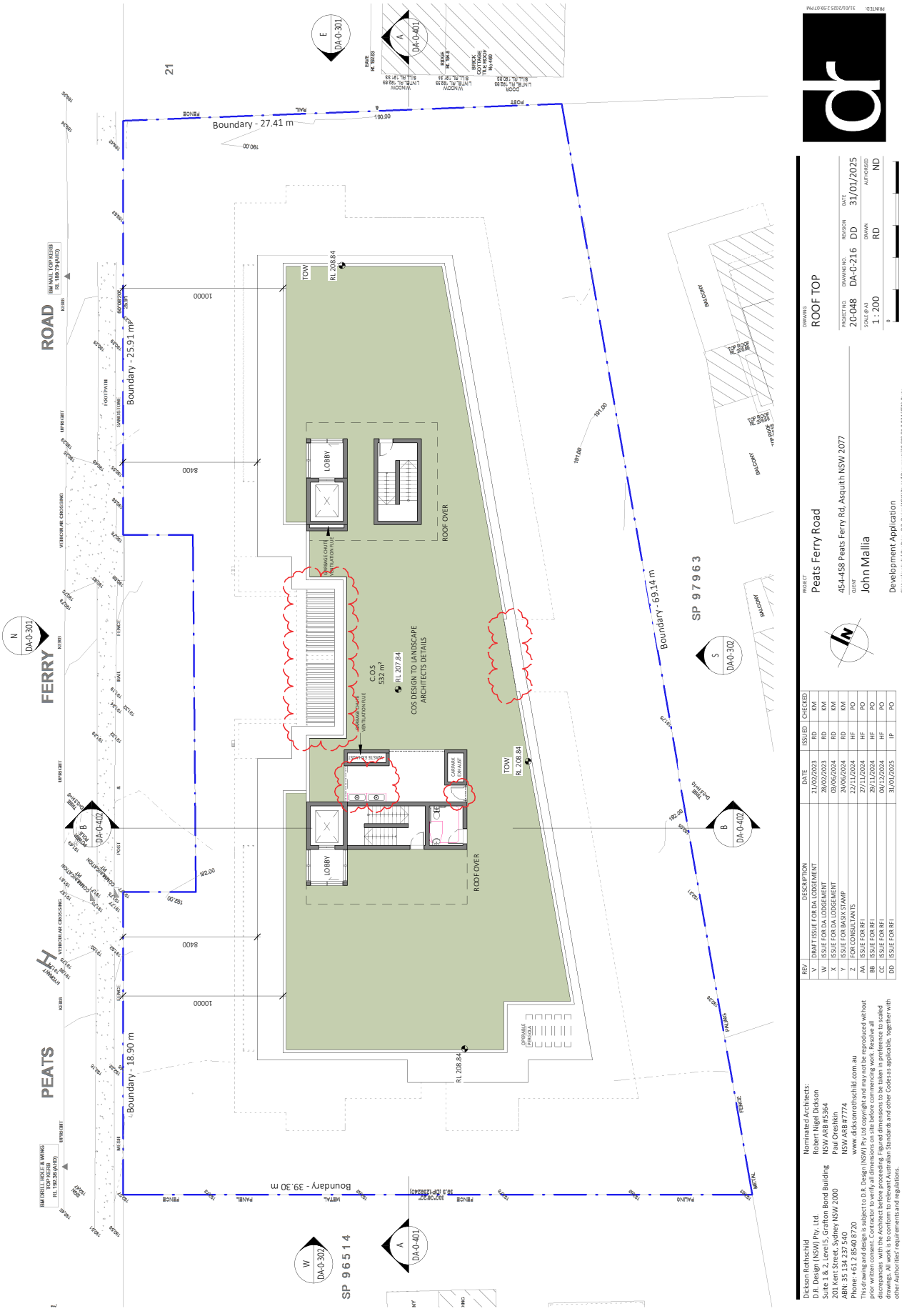
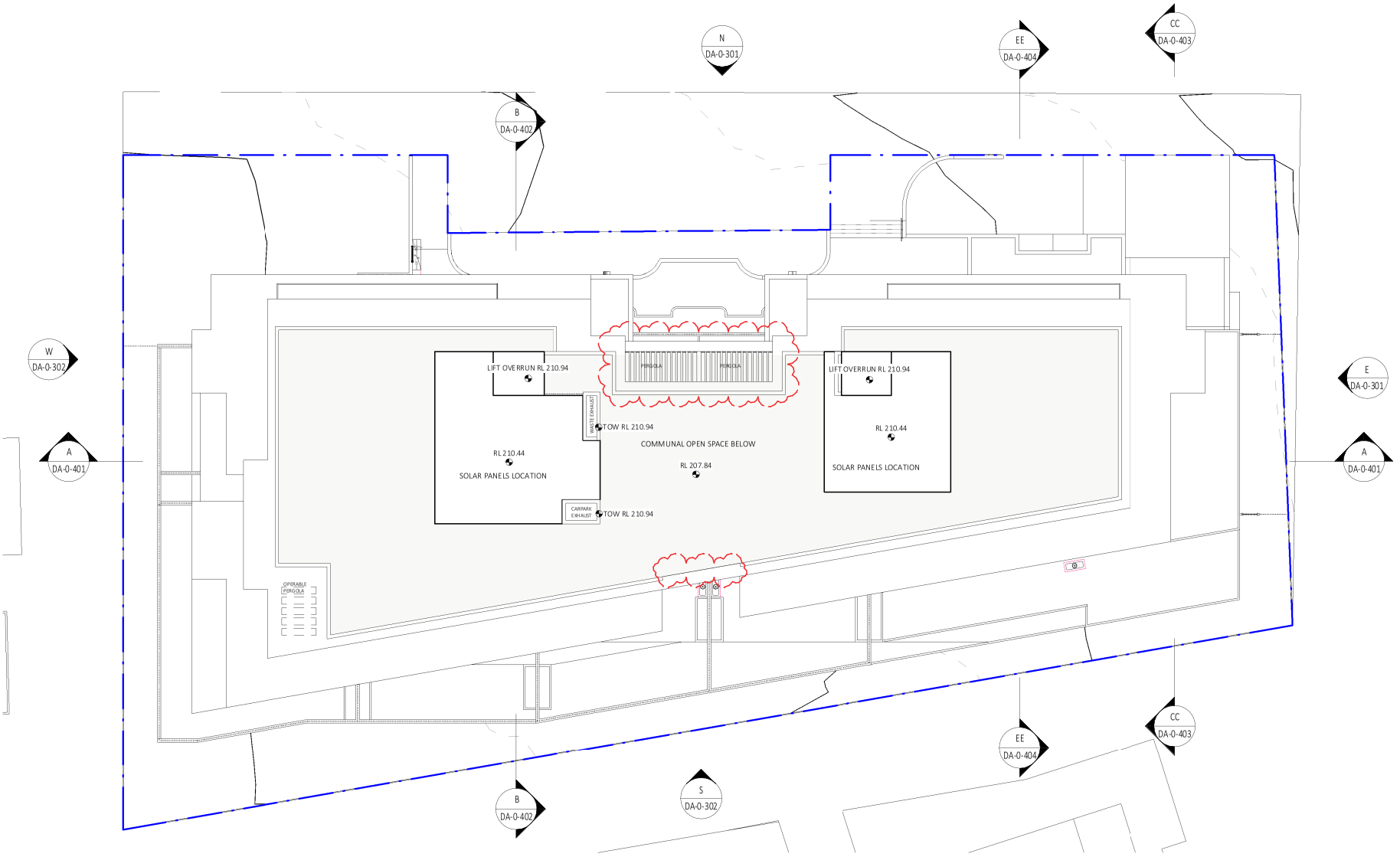
REV DESCRIPTION DATE ISSUED CHECKED
U DRAFT SET FOR CONSULTANTA 15/02/2023 RD KM
V DRAFT SET FOR CONSULTANTA 17/02/2023 AY ND
W DRAFT ISSUE FOR DA LODGEMENT 21/02/2023 RD KM
X ISSUE FOR DA LODGEMENT 28/02/2023 RD KM
Y ISSUE FOR DA LODGEMENT 03/06/2024 RD KM
Z ISSUE FOR BASIX STAMP 24/06/2024 RD KM
AA FOR CONSULTANTS 22/11/2024 HF PO
BB ISSUE FOR RFI 27/11/2024 HF PO
CC ISSUE FOR RFI 04/12/2024 HF PO
PROJECT NO. 2C-048
DRAWING NO. DA-C-215
REVISION CC
DATE 04/12/2024
SCALE @ A1 1 : 200
DRAWN RD
AUTHORISED ND

ATTACHMENT 4 - ITEM 1





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NSW ARB #7774
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REV	DESCRIPTION	DATE	ISSUED	CHECKED
D	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
E	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
F	ISSUE FOR DA LODGEMENT	03/06/2024	RD	KM
G	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM
H	FOR CONSULTANTS	22/11/2024	HF	PO
J	ISSUE FOR RFI	27/11/2024	HF	PO
K	ISSUE FOR RFI	29/11/2024	HF	PO
L	ISSUE FOR RFI	04/12/2024	HF	PO
M	ISSUE FOR RFI	31/01/2025	IP	PO

PROJECT
Peats Ferry Road

454-458 Peats Ferry Rd, Asquith NSW 2077

CLIENT
John Mallia

Development Application

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DRAWING
ROOF PLAN

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-217	M	31/01/2025

SCALE @ A3	DRAWN	AUTHORISED
1 : 200	RD	ND

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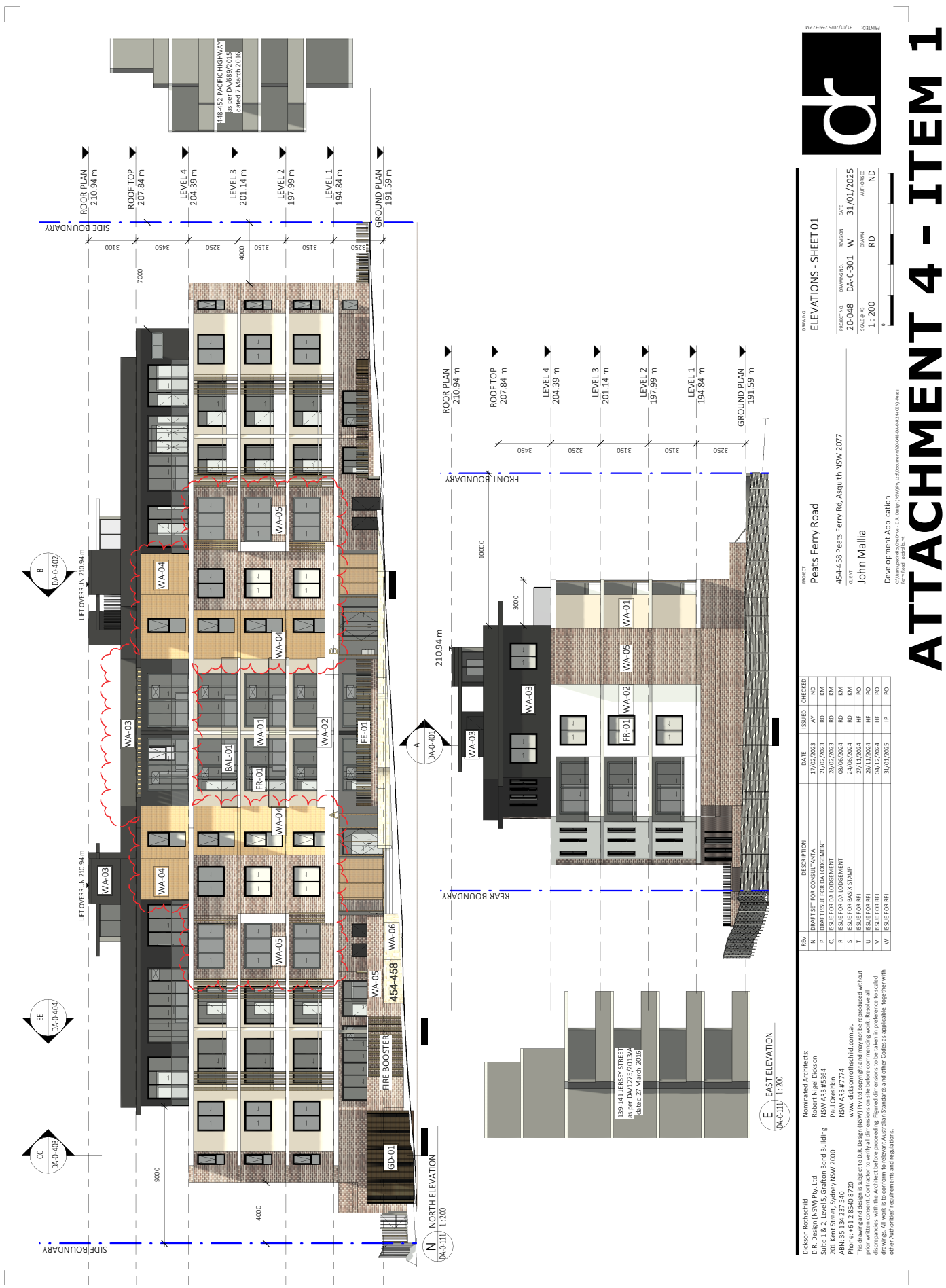
ATTACHMENT 4 - ITEM 1
NORTH ELEVATION
EAST ELEVATION
SIDE BOUNDARY
FRONT BOUNDARY
REAR BOUNDARY
ROOF PLAN 210.94 m
ROOF TOP 207.84 m
LEVEL 4 204.39 m
LEVEL 3 201.14 m
LEVEL 2 197.99 m
LEVEL 1 194.84 m
GROUND PLAN 191.59 m
LIFT OVERRUN 210.94 m
FIRE BOOSTER
454-458
448-452 PACIFIC HIGHWAY as per DA/689/2015 dated 7 March 2016
139-141 JERSEY STREET as per DA/1275/2013/A dated 27 March 2016
Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
John Mallia
Development Application
ELEVATIONS - SHEET 01
2C-048
DA-C-301
W
31/01/2025
1 : 200
RD
ND
Dickson Rothschild
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Nominated Architects:
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Paul Oreshkin NSW ARB #7774
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REV DESCRIPTION DATE ISSUED CHECKED
N DRAFT SET FOR CONSULTANTA 17/02/2023 AY ND
P DRAFT ISSUE FOR DA LODGEMENT 21/02/2023 RD KM
Q ISSUE FOR DA LODGEMENT 28/02/2023 RD KM
R ISSUE FOR DA LODGEMENT 03/06/2024 RD KM
S ISSUE FOR BASIX STAMP 24/06/2024 RD KM
T ISSUE FOR RFI 27/11/2024 HF PO
U ISSUE FOR RFI 29/11/2024 HF PO
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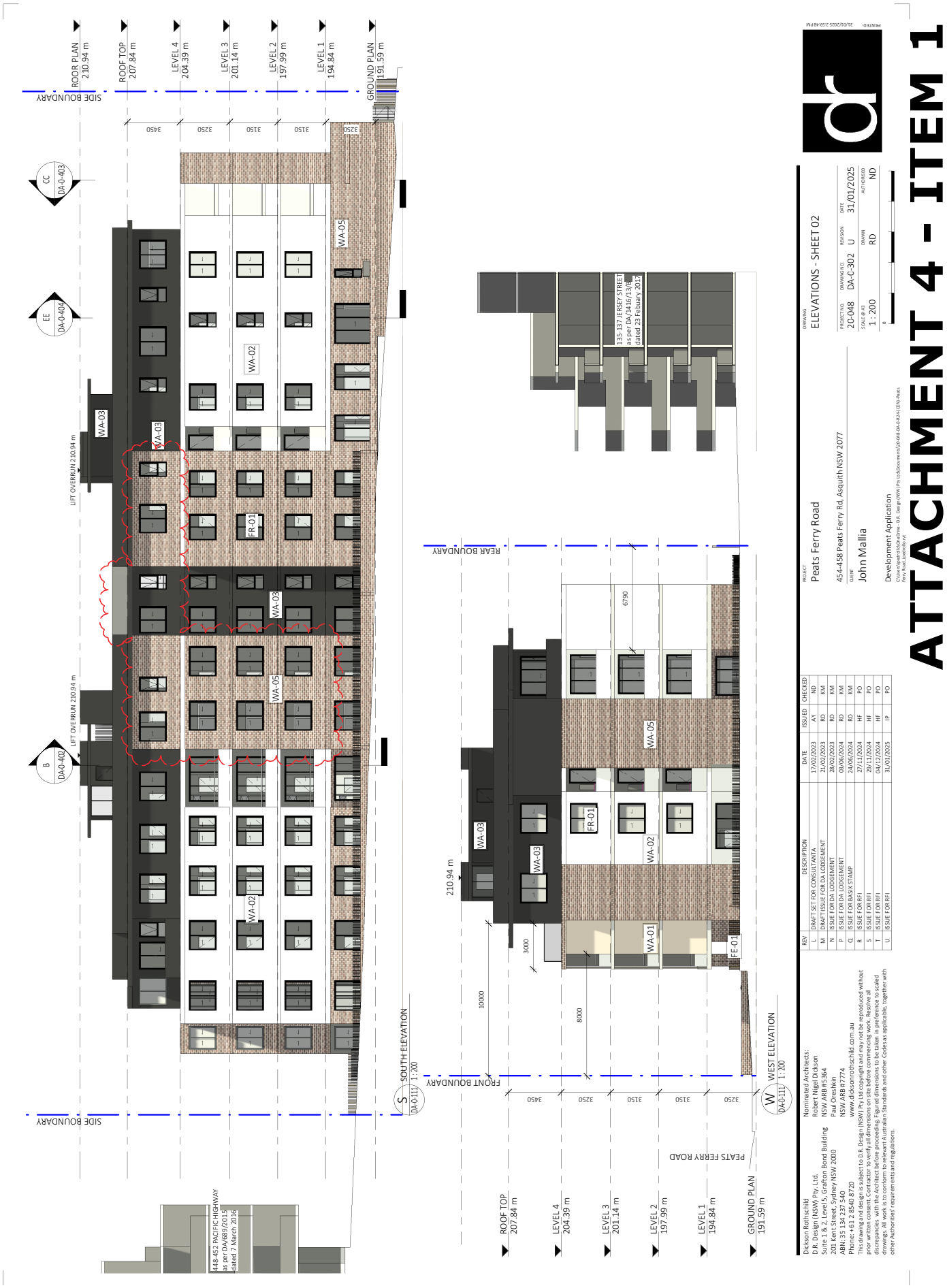
ATTACHMENT 4 - ITEM 1
ROOF PLAN 210.94 m
ROOF TOP 207.84 m
LEVEL 4 204.39 m
LEVEL 3 201.14 m
LEVEL 2 197.99 m
LEVEL 1 194.84 m
GROUND PLAN 191.59 m
SIDE BOUNDARY
REAR BOUNDARY
FRONT BOUNDARY
PEATS FERRY ROAD
LIFT OVERRUN 210.94 m
WA-01
WA-02
WA-03
WA-05
FR-01
FE-01
135-137 JERSEY STREET as per DA/14/16/1 dated 23 February 2017
448-452 PACIFIC HIGHWAY as per DA/689/2015 dated 7 March 2016
SOUTH ELEVATION 1:200
WEST ELEVATION 1:200
Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
John Mallia
Development Application
ELEVATIONS - SHEET 02
2C-048
DA-C-302
U
1:200
31/01/2025
ND
Dickson Rothschild
D.R. Design (NSW) Pty. Ltd.
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REV DESCRIPTION DATE ISSUED CHECKED
L DRAFT SET FOR CONSULTANTS 17/02/2023 AY ND
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Q ISSUE FOR BASIX STAMP 24/06/2024 RD KM
R ISSUE FOR RFI 27/11/2024 HF PO
S ISSUE FOR RFI 29/11/2024 HF PO
T ISSUE FOR RFI 04/12/2024 HF PO
U ISSUE FOR RFI 31/01/2025 IP PO

Certificate No. 0008430460

Nominated Architects:
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Paul Oreshkin NSW ARB #7774

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REV	DESCRIPTION	DATE	ISSUED	CHECKED
T	DRAFT SET FOR CONSULTANTA	09/02/2023	RD	KM
U	DRAFT SET FOR CONSULTANTA	15/02/2023	RD	KM
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X	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
Y	ISSUE FOR DA LODGEMENT	03/06/2024	RD	KM
Z	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM
AA	ISSUE FOR RFI	27/11/2024	HF	PO
BB	ISSUE FOR RFI	04/12/2024	HF	PO

PROJECT: Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
CLIENT: John Mallia
Development Application
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DRAWING: SECTION AA
PROJECT NO. 2C-048
DRAWING NO. DA-C-401
REVISION BB
DATE 04/12/2024
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DRAWN RD
AUTHORISED ND

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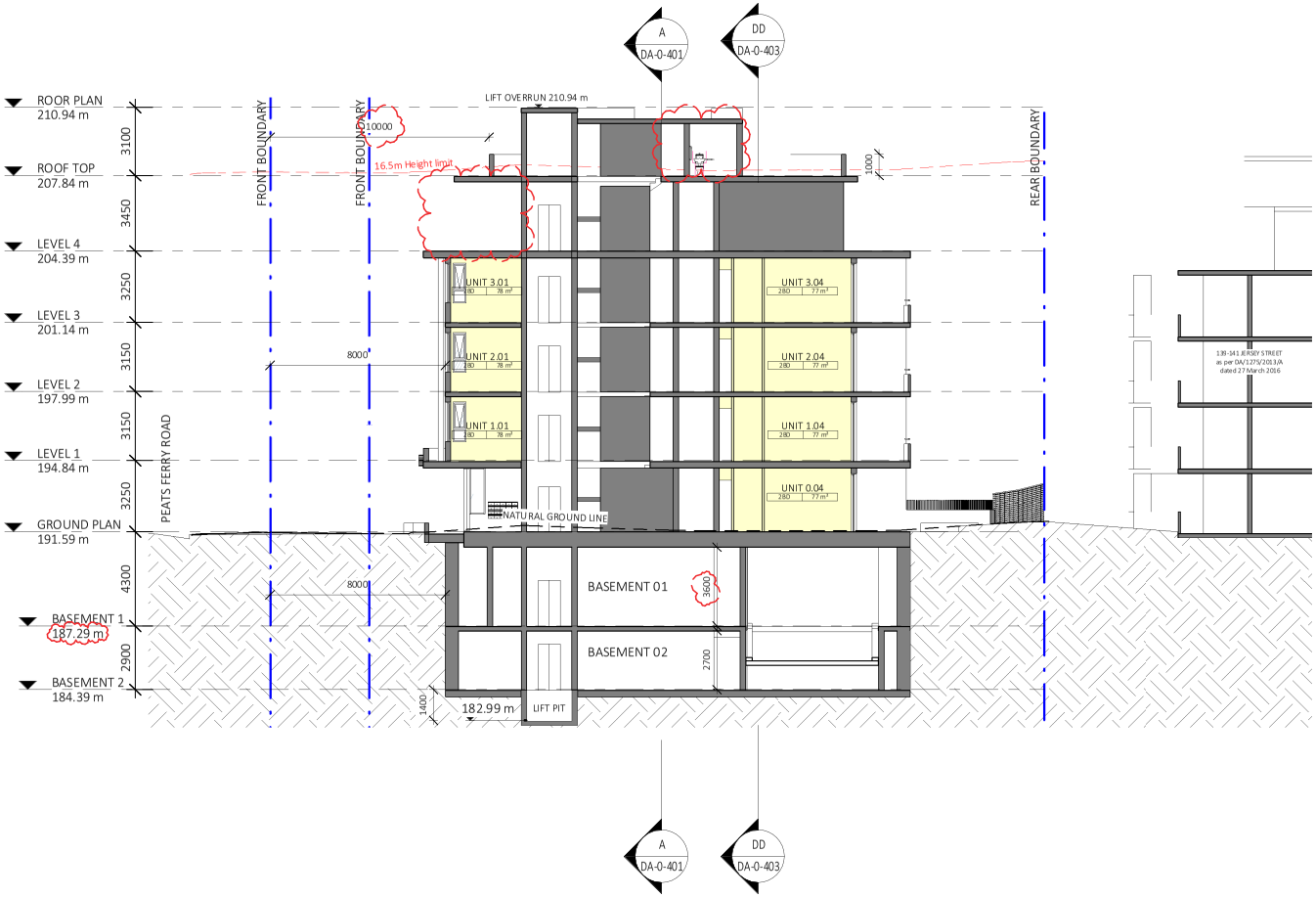
ATTACHMENT 4 - ITEM 1



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R	DRAFT SET FOR CONSULTANTA	17/02/2023	AY	ND
S	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
T	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
U	ISSUE FOR DA LODGEMENT	03/06/2024	RD	KM
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W	ISSUE FOR RFI	27/11/2024	HF	PO
X	ISSUE FOR RFI	29/11/2024	HF	PO
Y	ISSUE FOR RFI	04/12/2024	HF	PO

PROJECT
Peats Ferry Road

454-458 Peats Ferry Rd, Asquith NSW 2077

CLIENT
John Mallia

Development Application

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DRAWING
SECTION BB

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-402	Y	04/12/2024

SCALE @ A3	DRAWN	AUTHORISED
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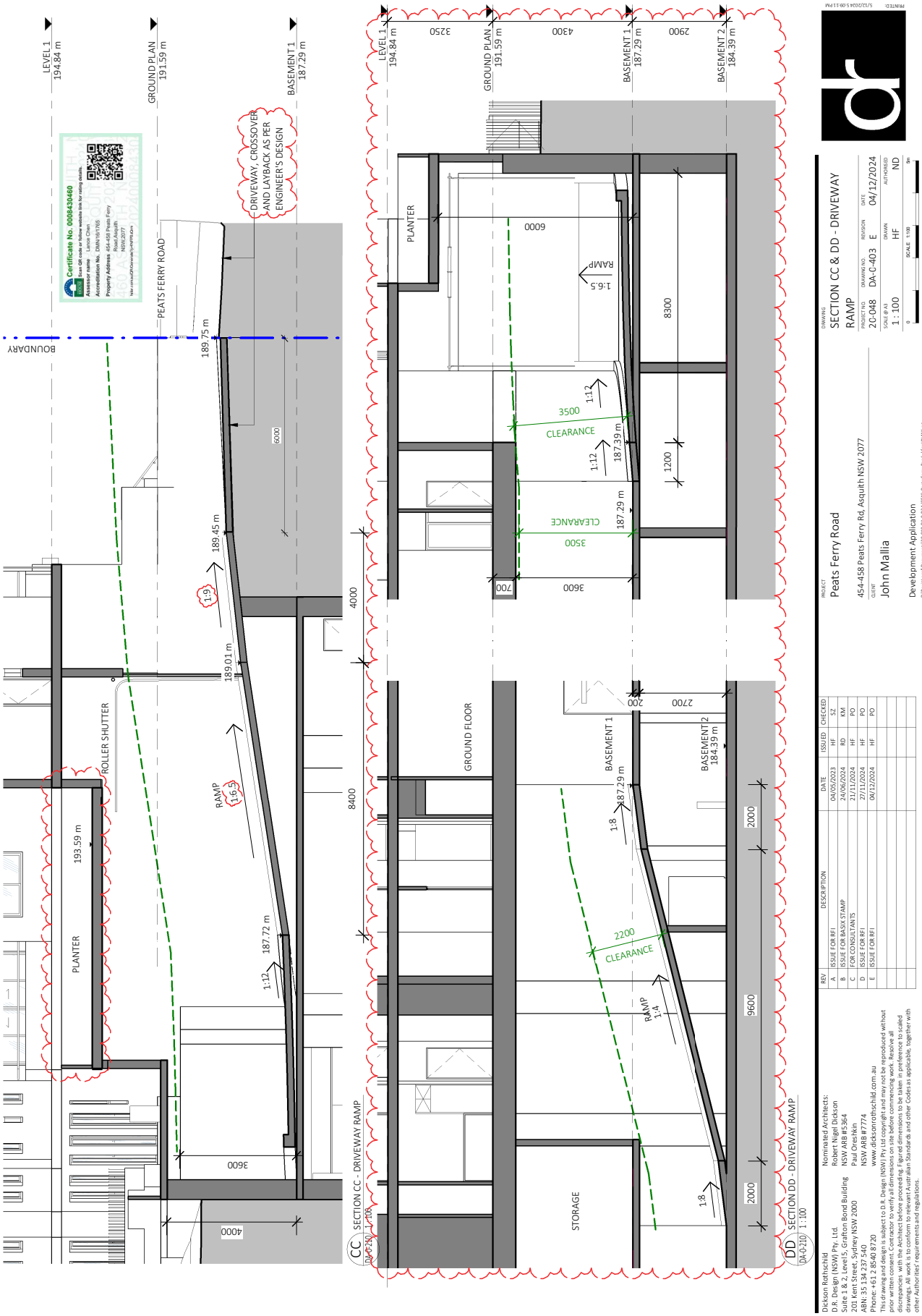
ATTACHMENT 4 - ITEM 1

ATTACHMENT 4 - ITEM 1



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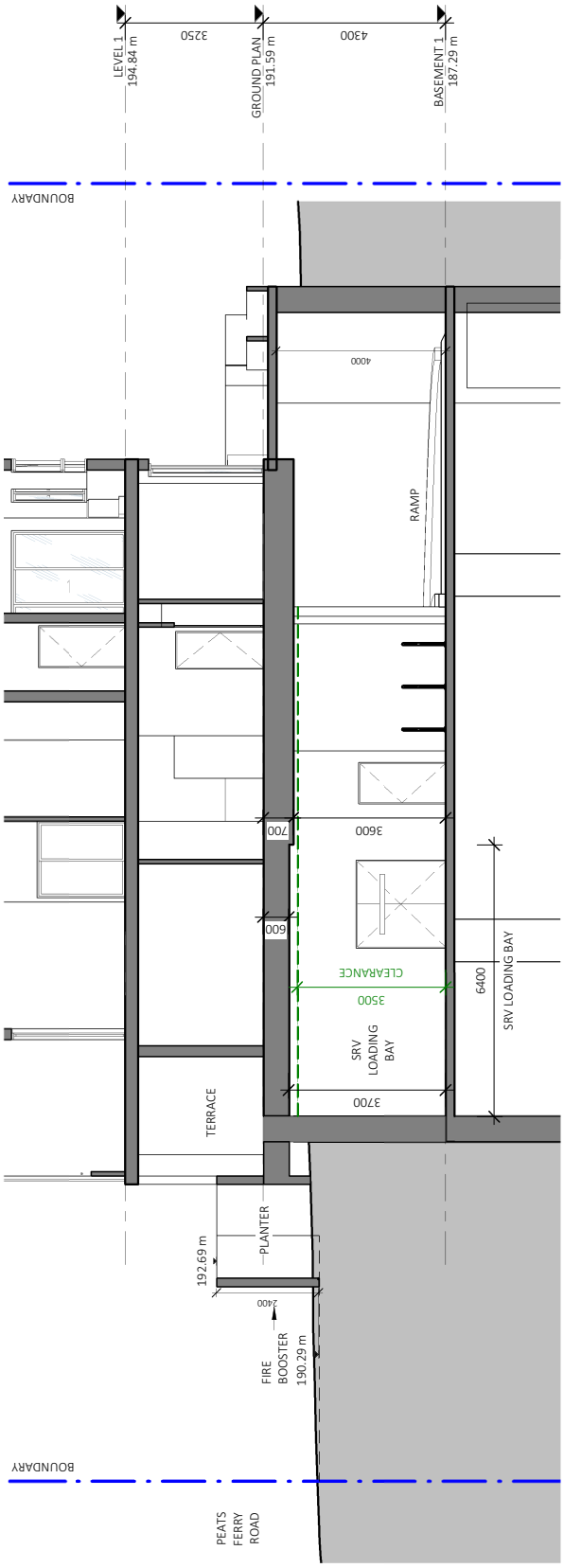

EE SECTION EE - LOADING DOCK
DA-0-210 1:100

REV	DESCRIPTION	DATE	ISSUED	CHECKED
A	FOR CONSULTANTS	21/11/2024	HF	PO
B	ISSUE FOR RFI	27/11/2024	HF	PO
C	ISSUE FOR RFI	04/12/2024	HF	PO

PROJECT
Peats Ferry Road
454-458 Peats Ferry Rd, Asquith NSW 2077
CLIENT
John Mallia
Development Application
DRAWING
SECTION EE - LOADING DOCK

PROJECT NO.	DRAWING NO.	REVISION	DATE
2C-048	DA-C-404	C	04/12/2024
SCALE @ A3	DRAWN	AUTHORISED	
1 : 100	HF	ND	

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Paul Oreshkin NSW ARB #7774
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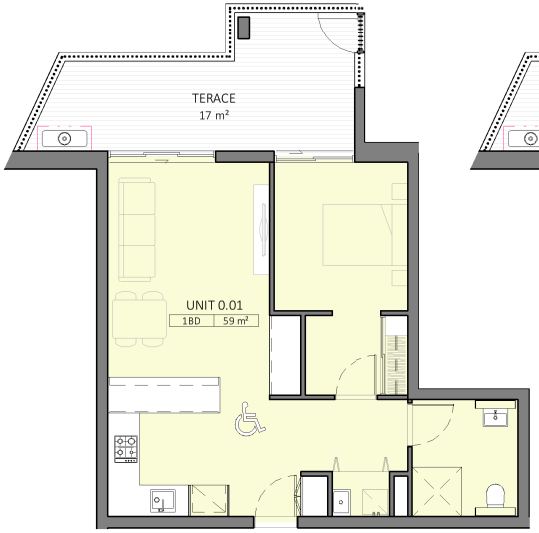

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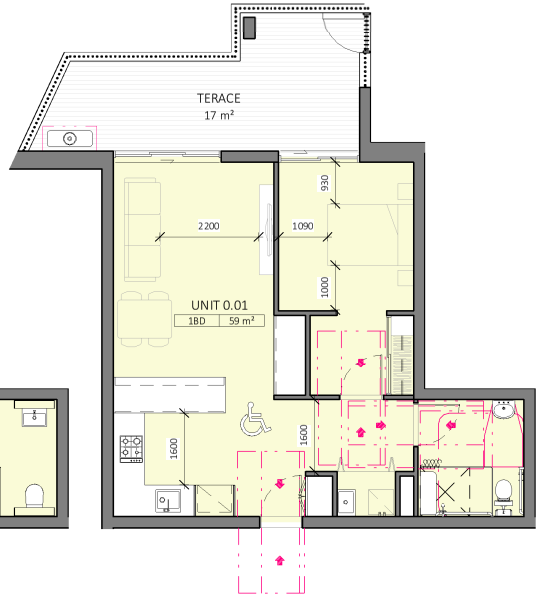

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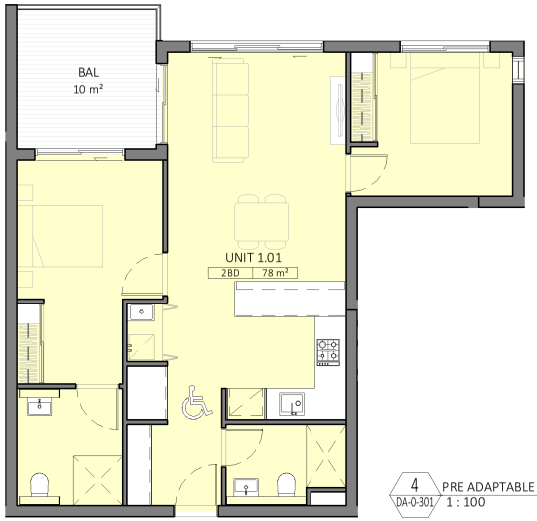

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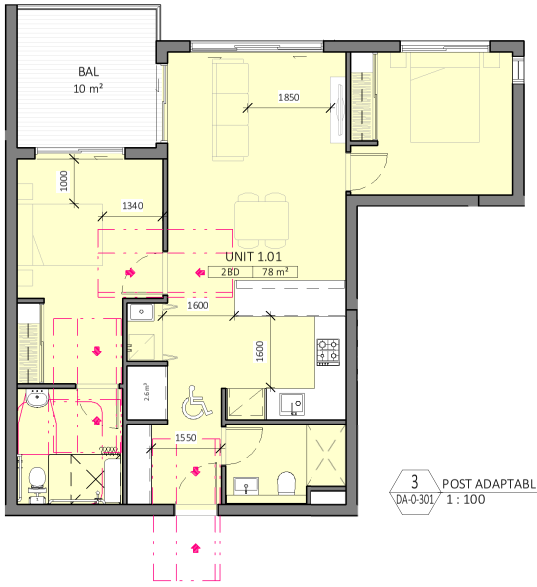

3 DA-0-301 POST ADAPTABLE - TYPE 02 1 : 100

TOTAL OF 4 UNITS

TYPE 01 :
UNIT 0.01

TYPE 02:
UNIT 1.01
UNIT 2.01
UNIT 3.01

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Nominated Architects:
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Paul Oreshkin
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www.dicksonrothschild.com.au

REV	DESCRIPTION	DATE	ISSUED	CHECKED
E	DRAFT SET FOR CONSULTANTA	09/02/2023	RD	KM
F	DRAFT SET FOR CONSULTANTA	15/02/2023	RD	KM
G	DRAFT SET FOR CONSULTANTA	17/02/2023	AY	ND
H	DRAFT ISSUE FOR DA LODGEMENT	21/02/2023	RD	KM
J	ISSUE FOR DA LODGEMENT	28/02/2023	RD	KM
K	ISSUE FOR DA LODGEMENT	09/06/2024	RD	KM
L	ISSUE FOR BASIX STAMP	24/06/2024	RD	KM
M	ISSUE FOR RFI	27/11/2024	HF	PO
N	ISSUE FOR RFI	04/12/2024	HF	PO

PROJECT
Peats Ferry Road

454-458 Peats Ferry Rd, Asquith NSW 2077

CLIENT
John Mallia

Development Application

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DRAWING
ADAPTABLE UNITS

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-913	N	04/12/2024
SCALE @ A3		DRAWN	AUTHORISED
1 : 100		RD	ND

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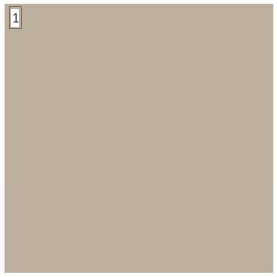
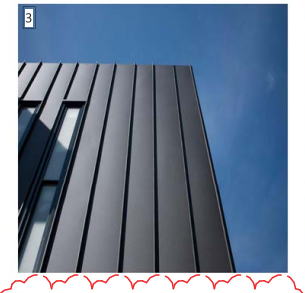
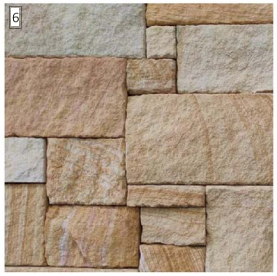
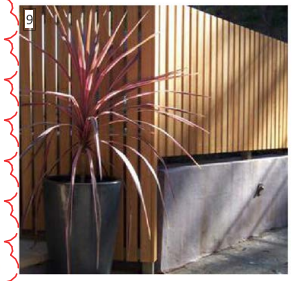
ATTACHMENT 4 - ITEM 1

REFE...	ELEVATION NOTATION	ELEMENT	MATERIAL	FINISH
WALLS & BALUSTRADES				
1	WA-01	EXTERNAL WALL	RENDERED PAINT	DULUX WARM NEUTRAL OR SIMILAR
2	WA-02	EXTERNAL WALL	RENDERED PAINT	DULUX VIVID WHITE OR SIMILAR
3	WA-03	WALL CLADDING	COLORBOND STEEL WALL CLADDING	COLORBOND MONUMENT OR SIMILAR
4	WA-04	WALL CLADDING	ALUMINIUM TIMBER LOOK	INNOWOOD - INNOSCREEN - SPOTTED GUM OR SIMILAR
5	WA-05	EXTERNAL WALL	BRICK VENEER	BOWRAL BRICKS - BOWRAL 76-BOWRAL BLUE OR SIMILAR
6	WA-06	EXTERNAL WALL	STONE CLADDING	SANDSTONE WALL CLADDING OR SIMILAR
WINDOWS & DOORS				
7	FR-01	WINDOWS AND DOORS	GLASS SET IN POWDER COATED ALUMINIUM FRAMES	DURATEC ZEUS - DARK GREY MATT OR SIMILAR
8	GD-01	PERFORATED GARAGE DOOR	COLORBOND	MONUMENT MATT WITH TIMBER LOOK LOUVRE CLADDING ON SURFACE
OTHER FEATURES				
9	FE-01	FENCE	ALUMINIUM TIMBER LOOK	INNOWOOD - INNOSCREEN - SPOTTED GUM OR SIMILAR
10	BAL-01	BALUSTRADES	CLEAR GLASS AND POWDER COATED ALUMINIUM...	DURATEC ZEUS - DARK GREY MATT OR SIMILAR









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PROJECT
Peats Ferry Road

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DRAWING
EXTERNAL FINISHES & MATERIALS

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-941	N	04/12/2024

NOT TO SCALE | DRAWN RD | AUTHORISED ND

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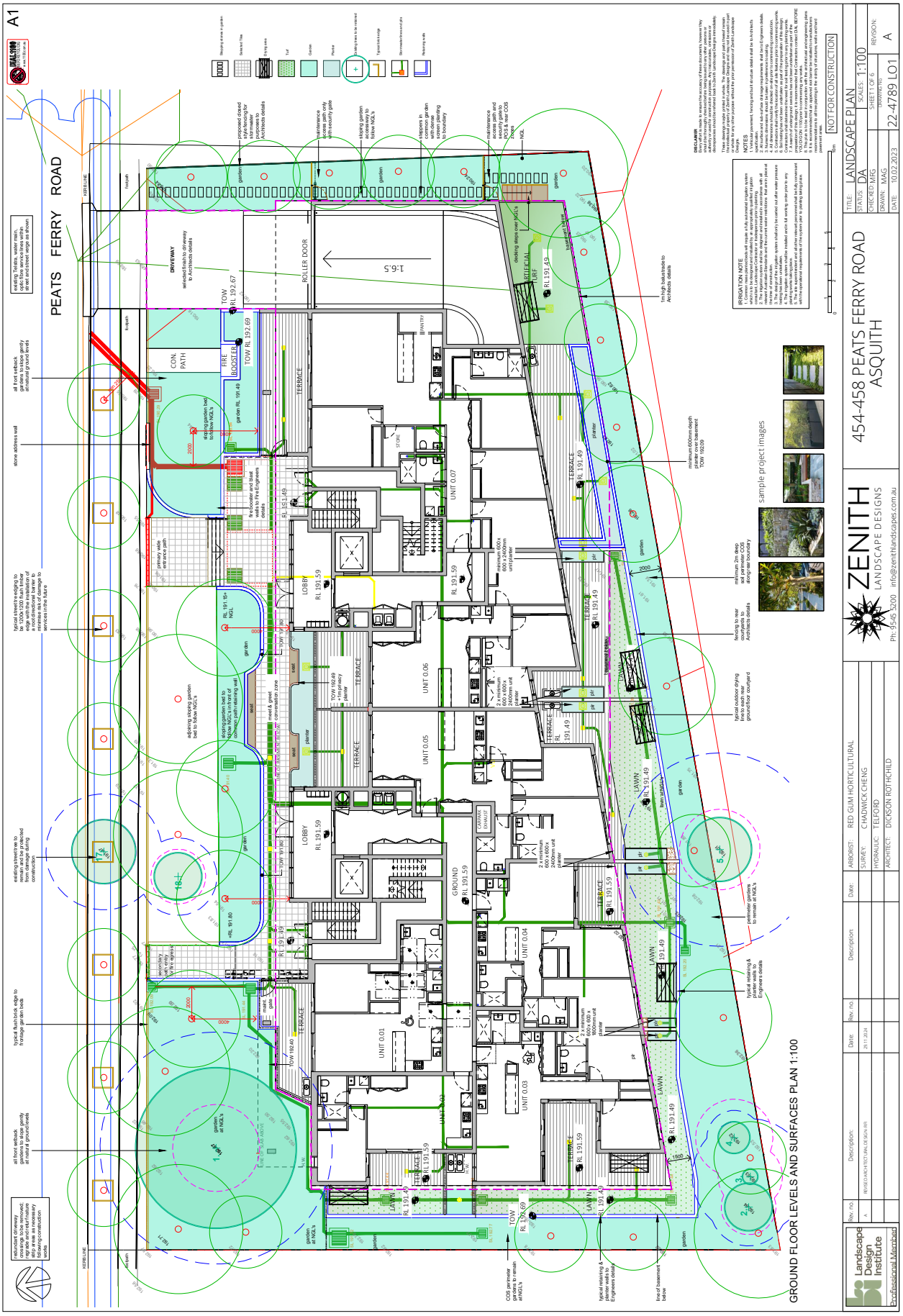
ATTACHMENT 4 - ITEM 1



ATTACHMENT 5 - ITEM 1

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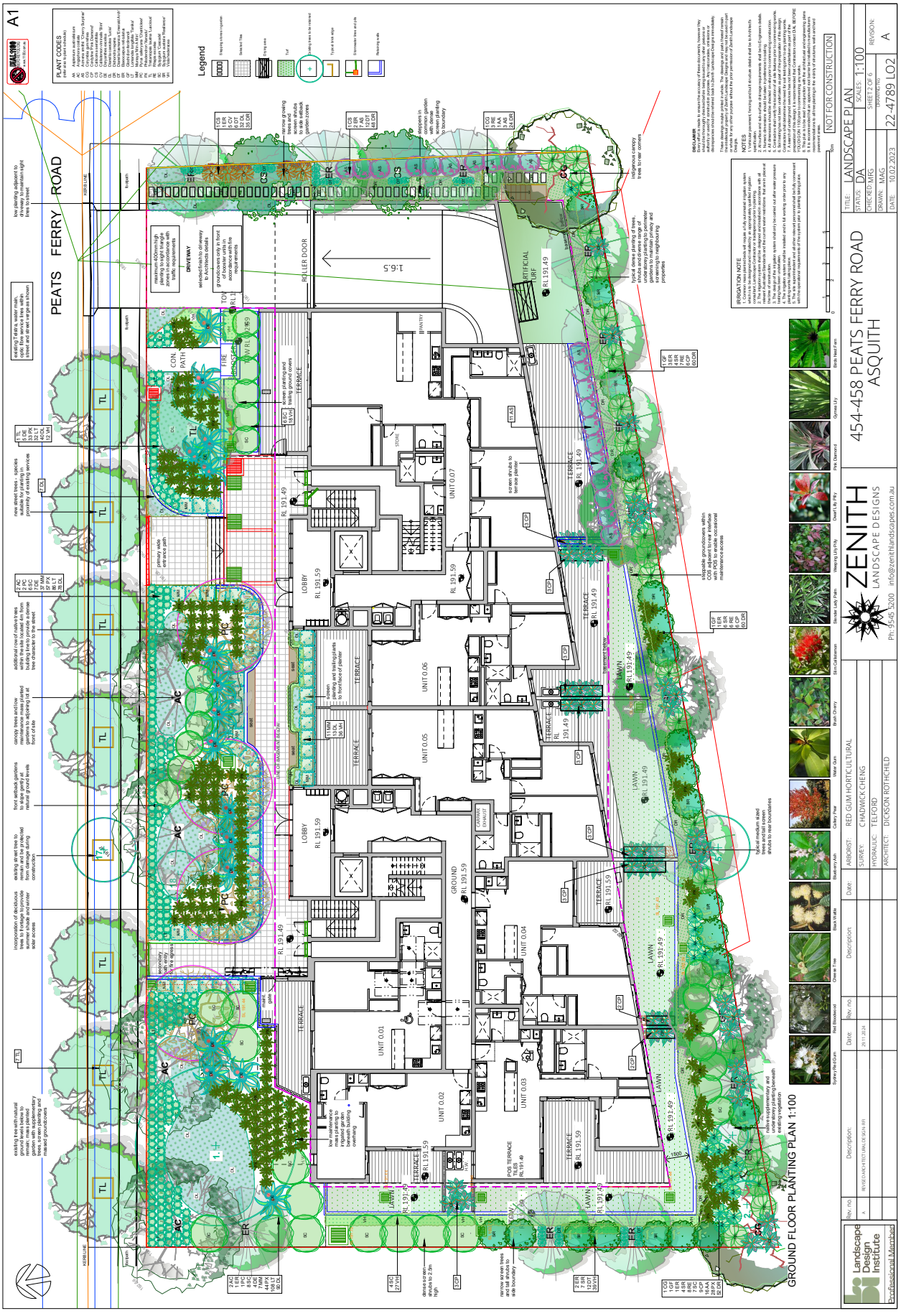

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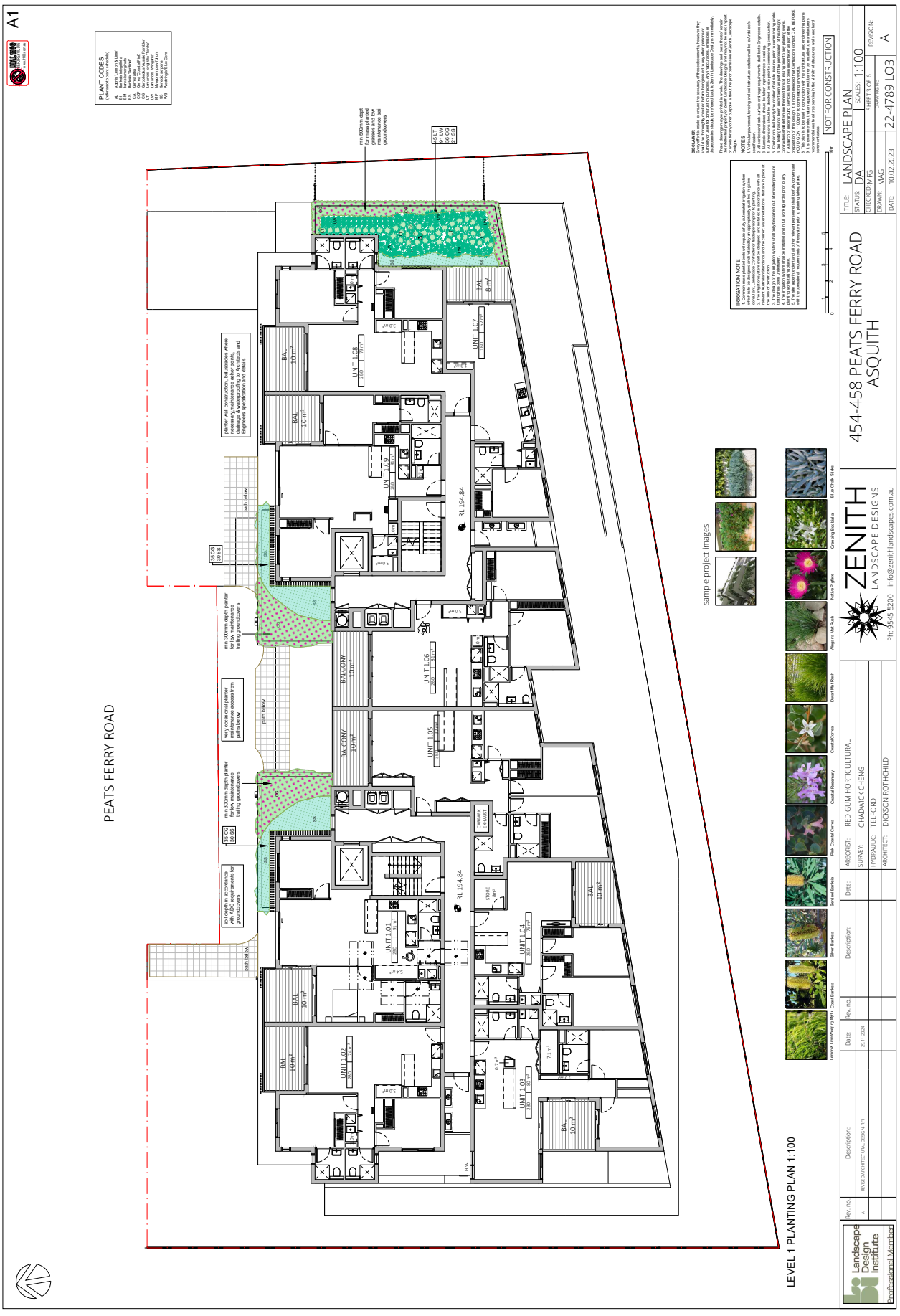

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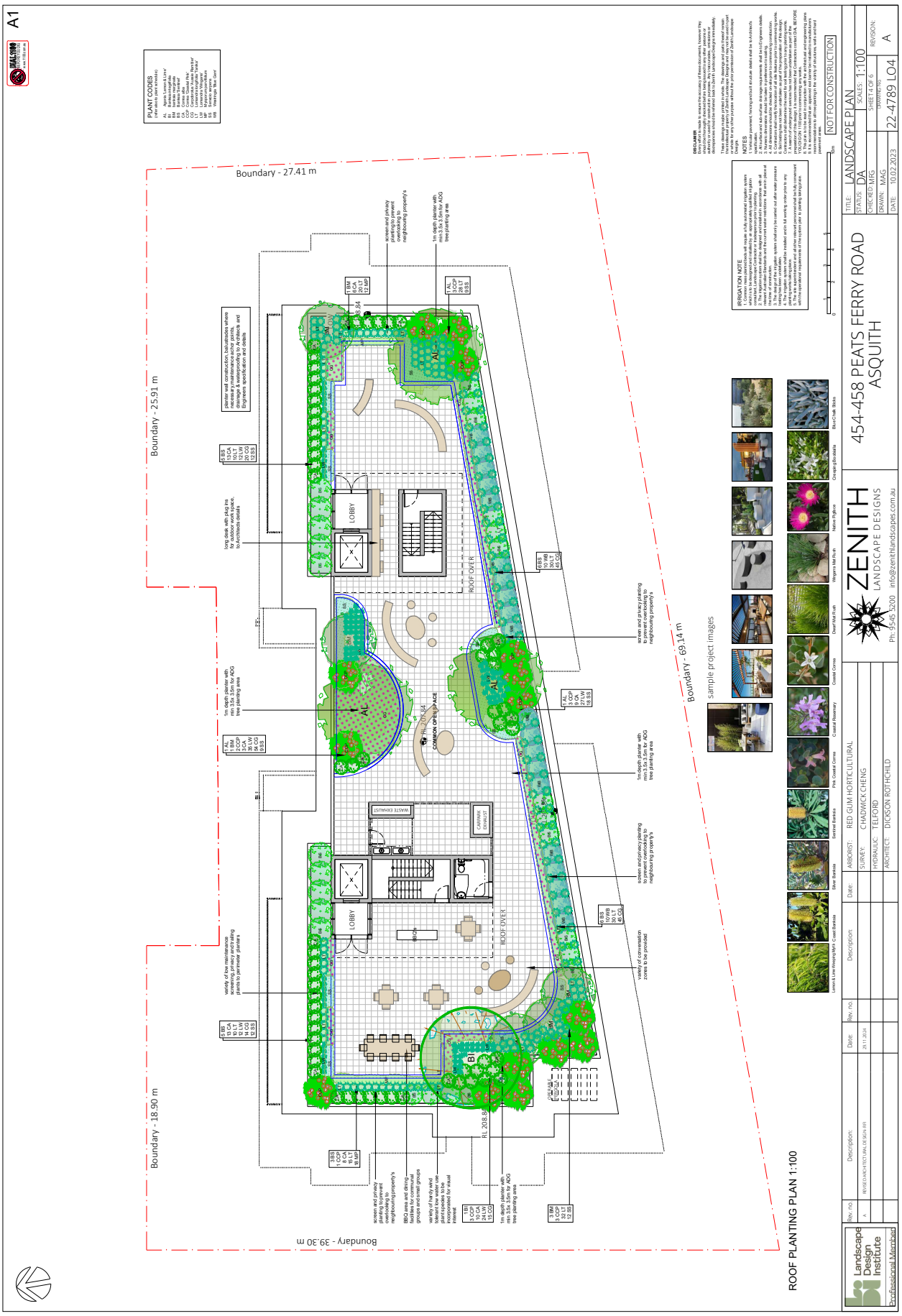

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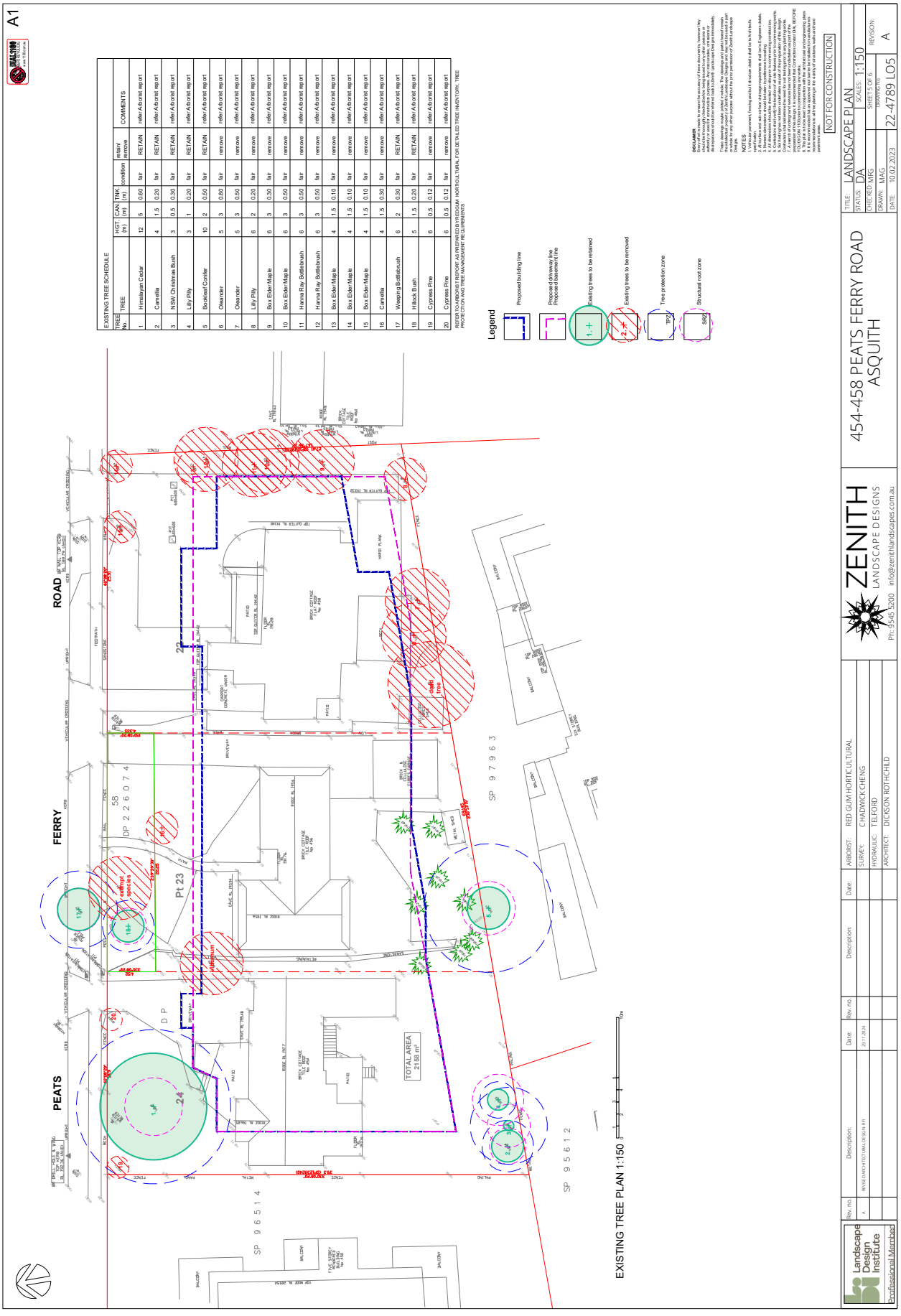

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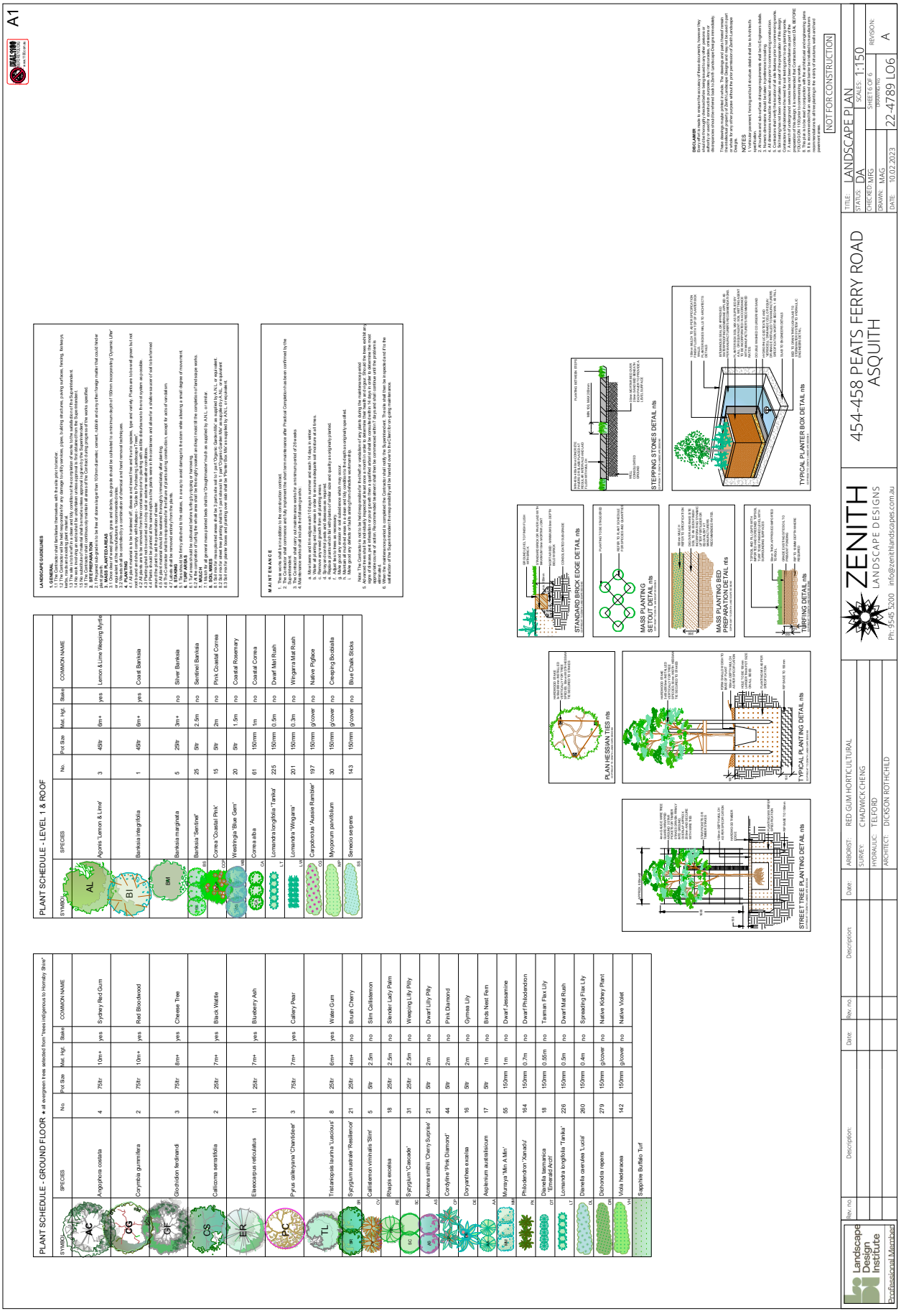

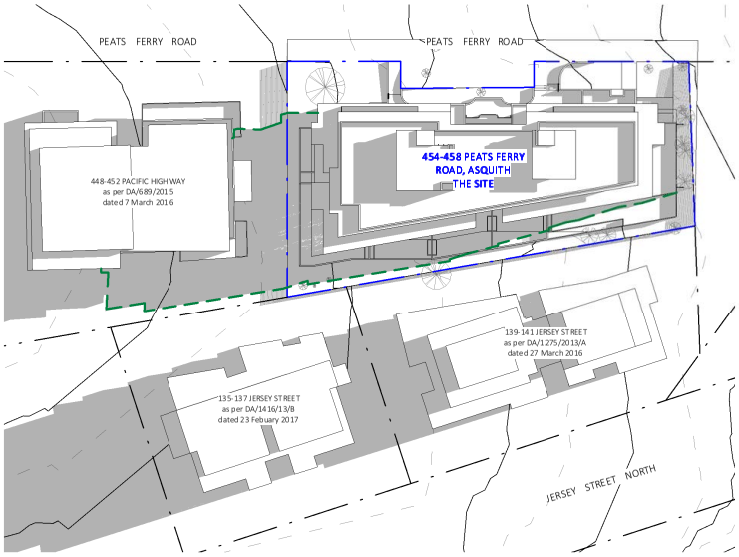

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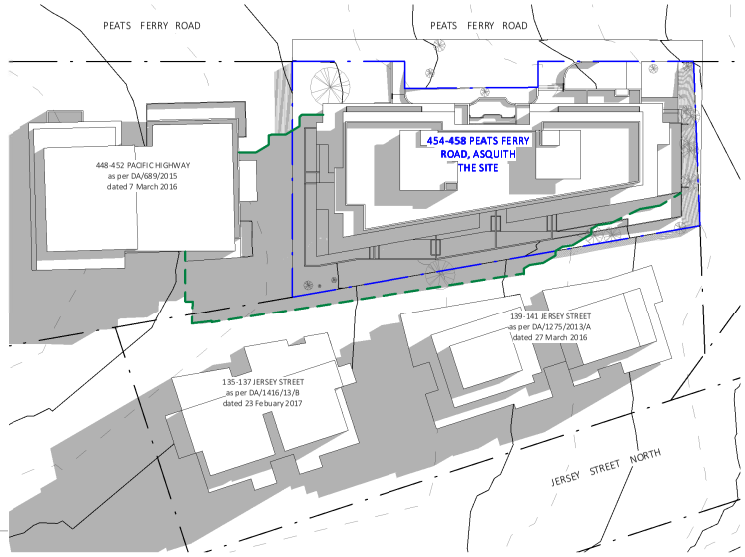

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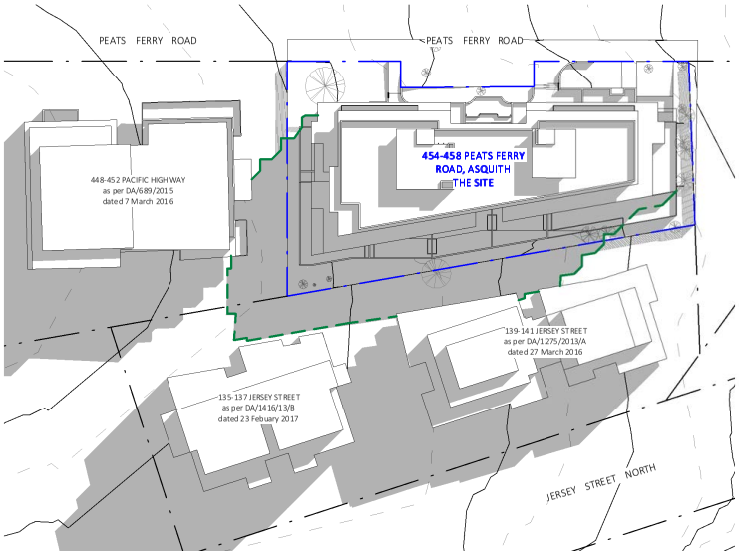

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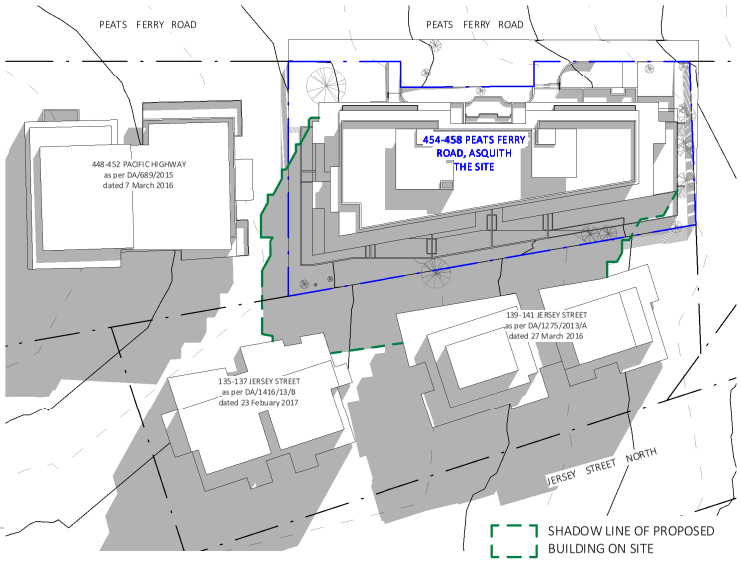

4 21st JUNE - 12 PM
1 : 750

SHADOW LINE OF PROPOSED BUILDING ON SITE

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PROJECT
Peats Ferry Road

454-458 Peats Ferry Rd, Asquith NSW 2077

CLIENT
John Mallia

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DRAWING
SHADOW ANALYSIS - SHEET 1

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-951	E	04/12/2024
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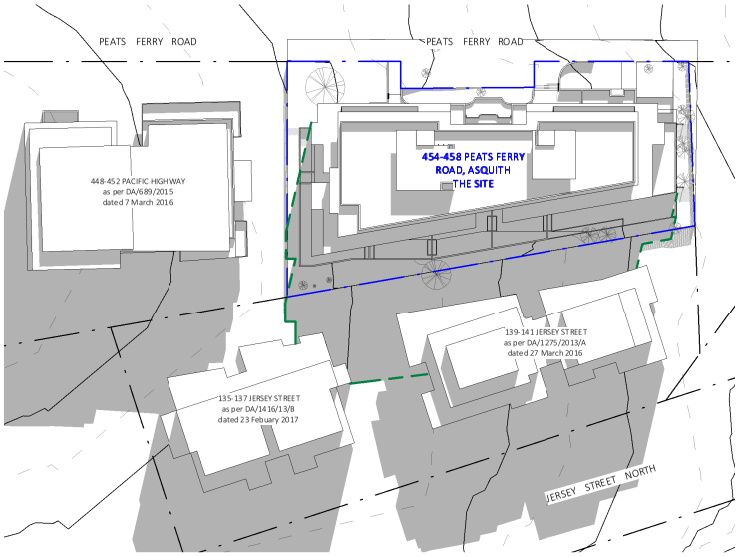
ATTACHMENT 6 - ITEM 1



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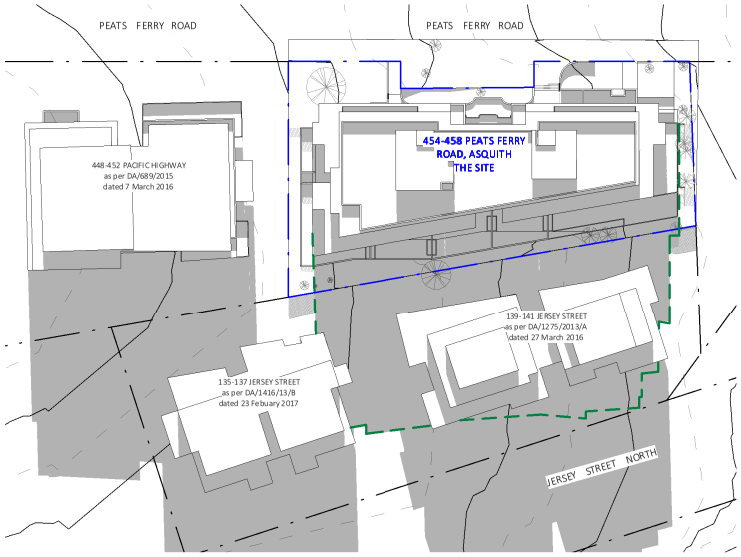

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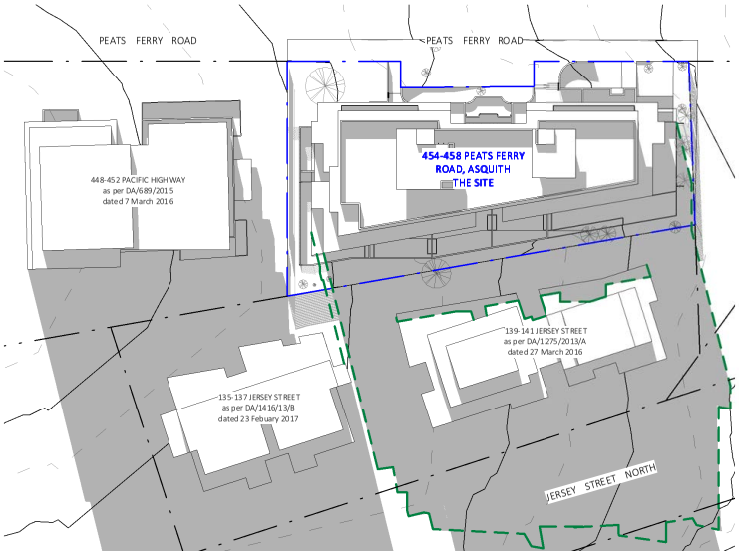

3 21st JUNE - 03 PM
1 : 750

SHADOW LINE OF PROPOSED BUILDING ON SITE

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DRAWING
SHADOW ANALYSIS - SHEET 2

PROJECT NO.	DRAWING NO.	REVISION	DATE
20-048	DA-0-952	E	04/12/2024

NOT TO SCALE	DRAWN	AUTHORISED
	HF	ND

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ATTACHMENT 6 - ITEM 1