

## JOINT REGIONAL PLANNING PANEL (Sydney East Region)

<b>JRPP No</b>	<b>2010SYE101</b>
<b>DA Number</b>	<b>10/DA-480</b>
<b>Local Government Area</b>	<b>Hurstville City Council</b>
<b>Proposed Development</b>	<b>Erection of a ten storey mixed use development with two commercial and two retail tenancies at ground level and thirty nine residential units above with four levels of basement parking for fifty car spaces.</b>
<b>Street Address</b>	<b>11-13 Treacy Street, Hurstville</b>
<b>Applicant/Owner</b>	<b>Dickson Rothchild Design / City Cutting Concrete Services Pty Ltd</b>
<b>Number of Submissions</b>	<b>Twenty nine (29) submissions</b>
<b>Recommendation</b>	<b>Refusal</b>
<b>Report by</b>	<b>Ilyas Karaman – Senior Development Assessment Officer</b>

### Assessment Report and Recommendation

#### EXECUTIVE SUMMARY

1. The application seeks approval for a ten (10) storey mixed use building with two (2) commercial, two (2) retail tenancies at ground level and thirty nine (39) residential units above with four (4) levels of basement parking for fifty (50) car spaces.
2. The proposal significantly exceeds the maximum height requirements of seven (7) storeys and the maximum floor space ratio of 5.6:1 under Council's Development Control Plan - Hurstville City Centre with a proposed floor space ratio of 6.57:1 resulting in an additional three (3) storeys in height. The proposed variations to the DCP lack adequate justification and hence cannot be supported.
3. The proposed design is restricted in design, given construction has commenced on the site under an approved development with the same footprint, which mirrors the proposal to seven (7) of its storeys. Hence, the design results in issues of poor amenity to the residents of the building with regard to the layout of units, the proposed number of units with a single southerly aspect, pedestrian access and lack of any provision for communal landscaped open space.

4. The Urban Design Review Panel could not support the proposal, given amenity issues and the lack of justification provided for exceeding the density requirements with respect to any additional benefits to the amenity of residents or the community.
5. The proposal was publicly exhibited in accordance with statutory requirements and received twenty nine (29) submissions in support, which are discussed in the report.

## **RECOMMENDATION**

THAT the application be refused for the reasons stated in the report.

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## **DESCRIPTION OF THE PROPOSAL**

The proposal seeks approval for the proposed construction of a ten (10) storey mixed use development with a total of thirty-nine (39) residential units, two (2) commercial units and two (2) retail shops with basement parking for a total of fifty (50) car spaces. The proposed built form covers a corner site with two (2) street frontages at Treacy Street and The Avenue, Hurstville. The apartment mix consists of a total of seven (7) x one bedroom units, twenty eight (28) x two bedroom units, three (3) x three bedroom units and one (1) x four bedroom units.

The development will comprise specifically of the following:

- Ground Floor: Two (2) retail shops and two (2) commercial shops comprising of a total of 229.48 square metres, lobby entry with one (1) lift and fire stairs, base of light well, utility rooms and separate loading dock with access to garbage room, combined vehicle entry and exit to basement levels;
- Basement 1: Car park for 12 vehicles spaces including one (1) accessible car space with lift & stairwell access;
- Basement 2: Car park for 12 vehicles spaces including one (1) accessible car space with lift & stairwell access;
- Basement 3: Car park for 12 vehicles spaces including one (1) accessible car space with lift & stairwell access;
- Basement 4: Car park for 14 vehicles spaces including one (1) accessible car space with lift & stairwell access and fan room;
- Levels 1- 4: Lobby area to 1 x one bedroom unit and 4 x two bedroom units with single lift and single fire stairwell;
- Level 5 -7: Lobby area to 1 x one bedroom unit and 4 x two bedroom units with single lift and single fire stairwell with a slight variation to floor plans on lower levels ;

- Level 8: Lobby area to two (2) storey units with living areas and some bedrooms at this level comprising of 3 x three bedroom units and 1 x four bedroom unit, lobby and single fire stairwell;
- Level 9: Upper level of two (2) storey units accessed by internal stairs with bathroom;
- Roof top: Individual terrace areas accessed by internal stairs from four (4) units directly below.

The vehicular access to the basement car park levels is at the western boundary of the site along Treacy Street via a combined vehicle entry and exit and adjacent is separate to a loading dock area with access to the garbage room.

The residential lobby with single lift is accessed at The Avenue street frontage with individual entries to the commercial and retail units, all from the same street frontage. A light well, measuring approximately 4.8m x 5.7m is provided along the western side, which continues through to the upper levels and is located in the centre at this boundary to correspond with the light well of the adjoining building.

A pedestrian footpath is proposed along both street frontages at the level of the ground floor, in accordance with Council's requirements and taking into account any future widening of The Avenue.

Amended plans were submitted by the applicant to remove the wrap around terrace on level 9, which comprises of the upper bedroom levels of the two storey units and results in an increase to the setback along the southeast corner of the building. The amendment also included an internal reconfiguration of level 9 to accommodate the addition of internal stairwells for the two storey units for access to private open space on the roof-top. Other minor internal changes were also made to the internal reconfiguration of units 22, 27 and 32 with the relocation of living areas to improve solar access at the eastern facade of the building.

## **BACKGROUND**

This site has been the subject of a previous development application, 2003/DA-748 approved on the 4 August 2004 for the demolition of an existing building and the construction of a mixed use development comprised of seven (7) storeys with basement car parking. This development was approved with use of the ground floor for commercial and retail and six (6) storeys above for residential use comprising of a total of 29 units in compliance with Council's Development Control Plan for floor space ratio and height controls. Works have already commenced including excavation of basement levels and construction of the levels above ground levels to the approved seven (7) storey height of the building.

This proposal under the subject development application has the same footprint as the seven (7) storey mixed use development already approved including the ground floor commercial, retail space with vehicular and pedestrian access all remaining the same. Whilst the above residential levels are also very similar in unit layout including the configuration of the light well on the western boundary with the proposed variation of

three (3) additional storeys increasing the total number of previously approved units from twenty nine (29) to thirty nine (39) units. It is noted that the same controls remain unchanged on the site with regard to maximum height of seven storeys and maximum floor space ratio of 5.6:1. As such this development application proposes significant variations to the development application previously approved on the site.

## **DESCRIPTION OF THE SITE AND LOCALITY**

The site is located within Hurstville town centre on the south west corner of the junction of Treacy Street and The Avenue, approximately 500m from the Hurstville Railway Station, with the Illawarra Railway Line abutting to the south. The site has a frontage of 20.8m to Treacy Street and 27.9m to The Avenue, is rectangular in shape with a curved splay to the corner and occupies a total area of 562.1sqm. The fall of the land is marginally from front to rear.

Currently, the site has already been excavated for the four basement levels, whilst construction of the residential levels have commenced to the height of the current approved mixed use development under 03/DA-748.

The site is located within the town centre, yet distanced from the natural hill tops and ridges that define the natural topography of Hurstville Town Centre. As such, the site falls away and slopes away from Forest Road to the railway line located on the lower land.

The existing surrounding built form is a mixture of residential and commercial/retail buildings with heights that range from two (2) storeys to seven (7) storeys (current approved development height of subject site). The exception is the existing building on 107 Forest Road at its site boundary on the intersection of Treacy Street and The Avenue and located northeast of the subject site. The existing built form of this building is twelve (12) storeys in height including four (4) levels of above ground parking. This building appears to be an overdevelopment on a constrained site and is considered undesirable in height and it's generally built form and would have less visual impact to the streetscape and its surrounding had the development complied with the maximum seven (7) storey height control on the site.

As such the height and density controls are based on site specific blocks under Council's Development Control Plan No.2 – Hurstville City Centre (2007). The methodologies of the height and density controls are largely influenced by the Hurstville City Centre Master plan, 2004.

In this vicinity of the site, a maximum of seven (7) storeys (as per the subject site) is generally permitted on some sites within blocks. Whilst other sites, within the same block are restricted to four (4) storeys. As per the existing building adjoining the western boundary at 15 Treacy Street.

Further west of the site along Treacy Street on the same block, height controls vary from a maximum of seven (7) storeys at sites 29C and 29D, provided site amalgamation is undertaken and a view corridor can be established. There is a transition on further sites at 29A and 29B with a height reduction to a maximum of four (4) storeys.

It is noted that on this block at 21-35 Treacy Street is a current proposal under Part 3A of the Environmental Planning and Assessment Act 1979 as the CIV is \$134 million dollars. This

proposal will consolidate seven (7) allotments of land with an area of 4,119 sqm at a height of sixteen (16) storeys. The proposal is yet to be determined by the Minister for Planning and Infrastructure.

Treacy Street is identified as a secondary street in the street network hierarchy as stated in Development Control Plan No 2 – Hurstville City Centre. The road traffic management immediately adjacent the site, at the intersection of Treacy Street and The Avenue includes the following:

- Treacy Street is one way direction to the west;
- The Avenue is one way south for traffic north of Treacy Street and two way for traffic south of Treacy Street, where it intersects with Railway Parade;
- Traffic light at the intersection of The Avenue and Treacy Street;
- Traffic light at the intersection of The Avenue and Railway Parade;
- Use of triangular median islands to further manage traffic from adjoining roads.

The above traffic management requires traffic entering The Avenue via the subway from Railway Parade to turn left into Treacy Street. Pedestrian crossings are provided at the intersections. Hurstville Council has proposed to widen The Avenue under the Illawarra Railway Line on the eastern side between Treacy Street and Railway Parade from 2 lanes into 4 lanes.

## **COMPLIANCE AND ASSESSMENT**

The development has been inspected and assessed under the relevant Section 79C (1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

### **Statutory Controls**

- State Environmental Planning Policy No. 65 - Design Quality in Residential Buildings;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy No 55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007;
- Hurstville Local Environmental Plan 1994;
- Section 94 contribution of E.P. & A. Act 1979;
- Draft State Environmental Planning Policy (Competition) 2010

### **Policy Controls**

- **Development Control Plan No 2 – Hurstville City Centre:**  
Section 2.2- Neighbour Notification;  
Section 4.2 – Built Form Controls;  
Section 6.3 – Access and Mobility,  
Section 6.4 - Crime Prevention through Environmental Design.

### **Consent Authority**

As this proposal has a Capital Investment Value (CIV) of greater than \$10 million, the

determination of the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

## **1. Environmental Planning Instruments**

### Hurstville Local Environmental Plan

The land is zoned no. 3(b) (City Centre Business Zone) under the provisions of the Hurstville Local Environmental Plan (LEP) 1994. The proposed use as a mixed use building is not defined in the LEP; however, it is a permissible use, given that it is not listed as a prohibited use in the zone. The other components of the building are listed being the residential units defined as a “Residential Flat Building” and the retail areas defined as “Shops”, whilst the commercial defined as “Business Premises”.

The objectives of the zone no. 3(b) (City Centre Business Zone) are as follows:

- (a) to designate sufficient areas of land to meet the projected needs of the Hurstville Town Centre as a multi-functional regional centre,*
- (b) to facilitate development of land within the Hurstville Town Centre for commercial, retail, residential and community purposes,*
- (c) to provide a single business zone for the Hurstville Town Centre as a sub-regional centre,*
- (d) to facilitate the implementation of a development control plan for the Hurstville Town Centre:*
  - (i) by introducing appropriate floor space ratio controls,*
  - (ii) by encouraging an economically viable retail core which is centrally located and in close proximity to public transport,*
  - (iii) by enhancing employment opportunities and to service the needs of the local and regional community,*
  - (iv) by encouraging and facilitating the use of public transport,*
  - (v) by providing and enhancing pedestrian and public open space areas for shoppers and workers,*
  - (vi) by maintaining and improving the environmental and aesthetic quality of the Hurstville Town Centre and its surrounds,*
  - (vii) by ensuring adequate and accessible off-street car parking, and*
- (e) to improve traffic flow in and around the Hurstville Town Centre.*

It is considered that the proposed development generally satisfies the general objective in (b) i.e. *“To facilitate the development of land within the Hurstville Town Centre for commercial, retail, residential and community purposes.”*

However, in regards to specific reference to objective (d) (i), it is considered the proposal does not facilitate the implementation of a development control plan for the Hurstville Town Centre, particularly as the proposed variation for the control of the maximum permitted floor space ratio on the subject site as specified by the Development Control Plan No 2 – Hurstville City Centre is considered to be excessive that will result in a further variation to the maximum permitted seven (7) storey height limit with the addition of a further three (3) storeys

### **Clause 14 – Tree preservation orders**

Consent for removal of trees is not required as no trees are present on the site.

### Clause 15 – Services

Pursuant to Clause 15, water supply, sewerage and drainage infrastructure is required to be available to the land. It is considered the above services can be provided to the proposed development on the land. Council's Manager Development Advice has advised of no objection to the proposed drainage of the site, subject to imposed conditions of consent such as on-site detention system, the underground basement be required to pump out any storm water and that all other storm water to be drained by gravity to the street.

### Clause 22 – Excavation, filling of land

Under this clause, adequate regard is to be given to any potential impacts to existing drainage patterns and soil stability in the locality regarding excavation of the site for four (4) levels of basement. As the site is also bordered by the railway to the north, concurrence from RailCorp was sought for the proposal.

A geotechnical report was submitted for the site, prior to excavation of the four (4) levels of basement under the approval of development application, 03/DA-748. Accordingly, further consideration is not sought regarding this clause. RailCorp has also advised that concurrence is not required due to the fact that the first two levels of excavation have already been completed.

### Clause 25A – Advertising and signage

No outdoor advertising or signage is proposed as part of the application.

### Clause 33 – Development in the vicinity of a heritage item.

The nearest heritage items within the vicinity as listed in Hurstville LEP 1994 are identified in Schedule 2 as 127 -137 Forest Road, Hurstville being Advance House or formerly known as Swans Hardware and 16 - 18 Treacy Street, Hurstville – Fretus Corner formerly Fretus Service Station.

At 127- 137 Forest Road, consent has been issued for a seven (7) storey mixed use development on the basis that retention of the front façade of this heritage building is incorporated along the Forest Road frontage of the approved building. The proposal is considered unlikely to have an adverse impact on the item, given the approved built form on the site at 127- 137 Forest Road will further screen the heritage item from the subject site at 11-13 Treacy Street. The heritage items at 16 - 18 Treacy Street, Hurstville, given their orientation on site and are located at a distance of over 100m from the site are not readily visible to the subject site, as such, the proposal is considered unlikely to have an adverse impact on these items.

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

In accordance with this policy, all new residential dwellings and those seeking alterations and additions as identified under this policy require a BASIX certificate that measures the Building Sustainability Index to ensure dwellings are designed to use less potable water and

are responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for house and units.

The application is supported by a satisfactory BASIX certificate that satisfies the requirements for new dwellings under this policy.

#### State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

Under the current development application approval of the site for 03/DA-748, a detailed Stage 2 investigation into any potential contamination was undertaken on the site as contained in the Environmental Site Assessment report, prepared by Environmental Investigation Services (EIS), dated July 2004. This included a site inspection, review of historical site information as further provided in the preliminary contamination assessment report prepared by Douglas Partners (August 2003), and soil/fill sampling in accessible areas of the site.

That report states:

*“Elevated levels of contaminants were not detected in the samples analysed. All results were less than the most sensitive health-based criteria outlined in the National Environment Protection (Assessment of Site Contamination) Measure 1999 (NEPC Guidelines) and the NSW EPA Guidelines for Assessing Service Station Sites – 1994.*

*The proposed basement development will remove all of the fill material and some natural soils from the site....”*

*The conclusions based on this investigation are that, while major contamination of the site is not apparent, problems may be encountered with smaller scale features between boreholes. EIS adopts no responsibility whatsoever for any problems such as underground storage tanks, buried items or contaminated material that may be encountered between sampling locations at the site. The proposed construction activities at the site should be planned on this basis, and any unexpected problem areas that are encountered between boreholes should be immediately inspected by experienced environmental personnel. This should ensure that such problems are dealt with in an appropriate manner, with minimal disruption to the project timetable and budget.*

*Based on the scope of work undertaken, the site is considered to be suitable for the proposed combined commercial and residential development.”*

**Comment:** It is considered at the time, the applicant fulfilled their duty as required under the provisions of the SEPP No. 55 by obtaining a Detailed Site Investigation Report which states that the site is not contaminated and can be used for the intended use.

However, as that report does highlight some limitations, if the application is approved, it is suggested that specific conditions of consent be imposed which require the applicant to monitor the soil, fill and unsuspected materials encountered during construction; and in the event that the soil is found to be contaminated, a detailed site contamination investigation of the site must be carried out as well as a Remedial Action Plan be prepared in accordance with the EPA’s guidelines.



Further, prior to the issue of an occupation certificate, a report prepared by an appropriately qualified environmental and geotechnical engineer confirming that the assumptions made in the Environmental Site Assessment Report undertaken by Environmental Investigation Services are correct must be submitted by way of a validation report to either Council or the accredited certifier.

Accordingly, prior to any issue of consent, this development application would also require that the applicant to monitor the soil, fill and unsuspected materials encountered during construction; and in the event that the soil is found to be contaminated, a further detailed site contamination investigation of the site will be required with a Remedial Action Plan in accordance with the EPA's guidelines.

#### State Environmental Planning Policy (Infrastructure) 2007

The State Environmental Planning Policy (Infrastructure) 2007 applies to the site, given clause 85, 86 and 87 of the SEPP as the development site is immediately adjacent to rail corridors and involves excavation. Accordingly consideration under RailCorp was sought for the development.

RailCorp raised no objections to the proposal, given the 03/DA-748 was approved for a multi-storey building and excavation of the first two levels had already been completed. Furthermore, RailCorp has recommended that the following issues be addressed via specific conditions relating to accurate survey of property boundaries, dilapidation reports, acoustic compliance including from vibration sources in accordance with the Guidelines, geotechnical report, Risk Management Plan, storm water management, access arrangements for owner during works on RailCorp owned land, graffiti management and maintenance of a deed agreement between RailCorp and owner.

#### State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Buildings

The subject planning instrument is applicable as the proposed development satisfies the definition of a residential flat building as prescribed under the SEPP. Further to the design quality principles and referral to the Urban Design Review Panel, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled Residential Flat Design Code.

There are a number of guidelines and rules of thumb contained in the Residential Flat Design Code which accompanies SEPP 65 that are applicable to the proposed development. These provide a meaningful and quantifiable assessment of the merits and deficiencies of the proposal, when assessed against SEPP 65 and in turn inform whether the design quality principles contained in SEPP 65 are addressed.

The following table outlines compliance with the Residential Flat Design Code, where applicable:

STANDARD	OBJECTIVE	PROVIDED	COMPLIANCE
<b>PART 1 – LOCAL CONTEXT</b>			
<b>BUILDING DEPTH</b>	Max. 18m (glass line to glass line)	Range from 8m - 10m.	Yes

BUILDING SEPARATION	<p>Buildings to achieve daylight access, if less must demonstrate daylight access, urban form and privacy achieved satisfactory</p> <p>Up to 4 storeys/12m in height. -12m habitable rooms/balconies to habitable rooms/balconies -9m, habitable rooms/balconies to non-habitable rooms -6m, non-habitable rooms to non-habitable rooms.</p> <p>5 to 8 storeys /12m to 25m in height. -18m habitable rooms/balconies to habitable rooms/balconies -13m, habitable rooms/balconies to non-habitable rooms -9m, non-habitable rooms to non-habitable rooms.</p>	<p>Located on corner only western boundary subject to party wall relies on light well for cross ventilation &amp; solar access at boundary</p>	<p>Yes</p> <p>Yes</p>
FLOOR SPACE RATIO (FSR)	<p>To ensure that the development is in keeping with the optimum capacity of the site and the local area. FSR is not specified in the Design Code</p>	<p>Exceeds overall max. 5.6:1 with proposed 6.7:1</p>	<p>No(1)</p>
PART 2 – SITE DESIGN			
DEEP SOIL	A minimum of	Basement is	No.(2)

ZONES	25% (429sq m) of the open space area of a site should be a deep soil zone, more is desirable. Exceptions may be made in urban areas where sites are built out.	excavated to boundaries and no landscaping proposed.	
OPEN SPACE	Communal open space should be generally between 25% of the site area. (140.5 sq.m)	No communal. area provided	No.(3)
PEDESTRIAN ACCESS	Barrier free access to 20% of units	Only one (1) lift provided.  Level 8 &9 are two storey units with living areas accessed via lift on level 8, whilst level 9 & roof top via stairs only.	No.(4)
VEHICLE ACCESS	Limit width of driveways to 6 metres and locate vehicle entries on the secondary frontage.	6m at Treacy St. frontage.	Yes
<b>PART 3 – BUILDING DESIGN</b>			
APARTMENT LAYOUT	Max. depth from window of single aspect apartment 8.0m  The back of a kitchen should be no more than 8 metres from a window.	Single aspect units limited to 8m depth from window of light well.  Units 3, 8, 13, 18, 23, 28, 33 are 10m & units 22, 27, 32 are 9m from direct window living area.	Yes  No. (5)
	Unit sizes	1br =min.71.2sqm	Yes

	1br :50 sqm 2br : 70sqm 3br : 124sqm	2br= min.73sqm 3br= min. 125sqm	
APARTMENT MIX	To provide a diversity of apartment types, which cater for different household requirements now and in the future.	The proposal incorporates 7 x 1br + 28 x 2br and 3 x 3br and 1 x 4br units, which does provide a diversity of apartment mix.	Yes.
BALCONIES	Primary balconies to be a minimum of 2 metres in depth.	All units have primary balcony with min. 2m in depth.	Yes
CEILING HEIGHTS	Retail/comm. 3.3m First floor Residential 3.3m  2.7 metres for residential levels.	GF retail :3.45m  FF residential 2.9m  A ceiling height of 2.9m is provided for levels 1-8 and 2.4m for level 9.	Yes  No (6)  Yes
INTERNAL CIRCULATION	Maximum of 8 units to be accessible from a double loaded corridor.	5 x Units accessible from common corridor level 1-7 and 4 x units on level 8.	Yes
STORAGE	To provide adequate storage for every day household items within easy access of the apartment 1br : 6 cub.m 2br :8 cub.m 3br:10cub.m	1 br units 2br units 3br units	No (7) No No (can be conditioned)
DAYLIGHT ACCESS	Min 70% of units receive min 3 hrs of solar access  Max 10% units southerly aspect	Total – 28 units 71.79% receive direct solar access  17.9% - 7 units only single South aspect.	Yes  No(8)
NATURAL	60% of residential	31units (79.4%) are	Yes

VENTILATION	units should be naturally cross ventilated.  25% of kitchens should have access to natural ventilation.	naturally cross ventilated. 14 of these units rely on ventilation from light well  38.46% - 15 unit's kitchens have natural ventilation.	Yes
WASTE MANAGEMENT	Supply Waste Management Plan in conjunction with the DA.  Locate storage areas for rubbish away from front of development.	A Waste Management Plan has been submitted.  Garbage room in the basement	Yes

The following non-compliances with the Residential Flat Design Code are discussed below:

#### Floor Space Ratio (1)

The Residential Flat Design Code recommends that the development should be in keeping with the optimum capacity of the site and the local area. As previously stated, the proposed floor space ratio is well exceeded on the site. The approved development on the site complies with the control for floor space ratio resulting in a maximum height of seven (7) storeys. The additional floor space accentuates the building design to an undesirable height of ten (10) storeys. The nearby surrounding blocks and its individual sites under Council's DCP No. 2 permit a maximum of seven (7) storeys, whilst other sites are restricted to four (4) storeys as per the existing building adjoining the site on its western boundary. A complying height of seven (7) storeys would appear more suitable on the site and its immediate streetscape compared to a ten (10) storey building. The proposal is therefore considered to be an overdevelopment of the site and incompatible with the local context of desired development in the area.

#### Deep Soil Zones (2)

There is no deep soil zones proposed given the entire site is excavated to boundaries for the basement parking. Some provision for landscaping is proposed at the base of the light well, which is considered a very small area of 27.36sqm with use of planter boxes along The Avenue frontage. It is acknowledged that the car park in the current design is best suited below the ground to reduce further visual impact of the proposal and that landscaping is limited on the site on the street level.

#### Open Space (3)

The recommended communal open space should be generally 25% of the site area, which would contribute to 140.5 sq.m. The proposal does not provide any form of communal open space. The Urban Design Review Panel also recommended some form of communal landscaped open space for the roof- top. The amended plans as submitted, propose only individual roof- top terraces without landscaping, shading and with only restricted internal access from the four (4) larger two storey units on the top level of the building.

The applicant has not provided any additional benefit to the residents of the building in the form of communal open space despite the variations proposed to increase height and density of the building. Furthermore, the site does not benefit from a public park in the near vicinity. It is considered the amended design is poorly designed in terms of planning for communal open space. The lack of any communal open space on the site will further reduce the amenity of residents of the building.

#### Pedestrian access (4)

The proposal has only provided one (1) lift within the building accessed via the lobby and entry to the building from The Avenue. The proposal would have benefited from any additional pedestrian entry from the Treacy Street to activate its frontage given there is no pedestrian entry located along this frontage. Further, the additional entry would have utilised multiple entries to the building rather than the cluster of occupants to the single entry as proposed.

The single lift is also considered to be an issue regarding as it serves all thirty nine (39) units. Despite, the applicant providing additional information on the performance of the lift's overall round trip time. The amenity of the residents of the building would have been better served with an additional lift, which was also raised as an additional concern by the Design Review Panel.

#### Apartment Layout (5)

The recommended distance of the back of a kitchen is required to be no more than 8 metres from a window. The proposed apartment layout of Units 3, 8, 13, 18, 23, 28, 33 are a minimum of 10m and Units 22, 27, 32 are a minimum of 9m from a direct window to a living area. It is considered the proposed location of the kitchen of these units may have been better designed to provide additional ventilation and hence improve amenity to the residents.

#### Ceiling Heights (6)

The proposed first floor comprises of residential uses with a floor to ceiling height of 2.9m, whilst the Code recommends a height of 3.3m to promote future flexibility of use. The applicant has already commenced construction of the site under the previously approved building that restricts height on the first floor to 2.9m as approved. Hence, the proposed use on the first floor use for commercial use in the future may be restricted by the already built lower ceiling heights.

#### Storage (7)

The majority of the units in their apartment layout have minimal additional storage other than kitchen cupboards and bedroom wardrobes. It is considered that additional storage can be conditioned, if consent is issued for the proposal.

#### Daylight Access (8)

In regards to adequate solar access to all units within a building, a maximum of only 10% of proposed units are to have a single southerly aspect. The proposal has seven (7) units, which are 17.9% with a single Southerly aspect.

It is considered the design of the built form of the proposal is predominantly based on the previous approval of the seven (7) storeys mixed use building of 03/DA-748 and is therefore restricted in the design. Despite the construction of a light well to provide additional solar access and cross ventilation, issues of amenity to the residents of the building regarding aural and visual amenity from the light well may be affected. The amended plans submitted by the applicant propose frosted glass up to 1800mm above the floor level and acoustic glass to minimise potential noise, which will improve the amenity to these affected units.

Clause 50 of the Environmental Planning and Assessment Regulation 2000 requires that an application that relates to a residential flat building be accompanied by a Design Verification Statement from a qualified designer stating that the design quality principles as set out in Part 2 of the SEPP 65 are achieved for the development. The Design Verification Statement submitted with the application states that the residential development was designed by Dickson Rothschild with the design verification statement provided by Robert Nigel Dickson, a registered architect and that it was designed in accordance with the Design Quality Principles of SEPP 65.

Whilst full compliance with all of the provisions of SEPP 65 is desirable, it is accepted that this cannot always be achieved. The proposal has a number of unacceptable deficiencies that arise from within the site itself, rather than from site constraints. This is largely due to the proposed built form adopting the same design up to level 6 as that previously approved with minimal reconfiguration of the design despite significantly increasing the density of the building resulting in an excessive height proposed on a relatively small site.

## **2. Draft Environmental Planning Instruments**

### State Environmental Planning Policy (Competition) 2010

The aims of this policy are to promote economic growth and competition and to remove anti-competitive barriers in environmental planning and assessment.

Under Clause 8 of this policy, the commercial viability of proposed commercial development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application under Part 4 of the Act to carry out the proposed development. Accordingly, the proposed development under the provisions of such a policy would be acceptable.

### **Any other matters prescribed by the Regulations**

The Regulations prescribe the following matters for consideration for development in the Hurstville Council area:

Whilst no demolition is proposed, compliance with AS 2601 – 2001 will apply to the demolition of any buildings affected by the proposal.

### 3. Development Control Plans

#### DEVELOPMENT CONTROL PLAN No. 2 - HURSTVILLE CITY CENTRE

The table below is a summary of the compliance with controls from Council's Development Control Plan No. 2 Hurstville City Centre, Section 4.2. The site is identified as site 29F in Block 29B.

DCP No. 2 – Hurstville Town Centre	Required	Proposal	Complies
Use	Ground floor: retail/commercial	Ground floor – retail and commercial.	Yes
	Upper floors – commercial/residential	Upper floors – residential	Yes
Height	Block 29F – 6 storeys commercial, or one (1) storey commercial + 6 storeys residential	10 storeys (3 x additional storeys to maximum height). i.e. One (1) storey commercial + 9 storeys residential	No (1)
FSR	Block 29F : Residential = 5.6:1 Commercial = 5.1:1	Total FSR = 6.57:1	No (2).
Awnings	Cantilevered to Treacy Street	Splayed awning to both streets.	Yes
Balconies	Minimum 1 balcony per unit with min 8sqm each	Varies with min.10.8sqm	Yes
	2.0m min.	2.0m min.	Yes
Vehicle Access	Treacy Street	Treacy Street	Yes
Car parking	Basement	Basement_Total 50 spaces	Yes Yes
<u>Min. % on site / Use / Rate (sqm)</u>	min. 70% on site / Commercial / 1 per 50sqm: 157.8sqm, 4 x req'd.	3 provided. (Can be conditioned)	
	min. 70% on site / Retail / 1 per 25sqm: 71.61sqm, 3 x req'd.	2 provided.(Can be conditioned)	Yes



	min. 100% on site / Resid. / 1 per 100sqm: 3277.8sqm 33 req'd.  Visitors / 1 per 4 units 10 required  <u>total req'd.= 50 spaces</u>	41 provided.  4 provided. (Can be conditioned)  <u>total provided= 50 spaces</u>	Yes
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As can be seen from the table above, the proposal complies with the Development Control Plan No 2 with the exception of variations to height and floor space ratio, which are further discussed below.

#### (1) Height

The site as identified as Block 29F is required to have six (6) commercial storeys or one (1) commercial storey and six (6) storeys residential with the maximum height being seven (7) storeys. The proposal has a maximum height of ten (10) storeys at both street frontages.

The controls for the site as specified in the DCP were formulated based on urban form studies in the Hurstville City Centre Master Plan identifying blocks and individual sites with respect to existing topography. In accordance with the DCP, the taller buildings are suited and proposed along the natural ridges and plateaus along major roads such as Forest Road with lower buildings to be located in the valleys and on secondary streets or those lower in the street network hierarchy with the objective to enhance view corridors.

The natural topography of the site at this section of Treacy Street and adjacent to the railway line is generally low as compared to north of the site towards Forest Road. The maximum height of a building on the subject site identified as 29F and on those surrounding blocks, 25, 26 and 28 is seven (7) storeys with a transition to four (4) storeys within some blocks. This specific height control would allow such sites along the street frontage of Forest Road at Block 25, north of the site and on naturally higher land, a maximum permitted height of seven (7) storeys and would form a gentle transition in building heights to the subject site on Treacy Street at a permissible height of seven (7) storeys and still allow further view corridors on some sites.

The applicant has stated that the built form of ten (10) storeys with levels 8 and 9 reduced respectively in size of footprint will result in a well-designed building form. Further that any overshadowing from the proposal will provide adequate solar access to residential flat buildings located on the southern side of the railway. The applicant has stated the proposed height of the building at ten (10) storeys will provide a relative transition to existing building heights surrounding the site, with reference to the twelve (12) storey building that adjoins the rear of Treacy Street and The Avenue.

It is considered, whilst adequate solar access is provided to residential flat buildings on the southern side of the railway that the proposed built form at a height of ten (10) storeys is inconsistent with the desired built form, which permits a maximum height of seven (7) storeys on the site and surrounding blocks. Further that the existing twelve (12) storey building at the rear of Treacy Street and The Avenue appears bulky, isolated and not in scale with its surroundings or to the desired built forms as per the DCP. Accordingly, the proposed building height of ten (10) storeys is considered to be an overdevelopment of the site, whilst the current approved development of seven (7) storeys on the site is consistent with the desired built form as specified in the DCP.

## (2) Floor Space Ratio

The maximum permitted floor space ratio on the site is 5.6:1 for a seven storey mixed use building. The proposed development has a total floor space ratio of 6.57:1. The majority of this floor space is comprised in the additional three (3) storeys, given the approved development has the same building footprint and is comprised of the maximum permissible floor space area with a height of seven (7) storeys. The proposed built form would appear as an overdevelopment on the site, particularly with respect to the neighbouring building of four (4) storeys.

As construction of the site has commenced, the proposed built form is based on the previous development approval, as such the general internal layout of proposed units are considered to be minimal in the provision of solar access to habitable areas and cross ventilation. The additional floor space does not provide any communal open space. Accordingly, the benefits in general amenity to the residents of the building is considered to be poor and the additional floor area is considered excessive and cannot be supported.

## DEVELOPMENT CONTROL PLAN NO 2 – SECTION 6.3: ACCESS AND MOBILITY

This development guidelines require 1 adaptable dwelling for the first eight units and then 1 for every 10 units after that, or part thereof. This equates to a total of five (5) adaptable dwellings to be provided in the development. The proposal provides a total of only four (4) adaptable dwellings and four (4) accessible spaces in the development. It is considered an additional unit can be provided via condition of consent if the development is approved.

### Residential

One space per 20 spaces or part thereof to be provided, where parking areas have more than 20 spaces but less than 50 spaces for residential developments. Given the proposal requires only 33 residential spaces only two (2) accessible spaces are required, which is provided in the proposal.

### Retail

One space per 20 spaces or part thereof, where parking areas have more than 20 spaces but less than 50 spaces for retail developments. Given the proposed requires a total of only 5 spaces retail/commercial spaces, only one (1) space is required, whilst two (2) are provided.

## DEVELOPMENT CONTROL PLAN NO 2 – SECTION 6.4 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is deemed to satisfy the requirements of Development Control Plan No 2 - Crime Prevention through Environmental Design (CPTED) by addressing CPTED principles. These are discussed below.

	Design requirements	Proposal	Compliance (yes, no, N/A)
Fencing	Front max 1m, unless open type	No fencing is proposed	Yes
Blind corners	Direct pathways with permeable barriers Mirrors around corners Glass/steel panels in stairwells	Blind corners generally avoided, good viewing to and from street. Glass balustrade at disabled ramp.	Yes
Communal/ public areas	Habitable rooms adjacent to areas Good visibility to stairwells, entries, elevators	Habitable rooms face on to street. Good views from street to pedestrian entrances and from living areas to the street	Yes
Entrances	Max one entry point per 6-8 dwellings User can see into building before entering  Entrance clearly recognisable	- N/A for mixed use development of this nature.  - Clearly recognisable entry point with good views from the street	No (1)
Site and building layout	Main entrance orientated towards street, and not from rear lanes  Habitable rooms at front of dwelling	- Entrance from The Avenue  - Habitable rooms at front.	Yes  Yes
Landscaping	Low hedges and shrubs or high canopied vegetation No continuous barrier of dense growth Ground cover or 2m clean trunks around children's play areas, car parks and pedestrian pathways Prickly plants used as barriers Avoid vegetation that conceals building entrances Large trees next to second storey windows or balconies	Landscaping proposed only at the Avenue frontage is minimal.	Yes
Lighting	Use of diffused and/or movement sensitive lights Access/egress routes illuminated No glare or dark shadows produced No lighting spillage onto neighbouring properties Users can identify a face 15 metres	To be conditioned	Yes

	away Use of energy efficient lamps/fittings/switches		
Building identification	Each individual dwelling numbered Unit numbers provided on each level Building entries state unit numbers accessed from that entry	To be conditioned	Yes
Security	Intercom, code or card locks for building and car park entries Door and window locks comply with AS 220 Security access to basement parking via main building External storage areas well secured and lit	To be conditioned	Yes
Maintenance	Provision for the speedy removal of graffiti and repair/cleaning of damaged property Provision of information advising where to go for help and how to report maintenance or vandalism	To be conditioned	Yes

As can be seen from the above assessment, the development complies in full, or may be conditioned to comply in full with the exception of the entrance, which is discussed below.

#### (1) Entrance

The provision of a single entry and single lift has been previously discussed in the report. The concern is that the proposal does not activate both street frontages and only provides a single entry from The Avenue on the site. The provision of an additional lift decreases the number of persons per lift/lobby area and aims to increase a sense of ownership in this common area. This single entry to the building does not deter crime prevention on site particularly on the Treacy Street frontage, where there is only vehicular access to the basement car park and no available entry to retail and commercial units on the ground floor. Accordingly, the proposal would benefit from an additional entry and lift in the building to activate the Treacy Street frontage and provide additional passive surveillance to this frontage.

#### Hurstville Section 94 Contribution Plans

Council's Section 94 plans applies to the proposal. Conditions requiring relevant contributions would be included, if the application was recommended for approval.

### **4. Impacts**

#### Natural Environment

The site is under construction at above ground levels, based on the previous development approval. A report on geotechnical and structural stability was submitted by the applicant.

Based on the assessment of this report, it is considered the proposal is unlikely to adversely impact on existing drainage patterns and soil stability in the locality.

### Built Environment

As previously stated the additional proposed floor area results in a ten (10) storey mixed use building and if approved at such a height would contribute to further ad hoc built forms in the Town Centre. The building may potentially impact the view corridors relied on buildings north of the site with dual frontage to Forest Road and Treacy Street, if built to height and density controls as specified in DCP.

### Social & Economic Impacts

The proposal is likely to generate short-term employment during its construction phase and add to new local housing stock in the Hurstville Town Centre. The proposed apartment mix of units will provide some diversity in dwellings with regard to number of bedrooms.

### Suitability of the Site

The contamination assessment undertaken has recommended that the site can be made suitable for the proposed development provided any existing contamination on the building site is appropriately disposed and if required will be remediated in accordance the provisions under SEPP No.55.

## **5. REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST**

### **Resident**

Adjoining residents were notified by letter and given fourteen (14) days in which to view the plans in addition the proposal was also publicly exhibited during this time to allow any comments on the proposal.

Accordingly, twenty nine (29) submissions in support were received with the proposal during the notification period, which are summarised below.

### **Additional services in accordance with the LEP aims and objectives**

The proposal will provide community services, additional housing, employment and parking to meet the aims and objectives of the LEP.

**Comment:** It is considered, whilst the use of the commercial and retail units are currently unknown as to whether their proposed use will contribute directly to community services cannot be ascertained, whilst the proposal will facilitate additional housing, employment and parking in the area as an objective listed in Hurstville Local Environmental Plan 1994.

### **Good Urban design in accordance with the DCP and will enhance the area.**

The proposal provides a good urban design suitable for a ten storey and above development near the railway corridor.

**Comment:** As previously discussed, the proposal is inconsistent with the DCP No.2 - Hurstville Town Centre and accordingly its proposed built form is considered to be excessive in height and floor space ratio for the site and immediate area.

### **Improved Landscaping**

The proposal provides improved landscaping.

**Comment:** The proposal will provide minimal landscaping on site in the form of planter boxes along The Avenue and at the base of the light well.

### **Internal - Council Referrals**

#### Manager - Development Advice

Council's Manager of Development Advice raised no objections to the proposal and commented on the standard conditions recommended for mixed use developments with provisions for on-site detention system, and drainage requirements on the underground basement and any future Strata subdivision of the site.

#### Senior Health and Building Surveyor

No objections were raised by the Senior Health and Building Surveyor subject to recommended conditions of consent, if the proposal was approved. These relate mainly to rail noise and vibration requirements in accordance with the recommended acoustic report submitted with the application.

#### Senior Traffic Engineer

No objections were raised by the Senior Traffic Engineer subject to previous conditions of consent be imposed as per 03/DA-748, if the development should be approved.

#### Strategic Planning

Council's Strategic Planner has raised issues to the proposal's increase in height and floor space ratio, which vary from the controls specified under Council's Development Control Plan No.2. Reference was also made to the recent urban studies undertaken for the Amended Master plan for the City Centre Draft LEP, which is yet to be exhibited.

Accordingly the following comments were provided:

- The building bulk should be reduced and further articulated
- The natural ventilation and solar access appear to be on the limits
- The amount and form of landscaping is questionable, particularly with the proposed increase
- Driveway access across the Treacy Street footpath is generally undesirable (although few alternatives exist and it has previously been approved.)

### **External Referrals**

## Roads and Traffic Authority

The RTA has advised of no objections to the proposal and has recommended some standard conditions to assist Council in its determination of the application. In addition, The RTA has advised that Council should consider extending the triangular median island on Treacy Street (for the left turn slip lane on the Avenue) for an appropriate distance past the access driveway on Treacy Street to the proposed development.

It is considered, should the development be approved, the above recommendation regarding the extension of the triangular median island be imposed, given this is not a condition of consent on the current approval.

## RailCorp

As previously stated RailCorp raised no objections to the proposal, given the 03/DA-748 was approved for a multi-storey building and excavation of the first two levels had already been completed. Furthermore, RailCorp has recommended that the following issues be addressed via specific conditions relating to accurate survey of property boundaries, dilapidation reports, acoustic compliance including from vibration sources in accordance with the Guidelines, geotechnical report, Risk Management Plan, storm water management, access arrangements for owner during works on RailCorp owned land, graffiti management and maintenance of a deed agreement between RailCorp and owner.

## Southern Sydney Group Councils Design Review Panel

The SEPP requires a Design Review Panel (DRP) to give independent design advice to the consent authority on a development application for a residential flat building.

The design was discussed at the Southern Sydney Group Councils Design Review Panel on 3 February 2011. Below is a summary of the report to Council.

### ***“Generally”***

*As outlined in report by Hurstville Council. The proposal seeks approval for the construction of a new ten (10) storey mixed use development with four (4) levels of basement parking at 11-13 Treacy Street, Hurstville. The proposal also includes ground floor retail/commercial development and vehicular access to the basement from Treacy Street.*

*This site has been the subject of a previous development application, 2003/DA-748 approved for a mixed use development comprised of seven (7) storeys with four (4) basement levels with construction already undertaken. This development was approved with use of the ground floor for commercial and six (6) storeys above for residential use comprising of a total of 29 units.*

### **1. Context**

*As outlined in report by Hurstville Council. The site is located on the corner of 11-13 Treacy Street and The Avenue on the southern side of Treacy Street. The Illawarra Railway line abuts the site to the south with Hurstville Railway Station located approximately 500m further east of the site. The site has a total area of 562 sqm being polygon shaped with a frontage of*

20.8m to Treacy Street and 27.9m to The Avenue. The fall of the land is marginal from the front to the rear of the site. The site is currently under construction for the approved mixed use development of seven (7) storeys. The surrounding development on Treacy Street is comprised of a mix of building forms and uses with the scale of the adjoining buildings varying in height.

## **2. Scale**

This proposal is for 10 storeys above 4 levels of basement car parking. The two approvals allow for 6 storeys of commercial development or for one level of commercial and 6 residential levels. This proposal is 3 levels above the complying height. It is considered that there is no justification for the extra 3 storeys.

## **3. Built Form.**

The built form as designed provides good solar access for one out of 5 units at each level. The living area of one unit per level gets no sun whatsoever in winter and three get early morning sun only. It is considered that the light well will not be a very pleasant space and there are bedrooms opposite living areas with only 6 metres separation.

## **4. Density**

The proposed density is 6.7:1 whereas the complying density for residential is 5.6:1. No justification has been given for exceeding the complying density in terms of benefits to the residents and community at large.

## **5. Resource, energy and water efficiency**

Dealt with under Basix.

## **6. Landscape**

There is no landscaped area to comment upon.

## **7. Amenity**

Only one lift is provided and given the size and height of the project this is not considered to be reasonable. There is no communal space provided for the residents. It is suggested that some rooftop landscaped area and shade area be provided at the rooftop area. The light well as noted would not be very pleasant and would cause a lack of both aural and visual privacy.

## **8. Safety and Security**

Satisfactory.

## **9. Social Dimensions**

Satisfactory.

## **1. Aesthetics**



*Very little is shown on the drawings in regard to finishes and details however given that the Panel cannot support the proposal not relevant at this point.*

***Recommendation:***

*The Panel cannot recommend the application.*

**Comment:** The applicant has proposed amendments in regards to the Panel's comments. The amended plans submitted by the applicant do not reduce the height of the ten storey building or its floor space ratio, raised as a concern by the Panel. The amendments submitted by the applicant remove the wrap around balcony on the top level 9 and thereby further increase the setback at the southwest corner from the four (4) storey adjoining building with the aim to provide additional private open space to the roof top, which is further out of view from residents' units within the lower adjoining lower four (4) storey building.

The amendment also included an internal reconfiguration of level 9 to accommodate the addition of internal stairwells for the two storey units for access to private open space on the roof-top. Other minor internal changes were also made to the internal reconfiguration of units 22, 27 and 32 with the relocation of living areas to improve solar access at the eastern facade of the building.

Other amendments include planter boxes along The Avenue frontage and proposed frosted glass up to 1800mm above the floor level and acoustic glass to minimise potential noise in order to improve the amenity to units adjoining the light well.

The applicant has further stated the lift performance of 75.4 seconds in round trip time as advised by the lift manufacturer provides a good efficient response with regard to the single proposed lift. To improve visual and aural amenity to units adjoining the light well, frosted glass up to 1800mm above the floor level and acoustic glass has been proposed to minimise potential noise, which will improve the amenity to these affected units

It is considered the issue of density and height has still not been overcome as the applicant has relied on the arguments as previously discussed. The built form of the proposal is based on the previous approval of the seven (7) storey mixed use building of 03/DA-748, with the additional floor area resulting in an extra three (3) storeys in height. It is considered the proposals including the amendments submitted do not adequately resolve all the issues raised by the Panel and accordingly the proposal should not be supported.

## **6. CONCLUSION**

The development has been inspected and assessed under the relevant Section 79C (1) "Matters for Consideration" of the Environmental Planning and Assessment Act, 1979. The application has been assessed against the relevant planning policies and controls.

The assessment has found that the proposal is well in excess of the height and floor space ratio controls as required in the Development Control Plan No. 2 –Hurstville Town Centre and the applicant's reasons for the variations cannot be justified. As such the proposal is considered to be an overdevelopment of the site with respect to the topography and its desired built form in this specific area of the Town Centre.

Further that as construction of the site has already commenced to the current approved height of seven (7) storeys, the proposed built form of the proposal is based predominantly on the previous approved mixed use building under development application 03/DA-748. As such, the proposal is constrained in design; hence issues of poor amenity provided to the residents of the building have been raised in the report with regard to the layout of units, the number of units with a single southerly aspect, the single entry and lift and the lack of any communal landscaped open space provided on the site. As such, based on the abovementioned reasons, the proposal cannot be supported.

Following a detailed assessment under the heads of consideration under Section 79C of the Environmental Planning and Assessment Act as amended, it is recommended that the proposal be refused for the reasons as set out below.

## **RECOMMENDATION**

### **Wording for refusal:**

**A.** Further, that pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Joint Regional Planning Panel refuses development consent to Development Application 10/DA-480 for the Erection of a 10-storey mixed use development with 2 commercial and 2 retail tenancies at ground level and 39 residential units above with four 4 levels of basement parking with 50 spaces on Lot 100 DP 1142530 and known as 11 - 13 Treacy Street, Hurstville for the following reasons:

1. The proposed floor space ratio exceeds the required floor space ratio and height requirements under Council's Development Control Plan No.2. (Section 79C (1) (a) (iii)).
2. The proposal is seen to be an overdevelopment of the subject site being excessive in density and height and unsympathetic in appearance to the existing and desired streetscape of this area in Hurstville Town Centre. (Section 79C(1)(b)).
3. The proposal is unsatisfactory in relation to Clause 30(2) of State Environmental Planning Policy No.65 – Design Quality of Residential Flat Developments with particular regard to poor amenity provided in units with regard to the provision of communal landscaped open space, apartment layout, pedestrian access and the number of units with single southerly aspect. (Section 79C (1) (a) (i)).



**Hurstville City Council**

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# **Development Application No. 10/DA-**

## **Environmental Planning and Assessment Act 1979**

Pursuant to Section 81(1)(a) of the Act, notice is hereby given of the determination of a Development Application by the consent authority, as follows:

**D.A. No.** 10/DA-480

**Issued to:** Dickson Rothschild  
7 Argyle Place  
Millers Point NSW 2000

**Land to be Developed:** Lot 100 DP 1142530  
11 -13 Treacy Street, Hurstville

**Proposed Development:** Erection of a ten storey mixed use development with two Commercial and two retail tenancies at ground level and thirty nine residential units above with four levels of basement parking for fifty car spaces.

**Development Determination: REFUSED**

**Date of Determination:**

**Date of Endorsement:**

**The Development Application has been determined by way of REFUSAL.**

**Reason(s) for Refusal** - The reason(s) for refusal are:

1. The proposed floor space ratio exceeds the required floor space ratio and height requirements under Council's Development Control Plan No.2. (Section 79C (1) (a) (iii)).

2. The proposal is seen to be an overdevelopment of the subject site being excessive in density and height and unsympathetic in appearance to the existing and desired streetscape of this area in Hurstville Town Centre. (Section 79C(1)(b)).

3. The proposal is unsatisfactory in relation to Clause 30(2) of State Environmental Planning Policy No.65 – Design Quality of Residential Flat Developments with particular regard to poor amenity provided in units with regard to the provision of communal landscaped open space, apartment layout, pedestrian access and the number of units with single southerly aspect. (Section 79C(1)(a)(i)).

**Right of Review** - If you are dissatisfied with this decision, apply for a Review of a Determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within twelve (12) months of the date of this Notice of Determination and be accompanied by the relevant fee. You must ensure that an application for Review of Determination gives Council a reasonable period in which to review its decision having regard to the relevant issues and complexity of the application.

**Right of Appeal** - If you are dissatisfied with this decision Section 97 of the Environmental Planning and Assessment Act 1979, as amended, gives you the right to appeal to the Land and Environment Court within twelve (12) months after the date on which you received this notice. (Section 96 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry).

On behalf of the consent authority Hurstville City Council.

\*

Development Assessment Officer

**Planning and Development Directorate**