



# **BUSINESS PAPER**

## **Local Planning Panel meeting**

**Wednesday 27 May 2026**

**at 4:00 PM**



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#### **SUPPLEMENTARY AGENDA**

**Item 1      LPP12/26 DA/75/2023/E - SECTION 4.55(2) MODIFICATION TO ADD A 6 STOREY TO AN APPROVED RESIDENTIAL FLAT BUILDING - 10 BOUVARDIA STREET, ASQUITH**

**RECOMMENDATION SECTION**

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, amend Development Application No. DA/75/2023 for demolition of existing structures and the construction of a 5-storey residential flat building comprising 15 units, basement car parking and associated landscaping/civil works at Lot 56 DP 8437, No. 10 Bouvardia Street, Asquith as detailed in Schedule 1 of LPP Report No. LPP12/26.

**SUPPLEMENTARY AGENDA**

**1 DA/75/2023/E - SECTION 4.55(2) MODIFICATION TO ADD A 6 STOREY TO AN APPROVED RESIDENTIAL FLAT BUILDING - 10 BOUVARDIA STREET, ASQUITH**

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**DA No:** DA/75/2023/E (PAN-587034 - Lodged on 5 November 2025)

**Description:** Section 4.55(2) application to increase the height of the approved residential flat building from 5 storeys to 6 storeys

**Property:** Lot 56 DP 8437, No. 10 Bouvardia Street, Asquith

**Applicant:** Joanne Dalton

**Owner:** Jaami Holdings Pty Ltd, FMH Nominees Pty Ltd & FMH Custodian Pty Ltd

**Estimated Value:** \$4,776,234

**Ward:** A Ward

**Submissions:** 33

**LPP Criteria:** 10 or more unique submissions were received by way of objection

**Author:** Tim Buwalda, Senior Town Planner

**COI Declaration:** No Council staff involved in the assessment of this application have declared a Conflict of Interest.

**RECOMMENDATION SECTION**

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, amend Development Application No. DA/75/2023 for demolition of existing structures and the construction of a 5-storey residential flat building comprising 15 units, basement car parking and associated landscaping/civil works at Lot 56 DP 8437, No. 10 Bouvardia Street, Asquith as detailed in Schedule 1 of LPP Report No. LPP12/26.

## EXECUTIVE SUMMARY

- In September 2025, DA/75/2023 for the demolition of existing structures and the construction of a 5-storey residential flat building comprising 15 units, basement car parking and associated landscaping/civil works was approved by the Hornsby Local Planning Panel.
- The 4.55(2) modification proposes to increase the number of storeys of the residential flat building from 5 to 6 storeys, increasing the number of units from 15 to 18 and provide an additional basement level.
- The proposal complies with the building height development standard and floor space development standard prescribed under the State Environmental Planning Policy (Housing) 2021.
- A total of 33 submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved.

## BACKGROUND

The subject land was rezoned from Residential A (Low Density) to R4 (High Density Residential) on 2 September 2011 as part of Council's Housing Strategy.

On 27 September 2025, DA/75/2023 for the demolition of existing structures and the construction of a 5-storey residential flat building comprising 15 units, basement car parking and associated landscaping/civil works was approved by the Hornsby Local Planning Panel, subject to conditions.

DA/75/2023/A was returned as it contained insufficient information.

On 31 July 2025, Council approved DA/75/2023/B for minor modifications to the approved design including adding a mechanical riser to the roof, relocation of hydrant booster, additional egress path and internal modifications, subject to conditions.

On 1 October 2025, Council approved DA/75/2023/C for minor modifications to the internal layout and minor amendments to the external design and finishes, subject to conditions.

DA/75/2023/D was returned as it contained insufficient information.

On 5 November 2025, the subject application was lodged.

On 9 December 2025, Council requested further information to address the PMF modelling and waste requirements.

On 10 February 2026, the applicant provided the requested information and amended their design to include the additional basement level. These plans are the subject of this assessment.

## SITE

The 931.2m<sup>2</sup> is located eastern side of Bouvardia Street, Asquith and contains a dwelling house, detached garage and a metal shed.

The site is relatively flat with a slight cross fall of approximately 1m towards the north side boundary.

The site is not flood or bushfire prone and does not contain any easement or restrictions.

The site is not heritage listed, is not in the vicinity of any heritage listed items and is not located within a heritage conservation area.

The site is surrounded by 5 storey residential flat buildings to the north and south and adjoins Asquith Commercial Centre to the east. The western side of Bouvardia Street is zoned R2 and contains low density residential dwellings.

The site is located approximately 400m from Asquith Railway Station, with two bus stops located from 110m to 170m from the site with services to Asquith, Hornsby, Mount Colah and Berowra.

The site is situated within a large street block that is bound by Bouvardia Street to the west, Amor Street to the north, and Peats Ferry Road to the south.

### **THE APPROVED DEVELOPMENT**

The approved development as modified comprises 15 units including 14x 2-bedroom units and 1x 1 bedroom unit, 18 parking spaces within one basement level and associated landscaping.

### **THE MODIFICATION**

The modification application proposes to increase the 5-storey residential flat building (RFB) to 6 storeys and increase the number of units from 15 to 18 under the Low and Mid Rise Housing controls in State Environmental Planning Policy (Housing) 2021.

The application would amend the unit mix from the approved, 1x 1-bedroom unit and 14 x 2-bedroom units, to the proposed 13x 2-bedroom unit and 5x 3-bedroom units.

The application proposes to provide an additional basement level and increase parking from 18 spaces to 27 spaces.

### **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 North District Plan includes priorities and actions for Northern District over the next 20 years.

The identified challenge for Hornsby Shire will be to provide 5,500 new completed homes by 2029 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

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

## 2. STATUTORY CONTROLS

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

### 2.1 Section 4.55(2) Environmental Planning and Assessment Act

The proposal constitutes a modification under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*. Council pursuant to Section 4.55(2), may consider an application to amend development consent provided that, inter alia:

- a) *it is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- c) *it has notified the application in accordance with—*
  - i. *the regulations, if the regulations so require, or*
  - ii. *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

With respect to (a), it is considered that the proposal as amended is substantially the same as the development originally approved as discussed below.

In accordance with the NSW Land and Environment Court decision *Moto Projects (No 2) Pty Ltd v North Sydney Council (1999)*, paragraphs 55 and 56, Bignold J described the process for consideration of a proposed modification of development as follows:

- “55. *The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development.*
56. *The comparative task does not merely involve a comparison of the physical features or components of the development as approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).”*

Therefore, in order for Council to consider a Section 4.55, the following must be considered:

1. Consideration of the numerical differences in all key aspects of the development.
2. Consideration of the non-numerical factors (e.g. in visual impact, traffic impacts or changed land uses); and
3. Consideration of any changes relating to a material and essential feature of the approved development.

In regard to point 1, the amended development would maintain the existing approved building envelope and form. The number of units would be increased from 15 to 18, the height would increase from 16.65m to 20.48m and the number of car parking spaces increased from 18 to 27 with the additional basement level. These changes are considered minor changes in the overall context of the approved development and are considered to be substantially the same.

In regard to point 2, the approved land use of a residential flat building would not be changed. While there may be some minor increase to traffic impacts, these changes are mitigated by the additional car parking provided within the additional basement level. The additional residential level would not be out of character for the locality as there are other 6 storey RFBs within the vicinity. Therefore, the bulk and scale would remain compatible within the surrounding high-density precinct.

In regard to point 3, no changes to essential features are proposed as the modification does not propose to amend the approved façade (with the exception of the additional level) or materials and finishes.

With respect to s4.55(2)(b), no consultation with the Minister is required.

With respect to s4.55(2) (c) and (d) and Council's Community Engagement Plan, adjoining owners were required to be notified of the application and 33 submissions were received.

Section 4.55(3) of the Act requires Council as the consent authority to "take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified".

With respect to an assessment of the matters referred to in Section 4.15(1) of the Act, these matters are addressed within the body of this assessment report. With respect to the reasons given by the consent authority for the grant of the consent that is sought to be modified, the reasons provided in granting consent to DA/75/2023 are as follows:

- *The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the 'height of building' development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.*
- *The development delivers 14 additional dwellings in an area close to public transport, recreation and shops and contributes to the goals of the National Housing Accord by improving housing supply.*
- *The proposed development complies with the requirements of State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.*
- *The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.*

The modification would continue to meet the original reasons for approval as a clause 4.6 request is not required with the additional height provision under the Housing SEPP, the additional units would continue to meet housing targets, and the development generally meets the objectives of the Apartment Design Guide to not create unreasonable environmental and amenity impacts to adjoining properties.

## **2.2 Hornsby Local Environmental Plan 2013**

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

### **2.2.1 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 defined as a residential flat building and is permissible in the R4 zone with Council's consent.

### **2.2.2 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 20.48m and does not comply with this provision.

Notwithstanding, the application relies on the provisions of the Housing SEPP which overrides the HLEP in relation to building height and is addressed in Section 2.3.2 of this report.

### **2.2.3 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.

### **2.2.4 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.

This modification application proposes an additional basement level.

In support of the modification, the applicant provided a structural engineer's report prepared by Capital Engineering consultants dated 30 April 2026 which supported the development and outlined how the additional excavation would not impact adjoining properties.

In support of the two-level basement, it is noted that the adjoining properties Nos. 4-8 and 14 Bouvardia Street, Asquith both contain two basement levels and therefore the additional basement level is consistent with adjoining properties.

Council's assessment of the proposed works and excavation concludes that the additional basement level is satisfactory, subject to the recommended conditions in Schedule 1.

### 2.3 State Environmental Planning Policy (Housing) 2021

The application has been assessed against the requirements of chapter 4 and 6 of State Environmental Planning Policy (Housing) 2021.

#### 2.3.1 Chapter 4 Design of Residential Apartment Development

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

The Housing SEPP 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.

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

<b>Housing SEPP - Schedule 9 Assessment</b>	
<b>Principle</b>	<b>Compliance</b>
<b>1. CONTEXT AND NEIGHBOURHOOD CHARACTER</b>	<b>Yes</b>
<p><b>Comment:</b> The site is located within a high-density precinct for residential flat buildings in close proximity to Asquith Railway Station and the Asquith Town Centre. The character of the area, as outlined in the Hornsby Development Control Plan 2024, is that of a locality characterised by residential flat buildings of 5 to 6-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.</p> <p>It is noted that the previous height of buildings development standard was 17.5m which allowed for 5 storey RFBs with a 6<sup>th</sup> storey mezzanine level. This development standard has been reduced to 16.5m building height which allows for 5 storey RFBs. There are a mixture of 5 storey RFBs and RFBs with a 6<sup>th</sup> storey mezzanine level within the vicinity of the subject site as discussed in Section 2.7.2 of this report.</p> <p>The application proposes a 5 storey RFB with a 6<sup>th</sup> storey mezzanine level, which is consistent with the established character of the high density precinct.</p> <p>The proposed development appropriately responds to the context of the site by proposing a residential flat building development adjacent to the Asquith Town Centre. The ground level would appropriately integrate with the existing public domain and sufficient landscaping is provided adjacent to side boundaries to ensure green links through the site. The façade has been designed to respond to the adjacent urban forms and streetscape.</p>	

<b>2. BUILT FORM AND SCALE</b>	<b>Yes</b>
<p><b>Comment:</b> The scale of the development is consistent with the height control and setbacks for the precinct prescribed within the HDCP. Despite the height noncompliance, it is considered that the proposed development achieves a scale, bulk and height appropriate to the existing character of the street and surrounding buildings. The building presents as highly articulated and of appropriate proportions and materiality. The design would contribute to the character of the streetscape and offer residents a high level of amenity.</p>	
<b>3. DENSITY</b>	<b>Yes</b>
<p><b>Comment:</b> The development complies with the FSR requirements as outlined in Section 2.3.2 of this report.</p>	
<b>4. SUSTAINABILITY</b>	<b>Yes</b>
<p><b>Comment:</b> 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.</p> <p>Provisions have also been made to provide electric vehicle ready connections within the basement.</p>	
<b>5. LANDSCAPE</b>	<b>Yes</b>
<p><b>Comment:</b> No change in landscaping is proposed as part of this modification. The landscaped areas are to remain as approved.</p>	
<b>6. AMENITY</b>	<b>Yes</b>
<p><b>Comment:</b> The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy.</p> <p>All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas.</p> <p>Storage areas have been provided within each unit and in the basement levels. The proposal would provide convenient and safe access via a central lift connecting the basement and all other levels.</p>	
<b>7. SAFETY AND SECURITY</b>	<b>Yes</b>
<p><b>Comment:</b> The design orientates the balconies and windows of individual apartments towards the street, rear and side boundaries, 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 Bouvardia Street.</p>	
<b>8. SOCIAL DIMENSIONS AND HOUSING AFFORDABILITY</b>	<b>Yes</b>
<p><b>Comment:</b> 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</p>	

providing a component of adaptable and liveable housing and an appropriate mix of 2- and 3-bedroom dwellings within the context of the isolated site and the market demand.

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

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

**ITEM 1**

#### 2.3.1.1 Apartment Design Guide

The Housing SEPP also requires consideration of the Apartment Design Guide (ADG), NSW Department of Planning and Environment 2015. The ADG includes development controls and best practice benchmarks for achieving the design principles of the Housing SEPP. The following table sets out the proposal's compliance with the ADG.

Apartment Design Guide			
Control	Proposal	Requirement	Complies
Communal Open Space (3D-1)	15%	25% of site area	No
Solar Access (Communal open space areas) (3D-1)	>50%	50% direct sunlight access for 2 hours	Yes
Deep Soil Zone (3E-1)	14.3%	7% of site area	Yes
Building Separation (3F-1)			
- <i>side boundaries</i>	3m-4.1m	6m between habitable windows and balconies. 3m to non-habitable (G-Level 3.)	No
	4.1m-5m	9m between habitable windows and balconies. 4.5m to non-habitable (Level 4)	No
- <i>rear boundary</i>	6.2m-9.1m	6m between habitable windows and balconies. 3m to non-habitable (G-Level 3.)	Yes
	8m-9.2m	9m between habitable windows and balconies. 4.5m to non-habitable (Level 4)	No

Car Parking (3J-1)	24	27	Yes
Solar Access (4A-1)			
- <i>Living rooms</i>	77% - 14/18	2 hours for 70%	Yes
- <i>Private open space</i>	100% - 18/18	2 hours for 70%	Yes
No Solar Access allowable for units (4A-1)	0%	15% of units (max)	Yes
Natural Cross Ventilation (4B-3)	100% (18/18)	60%	Yes
Ceiling Height (4C-1)	3.15m >2.4m	2.7m for habitable rooms 2.4m for non-habitable	Yes Yes
Minimum Dwelling Size (4D-1)			
- <i>2 bed units</i>	72m <sup>2</sup>	70m <sup>2</sup>	Yes
- <i>3 bed units</i>	90m <sup>2</sup>	90m <sup>2</sup>	Yes
Minimum Window Size (4D-1)	>10% of floor area of room	10% of the floor area of the room	Yes
Habitable Room Depth (4D-2)	>8m room depth or >2.5m ceiling height	8m from a window (max for open plan) OR 2.5x ceiling height	Yes
Apartment Layouts - Minimum Bedroom Size (4D-3)	>10m <sup>2</sup> >9m <sup>2</sup>	10m <sup>2</sup> min master bed size 9m <sup>2</sup> bedroom size	Yes Yes
Apartment Layouts - Combined Living / Dining Rooms Minimum Width (4D-3)	>3.6m >4m	3.6m - Studio and 1 bed 4m - 2 and 3 bed	Yes Yes
Apartment Layouts - Cross Through Apartments (4D-3)	>4m	Min 4m width	Yes
Minimum Balcony Size (4E-1)	2-bedroom >10m <sup>2</sup> 3-bedroom >12m <sup>2</sup>	2-bedroom 10m <sup>2</sup> 2m depth 3-bedroom 12m <sup>2</sup> 2.4 depth	Yes Yes
Maximum Number of Units on a Single Level (4F-1)	max. 3	max. 8 units off a circulation core	Yes
Storage (4G-1)	>8m <sup>3</sup> >10m <sup>2</sup> >50%	8m <sup>3</sup> - 2 bedrooms 10m <sup>2</sup> - 3 bedrooms 50% located within apartments	Yes Yes Yes

**ITEM 1**

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the ADG other than building separation and communal open space. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

### 2.3.1.2 Building Separation and Privacy

Submissions have been received that the additional level would impact the adjoining properties privacy.

Objective 3F-1 of the ADG requires any side building setback up to 4 storeys to be a distance of 6m to habitable windows and balconies or 3m to non-habitable rooms; and any side building setback over 4 storeys to be a distance of 9m to habitable windows and balconies or 4.5m to non-habitable rooms. Further, this section of the ADG requires a rear boundary setback over 4 storeys of 9m between habitable windows and balconies or 4.5m to non-habitable rooms.

The application proposes 3m-4.1m setbacks to habitable rooms and windows on the ground to third floor levels; 4.1m-5m side setbacks to habitable rooms and windows on the fourth level; and 8m-9.2m rear setbacks to habitable rooms and balconies on the fourth level which do not comply with these requirements.

The original assessment supported the building separation and privacy impacts for the following reasons:

- *The site is significantly constrained due to being an isolated lot, with an 18.3m site width.*
- *All windows facing side boundaries would be highlighted windows. Indentations to bedrooms on side elevations have been included to provide front and rear facing windows to improve amenity of units whilst maintain privacy of neighbouring properties.*
- *Living and entertaining spaces are oriented towards front and rear boundaries and where this was unavoidable, privacy screens have been proposed to minimise amenity impacts to adjoining properties.*
- *The building separation variations provide visual interest to the building design, ensuring the building provides appropriate indentation and consideration of amenity of adjoining properties.*
- *The rear setback/building separation requirements have been mostly achieved with the exception of a minor variation to the 1 bedroom + study balcony within unit No. 403 on the fourth floor. The rear setback of this unit was increased to provide additional building separation.*
- *There would be negligible amenity impacts to the adjoining property at the rear as this site is a Coles supermarket and the proposal would overlook the roof of this complex only. Nevertheless, the future redevelopment of the Coles supermarket at the rear has been considered and amendments were made to the plans to increase the building separation and future proof the development should the Coles site be redeveloped.*

This modification proposes the addition of one residential level within level 5 with the mezzanine level above. It is generally considered that the approved building setbacks are maintained, and the previous justification is still valid.

Overall, it is considered that the building separation non-compliances would result in minimal amenity impacts to adjoining neighbours and achieve an acceptable building design and separation within the context of the site and the adjoining RFB's and no further objections are raised in this regard.

### 2.3.1.3 Communal Open Space

The communal open space remains as approved under the original application DA/75/2023 and subsequent modifications.

While the application proposes an additional floor level and 3 additional units, the communal open space requirements are not changed as they are calculated on the 25% of the lot area and not the number of levels or units provided. The variation to the percentage of communal open space area has been approved under the original development application and no further assessment is required.

### 2.3.2 Chapter 6 Low- and Mid-Rise Housing

Clause 164(1)(f) of the Housing SEPP states that the provisions of the SEPP does not apply to land that is identified as *flood prone land in the Georges River Catchment and Hawkesbury-Nepean Catchment under State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6*. This includes land identified as 'probable maximum flooding' (PMF) within the Hawkesbury-Nepean Catchment.

It is noted that at the time of lodgement, Council's draft PMF mapping identified the subject site as being PMF affected.

During the assessment of the application, Council conducted a Shire wide review of the PMF mapping parameters and updated the mapping across the shire. The updated mapping removed isolated pockets of PMF mapped areas which included the subject site.

Based on the updated mapping, the site is not identified as PMF affected land and therefore is not prohibited under Clause 164(1)(f) of the Housing SEPP.

It is further noted that on 24 April 2026, Clause 164(1)(f) of the Housing SEPP was amended to remove the prohibition of land identified as PMF affected within the Hawkesbury-Nepean Catchment. However, in accordance with the savings provisions, the application is required to be assessed against the legislation that was in force at the time of lodgement.

Chapter 6 Part 4 Residential Flat buildings and Shop Top Housing permits development for the purpose of a residential flat building within the R4 zone to have a maximum building height of up to 22m provided the consent authority is satisfied that the development would be a maximum of 6 storeys or fewer.

The land is within the Low- and Mid-Rise Housing Inner area as it is within 400m of Asquith town centre and therefore the building height of 22m and 6 storeys or fewer presides over the HLEP Clause 4.3 Height of buildings development standard of 16.5m and 5 storeys.

The development proposes a building height of 20.48m and 6 storeys which complies with the development standard of the Housing SEPP.

Clause 177(2) requires the consent authority to consider the Tree Canopy Guide for Low- and Mid-Rise Housing, published by the Department in February 2025. This is discussed further in Section 3.1.1 of this report.

Clause 180(2) contains a non-discretionary development standard for a maximum floor space ratio of 2.2:1 for the development. The proposed development has an FSR of 1.95:1 which complies with this non-discretionary development standard.

In conclusion, the modification complies with the requirements of the Housing SEPP and is considered acceptable. A further assessment on the merits of the application is discussed in the body of the report.

## 2.4 State Environmental Planning Policy (Sustainable Buildings) 2022

The application has been assessed against the requirements of chapter 2 of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage the design and delivery of more sustainable buildings.

Chapter 2 sets out the Standards for residential development. The proposal includes a BASIX certificate in accordance with the requirements of the SEPP including the list of commitments to be complied with at the construction stage and during the use of the premises. The BASIX certificate achieves the minimum scores for energy and water use, and thermal performance.

The proposal is acceptable in this regard.

## 2.5 State Environmental Planning Policy (Resilience and Hazards) 2021

This modification would not alter the developments permissibility or the assessment of the original application in regard to the State Environmental Planning Policy (Resilience and Hazards) 2021.

## 2.6 State Environmental Planning Policy (Transport and Infrastructure) 2021

This modification would not alter the assessment of the original application in regard to State Environmental Planning Policy (Transport and Infrastructure) 2021.

### 2.6.1 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.

## 2.7 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:

<b>HDCP - Part 3.4 Residential Flat Buildings (5 storeys)</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Complies</b>
Lot width	18.3m	40m	No
Building Height	20.48m	16.5m (under HDCP) 22m (under LMR)	Yes
No. storeys	6	5	No
FSR	1.95:1	2.2:1	Yes

Car Parking	27 spaces	24 spaces	Yes
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As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP with the exception of lot width, building height and number of storeys. A brief discussion on compliance with relevant performance requirements is provided below and Part 1.3 General Controls are addressed in Section 3 of the report.

### 2.7.1 Lot Width

Submissions have been received raising concern that the development does not meet the minimum lot width requirement for a 6-storey building.

In response to these concerns, this issue was raised in the initial application DA/75/2023, and was assessed as follows:

*The HDCP requires sites to have a minimum frontage of 30m. The subject site has a frontage of 18.3m to Bouvardia Street which does not comply with this requirement.*

*In support of this non-compliance, it is noted that the proposal is located within a previously isolated site with the adjoining sites consisting of occupied five storey residential flat buildings.*

*The proposal has been appropriately designed with regard to the site constraints and is considered acceptable within high density residential zoned site.*

This statement is still relevant as the site is isolated being between two existing residential flat buildings. The non-compliance is considered acceptable in this instance as it generally complies with all other development controls.

### 2.7.2 Scale

The application proposes to increase the number of storeys from the approved 5 storeys to 6 storeys and provide one additional basement level.

It is noted that the amendments to the Housing SEPP provide the provision of an increased building height to 22m under the Housing SEPP which overrides the HLEP which permits a building height of 16.5m.

It is noted that the HLEP previously permitted a building height development standard of 17.5m which allowed for a 5 storey RFB with a 6<sup>th</sup> storey mezzanine level.

The development proposes a building height of 20.48m which complies with the maximum building height permitted under the Housing SEPP.

Furthermore, there are numerous examples of 5 storey RFBs with a 6<sup>th</sup> storey mezzanine level within the vicinity of the proposed development, including:

- 2 Bouvardia Street, Asquith
- 325 Pacific Highway, Asquith (corner of Bouvardia Street and Pacific Highway)
- 442-446 Pacific Highway, Asquith
- 450 Pacific Highway, Asquith

Council's assessment of the proposed 6 storey height limit concludes that the application satisfies Clause 180 of the Housing SEPP which contains non-discretionary development standards which if complied with prevent Council from requiring more onerous standards.

### 2.7.3 Waste Management

The development proposes to increase the number of approved units from 15 to 18 (3 additional).

To accommodate the additional number of units the waste collection room on Basement Level 1 has increased by 5m<sup>2</sup> in floor area from 20m<sup>2</sup> as approved under DA/75/2023/C to 25m<sup>2</sup>.

This increase is considered acceptable, noting that a bin chute and waste room is also located on the additional residential level.

#### **2.7.4 Sunlight Access**

The application proposes to add an additional residential level to the building, raising the building height from the approved 16.65m to 20.48m.

The application includes shadow diagrams which demonstrate that the residential building to the south of the subject site No. 4-8 Bouvardia Street would be marginally impacted by the additional height increase.

However, it is noted that the northern side of the building was already impacted by the shadows cast by the approved development and the addition of one level would only increase the impacts of overshadowing marginally.

#### **2.8 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 13 x 2-bedroom unit and 5 x 3-bedroom units in lieu of the existing dwelling. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

#### **2.9 Planning Agreements**

Section 4.15 (1) (a)(ii) of the Act requires Council to consider the provisions of any planning agreement. The development does not include a Planning Agreement.

#### **2.10 Environmental Planning and Assessment Regulation 2021**

Section 61 of the Environmental Planning and Assessment Regulation 2021 (the Regs) contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the Regs are relevant to the proposal.

Section 63 (considerations for erection of temporary structures) of the Regs are relevant to the proposal.

These provisions of the Regs have been considered and are addressed in the recommended draft conditions (where necessary).

### **3. ENVIRONMENTAL IMPACTS**

Section 4.15(1)(b) of the Act requires Council to consider *“the significant 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**

Clause 177(2) requires the consent authority to consider the Tree Canopy Guide for Low- and Mid-Rise Housing, published by the Department in February 2025.

The existing landscape plans approved under the original consent DA/75/2023 generally comply with the Tree Canopy Guide for Low- and Mid-Rise Housing as the plans provide sufficient tree planting within the deep soil zones and is considered acceptable. No further assessment is required.

This modification does not propose to amend any tree conditions, and no further assessment is required.

### **3.2 Built Environment**

#### **3.2.1 Built Form**

Being 20.48 metres high, the building would be visible from a number of public and private places within the locality. The design has attempted to minimise the visual impact by increasing the setback of the mezzanine level to reduce the bulk and scale. It is further noted that as outlined in Section 2.9.2 of this report, there are existing 6 storey buildings within the vicinity and therefore the building would be consistent with the existing built form.

#### **3.2.2 Traffic**

The HDCP specifies the following off-street parking rates for residential flat buildings located within 800 m of a railway station:

- 2-bedroom units: 1.0 space per dwelling
- 3-bedroom units: 1.5 spaces per dwelling
- Visitor parking: 1 space per 7 dwellings

Applying these rates to the proposed development (13x 2-bedroom unit and 5 x 3-bedroom units) results in a requirement for 24 spaces (21 resident spaces and 3 visitor spaces).

The submitted plans provide 27 spaces, being 25 residential parking spaces and 2 visitor parking spaces, resulting in a shortfall of 1 visitor space against the DCP requirement, but a surplus of residential parking spaces.

Although the proposal is deficient by only one visitor parking space, Council notes the high demand for on-street parking on Bouvardia Street and surrounding streets. Accordingly, a condition is recommended that the proposal reallocate one parking space from residential use to visitor use.

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 5 bicycle spaces. 5 bicycle parking spaces are provided on-site which is acceptable.

Submissions have been received raising concern to the lack of car parking within Bouvardia Street.

In response to these submissions, it is noted that the development exceeds the required car parking spaces and is considered acceptable.

The development meets the desired outcomes of Part 1.3.2.1 Transport and Parking and is considered acceptable, subject to conditions.

### **3.3 Social Impacts**

The residential development would improve housing choice in the locality by providing a range of household 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 and Asquith Shopping centre and local schools for future residents.

### **3.4 Economic Impacts**

The proposal would have a minor positive impact on the local economy in conjunction with other new low density residential development in the locality by generating an increase in demand for local services.

## **4. SITE SUITABILITY**

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

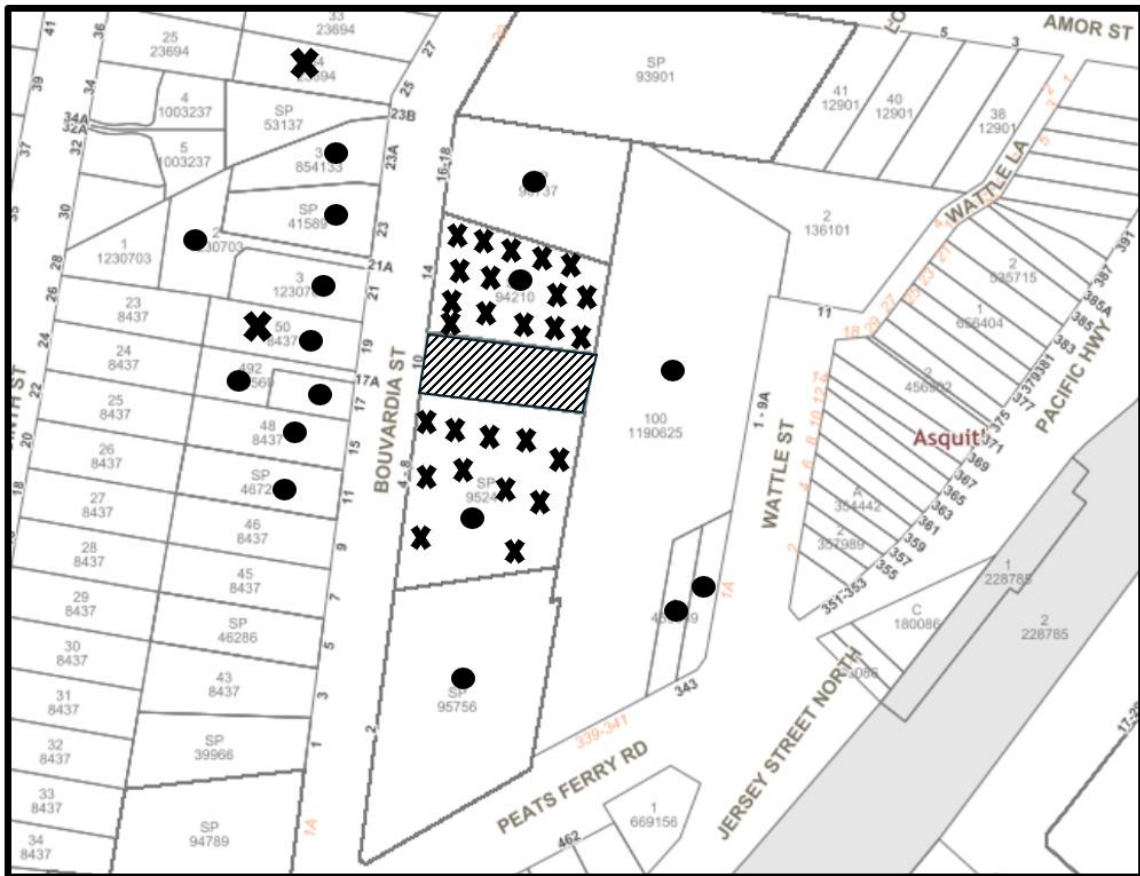
The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

## **5. PUBLIC PARTICIPATION**


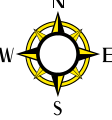
Section 4.15(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

### **5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 6 November 2025 and 25 November 2025 and 16 February 2026 and 6 March 2026 in accordance with the Hornsby Community Engagement Plan. During this period, Council received 33 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li>X SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
<p><b>3 SUBMISSIONS RECEIVED OUT OF MAP RANGE</b></p>			

Thirty-three submissions objected to the development, generally on the grounds that the development would result in:

- Unacceptable traffic on local streets
- Unacceptable overshadowing and privacy impacts to adjoining properties
- Development that is excessive in bulk and scale

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

**5.1.1 Overdevelopment**

Submissions have been received stating the modification would be an overdevelopment of the site.

As detailed in the body of this report, the application generally complies with the planning controls and is not considered an overdevelopment of the site.

### **5.1.2 Water Pressure**

Submissions have been received stating that this modification would impact the water pressure within the locality.

In response to these concerns, it is noted that there is an existing condition imposed on the consent, requiring approval from Sydney Water to ensure there is sufficient service to the development.

### **5.1.3 Green Roof and Walls**

Submissions have been received raising concern that the development does not incorporate green roof or walls.

In response to these submissions, the HDCP encourages green roofs and green walls where practical. Given the limited width of the already approved residential flat building, it is considered impractical to require a green roof or green wall to be provided for the additional residential level.

Furthermore, there is no consistent establishment of green roofs or walls within the existing residential flat buildings along Bouvardia Street, Asquith.

### **5.1.4 Waste Management**

Submissions have been received raising concern to the additional waste collection required from the three additional units.

In response to this concern, it is noted that the development has increased the size of the bin collection room to accommodate this which is considered acceptable.

### **5.1.5 Set a Precedent**

Submissions were received which raised a concern that approval of this development would set a precedent for further development of this nature.

In response to this concern, it is noted that the development generally complies with the Low- and Mid-Rise Housing controls and is considered acceptable.

Any future development applications within the vicinity would be assessed on its merits, however it is noted that this is one of the last undeveloped sites within this area.

### **5.1.6 Loss of Green Space**

Submissions received raise concern over the loss of green space.

In response to this submission, it is noted that the development does not propose to modify the approved landscaped areas, and the modification only relates to the addition of one storey and a basement level.

## **5.2 Public Agencies**

The development application was not required to be 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 modification is considered to have satisfactorily addressed Council's criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

## CONCLUSION

The 4.55(2) application proposes an additional residential level and basement level to a residential flat building.

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

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

The reasons for this decision are:

- The proposed modification is substantially the same as the approved development.
- The proposed modification generally complies with the requirements of the State Environmental Planning Policy (Housing) 2021.
- The proposed modification generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2024.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.

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

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

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

### Attachments:

1.  Architectural Plans

File Reference: DA/75/2023/E

Document Number: D09332377

**ITEM 1**

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## SCHEDULE 1

### Modification Summary

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<b>Date of 1st modification (Mod A):</b>	31 July 2025
<b>Details of 1st modification:</b>	Mechanical riser added, relocation of hydrant booster, egress path and internal modifications
<b>Conditions Added:</b>	79A
<b>Conditions Deleted:</b>	2
<b>Conditions Modified:</b>	1, 14, 23, 25

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<b>Date of 2nd modification</b>	1 October 2025
<b>(Mod C):</b>	
<b>Details of 2nd modification:</b>	Minor modification to internal layout and minor amendments to the external design and finishes
<b>Conditions Added:</b>	Nil
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	1

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<b>Date of this modification (Mod E):</b>	
<b>Details of this modification:</b>	Addition of a 6 storey
<b>Amended description</b>	<b>development</b> Demolition of existing structures and the construction of a 6-storey residential flat building comprising 18 units, basement car parking and associated landscaping/civil works
<b>Conditions Added:</b>	Nil
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	1, 2, 5

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# ITEM 1

<b>GENERAL CONDITIONS</b>
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### 1. Approved Plans and Supporting Documentation (Mod A, C and E)

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

#### Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
A0001, Rev. F	Cover Page	Mackenzie Architects International	30/08/23	D08738614
S4.55_2-A-001, Rev A	Notes and Finishes	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_2-A-001, Rev B	Notes	Roda Architects Pty Ltd	04/02/2026	
A0003, Rev. F	Site Plan	Mackenzie Architects International	30/08/23	D08738614
S4.55_2-A-010 Rev A	Site Plan as amended by S.4.55-A-106, Rev P3, GA - Roof dated 31/07/2025	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_3-A-010 Rev A	Site Plan	Roda Architects Pty Ltd	07/10/2025	
A0004, Rev. A	Demolition Plan	Mackenzie Architects International	15/12/22	D08738614
A1001, Rev. E	Basement Plan	Mackenzie Architects International	30/08/23	D08738614
S4.55_2-A-100, Rev A	GA - Basement Level	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_3-A-100 Rev B	GA-Basement Level 2	Roda Architects Pty Ltd	04/02/2026	
S4.55_3-A-101 Rev B	GA-Basement Level 1	Roda Architects Pty Ltd	04/02/2026	
A1002, Rev. F	Ground Floor Plan	Mackenzie Architects International	30/08/23	D08738614
S4.55_2-A-101, Rev A	GA - Ground Level	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_3-A-101 Rev B	GA - Ground Floor	Roda Architects Pty Ltd	04/02/2026	
A1003, Rev. E	First Floor Plan	Mackenzie Architects International	28/08/23	D08738614
S4.55_2-A-102, Rev B	GA - Level 1	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_3-A-102, Rev B	GA - Level 1	Roda Architects Pty Ltd	04/02/2026	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
A1004, Rev. E	Second Floor Plan	Mackenzie Architects International	28/08/23	D08738614
S4.55_2-A-103, Rev A	GA – Level 2	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_3-A-103, Rev B	GA - Level 2	Roda Architects Pty Ltd	04/02/2026	
A1005, Rev. E	Third Floor Plan	Mackenzie Architects International	28/08/23	D08738614
S4.55_2-A-104, Rev A	GA - Level 3	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_3-A-104, Rev B	GA - Level 3	Roda Architects Pty Ltd	04/02/2026	
A1006, Rev. E	Fourth Floor Plan	Mackenzie Architects International	28/08/23	D08738614
S4.55_2-3-A-105, Rev A	GA – Level 4	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
S4.55_3-A-105 Rev B	GA-Level 4	Roda Architects Pty Ltd	04/02/2026	
S4.55_3-A-106 Rev B	GA-Level 5	Roda Architects Pty Ltd	04/02/2026	
A1007, Rev. E	Roof Plan	Mackenzie Architects International	28/08/23	D08738614
S4.55_2-A-106, Rev A B	GA - Roof	Roda Architects Pty Ltd	18/07/2025 8/09/2025	D09225840
S4.55_3-A-107 Rev A	GA - Roof	Roda Architects Pty Ltd	04/02/2026	
A2001, Rev. F	North Elevation	Mackenzie Architects International	28/08/23	D08738614
A2002, Rev. E	East Elevation	Mackenzie Architects International	28/08/23	D08738614
A2003, Rev. F	South Elevation	Mackenzie Architects International	30/08/23	D08738614
A2004, Rev. F	West Elevation	Mackenzie Architects International	30/08/23	D08738614
S4.55_2-A-200	Elevations Sheet 01	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
Rev A	Elevations Sheet 01	Roda Architects Pty Ltd	07/10/2025	
S4.55_2-A-201	Elevations Sheet 02	Roda Architects Pty Ltd	18/07/2025 8-9-2025	D09225840
Rev B	Elevations Sheet 02	Roda Architects Pty Ltd	04/02/2026	
A2101, Rev. F	Section A	Mackenzie Architects International	30/08/23	D08738614
A2102, Rev. D	Section B	Mackenzie Architects International	28/08/23	D08738614
S4.55-A-202,	Sections Sheet 01	Roda Architects Pty	18/07/2025	D09225840

ITEM 1

Plan No.	Plan Title	Drawn by	Dated	Council Reference
Rev A		Ltd	8-9-2025	
Rev A	Sections Sheet 01	Roda Architects Pty Ltd	04/05/2026	
Rev. P5	Section Sheet 02	Roda Architects Pty Ltd	04/05/2026	
A3007, Rev. B	Pre-Post Adaptable	Mackenzie Architects International	09/05/23	D08738614
A3008, Rev. F	Sample Board	Mackenzie Architects International	30/08/23	D08738614
22/2449, Sheet 1 of 2, Issue F	Landscape Plan/ Soil Areas Plan	Paul Scrivener Landscape	19/06/23	D08738614
22/2449, Sheet 2 of 2, Issue F	Planting Plan, Notes and Schedule	Paul Scrivener Landscape	19/06/23	D08738614
Sheet 1 of 2	Landscape Plan (Sheet 1)	TGS Landscape Architects	21/03/2025	D09182514
Sheet 2 of 2	Landscape Plan (Sheet 2)	TGS Landscape Architects	21/03/2025	D09182514

#### Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Arboricultural Implication Assessment and Tree Protection Specifications Issue A	Horticultural Resources Consulting Group	08/12/2022	D08578260
BCA Report No. 2906 Rev B	J <sup>2</sup> BCA Consulting	12/05/2023	D08683451
Concept Stormwater Management Layout Plan, Job number SW22360, Issue E	AWL Design - Civil Engineering Consultants	02/08/2023	D08709793
Stormwater Drainage, Dwg No. 02867-SW01-SW10, Rev P3	C & M consulting Engineers	14/04/2025	D09137348
Public Drainage System Hydraulic Analysis, Job No. SW19276, Issue D	AWL Design - Civil Engineering Consultants	12/05/2023	D08683452
Waste Management Plan Job No. 22NL185-WMP36	Loka Consulting Engineers	08/05/2023 29/10/2025	D08683453 D09251407
Survey Ref: 42038/D2-MGA	Chadwick Cheng Consulting Surveyors	21/09/2022	D08578268
Traffic Report Ref: 22081	Terraffic Pty Ltd	12/12/2022 05/02/2026	D08578266 D09314152
Access Report	Obvius Access	13/12/2022	D08578264
Acoustic Report Ref: 20221390.1/1312A/R0/ANP	Acoustic Logic	13/12/2022	D08578262
BASIX Certificate No. 1362352M	Eco Certificates	15/12/22	D08578251
BASIX Certificate No. 1362352M_05		22/09/2025	D09249662
BASIX Certificate No. 1362352M_06	Eco Certificates	09/10/2025	D09251372
NatHERS Certificate: HR-M456DD-06	Eco Certificates	09/10/2025	D09251373
Geotechnical Report Ref: P2743_01	Morrow Geotechnics	10/11/2022	D08578235
Structural Engineers Report	Capital Engineering Consultants	30/04/2026	D09367321

# ITEM 1

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

## 2. Amendment of Plans (Mod A and E)

1. ~~To comply with Council's requirement in terms of traffic and parking, the approved plan No. A1001 Basement Plan Rev E prepared by Mackenzie Architects International, dated 30/08/23 is to be amended as follows:~~

- a. ~~One motorcycle parking space must be provided within the basement.~~

2. ~~To ensure the landscape plans reflect the approved architectural plans, the approved landscape plans Job Ref: 22/2449 Sheet 1 (Landscape Plan/ Soil Areas Plan) and Sheet 2 (Planting Plan, Notes and Schedule) prepared by Paul Scrivener Landscape, dated 19/06/23 must be amended to reflect the relocation of bin area, fire stairs, OSD, rainwater tank and fire hydrant in accordance with the plan No. A1002 Ground Floor Plan Rev F prepared by Mackenzie Architects International, dated 30/08/23.~~

~~*Note: There must be no reduction in number of plantings, as identified on the approved landscape plans.*~~

3. ~~These amended plans must be submitted with the application for the Construction Certificate.~~

1. To comply with Council's requirement in terms of parking, the approved plans are to be amended as follows:

- a. The provision of 27 spaces in the 2 ~~basement~~ levels of the approved development shall have at least 3 spaces allocated to visitors at all times.

2. These amended plans must be submitted with the application for the Construction Certificate.

*Reason: To require minor amendments to the approved plans and supporting documentation following assessment of the development.*

## 3. Removal of Trees

1. This development consent permits the removal of trees numbered T3 and T4 as identified in the Arboricultural Impact Assessment prepared by Horticultural Resources Consulting Group, dated 8 December 2022.
2. No consent is granted for the removal of trees numbered T1, T2 and T5 as these trees contribute to the established landscape amenity of the area/streetscape.

*Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1.2.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013.*

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

## 4. Construction Certificate

1. A Construction Certificate is required to be approved by Council or a Private Certifying Authority 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 / Subdivision Works 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.*

#### 5. Section 7.11 Development Contributions (Mod E)

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	<del>\$12,866.35</del>	\$16,708.90
Open Space and Recreation	<del>\$161,837.40</del>	\$199,020.75
Community Facilities	<del>\$99,677.25</del>	\$122,578.80
Plan Preparation and Administration	\$1,371.90	\$1,691.50
TOTAL	<del>\$275,752.90</del>	\$339,999.95

being for ~~1 x 1 bedroom unit, 14 x 2 bedroom units~~ 13x 2-bedroom units and 5x 3-bedroom units and a credit of 1x dwelling.

2. The value of this contribution is current as of 24 August 2023. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.11 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

$$CPI_{DC}$$

Where:

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

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

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

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

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

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

#### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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

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

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

The required fire hydrants, sprinkler boosters or pumps must be installed in accordance with the recommendations contained in the BCA Report No. 2906 Rev B, prepared by J2 BCA Consulting, dated 12/05/23. Details demonstrating compliance are to be provided with the application for the construction certificate.

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

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

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

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

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

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

#### **10. Utility Services**

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

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

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

#### **11. Sydney Water - Approval**

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

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

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

#### **12. Dilapidation Report**

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. SP 94210 at 14 Bouvardia Street, Asquith.
  - b. SP 95241 at 4-8 Bouvardia Street, Asquith.
  - c. Lot 100 DP 1190625 at 1-9A Wattle Street, Asquith.
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 Principle Certifying Authority.

*Note: This documentation is for record keeping purposes only and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.*

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

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

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

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

### **14. Stormwater Drainage (Mod A)**

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained in accordance with the following requirements:

1. Connected directly to Council's street drainage system and discharged via an on-site detention system.
2. Stormwater design to be generally in accordance with Stormwater Drainage Services 02867-SW01 Rev P3 (14/04/2025) ~~Concept Stormwater Management Layout Plan Job number SW22360 (02/08/23) issue E & Public Drainage System Hydraulic Analysis Job number SW19276 (12/05/23) issue D, both prepared by ALW Design.~~
3. Pump out storage to be designed in accordance with Australian Standard AS 3500.3.
4. New 375mm RCP pipe to be constructed across on Bouvardia Street.
5. Construct new junction pit within Bouvardia Street downstream of new 375mm RCP.

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

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

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

1. Have a capacity of not less than 13.6 cubic metres, and a maximum discharge (when full) of 13 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.*

**16. Water Saving Urban Design**

80% of the roof area of the development is to drain to a tank that has a capacity of 3,000 litres per 100m<sup>2</sup> of roof area of the development. The tank is to be connected to the communal water system, and to all dwellings for toilet flushing and laundry.

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

**17. Internal Driveway/Vehicular Areas**

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

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 both 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.*

**18. Footpath**

A concrete footpath must be designed across the full frontage of the subject site in accordance with AUS-SPEC Specifications ([www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions)) and the following requirements:

1. The existing footpath being removed.
2. Pouring of the concrete footpath to the full frontage of the subject site.
3. The land adjoining the footpath to be fully turfed.
4. Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.
5. Detailed engineering plans are to be submitted to Council for approval.

*Reason: To provide safe pedestrian movement.*

**19. Road Works**

Prior to the issue of a Construction Certificate, a separate approval under Section 138 of the Roads Act 1993 must be obtained from Council by lodging an application via the NSW e-planning portal for works within the public road reserve. All road 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](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions)) and the following requirements:

1. The existing kerb and gutter is to be removed and reconstructed. All redundant access crossings are to be removed and the area made good.
2. The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.
3. 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.
4. Detailed engineering plans are to be submitted to Council for approval.

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

## **20. Structural Design**

All structural details must be designed by a Chartered Structural Engineer of the Institution of Engineers Australia with structural details to be submitted with the application of the Construction Certificate.

*Reason: To ensure compliance with structural detail requirements.*

## **21. Mechanical Equipment**

A detailed mechanical plant noise assessment for all proposed mechanical equipment must be undertaken by a suitably qualified Acoustic Consultant and a report certifying that the operation of all proposed equipment will not exceed the noise criteria adopted in the approved acoustic report must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

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

## **22. Adaptable Units/Storage**

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

1. The development is required to provide the following adaptable/Liveable housing:
  - a. A minimum of 10% of all units must be designed to be adaptable units.
  - b. A minimum of 20% of all units must be Universal Design housing in accordance with the Liveable Housing Guidelines (2012) silver level design features.
2. Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) of 6m<sup>3</sup> for one bedroom units, 8m<sup>3</sup> for two bedroom units and 10m<sup>3</sup> for three bedroom units, where 50% is required to be located within the apartment and accessible from either the hall or living area.

*Reason: To ensure the development meets accessibility requirements.*

## **23. Services (Mod A)**

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

1. ~~Heating, Ventilation and Air Conditioning (HVAC) must be grouped within designated areas in the basement and roof. No air conditioning units are permitted on private balconies.~~
2. Wall-mounted equipment and associated pipework must be concealed into wall cabinets and duct.
3. Letter boxes must be located perpendicular to the road.
4. Powerlines must be underground on the road reserve at the front of the site. The above details must be detailed and provided with the Construction Certificate Plans.

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

#### **24. Fencing Details**

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

1. Within street setbacks, front fences are not permitted unless shown on the approved landscape plans. Any front fencing must be a maximum height of 1.2 metres.
2. Planting at grade, or low walls screened by planting and/ or planter boxes are permitted at the interface between the private and public domain land.
3. Enclosure of private courtyards within the front setbacks must achieve at least 50 percent transparency and be a maximum height of 1.5m above the adjacent communal space.
4. Side and rear boundary fences should be a maximum of 1.8 metres high, sited behind the front building line. The above details must be detailed and provided with the Construction Certificate Plans.

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

#### **25. Waste Management Details (Mod A)**

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 the waste collection vehicle travel path on site, then written clarification must be obtained from Council.
2. The approved on-going 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 chute system, bin storage/ chute service rooms, bin carting paths, bulky waste storage) must be submitted to Council's Waste Team ([devmail@hornsby.nsw.gov.au](mailto:devmail@hornsby.nsw.gov.au)) for written approval prior to the issue of a Construction Certificate.
4. There must be no steps along any bin carting route. Ramps and service lifts are acceptable.
5. *Note: bin carting routes include, but are not limited to, from the bin storage rooms to the ground level temporary bin holding bay, from the ground level bin storage/holding bay to the kerbside.*

6. For all bin carting routes, the path must be smooth hard surface. (Concrete pavement for example is acceptable, but pebbles, stepping stones, grass etc is not acceptable).
7. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the bin carting route from the ground level bin temporary bin holding bay to the street in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
  - a. Must be smooth hard surface.
  - b. Must be sufficiently wide to hold all serviceable bins and provide aisle space for manoeuvring bins out and in (including through any gates or doors).
  - c. Must be devoid of steps.
8. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the waste carting route from each dwelling to the bulky waste storage area 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).
  - b. The route is as short as possible and does not exceed 30m walking distance.
  - c. The route is an accessible path of travel for persons with a disability in accordance with AS1428 Design and Access for Mobility.
9. A dedicated bulky waste storage area of at least 8 square metres internal area must be provided at the basement level (B1).
10. A suitably sized lockable storage space must be provided for the motorised bin carting equipment (bin tug and trolley).
11. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that all waste storage room(s) have been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
  - a. The floor is to be constructed of concrete at least 75mm thick and adequately graded to drain to a Sydney Water approved drainage fitting.
  - b. The floor must be finished so that it is non-slip, sealed and impervious, and has a smooth and even surface covered at all intersections.
  - c. The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned.
  - d. The room is to be provided with artificial light controllable within the room and adequate forced ventilation.
  - e. The room is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - f. The doors are to be robust and lockable, with a door opening of no less than 2m. The doors must be able to be opened from inside the room without a key.

- g. The chute service room 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 bins for that building and to access and manoeuvre the bins. The doors to the chute service rooms must be wide enough and positioned to fit the 240L bins through.
12. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the bin holding bay at ground level has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and specifically the following requirements:
- a. There must be no step(s) between the bin bay and the street.
  - b. The bin carting route from the bin holding bay to the street must not exceed a gradient of 1:14.
  - c. The bin holding bays must be integrated into the overall design of the development and landscaping to minimise impact on the streetscape and include screening to a height of no less than 1.5m.
  - d. The internal dimensions of the ground level bin holding bay must be sufficient to house the required bin (refer to general conditions). Internal dimensions do not include wall thickness, support columns, ventilation shafts etc for which additional space must be allowed with consideration of the bin layout.

*Note: a 240L recycling bin is 600 mm wide by 750 mm deep.*

13. There must be a waste facility (a garbage chute and a 240 L recycling bin and 240 L 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 recycling bin are installed.
  - b. Comfortably house the required garbage chute and 240 L recycling bin and 240L FOGO bin.
  - c. Have door(s) wide enough and positioned so that the 240 L recycling bin and 240L FOGO bin can fit through with ease.
14. The recycling bin cupboard on each residential level must have internal dimensions of no less than ~~1425mm~~ 1330mm wide by ~~900mm~~ 850mm, and ~~double doors of width no less than 1600mm~~ and a door opening of no less than 1225mm ~~1500mm~~.

*Note: a 240 L recycling bin is 600 mm wide by 750 mm deep; allow for ease around the bin - 75 mm is recommended. These 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. AS 1428.1 requires at least 800 mm clear doorway opening for wheelchair access.*

*Note: Internal dimensions do not include wall thickness, door thickness, ventilation ducting etc, which must be added. AS 1428.1 requires at least 800 mm clear doorway opening for wheelchair access.*

15. 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 waste storage room and discharge into a waste bin.
  - d. The chute system must comply with the manufacturers technical specifications and operational limitations.
  - e. The gradient of each chute must be no less than the minimum gradient recommended by the chute manufacturer.
  - 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 day bin capacity under the chute.
  - g. The required volume handling equipment for each chute system must not include compaction.
  - h. The chute service rooms must have sufficient space to comfortably house the required volume handling equipment and to load/unload bins from this equipment, and sufficient space to store the spare garbage and recycling bins for that building and to access and manoeuvre the bins.

*Note: The linear track system or carousel volume handling equipment should be designed to accommodate 4x 240L general waste bins.*

*Note: 1x additional 240L bin will be provided for use under the chute on bin service days.*

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

## **26. 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.*

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

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

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

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

- a. Details of stormwater management and disposal during excavation and construction, consistent with other lodged Plans.
  - b. Identification of existing watercourses.
  - c. Sediment and erosion control measures.
7. Noise and Vibration
- a. Expected sources of noise and vibration during demolition, earthworks, and construction at sensitive receiver locations.
  - b. Duration of works that are expected to emit higher than average levels of noise and vibration (e.g., rock breaking and rock sawing).
  - c. Details of mitigation measures to minimise noise and vibration impacts
8. Waste Management
- a. Detail the reuse, recycling and disposal methods for all demolition and construction waste on site.
9. Site plan
- a. A site plan which identifies the following information at each stage of the development:
    - i. Existing and proposed buildings
    - ii. Site boundaries
    - iii. Extent of proposed earthworks (i.e., excavation and fill importation locations, and cut and fill locations)
    - iv. Existing trees and vegetation to be removed and retained and tree protection measures (consistent with TPP if required to be submitted as part of the Development Application)
    - v. Vehicle access and egress
    - vi. On-site vehicle parking areas
    - vii. Proposed hard-stand areas for loading and unloading materials, including the location of cranes and concrete pumps
    - viii. Location of material storage on-site, stockpiles, site sheds, hoardings, waste storage
    - ix. Location of sediment control measures (consistent with Erosion and Sediment Control plans submitted as part of the Development Application)
    - x. Potential Work Zone locations
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.*

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

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

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

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

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

## **29. Retaining Walls**

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

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

## **BEFORE WORK COMMENCES**

### **30. 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](mailto:devmail@hornsby.nsw.gov.au).*

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

### **31. 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.*

### **32. Erection of Construction Sign**

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

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

### **33. 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.*

#### **34. 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.*

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

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

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

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

#### **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. Erosion and Sediment Control**

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition), the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

*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 the water quality of the downstream environment.*

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

1. Trees to be retained and numbered T1 and T5 as identified on the Tree Location Plan prepared by Horticultural Resources Consulting Group, dated 8 December 2022 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 Management Plan (Appendix A) prepared by Horticultural Resources Consulting Group, dated 8 December 2022.
  - b. For the duration of construction works, in accordance with Tree Management Plan (Appendix A) prepared by Horticultural Resources Consulting Group, dated 8 December 2022.
2. Tree protection fencing for the trees to be retained numbered T1 and T5 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.

*Reason: To protect trees during construction.*

## **DURING DEMOLITION AND BUILDING WORKS**

### **39. Demolition and Construction Work Hours**

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

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

### **40. 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.*

#### **41. Handling of Asbestos During Demolition**

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

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 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on-line reporting tool Waste Locate.

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

#### **42. Environmental Management (Air Pollution)**

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

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.*

#### **43. Street Sweeping**

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

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

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

#### **44. Works Zone**

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

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 for the times approved by Council, and the time is to be noted on the sign. E.g., '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.

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

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

#### **45. Council Property**

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

*Reason: To protect public land.*

#### **46. Disturbance of Existing Site**

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

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

#### **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 docket 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. Survey Report**

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

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.*

#### **49. Waste Management Details**

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

1. The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997.
2. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the Protection of Environment Operations Act 1997.

3. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.
4. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
5. All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the Protection of Environment Operations Act 1997 must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
6. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.
7. Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifier within fourteen days of the date of completion of the works:
  - a. The identity of the person removing the waste.
  - b. The waste carrier vehicle registration.
  - c. Date and time of waste collection.
  - d. A description of the waste (type of waste and estimated quantity).
  - e. Details of the site to which the waste is to be taken.
  - f. The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
  - g. 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.*
8. A report must be prepared by a registered surveyor and submitted to the principal certifying authority:
  - a. Prior to the pouring of the concrete on the ground level, certifying that: the ground level bin storage/holding bay is at the same level as the driveway (no steps).

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

#### **50. Compliance with Acoustic Report**

All control measures nominated in the Acoustic Report Ref: 20221390.1/1312A/R0/ANP, prepared by Acoustic Logic, dated 13/12/2022 must be implemented.

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

**51. Compliance with Construction Management Plan**

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

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

**52. 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.*

**53. 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 and T5 on the approved plans.

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

**54. Maintaining Tree Protection Measures**

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

*Reason: To protect trees during construction.*

**55. 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 40mm.
2. Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
  - a. Excavations for the construction and/or installation of the house/deck/driveway/piers in the Tree Protection Zone of trees to be retained

on the approved plans must be supervised by the project arborist for the first 1 metre undertaken manually to locate roots and allow for pruning in accordance with condition 57(1).

3. To minimise impacts within the Tree Protection Zone (TPZ) of trees to be retained 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.
4. 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 and.
  - b. Installation of geotextile fabric ground covering and.
  - c. Installation of scaffold boarding above the woodchip and geotextile fabric.

*Reason: To protect trees during construction.*

#### **56. Unexpected Finds**

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

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

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

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

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

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

#### **58. 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.*

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

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

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

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

#### **60. 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 Water Saving Urban Design facilities have been constructed and will meet the water quality targets as specified in the Hornsby Development Control Plan 2013.

*Reason: To ensure compliance with WSUD commitments.*

#### **61. Replacement Tree Requirements**

1. The trees approved for removal under this consent, being trees numbered T3 and T4 must be offset through replacement planting of a minimum of 2 trees.
2. These 2 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 plantings 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.*

#### **62. Final Certification**

The AQF 5 Project arborist must submit to the Principal Certifier 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.*

**63. 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 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.*

**64. Unit Numbering**

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

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

**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](http://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. Creation of Easements**

The following matter(s) must be nominated on the title of the property under 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.*

**67. 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.*

#### **68. Preservation of Survey Marks**

A certificate by a Registered Surveyor must be submitted to the Principal Certifying Authority, 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.*

#### **69. Completion of Landscaping**

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

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

*Reason: To ensure compliance with landscaping commitments.*

#### **70. 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.*

#### **71. Submission of Excavated Material Tipping Dockets to Principal Certifying Authority**

Tipping docket 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.*

#### **72. 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. Standard terms for easements etc can be found on Council's website.*

*Reason: To create legal entitlements to facilitate waste management.*

### **73. Waste Management Details**

The following waste management requirements must be complied with:

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

*Note: Waste and recycling management facilities includes everything required for on-going waste management on the site. For example, the 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, all external works including but not limited to the vehicular crossover and footpath, must be completed.

3. A report must be prepared by an appropriately qualified person, certifying the following:

- a. A comparison of the estimated quantities of each demolition and construction 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*

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

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

- c. All demolition and construction waste were taken to site(s) that were lawfully permitted to accept that waste.

4. The bin carting routes must be devoid of any steps and must be wholly within the site.

*Note: Ramps between different levels are acceptable. The use of the public footpath is not acceptable.*

5. Each residential unit must be provided with two separate 15-20L containers/bins for the interim storage of waste to landfill and recyclables. The containers/bins are to be accommodated within a cupboard in the kitchen.

6. Space must be provided for either individual compost containers for each unit or a communal compost container.

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

7. There must be a dedicated communal bulky waste storage area of at least 8 square metres.
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.
9. The bin storage / chute service room at basement level B1 must include water or a hose for cleaning, graded floors with drainage to sewer, sealed and impervious surfaces, robust door(s), adequate lighting and ventilation, and must be lockable.
10. The temporary bin holding bay at the ground level must include sealed and impervious surfaces, robust door/gate and must be lockable.
11. The waste facility rooms/cupboards (housing the garbage chute and individual recycle and FOGO bins) on each residential level must include sealed and impervious surfaces, adequate lighting and forced ventilation.
12. There must be a waste facility (a garbage chute and a 240L recycling bin and a 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 recycling bin are installed.
  - b. Comfortably house the required garbage chute and 240L recycling bin and 240L FOGO bin.
  - c. Have door(s) wide enough and positioned so that the 240L recycling bin and the 240L FOGO bin can fit through with ease.
  - d. Include sealed and impervious surface, adequate lighting and ventilation.
13. A motorised bin cart, trolley or similar equipment must be provided to enable the site caretaker to safely cart the bins around the site. This equipment must be suitable for the ramp grades along the bin carting route and the approved bin sizes.
14. Lockable storage space must be provided for all equipment required for the operation of the waste management system, including a bin lifter, motorised bin carting equipment.
15. Each garbage chute must be fitted with automatic waste volume handling equipment that automatically changes the bin under the chute when it becomes full, thereby providing no less than 3 days bin capacity under the chute. Access to the automatic waste volume handling equipment by unauthorised persons (including residents and waste collectors) must be prevented. The automatic waste volume handling equipment on the chute system must not include compaction.

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

#### **74. Vehicular Crossing**

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be constructed in accordance with AUS-

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

1. Design levels at the front boundary must be obtained from Council for the design on the internal driveway.
2. Any redundant crossings must be replaced with integral kerb and gutter.
3. The footway area must be restored by turfing; and
4. Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

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

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

#### **75. 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.*

#### **76. 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.*

#### **77. External Lighting**

1. To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with Australian Standard AS4282 Control of the obtrusive effects of outdoor lighting.
2. Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the PCA with the application for the Occupation Certificate.

*Reason: To protect the amenity of the surrounding environment and neighbouring properties.*

#### **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. The entry doors to the pedestrian foyer is to be constructed of safety rated glass to enable residents a clear line of site before entering or exiting the residential apartments.

3. Lighting is to be provided to pathways, building foyer entries, driveways and common external spaces.
4. Security gate access is to be provided to the car parking areas allowing residents-only access to private car spaces.
5. CCTV cameras must be installed at the entry and exit point and the around the mailbox.
6. The communal open spaces within the site must be illuminated with high luminance by motion sensor lighting.
7. The driveway and basement car parking must be illuminated with low luminance at all times.
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. 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.*

#### **79A. Certification of Acoustic Measures (Mod A)**

Prior to the issuance of an Occupation Certificate, a suitably qualified Acoustic Consultant must submit an acoustic compliance report to the Principal Certifier. This report must confirm that all acoustic measures have been implemented in accordance with the recommendations outlined in the approved Acoustic Report prepared by Acoustic Logic, dated 13 December 2022 (reference: 20221390.1/1312A/R0/ANP), and that noise emissions from mechanical equipment do not exceed the specified noise criteria within the approved Acoustic Report.

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

### **ONGOING USE**

#### **80. 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.*

#### **81. 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.*

#### **82. Landscape Establishment**

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

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

#### **83. Car Parking and Deliveries**

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

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.
4. All vehicular entry on to the site and egress from the site must be made in a forward direction.
5. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
6. Visitors must be able to access the visitor parking spaces at all times. These spaces are not to be used by residents as storage or parking spaces.
7. Motorcycle parking spaces are to be designed in accordance with AS/NZS2890.1:2004 Figure 2.7.

8. Bicycle parking spaces are to be designed in accordance with AS2890.3-1993 Bicycle parking facilities.

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

#### **84. Waste Management**

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

1. The approved Waste Management Plan is to be implemented throughout the ongoing use of the development.
2. The development must operate in full compliance with Council's waste management collection requirements.
3. Bin storage room at basement level must include the following:
  - a. Bin carousel or linear track system capable of circulating 4 x 240L waste bins, and include 1 x 240L spare waste bin.
  - b. 8 x 240L recycling bins; and
  - c. 5 x 240L FOGO bins.
4. The temporary bin holding area at ground level must accommodate the following:
  - a. 5 x 240L waste bins; and
  - b. 8 x 240L recycling bins.
5. There must be a sufficient number of bins on site to contain the volume of waste and recycling expected to be generated between collection services. There must be a sufficient number of rotational bins on site for there to be a garbage bin under each chute and a recycling bin in each bin cupboard on each residential level on collection days.
6. A site caretaker must be employed and be responsible for:
  - a. Moving bins where and when necessary, washing bins and maintaining waste storage areas and signage, ensuring the chute systems and related devices are regularly checked and maintained in effective and efficient working order. Maintaining and checking all waste management equipment (e.g. bin cart/tug), managing the bulky item storage area, arranging the prompt removal of dumped rubbish, arranging for shopping trolleys to be promptly returned to the local shopping centre(s), ensuring recycling bins are free of contamination (which includes but is not limited to garbage, plastic bags, clothing, etc.), addressing overflowing bins and pest infestations, liaising with Council on waste matters and ensuring all residents are informed and kept up to date on the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.
7. Bins must not be permanently stored in the ground level temporary bin holding area. All mobile garbage bins that are placed in the ground level temporary bin holding area

for collection must be taken back to their bin storage room on the same day of service.

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

8. No waste storage containers are to be located or placed outside of the approved waste storage area at any time except for collection purposes.
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 storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. Signage is also to be provided in locally appropriate culturally and linguistically diverse (CALD) community languages.
10. Note: Council may be able to assist with signage.
11. Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste management system.
12. 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.
13. All equipment required in the operation of the approved waste management system must be regularly checked and maintained in effective and efficient working order in accordance with the manufacturer's instructions by trained service technicians.

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

**- END OF CONDITIONS -**