

**JOINT REGIONAL PLANNING PANEL  
(East)**

<b>JRPP No</b>	<b>2012SYE018</b>
<b>DA Number</b>	<b>12/DA-20</b>
<b>Local Government Area</b>	<b>Hurstville City Council</b>
<b>Proposed Development</b>	<b>Demolition of existing structures and construction of a thirteen (13) storey, forty-five (45m) high building containing two (2) ground floor retail units, four (4) basement levels of car parking, and twelve (12) floors of residential units (66 units in total).</b>
<b>Street Address</b>	<b>1-9 Dora Street, Hurstville</b>
<b>Applicant/Owner</b>	<b>Applicant: Elle Property Consultants and George El Khouri Architects Owner: Theos Liquor P/L and Xycom P/L</b>
<b>Number of Submissions</b>	<b>Fifty-six (56) adjoining and adjacent owners notified Application advertised for fourteen (14) days No submissions received</b>
<b>Recommendation</b>	<b>Refusal as per the reasons detailed in the report</b>
<b>Report by</b>	<b>Paula Bizimis – Senior Development Assessment Officer Hurstville City Council</b>

## Assessment Report and Recommendation

<b>ZONING</b>	3b City Centre Business Zone
<b>APPLICABLE PLANNING INSTRUMENTS</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No 55 - Remediation of Land</li> <li>• State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Hurstville Local Environmental Plan 1994</li> <li>• Draft State Environmental Planning Policy (Competition) 2010</li> <li>• Draft Hurstville (City Centre) Local Environmental Plan 2011</li> <li>• Hurstville Development Control Plan No. 2 – Section 2.2 Neighbour Notification and Advertising of Development Applications, Section 4.2 The Controls, Section 5.1 Design Guidelines for Building, Public Domain and Open Space, Section 6.1 Car Parking, Section 6.3 Access and Mobility, Section 6.4 Crime Prevention through Environmental Design, Section 6.5 Energy Efficiency, Section 6.7 Drainage and On-Site Detention Requirements, Section 6.9 Waste Management, Section 6.10 Development of a Heritage Item or on the Vicinity of a Heritage Item</li> </ul>
<b>HURSTVILLE LOCAL ENVIRONMENTAL PLAN 1994 INTERPRETATION OF USE</b>	“Demolish”, “Shop”, and “Residential Flat Building”
<b>EXISTING DEVELOPMENT</b>	Single storey commercial building
<b>COST OF DEVELOPMENT</b>	\$22,090,000
<b>REASON FOR REFERRAL TO JRPP</b>	Value over \$20M
<b>FILE NO</b>	12/DA-20
<b>HAS A DISCLOSURE OF POLITICAL DONATIONS OR GIFTS BEEN MADE?</b>	No

## EXECUTIVE SUMMARY

1. This development application proposes demolition of existing structures and construction of a mixed use retail and residential development with associated car parking. The development comprises a thirteen (13) storey, forty-five (45m) high building, with ground floor comprising two (2) retail units, four (4) basement levels, and twelve (12) levels above ground level containing sixty-six (66) residential units.
2. The proposed development has been assessed against the requirements of the existing planning controls under Hurstville LEP 1994 and Hurstville City Centre DCP – 2. This assessment shows that the development does not comply with existing building height, floor space ratio, the size of balconies, and there are concerns regarding the location of skylights and heritage impact.
3. The proposed development was also compared with Council’s Draft Hurstville City Centre LEP 2011 recently exhibited and found to comply with building height and floor space ratio. This Draft LEP is neither “imminent nor certain” at this time.
4. The application was notified to fifty-six (56) adjoining and adjacent owners and residents, and advertised for fourteen (14) days. No submissions were received in reply.

## RECOMMENDATION

The development application is recommended for refusal principally for the numerical non-compliance with Council’s existing planning controls.

## DESCRIPTION OF THE PROPOSAL

The application proposes demolition of existing structures and construction of a mixed use retail and residential development with associated car parking. The development comprises a thirteen (13) storey, forty-five (45m) high building, with ground floor comprising two (2) retail units, four (4) basement levels, and twelve (12) levels above ground level containing sixty six (66) residential units. Specifically the proposed development will include the following:

### Basement 4

- 27 car spaces including 2 disability accessible car spaces
- 24 storage areas
- 2 lifts and 2 stairs

### Basement 3

- 25 car spaces including 2 disability accessible car spaces
- 22 storage areas
- 2 lifts and 2 stairs

### Basement 2

- 25 car spaces including 2 disability accessible car spaces
- 22 storage areas
- 2 lifts and 2 stairs

### Basement 1

- 13 car spaces including 3 disability accessible car spaces

- 33 storage areas
- 2 lifts and 2 stairs
- Pump room and electrical room

#### Ground floor

- Two (2) retail units (Shop 1 and Shop 2) with a floor area of 49.6sqm and 191.3sqm respectively (retail floor area of shops 240.9 m<sup>2</sup>) and an enclosed courtyard area with direct access to Shop 2 of 234sqm. This is included as retail floor area in accordance with Council's LEP (total retail floor area is 474.9 m<sup>2</sup>).
- Entrance lobby for residential units
- Commercial plant room
- Substation
- Waste room
- Vehicle entry/exit to basement levels
- OSD tank
- 2 lifts and 2 stairs

#### Level 1

- 1 x 1 bedroom residential unit
- 3 x 2 bedroom residential units (including 1 x adaptable dwelling)
- Common area including BBQ area, outdoor gym, child play room and community room, outdoor seating area
- 2 lifts and 2 stairs

#### Levels 2 – 11

Each of the levels 2 to 11 will contain the following:

- 1 x 1 bedroom residential unit
- 3 x 2 bedroom residential units (including 1 x adaptable dwelling per floor)
- 1 x 2 bedroom + study units
- 1 x 3 bedroom residential unit
- 2 lifts and 2 stairs

#### Level 12

- 2 x 3 bedroom residential units
- Plant room 1 Boiler room
- Plant room 2 hydraulic
- Plant room 3 mechanical
- 2 lifts and 2 stairs

In summary, the residential component of the proposed development will comprise the following:

- 11 x 1 bedroom units (floor area of 50m<sup>2</sup> and 51m<sup>2</sup>)
- 33 x 2 bedroom units (floor area of 80m<sup>2</sup>)
- 10 x 2 bedroom + study units (floor area of 100m<sup>2</sup>)
- 12 x 3 bedroom units (floor area between 102m<sup>2</sup> and 124m<sup>2</sup>)

Development data submitted by the applicant shows:-

PROPOSED FLOOR AREA	
Level 12	250m2
Level 11	503m2
Level 10	503m2
Level 9	503m2
Level 8	503m2
Level 7	503m2
Level 6	503m2
Level 5	503m2
Level 4	503m2
Level 3	503m2
Level 2	503m2
Level 1	340m2
Ground Level	241m2
Basement 1	13 car parks
Basement 2	25 car parks
Basement 3	25 car parks
Basement 4	27 car parks
<b>Total</b>	<b>90 car parks</b>

UNIT MIX		
1 Bed	11	16.7%
2 Bed	33	50.0%
2 Bed & Study	10	15.3%
3 Bed	10	15.3%
3 Bed Penthouse	2	2.7%
<b>Total</b>	<b>66</b>	<b>100%</b>

CROSS VENTILATION			
Natural Cross Ventilation	54/66	81%	

SOLAR ACCESS			
Units 3 Hours 9am-3pm 21 <sup>st</sup> June	54/66	81%	

## HISTORY

<b>23.01.2012</b>	Development application lodged for subject site.
<b>31.01.2012</b>	JRPP advised of receipt of development application.
<b>02.02.2012</b>	The application was referred to the Design Review Panel (DRP). The DRP provided its comments and recommendations on 1 March 2012.
<b>03.02.2012</b>	Application notified for fourteen (14) days.
<b>08.03.2012</b>	Applicant submits amended plans based on DRP comments. These amendments are detailed in the section of the report entitled State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development. The amended plans are the subject of this report.
<b>15.03.2012</b>	Briefing held with JRPP.

**19.03.2012** The applicant was advised in writing that the proposed development could not be supported as the proposed height and floor space ratio of the development did not comply with the requirements of the relevant development control plan. It was acknowledged that the proposed development was relying on the controls proposed under the draft Hurstville Local Environmental Plan 2011 (draft LEP), however the status of the LEP was not considered to be “imminent and certain” and the current requirements prevailed.

The applicant was asked to consider withdrawing the application and re-lodging the application at a time when the status of the draft LEP was “certain and imminent”.

**19.03.2012** The applicant advised Council in writing that they wished to proceed with the assessment process and refer to JRPP.

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

The subject site is located on the western side of Dora Street near the north western corner of MacMahon Street Hurstville. The site comprises four lots which are lots 1 and 2 DP 224116, lot 167 DP 335747, and lot 168 DP 1958. The site has a frontage of 40.2m, depth of 24.3m and a total site area of 976.9sqm. Existing development comprises a single storey commercial building which, for the most part is vacant, except for part of the building which used for the sale of porcelain products.

Adjoining the site on the southern boundary (at the corner of MacMahon Street) is a six (6) storey commercial building known as MacMahon House. This building has telecommunication antennas and equipment of the roof. Adjoining the site on the northern boundary is an “at grade” car park. Adjoining the site to the rear are single storey shops and a part one/part two storey shop which face Forest Road. The part one/part two storey shop located at 372 Forest Road is identified as a heritage item in the Hurstville Local Environmental Plan. On the opposite side of Dora Street is the three storey building housing the Hurstville City Council offices and Council Chambers.

The area surrounding the subject site is characterised by commercial and residential developments of various heights ranging from 6 to 8 storeys and one 15 storey building known as MacMahon Plaza located to the east of the subject site on MacMahon Street.

## **COMPLIANCE AND ASSESSMENT**

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

### **1. Environmental Planning Instruments**

#### Hurstville Local Environmental Plan 1994

The site is zoned 3(b) – City Centre Business Zone under the provisions of the Hurstville Local Environmental Plan (LEP) 1994 and the proposed use as a mixed use building is not defined in the LEP. The proposed use is however permissible, given that it is not listed as a prohibited use in the zone, subject to consent. The components of the building comprising residential units and shops are permissible uses under the LEP.

The objectives of the 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.”

In relation to the objectives of the zone, it is considered that the proposed development does not comply with objective (d)(i) and (d)(vi) for the following reasons:-

- The proposed development does not facilitate the implementation of Development Control Plan No 2 (DCP 2) which applies to the subject site as it does not reflect the “*appropriate floor space ratio controls*” (Objective (d)(i)). DCP 2 identifies the appropriate floor space ratio control for the subject site as being 3.6:1. The proposed development seeks a floor space ratio of 6:1 which is not consistent with the requirement of DCP 2. The development seeks to increase FSR by 66.6% above that identified by Council’s adopted DCP for this site.
- The proposed development does not comply with the height requirements of DCP 2. This DCP identifies a maximum height of 6 storeys for the subject site. The proposed development is 13 storeys increasing height by 116.6% above that identified by Council’s adopted DCP for this site.

These variations result in the scale of the development being much larger than that anticipated by Council’s adopted DCP 2. The 13 storey height of the proposed development is incongruous with the adjoining development which has a maximum height of 6 storeys under the current controls. As such it is considered that the proposed development is not “*maintaining and improving the environmental and aesthetic quality of the Hurstville Town Centre and its surrounds*” (Objective (d)(vi)), as envisaged by the current adopted Hurstville LEP and DCP 2.

The sections of the LEP which are also relevant to the application are as follows:

#### Clause 14 – Tree preservation orders

One (1) street tree located on Dora Street is to be removed to accommodate the vehicular crossing to proposed development. Council’s Tree Management Officer has examined the application and raised no objection to the removal of the tree.

### Clause 15 – Services

Pursuant to Clause 15, water supply, sewerage and drainage infrastructure is required to be available to the land. 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 conditions of consent being attached to any consent granted.

### 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. Should the application be approved, appropriate conditions relating to soil stability and stabilisation of adjoining buildings can be imposed which will satisfy this requirement.

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

Clause 33 states:

- “(1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item.*
- (2) This clause extends to development:*
- (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or*
  - (b) that may undermine or otherwise cause physical damage to a heritage item, or*
  - (c) that will otherwise have any adverse impact on a heritage item or of any heritage significance of the item.*
- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.*
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.”*

The subject site is in the vicinity of the heritage item known as “Belmontes Pizza Shop” located at 372 Forest Road Hurstville, adjoining the rear boundary of the subject site. Council's LEP 1994 identifies in Schedule 2 - Heritage Items Part 2 that 372 Forest Road comprises building elements, rendered facade, including windows and above awning level features which warrant the item's listing. It is noted that the heritage status of the building is maintained in the Draft Hurstville City Centre Local Environmental Plan 2011.

In support of the development proposal the applicant presents the following:-

Clause	Requirement	Proposal	Compliance
5.10 – Heritage Conservation	I(n)dentified (sic) in Schedule 5, 372 Forest Road (Belmonte's Pizza Shop) which is a heritage item of local significance, adjoining the site to the south.	The form of the proposed development is consistent with the form which is anticipated by the draft controls, and as such impacts on nearby heritage items are not unreasonable or significant.	√

Source: Statement of Environmental Effects – Annexure C Planning Ingenuity Pty Ltd 23 January, 2012.



The applicant submits that the impact of the proposed development “*on nearby heritage items are not unreasonable or significant*”. This assessment falls short of what is required to assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item. In the absence of a Heritage Impact Statement as required by Clause 33 prepared by a suitably qualified Heritage Consultant an assessment of the impact of the proposed development on the heritage item can not be made.

It is noted that the proposed development does not include any works on the heritage site however, if approved, would result in a significant alteration to the existing built environment of that land bounded by Dora Street, Forest Road, MacMahon Street and Queens Road, including the heritage item site. Any consideration for approval in future would require further heritage impact assessment.

#### 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 No 55 – Remediation of Land

Under the provisions of Clause 7 of SEPP No. 55, the consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. If the land is found to be contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state or can and will be remediated in order for it to be suitable for the purpose for which the development is proposed.

The applicant has submitted a Preliminary Environmental Site Assessment Phase 1 prepared by Aargus Australia (dated December 2011). The report concludes that although there are no olfactory indicators of potential contamination and no visual indicators of underground storage tanks (past or present) on the site, there are a number of potential areas of environmental concern identified on the site. Although the potential for significant contamination of soil and groundwater within the site is low, a Phase 2 Environmental Site Assessment is recommended to be undertaken prior to the issue of any Construction Certificate.

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

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 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.

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 George El Khouri a registered architect and that it was designed in accordance with the Design Quality Principles of SEPP 65. The proposed development was also peer reviewed by Eeles Trelease Architects in terms of its design.

The following table outlines compliance with the Residential Flat Design Code, where applicable, and the referral received from the Design Review Panel is discussed in detail below the table:

STANDARD	OBJECTIVE	PROVIDED	COMPLIANCE
<b>BUILDING HEIGHT</b>	Ensure future development responds to desired future scale and character of street and local area	Proposed development does not respond to the desired future scale and character of street and local area under the current controls	No (1)
<b>BUILDING DEPTH</b>	Maximum 18m (glass line to glass line)	Maximum 13m for cross through units, other units generally 8m	Yes
<b>BUILDING SEPARATION</b>	<p><u>Up to 4 storeys/12m:</u>  -12m between habitable rooms  -9m between habitable rooms and balconies or non-habitable rooms  -6m, no habitable rooms to non habitable rooms</p> <p><u>5 to 8 storeys/12 to 25m:</u>  -18m between habitable rooms  -13m between habitable rooms and balconies or non-habitable rooms  -9m, no habitable rooms to non habitable rooms</p> <p>May be varied in response to site and context constraints. For lesser distances, must demonstrate that daylight access, urban form and visual and acoustic privacy is satisfactorily achieved.</p>	<p>-No windows/balconies located on side elevations of the development</p> <p>-Rear elevation of development has 6m setback in accordance with DCP 2 to adjoining developments which are 1 and 2 storeys high. Due to restricted width of site, a greater rear setback would restrict design of development to less than 18m in width which would compromise amenity of units.</p>	Acceptable
<b>SIDE AND REAR SETBACKS</b>	Minimise impact on light, air, sun, privacy, views and outlook for neighbouring properties.	Proposed development results in minimal impact to adjoining developments	Yes
<b>FLOOR SPACE RATIO (FSR)</b>	To ensure that the development is in keeping with the optimum capacity of	Proposed FSR of 6:1 is above maximum 3.6:1 and not consistent with the current	No (2)

	the site and the local area. FSR is not specified in the Design Code.	controls.	
<b>DEEP SOIL ZONES</b>	A minimum of 25% 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.	Basement is excavated to boundaries and deep soil planting is not possible. Considering the site is surrounded by buildings and in a built-up area, this provision is acceptable.	Acceptable
<b>OPEN SPACE</b>	Communal open space should be generally between 25% of the site area.  Min private open space for apartment at ground level/podium is 25sqm.	Communal open space/area on the first floor is 29.5% of the site area (288sqm)  N/A as all residential units are located on level 1 or higher.	Yes
<b>BUILDING ENTRY</b>	Create entrance which provides a desirable residential identity for development, orient visitor and contribute positively to streetscape and building design.	Entrance lobby to the building is located facing Dora Street	Yes
<b>PEDESTRIAN ACCESS</b>	Promote residential flat development that is well connected to street and contributes to accessibility.  Barrier free access to 20% of units	The residential flat development is well connected to street and contributes to accessibility.  Access to 100% of units is barrier free	Yes
<b>VEHICLE ACCESS</b>	Limit width of driveways to 6 metres.  Integrate adequate car parking and servicing access without compromising street character, landscape or pedestrian amenity and safety.	6m wide driveway  Car parking and servicing access is in one area and does not compromise the street character or pedestrian amenity and safety.	Yes
<b>APARTMENT LAYOUT</b>	-Maximum depth from window of single aspect apartment 8.0m -The back of a kitchen should be no more than 8 metres from a window. -Width of cross-over apartments more than 15 metres deep should be a minimum of 4 metres.	-Single aspect units are 8m deep -Cross through units from window to window all less than 15m	Yes
<b>APARTMENT MIX</b>	To provide a diversity of apartment types, which cater	The proposal incorporates a diversity of mixture in the size	Yes

	for different household requirements now and in the future	of the units, and provision of 1, 2 and 3 bedroom units	
<b>BALCONIES</b>	Primary balconies to be a minimum of 2 metres in depth.	All units have primary balcony however units 1, 2 and 3 are 1.8m in depth and other balconies facing Dora Street overhang front property boundary	No (3)
<b>CEILING HEIGHTS</b>	<p>Mixed use building</p> <p>-GF retail/commercial minimum 3.3m</p> <p>-FF residential/retail/commercial minimum 3.3m</p> <p>Residential building in mixed use are</p> <p>-GF minimum 3.3m</p> <p>Residential buildings/floors</p> <p>-habitable rooms minimum 2.7m</p> <p>-non habitable rooms minimum 2.25m</p>	<p>Retail/commercial floor = 3.7m</p> <p>Residential floors = greater than 2.7m</p>	Yes
<b>INTERNAL CIRCULATION</b>	Maximum of 8 units to be accessible from a double loaded corridor.	Maximum number of units off corridor are 6	Yes
<b>STORAGE</b>	<p>To provide adequate storage for every day household items within easy access of the apartment</p> <p>1br = 6m<sup>3</sup></p> <p>2br = 8m<sup>3</sup></p> <p>3br= 10m<sup>3</sup></p>	<p>1br = 7m<sup>3</sup></p> <p>2br = 8m<sup>3</sup></p> <p>3br= 10m<sup>3</sup></p>	Yes
<b>DAYLIGHT ACCESS</b>	<p>-Min 70% of units receive min 3 hrs of solar access</p> <p>-Max 10% units southerly aspect</p>	<p>-81% of units receive minimum 3 hours direct sunlight</p> <p>-16.67% of units have single southerly aspect</p>	<p>Yes</p> <p>No (4)</p>
<b>NATURAL VENTILATION</b>	<p>-60% of residential units should be naturally cross ventilated.</p> <p>-25% of kitchens should have</p>	<p>-81% of units naturally cross ventilated</p> <p>-100% of kitchens have access</p>	Yes

	access to natural ventilation.	to natural ventilation	
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(1) Building Height and (2) Floor Space Ratio

The proposed development does not comply with the height and floor space ratio requirements of Hurstville City Centre DCP 2 in numerical terms. As such it is considered that the proposed development does not meet the desired character of the street and the surrounding area as depicted by Council's existing adopted DCP.

This DCP identifies the maximum height and floor space ratio for the site as being 6 storeys and 3.6:1, while the proposed development proposes 13 storeys and 6:1 respectively. This represents a significant departure from and non-compliance with the existing controls. In the case of building height the proposal represents a 116.6% increase when measured in storeys, and a 66.6% increase in floor space ratio over and above the DCP provisions. From this perspective, the development is considered out of character with the streetscape and the surrounding area.

(3) Balconies

Each residential unit has been provided with a primary balcony however the balconies to units 1, 2 and 3 do not have a minimum depth of 2m. No justification has been provided for this and the balconies can achieve compliance with the requirement with an amendment to the design of the units.

The primary balcony to 32 units which face Dora Street overhang the front boundary by 450mm. Ideally, no portion of the development should overhang the property boundaries and the balconies should be redesigned to be wholly within the property boundaries. The issue was raised with Council's Manager-Development Advice who advised that although there are unlikely to be any adverse impacts from the overhang, it is likely that the applicant would be required to create easements on the title of the property for the overhang and enter into any other agreement as required by Council should the applicant choose to retain the overhang. The desirable position is for any overhang to be removed.

(4) Single southerly aspect windows

The proposed development has 16.67% of units with a single southerly aspect which is above the maximum 10% required by SEPP 65. The applicant has provided that the one bedroom units per floor don't meet this requirement but these units comply with BASIX and have cross flow ventilation.

The orientation of the site is such that it is predominantly north/south with the adjoining development to the east being built to the boundary. This inevitably results in the development having units with a southerly aspect. The units do however have cross ventilation and meet the target scores of the BASIX. Given the constraints of the site, it is considered that a variation to these requirements is acceptable.

**Design Review Panel (DRP)**

The application was referred to the DRP who provided comments on the proposed development. The comments provided by the DRP, the applicant, and development assessment officer where relevant, are as follows:-

## 1. Context

### DRP comment

*The site is a prominent site within the Hurstville City Centre being located close to the intersection with Queens Road and close to the Hurstville bus interchange and railway stations. Directly to the east is a 6 storey commercial building. To the north-west there is a Council car park as well as vehicular access for 2 storey retail premises fronting Forest Road. On the opposite side of Dora Street there is the 2/3 storey building housing the Hurstville Council offices.*

### Applicant's comment

*Panel comments are favourable and no response necessary.*

## 2. Scale

### DRP comment

*The scale is considered to be satisfactory given that approval has already been given to a proposal in Woodville Street and likely development in the immediate area given the potential of the existing allowable FSR of 6:1 and a permissible height of 45 metres under the Draft Hurstville LEP (City Centre).*

### Applicant's comment

*Panel comments are favourable and no response necessary.*

### Development Assessment Officer's comment

DCP 2 requires that the proposed development have a maximum height of 6 storeys. The proposed development has a height of 13 storeys (45m) which is not consistent with the requirements. Although the proposed height is consistent with the height requirements of the draft Hurstville Local Environmental Plan (LEP) at 45 metres, this LEP is not considered to be imminent or certain. This is discussed in the report below under the heading entitled Draft Hurstville City Centre Local Environmental Plan 2011. As such the current controls that apply to the site are relevant and the proposed development is not consistent with Principle 2 – Scale of SEPP 65.

## 3. Built Form

### DRP comment

*The Panel considers that there is a problem with the building form as presently planned for reasons outlined below. The form also will present problems in the future to possible units that might be built to the rear in regard to their solar access. In redesigning the proposal to address the other issues raised in the report the built form of the building might be re-considered.*

### Applicant's comment

*a. For Panel's reasons outlined below, see our responses under Principle 7 – Amenity.*

*b. For future solar access to possible units that might be built on a "hypothetical" adjoining site immediately to the rear with appropriate setbacks and assuming same width of 40.235 m as 1-9 Dora St, see attached shadow diagram showing far greater than the RFDC requirement of a minimum 2 hours mid winter solar access for 70 % of any potential units. The units in the attached diagram face two sides/aspects - north west facing (direct solar access at all hours*

*from 9am to 12pm to 3pm) and then turning at 90 degrees to the north east facing units (direct solar access from 9am to approximately 2.30 pm).*

Development Assessment Officer's comment

The shadow diagram submitted with the application shows that that the proposed development will not have an adverse impact on the solar access of any future development on sites adjoining the rear of the subject site.

#### **4. Density**

DRP comment

*The Panel does not have a problem with the Density in principle.*

Applicant's comment

*Panel comments are favourable and no response necessary.*

Development Assessment Officer's comment

The proposed development does not comply with the floor space ratio requirement of DCP 2 which is a maximum 3.6:1. The proposed development has a floor space ratio of 6:1. The applicant is relying on the floor space ratio proposed under the draft LEP. As per the comments relating to Principle 2 – Scale, the draft LEP is not considered to be imminent or certain and as such the current controls that apply to the site are relevant. The proposed development is therefore not consistent with Principle 4 – Density of SEPP 65.

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

DRP comment

*Dealt with under Basix.*

Applicant's comment

*Panel comments are favourable and no response necessary.*

#### **6. Landscape**

DRP comment

*There is an opportunity for some planting on the street and/or planter boxes near the entry that could be used to separate the residential entry area from the Lobby area. The so-called 'Courtyard' is not a courtyard in any sense of the word.*

*The landscape treatment on the first floor, with the skylights and trees as proposed, is uniform across the whole façade and does not take into consideration the adjacent uses such as the play area, the residential, the gym nor the BBQ. Whilst it's a good idea to provide community open space, none of it is functional as presently proposed especially given that it is completely covered over. The planting selection is considered to be satisfactory.*

Applicant's comment

- a. The only relevant SEPP 65 landscape design principle or RFDC objectives and Better Design Practice guidelines is a comment at page 46 of RFDC to "contribute to streetscape character and the amenity of the public domain by relating landscape design to the desired proportions and character of the streetscape". Given its City Centre location, we believe the current design*

*falls in well with current and future envisaged streetscape at ground level. Nonetheless, we have provided for two potential proposed planter boxes at street level near lobby area as per attached amended ground floor plan. This appears to be an improvement to the streetscape.*

- b. For the courtyard, the skylights have been redesigned for adjustable and fully retractable roof louvres to allow permanent or temporary openings as per attached amended ground floor plan. This is an improvement to the design.*
- c. As an uncovered area, communal open space is available on the large rooftop area if necessary. However, via attached amended plan for level 1, facilities on level 1 have been redesigned to address the Panel's concerns. This is a more functional consolidated communal area for all seasons and weather conditions and provides appropriate winter solar access for a more than significant communal area for a proposed building this size. This is an improvement to the design.*

Development Assessment Officer's comment

The amendments made to the design by the applicant are considered appropriate and acceptable.

## **7. Amenity**

DRP comment

*Location of letter boxes. Refer Social Dimensions and Safety and Security below.*

Applicant's comment

*Although not our preferred design option, the Panel's comment has been met via the amended ground floor plan and the letterboxes relocated to the lobby area and would be an acceptable design option.*

DRP comment

*Ground level to Dora Street. As noted above the residential entry is very close to a retail area. As well to the north of this there is a substation next to the vehicular entry to the basement car parking. The two being next to each other are diminishing the active areas along Dora Street. Perhaps the planning could be changed to increase the activity along the street.*

Applicant's comment

*We have checked again with Energy Australia and the substation location, street frontage dimension and area is a minimum requirement so as to provide direct access from the street for maintenance and future replacement of substation. The width of the substation is balanced between the strong vertical elements of the building. The lobby and driveway entry exit widths are at their minimum. However, we have been able to increase the active street frontage of shop 2 as per the attached amended ground floor plan to satisfy the Panel's concerns. Having regard to site constraints, the Dora Street activity and streetscape, the proposal as lodged at DA or as amended per the attached is in keeping with the present and future desired character of the area.*

DRP comment

- *Common areas.*

*Ground level*

*The applicant stated that the courtyard area at ground level was for outdoor dining. In the section it is shown as having a roof with skylights. The area also has no link to the lobby/entry area. The area only has an entry via shop 2, to two fire escapes or to the commercial plant room. Is it a*



*common area or is it a retail area? Whatever the case it has no aspect and very little light only having skylights and being on the south-western side of the building. To increase the light it could have a glazed roof. As well if it were planned to have a direct view/access to the Lobby area both areas would be improved.*

**Applicant's comment**

*The courtyard is designed to be part of a retail or commercial area and would be linked to shop 2 and visible from the street. The courtyard skylights have been redesigned for adjustable and fully retractable roof louvres to allow permanent or temporary openings. If desired the size of these openings can be increased. Although it is envisaged that the ground floor commercial area shop 2 will be the sole user of the courtyard, the design of the ground floor area lobby/entry has been amended to allow the flexibility of direct access to the rear ground floor courtyard if necessary. These design changes have been incorporated into the amended ground floor plan attached addressing the concerns of the Panel. We consider this to be an improvement on the design and an acceptable solution to alternate access from the lobby/ground floor area.*

**DRP comment**

*First floor level*

*Whilst it is applauded that there be a child play room, BBQ area and playground area it is considered that they are at present not well planned. The playground area should be adjacent to the child play room and as well should have solar access. Similarly for the opposite end of the building with the community room and the outdoor gymnasium. These areas should be replanned and it is suggested that this could be done either by widening the common area on the Dora Street end or having the two areas close together and close to the lifts and also linked to the area above the courtyard below.*

**Applicant's comment**

*The potential of an additional communal open space is available on the large rooftop area if necessary and which could service a second play and recreational areas and second BBQ area. As mentioned in point 6 above, the redesigned common facilities shown on the attached amended drawings for level 1 would be collective, consolidated and more functional as covered areas. To meet the Panel's concerns, the child play room has been relocated to be adjacent to the children's play ground area and the BBQ area has been relocated to the Dora Street end which has direct solar access. Adequate solar access and direct balcony access along Dora St frontage has been provided to child play room/community room, playground and BBQ area. The amendments are considered design improvements.*

**DRP comment**

*Corridors to the units*

*From Level 2 to Level 12 there is no natural light and ventilation to the corridors. These should wherever possible have natural light and ventilation.*

**Applicant's comment**

*Although not our preferred design option, amendments to the common corridors have been made specifically to provide both natural light and ventilation at the Panel's request.*

**DRP comment**

*Location of kitchens in many units*

*The three units facing onto Dora Street from levels 2 to 11 have kitchens that are virtually internal with little or no aspect to outside of natural ventilation. The units should be replanned to improve their amenity in this regard.*

Applicant's comment

*As set out in the SEE, the proposal complies with the RFDC objectives and guidelines for maximum distance of window to back of kitchen to be 8m for single aspect apartments. This includes for the three units mentioned by the Panel. All kitchens will be designed to have direct ducting exhaust hood ventilation to the external façade. In addition to adhering to RFDC objectives and guidelines, enhanced natural ventilation is provided to these apartments by natural cross flow ventilation ducting positioned above the kitchen area as evidenced by the letter from mechanical engineer Viscona Pty Ltd attached.*

DRP comment

*Cross ventilation*

*A drawing was submitted explaining the cross ventilation to the units. The Panel has no problem with the end units and will also accept that being a one bedroom unit that the central units at the rear are acceptable. However the two other units facing onto Dora Street are relying on a duct through two rear units for their cross ventilation. The Panel was not presented with evidence that this duct would in fact provided adequate cross ventilation.*

Applicant's comment

*The evidence from a mechanical engineer is attached from Viscona Pty Ltd. The development has an ideal orientation to take advantage of cross flow ventilation as its longer frontage is facing north/east.*

DRP comment

*The proposed balconies to the central units at the rear of the block from levels 2-11 would not be very pleasant spaces having mostly a solid wall to the outside and with minimal aspect. Being on the south side these spaces would be especially gloomy most of the year. It is suggested that these units be replanned to improve their amenity.*

Applicant's comment

*A design amendment is attached addressing the Panel's concerns. The west ventilation elevation has been designed with vertical opening and shading fins to protect the dwellings from summer western sun. The amenity of the balcony area has been improved by increasing its opening to virtually full width whilst still maintaining a balanced and proportional western façade.*

Development Assessment Officer's comment

The amendments made to the design by the applicant are acceptable and supported. The new location of the letter boxes is considered to be an improvement from that previously proposed as the new location does not allow for conflicts between pedestrians and vehicles and allows for better interaction between residents.

The provision of retractable skylights to the roof of the "courtyard" area to Shop 2 will allow for sun penetration however the skylights will result in the majority of the first floor rear setback area to be less usable due to the skylights being located on the floor. Landscaping is shown as being provided around each skylight, however the provision of six skylights limits the trafficable area and results in safety concerns when the roof of the skylights is retracted (open).

## **8. Safety and Security**

### DRP comment

*The current location of letter boxes is considered to be an issue in regard to safety and security in two regards. Firstly the entry is at the top of the vehicular access to the 4 level basement car park. Secondly the area for the letter boxes is not visible to either residents themselves or by passers by whose observation provides safety to the residents.*

### Applicant's comment

*Although not our preferred design option, letterboxes have been relocated as per request of the Panel.*

## **9. Social Dimensions**

### DRP comment

*Letter boxes rather than being hidden away can instead be a means of social interaction for residents. For instance if they are located close to the entry and lobby area, or preferably with the rear of the mail boxes accessed from within the lobby. In this way they can be a safe and pleasant place to be. Similarly on the opposite end of the building the Community Room should have solar access. It is suggested that rather than the wider part of the common space be on the southern side that it should open out to the northern side of Dora Street and the units replanned to suit.*

### Applicant's comment

*Letterboxes have been relocated as per request of the Panel. See amended ground floor plan. This is an acceptable design option although not our preference.*

*The relocated child play/community room as well as playground and BBQ area provides for not just solar access as per request of the Panel but also direct balcony access to Dora St frontage.*

## **10. Aesthetics**

### DRP comment

*Considered to be satisfactory.*

### Applicant's comment

*Panel comments are favourable and no response necessary.*

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

### Draft State Environmental Planning Policy (Competition) 2010

The aims of this policy are to:

- a) Promote economic growth and competition, and
- b) Remove anti-competitive barriers in environmental planning and assessment.

The policy includes criteria to remove anti-competitive barriers to commercial development, being retail premises, business premises, and/or office premises. This policy is not relevant to this application, as the intended specific use of each retail unit is unknown at this stage. Hence, the commercial viability, potential loss of trade, etc is irrelevant. The use of retail premises is permissible on this site and is

encouraged in the current controls and the intended proposed controls. The existing facilities and services are adequate to support this proposal in general.

#### Draft Hurstville City Centre Local Environmental Plan 2011

On 18 July 2011, the Department of Planning and Infrastructure issued a Section 65(2) Certificate under the Environmental Planning and Assessment Act, 1979 to permit the formal public exhibition of the Draft Hurstville LEP 2011. The S.65(2) Certificate contained certain conditions which required changes to the draft HLEP 2011 maps prior to the public exhibition of the Draft LEP.

Council at its meeting on 30 November 2011 considered reports on the Draft Hurstville LEP 2011 and the Draft Hurstville City Centre LEP 2011 and resolved to endorse both Draft LEPS for public exhibition for a period of no less than twenty eight (28) days. Hurstville City Council exhibited the Draft Hurstville Local Environmental Plan (LEP) 2011 from 23 January to 29 February 2012.

Council at its meeting on 12 April, 2012 resolved to adopt the draft Hurstville Local Environmental Plan (Hurstville City Centre) 2011 with a number of amendments and forward the draft Plan to the Department of Planning & Infrastructure under the Environmental Planning & Assessment Act 1979. Council will forward the draft Plan to the Department shortly and make further representations to the Minister of Planning and Infrastructure.

As part of the Draft LEP process the Department of Planning and Infrastructure's Gateway Determination for the Draft Plan requires the completion of a Transport Management and Accessibility Plan (TMAP) and the tender process for this work is currently underway. The Plan is due for completion in early 2013 – see Strategic Planning comments below.

#### Strategic Planning comments:

Under the Draft Hurstville City Centre LEP 2011 the subject site is zoned B4 Mixed Use and the proposed development is permissible in the zone with the consent of Council. This Draft Plan is being prepared in accordance with the Standard Instrument provisions and shows building height and floor space ratio control is a series of maps which accompany the plan.

Following is the summary of the key controls in the Hurstville LEP 1994, DCP No.2 – Hurstville City Centre, Draft Hurstville Local Environmental Plan (Hurstville City Centre) 2011 and the current proposal.

	<b>Zone / Use</b>	<b>Maximum height</b>	<b>Maximum FSR</b>
<b>Hurstville LEP 1994</b>	Zone 3 (b) – City Centre Business -	-	-
<b>DCP No 2 - Hurstville City Centre</b>	Retail/commercial on ground floor	6 storeys	3.6:1
<b>Draft Hurstville LEP (HCC) 2011</b>	Zone B4 – Mixed Use	45m	6:1
<b>Current Development Application</b>	Mixed Use	13 storeys (45m)	6:1

As can be seen from the table the proposal exceeds the current adopted planning controls but complies with the draft controls for height and FSR as identified previously in this report.

Council resolved to adopt the draft Hurstville Local Environmental Plan (Hurstville City Centre) 2011 on 12 April 2012, with a number of amendments and forward the draft Plan to the Department of Planning & Infrastructure under the Environmental Planning & Assessment Act 1979. Council will forward the draft Plan to the Department shortly and make further representations to the Minister of Planning and Infrastructure.

In terms of assessing this application the Draft LEP is not “imminent and certain” and for these reasons the existing planning controls take precedence when giving consideration to this proposal. It is noted that Council has adopted a new direction in its planning for this site and Hurstville CBD however these planning controls have not yet reached the stage where they are determinant.

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

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

Safety standards for demolition and compliance with AS 2601 - 2001 apply to the demolition of any buildings affected by the proposal.

### **3. Development Control Plans**

The requirements of Hurstville Development Control Plan No 2 (DCP 2) apply to the subject site as follows:-

#### Section 2.2 - Neighbour Notification and Advertising of Development Applications

The application was notified to 56 adjoining and adjacent land owners and residents, and advertised in accordance with Council’s requirements and no submissions were received in reply.

#### Section 4.2 - The Controls

The controls that apply to the subject site are as follows:

<b>Block 10, Site 10B</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Use</b> Ground floor = retail/commercial	Ground floor = retail	Yes
<b>Height</b> 6 storeys maximum	13 storeys (45m) which is 116.6% above permissible height	No (1)
<b>FSR</b> 3.6:1 maximum	6:1 (5861sqm proposed) which is 2344.16sqm or 66.6% above	No (2)

	permissible FSR	
<b>Setbacks</b> Street = Nil  Rear setback = setback to form courtyard  Upper floors residential = 6m from rear boundary	Street = Nil (although balconies on levels 2-11 overhang front boundary)  Rear setback = 6m setback to form courtyard  Upper floors residential = 6m setback	Yes
<b>Awnings</b> Cantilevered awning to Dora Street	Cantilevered awning to Dora Street	Yes
<b>Balconies</b> Minimum 1/unit, 8sqm in size 2m minimum width	Minimum 1/unit, 8sqm in size Units 1, 2, 3 do not have minimum 2m dimensions	No for dimensions (3)
<b>Vehicles Access</b> Dora Street	Dora Street	Yes
<b>Car parking in basement</b>  Residential: 1 car spaces/100sqm (5487sqm) = 55 spaces required  Visitors: 1 car spaces/4 residential units = 17 spaces required  Retail: 1 car space/27.5sqm (475sqm) = 18 spaces required  Car wash bay = 1 required  Total = 90 car spaces	Total = 90 car spaces provided, No car wash shown but can be a visitors space	Yes (4)

(1) Height and (2) FSR

The proposed development does not comply with the height and floor space ratio requirements of DCP 2 as detailed in the table above. The applicant's town planning consultant has provided the following statement (in summary) in support of the application:

*At the time of completion of this Statement the Draft Hurstville Local Environmental Plan (Hurstville City Centre) 2011 (Draft HLEPHCC) was on public exhibition from 23 January 2012 to 29 February 2012.*

*Hurstville Council has undertaken a major review of its planning controls. The review responds to the NSW State Government's planning reform program and the Draft LEP is consistent with the Standard instrument introduced by the State Government in March 2006. Hurstville Council's planning review responds to the targets and objectives established within the NSW Government's Metropolitan Strategy, and draft South Subregional Strategy.*

*The revised LEP proposes an increase in height and FSR requirements to achieve strategic housing targets and encourage sustainable infill development within the Hurstville City Centre.*

*Whilst the draft controls are currently on exhibition and gazettal is not imminent, it has been made clear through the background studies and the draft documents that the current planning controls are outdated and do not reflect the desired urban design outcomes for the town centre. It is therefore considered to be certain that the controls will change and therefore appropriate that new development on a key site such as the subject site should reflect the draft rather than existing controls.*

#### Comment

The variation to the height and floor space ratio requirements is not supported for the following reasons:

- The proposed height and floors space ratio, as detailed in the above table, represents a significant departure from the current controls. The applicant is relying on the requirements of the Draft LEP with which the development complies with, however, the Draft LEP is not considered to be imminent or certain as discussed previously in this report.
- The height and floor space ratio of the proposed development result in a development that is of a larger bulk and scale than that anticipated by the current requirements of DCP 2 and the proposed development will be incongruous to the surrounding existing developments which have a maximum height of 6 storeys. The current controls restrict the maximum height of new development adjoining the site to up to a maximum 8 storeys, with the sites immediately to the rear of the subject site, including the heritage item, having a maximum height of 4 storeys. As such the proposed development is inconsistent with the existing streetscape and the desired streetscape of the surrounding area based on existing planning controls. In addition to this, further work is required to assess the impact of the proposed development on the heritage item at 372 Forest Road, Hurstville.
- The Draft LEP proposes an increase to the height and floor space ratio controls for the sites adjoining the subject site. Should these be adopted in the future, the proposed development would be more appropriate to the site in terms of its bulk and scale and in relation to adjoining future developments. As such it is considered that the proposed development can be considered in its current form at that time when the controls of the Draft LEP are imminent and certain.

#### (3) Balconies

The issue regarding the dimensions of the balconies has been discussed previously in this report. The applicant can achieve compliance by amending the design of the units so that the balconies have a minimum 2m dimension and so that they do not overhang the front property boundary.

#### (4) Car parking

The applicant has provided car parking spaces in accordance with the requirements of DCP 2 however, the car spaces have not been allocated to any use. This can be achieved by appropriately allocating the car spaces as required by DCP 2.

### Section 5.1 - Design Guidelines for Buildings, Public Domain and Open Space

Design Guidelines	Proposed	Compliance
5.1.1 – Street alignment: Buildings to be sited on street frontage.	Building is sited on street frontage	Yes

Buildings to provide pedestrian amenity in form of active street frontages, building entrances, and awnings	An active street frontage is proposed with the retail use	Yes
Buildings set back from street are to address the street with major facades, entrances, low fences, substantial planting, etc.	Building is located on the front boundary	N/A
5.1.3 – Frontage articulation: Into separate building frontages and bays, using shop front separations, attached columns and steps in façade Changes of texture and colour should complement	Variety of articulation and changes in texture and colour	Yes
5.1.7 – Roof Design Lift over-runs and plant equipment should be concealed	Lift over-runs and plant equipment are concealed	Yes
Penthouses are encouraged to create interesting skylines using setback upper floors	No penthouses provided but upper levels of building are setback due to balcony location	Yes

The proposal generally complies with these design guidelines. Those guidelines that are included in other sections of this report have not been repeated here, such as parking, balcony design, awning design, safety and security.

#### Section 6.1 - Car Parking

The parking rates specified for the subject site have been complied with as detailed in the report above. The proposal also complies with the general provisions of this section relating to Australian standards for circulation spaces and sizes of spaces.

The proposed development was also referred to NSW Roads and Maritime Services (RMS) for comment. RMS has provided advisory conditions of consent to be included in any consent granted.

#### Section 6.3 - Access and Mobility

DCP 2 requires that 1 adaptable dwelling be provided for the first 8 units and then 1 for every 10 units after that, or part thereof. This equates to a total of 7 adaptable dwellings being required for the proposed development. The proposed development provides 11 adaptable dwellings.

#### Residential

Where more than 50 car spaces are required for residential developments, 2% of these spaces are to be accessible. A total of 55 residential car spaces are required for the development which equates to 2 disability accessible spaces being required. The development provides 9 accessible car spaces.

#### Retail

The amount of 1 car space per 20 spaces or part thereof, where parking areas have more than 20 spaces but less than 50 spaces for retail uses is required. Given that only 18 spaces are provided for the retail component, no accessible car spaces are required for the retail component.



#### 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:

	<b>Design requirements</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Fencing</b>	<ul style="list-style-type: none"> <li>• Front fence maximum 1m, unless open type</li> </ul>	No fencing is proposed	N/A
<b>Blind corners</b>	<ul style="list-style-type: none"> <li>• Direct pathways with permeable barriers</li> <li>• Mirrors around corners</li> <li>• Glass/steel panels in stairwells</li> </ul>	No blind corners evident. Entrances are direct from the street. Stairwells are located within the building and not visible externally.	Yes
<b>Communal/public areas</b>	<ul style="list-style-type: none"> <li>• Habitable rooms adjacent to public viewing areas</li> <li>• Good visibility to stairwells, entries, elevators</li> </ul>	Habitable rooms face onto street. Good views from living areas to the street. Entries and elevators are visible from street and lobby.	Yes
<b>Entrances</b>	<ul style="list-style-type: none"> <li>• Maximum one entry point per 6-8 dwellings</li> <li>• User can see into building before entering</li> <li>• Entrance clearly recognisable</li> </ul>	Each building has one entry point which is clearly visible from the street. Lobby areas are visible from the street.	Yes
<b>Site and building layout</b>	<ul style="list-style-type: none"> <li>• Main entrance orientated towards street, and not from rear lanes</li> <li>• Habitable rooms at front of dwelling</li> </ul>	Main entrance is from street. Habitable rooms are orientated towards the front and rear of the development	Yes
<b>Landscaping</b>	<ul style="list-style-type: none"> <li>• Low hedges and shrubs or high canopied vegetation</li> <li>• No continuous barrier of dense growth</li> <li>• Ground cover or 2m clean trunks around children's play areas, car parks and pedestrian pathways</li> <li>• Prickly plants used as barriers</li> <li>• Avoid vegetation that conceals building entrances</li> <li>• Large trees next to second storey windows or balconies</li> </ul>	Proposed landscaping as per concept landscape plan submitted is satisfactory	Yes
<b>Lighting</b>	<ul style="list-style-type: none"> <li>• Use of diffused and/or movement sensitive lights</li> <li>• Access/egress routes illuminated</li> </ul>	Can be subject to condition of consent	Yes

	<ul style="list-style-type: none"> <li>• No glare or dark shadows produced</li> <li>• No lighting spillage onto neighbouring properties</li> <li>• Users can identify a face 15 metres away</li> <li>• Use of energy efficient lamps/fittings/switches</li> </ul>		
<b>Building identification</b>	<ul style="list-style-type: none"> <li>• Each individual dwelling numbered</li> <li>• Unit numbers provided on each level</li> <li>• Building entries state unit numbers accessed from that entry</li> </ul>	Can be subject to condition of consent	Yes
<b>Security</b>	<ul style="list-style-type: none"> <li>• Intercom, code or card locks for building and car park entries</li> <li>• Door and window locks comply with AS 220</li> <li>• Security access to basement parking via main building</li> <li>• External storage areas well secured and lit</li> </ul>	<p>Details not provided however access to residential lobbies is secured.</p> <p>Details of separation of residential and retail car spaces are not provided but can be achieved</p>	Yes
<b>Maintenance</b>	<ul style="list-style-type: none"> <li>• Provision for the speedy removal of graffiti and repair/cleaning of damaged property</li> <li>• Provision of information advising where to go for help and how to report maintenance or vandalism</li> </ul>	Can be subject to condition of consent	Yes

#### Section 6.5 - Energy Efficiency

A BASIX Certificate has been submitted with the application which meets the target scores. In terms of solar access to adjoining developments, the shadow diagrams submitted with the application show that the proposed development will allow solar access to adjoining developments in accordance with the requirements of DCP 2 and SEPP 65.

#### Section 6.7 - Drainage and On-Site Detention Requirements

The proposed development can drain to the street in accordance with the requirements of DCP 2.

#### Section 6.9 – Waste Management

The proposed development provides appropriate residential and commercial waste facilities within the development. The application has also been examined by Council's Manager – Environmental Services who has raised no objection to the application subject to conditions of consent being attached to any consent granted.

#### Section 6.10 – Development of a Heritage Item or in the Vicinity of a Heritage Item

This section refers to the requirements of Hurstville Local Environmental Plan and this has been discussed in detail previously in the report.

## **4. Impacts**

### **Natural Environment**

Although the proposal includes a large amount of excavation for the basement levels, this is not uncommon in the Hurstville CBD area. It is considered the proposal is unlikely to adversely impact on existing drainage patterns and soil stability in the locality. The site currently has no significant vegetation and the street tree located at the front of the site can be removed. It is considered therefore, unlikely the proposal will have significant adverse impacts on the natural environment.

### **Built Environment**

The proposed development does not comply with the height and floor space ratio requirements of DCP 2 as detailed in the report. It is considered that the proposed development is of a bulk and scale that is not consistent with the existing and desired character of the street and surrounding area as anticipated by the existing adopted planning controls. As such it is considered that the proposed development will have an adverse impact on the built environment as it will be inconsistent with what is intended under the existing controls for the surrounding development.

With regard to the telecommunication antennas and equipment located on the roof of the adjoining building, the proposed development comprises a solid brick wall on the common boundary which does not allow for any visual or physical connection. If the application were to be approved the owners of the building accommodating the telecommunication facilities should be notified.

### **Social and Economic Impacts**

The proposed development has no perceived adverse social or economic impacts.

### **Suitability of the Site**

The subject site has no impediments that preclude it from being developed. It is considered however, that any development of the site should be in accordance with the relevant requirements. The applicant has relied upon the new planning controls which, at this stage, are not yet determinant for development on this site.

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

### **Resident**

The proposed development was notified/advertised in accordance with Council's requirements and no submissions were received in reply.

### **Internal - Council Referrals**

#### Manager - Development Advice

Council's Manager – Development Advice has raised no objection to the development subject to conditions of consent being attached to any consent granted.

#### Senior Environmental Health Officer

Council's Senior Environmental Health Officer has raised no objection to the application subject to conditions of consent being attached to any consent granted.

#### Manager – Environmental Services

Council's Manager – Environmental Services who has raised no objection to the application subject to conditions of consent being attached to any consent granted.

#### Tree Management Officer

Council's Tree Management Officer has raised no objection to the application.

### **External Referrals**

#### Roads and Maritime Services (RMS)

The application was referred to the RMS. The RMS has provided advisory conditions of consent to be attached to any consent granted.

#### Design Review Panel

The application was referred to the Design Review Panel which has been discussed previously in this report.

## **6. CONCLUSION**

The application seeks permission to demolish the existing structures and construct a retail and residential development with associated car parking. The development comprises a thirteen (13) storey, forty-five (45m) metre high building, with two (2) ground floor retail units, four (4) basement levels, and twelve (12) levels containing sixty six (66) residential units.

The proposed development has been assessed against the requirements of the relevant planning instruments and development control plans and does not comply with the requirements of DCP 2 relating to height, floor space ratio, and size of balconies. There are also issues with the location of skylights to the ground floor courtyard. A Heritage Impact Statement is also required so to allow for a satisfactory assessment of the impacts of the development on the adjoining heritage item.

The applicant is relying on the height and floor space ratio controls of the Draft LEP, however it is considered that the status of the Draft LEP is not imminent or certain and therefore the current requirements apply to the subject site. In this regard the variation to the height and floor space ratio controls can not be supported. The application is recommended for refusal for the reasons detailed below.

## **RECOMMENDATION**

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

12/DA-20 for demolition of existing structures and construction of a retail and residential development comprising a thirteen (13) storey building with two (2) ground floor retail units, four (4) basement levels, and twelve (12) levels containing sixty six (66) residential units on Lots 1 and 2 DP 224116, Lot 167 DP 335747, and Lot 168 DP 1958 and known as 1-9 Dora Street Hurstville, for the following reasons:

1. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy objectives (d)(i) and (d)(vi) of the 3(b) City Centre Business Centre Zone contained in the Hurstville Local Environmental Plan.
2. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the requirements of Section 4.10 for floor space ratio, height, and size of balconies of the Hurstville Development Control Plan No 2.
3. The proposed development, pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the Design Quality Principles 2 - Scale and 4 - Density of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development in relation to the height and floor space ratio of the development and Principle 8 - Safety and Security in relation to the location of skylights on level 1.
4. Having regard to the above non-compliances with the requirements of Hurstville Development Control Plan No 2 and pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.
5. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
6. Pursuant to the provisions of Section 79C(1)(b) and Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to undertake a satisfactory assessment of the impact of the development on the adjoining heritage item.
7. Having regard to the previous reasons noted above, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.