

**JOINT REGIONAL PLANNING PANEL
(Sydney East Region)**

ADDENDUM PLANNING REPORT

JRPP No	2012SYE035
DA Number	11/DA-21 REV03
Local Government Area	Hurstville City Council
Proposed Development	Section 96(2) modification to Stage 2 of "East Quarter" development - addition of two (2) x storeys to buildings A, & E, deletion of commercial floor space in Building B, associated facade and basement changes
Street Address	93 Forest Road Hurstville
Applicant/Owner	Applicant: Milestone (Aust) Pty Ltd Owner: East Quarter Hurstville Pty Ltd
Number of Submissions	Three submissions
Recommendation	Approval
Report by	Laura Locke – Team Leader Development Assessment

BACKGROUND

On 18 July 2012 the Joint Regional Planning Panel met to consider a report on a Section 96(2) modification for Stage 2 of the "East Quarter" development including the addition of two (2) x storeys to buildings A, B & E and the deletion of commercial floor space. This report recommended refusal of the development primarily due to the adverse impact on and loss of views.

On 17 July 2012 (the day before the Panel meeting) the applicant submitted additional information to Council and the JRPP, including an offer to remove two storeys from Building B of the development in order to overcome the view loss issue. The applicant also submitted additional information relating to the Access to Premises Standards & Disability Discrimination Act, the loss of commercial floor space and the height and floor space ratio of the development.

Following discussions with the Council officers and the applicant the Joint Regional Planning Panel resolved as follows:

- 1. The Panel has considered the planning assessment report, which recommends refusal, the applicant's submission that it intends to remove two floors from one of the buildings, as well as the verbal advice of the planning assessment officer that she needs to prepare a supplementary report on the changes proposed by the applicant. The Panel unanimously resolves to defer the application.*
- 2. The Panel requests the applicant to submit amended drawings by 24 July 2012, and the council's planning assessment officer to prepare a supplementary report by 3 August 2012.*
- 3. Following receipt of that report, the Panel will determine the application by communicating by electronic means, unless the planning assessment officer, the applicant or one of the Panel members requests another public meeting.*
- 4. The Panel notes that the council's staff and the applicant disagree on whether the "Premises Standard" applies to this application, and that this issue requires resolution before the matter is determined.*

The following is the supplementary report requested by the JRPP. It provides an assessment on the amended plans and information submitted by the applicant.

AMENDED INFORMATION SUBMITTED BY THE APPLICANT

The applicant has provided the following additional supporting information in response to the report to the JRPP recommending refusal:

- Amended plans showing the reduction in height of Building B by two storeys;

- Reduction in residential units from 314 to 296 units;
- View analysis from the top level of the existing Building D. View analysis has been provided both towards the city skyline and towards Botany Bay and the airport to the east;
- Additional information relating to the reduction of commercial floor space, including a statement from an owner of commercial tenancies in Stage 1 of the development; and
- Amended legal advice in relation to the applicability of the Access to Premises Standards and the Disability Discrimination Act to the modification.

ASSESSMENT OF AMENDMENED INFORMATION SUBMITTED BY THE APPLICANT

VIEW LOSS

The applicant has conceded that the proposal as originally submitted had a significant impact on the views towards the Sydney city obtained from the upper levels of existing Building D. In response to the concerns raised in Council's previous report the applicant has submitted amended plans which show the deletion of two residential levels from Building B.

The following is a revised assessment of the amended proposal against the four steps for view assessment set down in the *Tenacity Consulting v Warringah Council [2004] NSWLEC* planning principle.

The applicant's supporting submission has been provided in italics and comments in response have been provided for each of the four steps.

Step 1. What views will be affected?

The Court said: "26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured."

Applicant's submission:

The first step involves an assessment of the views potentially affected. The proposed increased height of Building A will affect views to some parts of Sydney Airport (approximately 4km to the north east of the site) for occupants in Level 12 of Building D. Due to the orientation of Building D, the views of occupants in Building D are naturally to the north, north west and north east and views to the east and west are considered oblique views. The increased building height of Building A will not impact the views in any way of the iconic Sydney CBD skyline obtained from Level 12 of Building D.

Council comment:

The deletion of the proposed two levels on Building B means that the Building is now the same height as originally approved by the Joint Regional Planning Panel. Council is now satisfied that the view towards the city skyline will be maintained.

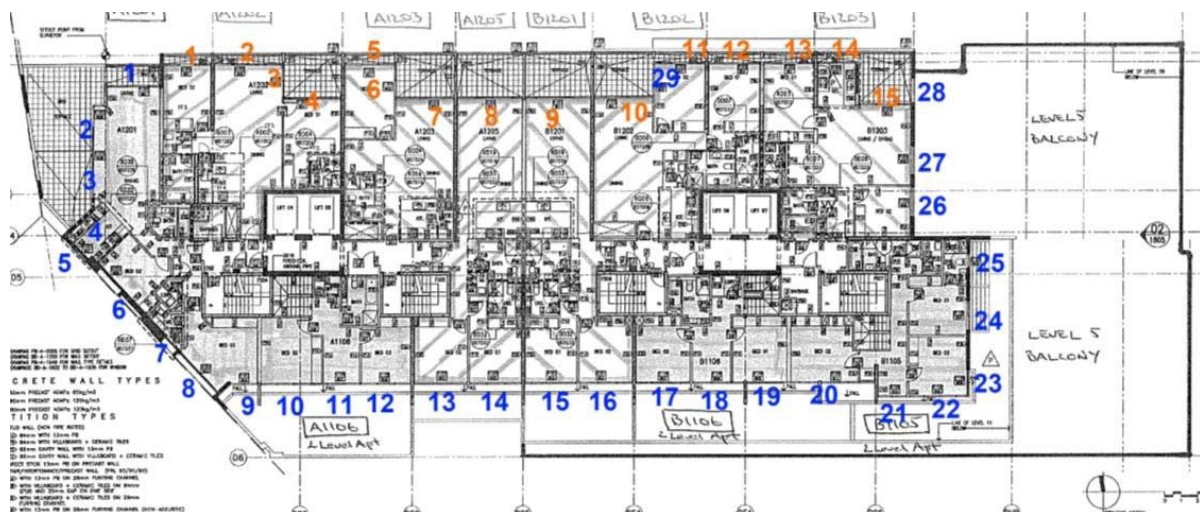
The applicant has provided a view analysis demonstrating the view impact from the additional two storeys on Building A. The view analysis indicates that there will be some view loss towards the east to the airport and Botany Bay. Although there is some view loss, the vast majority of the views are maintained and this loss is not considered to warrant refusal of the amended application.

Step 2: Where views are obtained

The Court said: "27 The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic."

Applicant's submission:

The second step is to consider from what part of the property the views are obtained. **Figure 1** below identifies all windows/sliding doors located on Level 12 of Building D that will be potentially affected by the proposed increased height of Building A.



Council comment:

The most affected unit of the development would be the north eastern unit shown in Figure 1 above. This unit would lose part of their current view to the east towards the airport and Botany Bay. It is considered that this unit would retain most of the view from the balcony and the living area.

The primary views for the other units in the development is directly north towards the city skyline. The views obtained to the east and north east from these units would be from standing at the edge of the balconies of the units.

Step 3: Extent of the Impact

The Court said: "28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."

Applicant's submission:

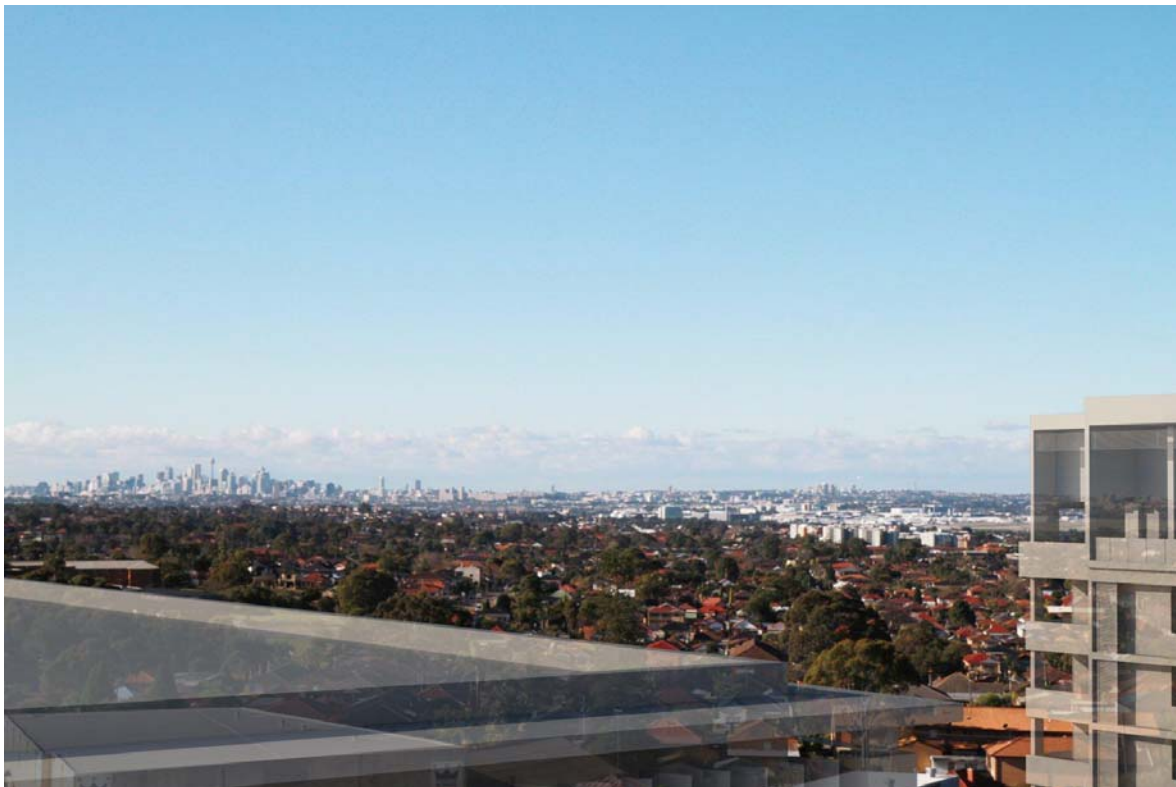
The third step is to assess the extent of the impact for the whole of the property and not just the windows affected. In this instance it is relevant that we will consider the views obtained for all units on Level 12 of Building D rather than the whole property.

*The extent of the potential view impact to the east as a result of the proposed increased height of Building A is limited to 6 of the 10 units on Level 12 of Building D. These units are A1202, A1203, A1205, B1201, B1202 and B1203 located on the northern side of Building D (see **Figure 1**).*

The Tenacity Court case acknowledges view impacts can be assessed quantitatively, however it is usually more useful to assess the view loss qualitatively. In this regard, the view impact is considered to be acceptable from a qualitative perspective as the panoramic views (out to the north west, north and north east) currently enjoyed by the occupants on Level 12 in Building D which include the iconic Sydney CBD skyline will be retained. The view loss of the proposal occurs to the east as shown in Attachment A, out to parts of Sydney Airport and this is considered acceptable in context of the significant views retained.

Council Comment:

The applicant has provided the following 3D view analysis demonstrating the extent of the impact on the worst affected unit in the existing Building D.



Although there is some view loss towards the east and north east the iconic view towards the city is retained. Further, the amount of view lost is minor compared with the proportion of view retained.

Step 4: Reasonableness of the Impact

*29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of **non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design** could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."*

Applicant's submission:

The fourth and final step outlined in the planning principle is to assess the reasonableness of the proposal that is causing the impact. The proposal seeks to increase the height of Building A in conjunction with Building E consistent with the overall scale of the East Quarter site.

The height increase is considered acceptable as the modified development provides an appropriate built form outcome, which provides a positive impact in context of the setting of the site and streetscape presentation.

In summary, the minor degree of view impact to the east on existing occupants in Building D resulting from the two proposed floors on Building A is considered acceptable for the following reasons:

- *The panoramic views to the north, north west and north east which include iconic views of the Sydney CBD skyline and Bondi Junction currently enjoyed from Building D will not be affected in any way by the proposed two additional floor levels to Building A*
- *Views east to Botany Bay and to Sydney Airport impacted by the proposed increased height of Building A are oblique views and not considered highly valuable or iconic in comparison to the views retained which include the Sydney CBD skyline. We note partial views of Sydney Airport will be maintained. It is further noted that Building E, located directly east of Building D, and approved at a greater height would always have impacted the directly easterly view in this staged development.*
- *The affected units already have high amenity district views to the north west and north to the Sydney CBD skyline.*
- *Only views from the units on the northern side of Level 12 in Building D are affected, with no impacts on views from the western and southern ends of the building.*

Council comment:

Although there is partial view loss as a result of the non-compliant building height, as described above the iconic views towards the city have been retained as has the majority of the vista obtained.

ECONOMIC IMPACT/LOSS OF COMMERCIAL FLOOR SPACE

In the original report submitted to the Panel concerns were raised relating to the loss of commercial floor space over the development as a whole. To support the loss of commercial floor space the applicant submitted a Hurstville Office Review Report undertaken by Urbis dated 23 March 2011. The review was originally submitted to support the original development application for Stage 2.

In response the applicant has highlighted the following excerpt from the Hurstville Office Review Report:

- *“If jobs continued to grow on the same trajectory to that which is forecasted by TDC for the period 2006 to 2036, it could take till 2041 for all of the existing vacant office space in Hurstville to be fully absorbed.*
- *The Hurstville office market has experienced a significant increase in vacancy and decline in rents since 2008, affecting the viability of new office development.*
- *Due to the location of East Quarter on the CBD fringe, any new commercial space will be inherently faced with locational disadvantages that would reduce its appeal in sales and leasing.*
- *The introduction of 1,500sq.m. of commercial space will face the locational and supply/demand difficulties outlined in this assessment.”*

The applicant has also provided the following statement from one of the commercial unit owners in Stage 1 of the development:

“Since purchasing the 5 commercial/retail units (approx 1,000sqm in total) in 2012, we have found it extremely difficult to lease or sell this space.

Despite advertising on website, local paper and signboards the level of enquiry has been low. The main factor is the level of vacancy in Hurstville generally and the location of the site on the edge of the main retail area”

The statement also goes on to detail significant discounts in rental and fit out costs that have been offered to attract tenants.

In light of the above information and the location of the site on the fringe of the City Centre, the proposed reduction of commercial floor space would not warrant refusal of the amended application.

DRAFT HURSTVILLE LOCAL ENVIRONMENTAL PLAN (HURSTVILLE CITY CENTRE) 2011

With the deletion of the two storeys from Building B the floor space ratio and height of the development has been decreased from what was originally proposed as part of the modification application.

Below is an updated compliance table with the draft Local Environmental Plan.

Controls	Draft Hurstville Local Environmental Plan (Hurstville City Centre) 2011	Current approval granted under 11/DA-21 for Stage 2 of the site	Proposed S96(2)
cl.4.3: Height of buildings	35m – 60m	Building A: 35.9m Building B: 35.9m Building E: 58.65	Building A: 42.2m Building B: 35.9 Building E: 65.15m
cl. 4.4: Floor space ratio	2.5:1	3.34:1 (for stage 2) 2.63:1 for the site as a whole	3.66:1

At the time of writing this report Council has not had confirmation from the Department of Planning & Infrastructure regarding the timing for the gazettal of the LEP and therefore the draft LEP is not considered to be ‘imminent and certain’.

Although the increase in height and floor space ratio would be inconsistent with the Draft LEP, it is conceded that due to the current status of the LEP determinative weight can not be given to its controls.

Further it is acknowledged that there is minimal environmental impact arising from the non-compliances.

DISABILITY DISCRINATION ACT 1992 & ACCESS TO PREMISES STANDARD

The applicant has submitted legal advice stating that the Access to Premises Standard and BCA 2011 do not apply to the development as the application for the construction certificate for Stage 1 was submitted prior to the commencement of the Standard & the BCA (1 May 2011).

As stated in the previous assessment report Council is aware that the applicant proposes not to comply with the Premises Standards. This is stated in two (2) consultants' reports and confirmed in the CC issued by Dix Gardner.

At the time of writing this report no evidence has been submitted to Council indicating that the construction certificate for any works above ground floor level was lodged prior to 1 May 2011. It is still Council's contention that the proposal should comply with the provisions of BCA 2011, however it is ultimately up to the certifier determine the access requirements for any modified construction certificate.

6. CONCLUSION

The amended plans and information submitted by the applicant have appropriately dealt with the major concerns that were raised in the original assessment report. It is recommended that the Panel approve the application subject to the following conditions of consent:

1. **OC1 - Act, Regulations and Environmental Planning Instruments Prevail** - This modification to original Development Consent No. 11/DA-21 endorsed 8 November 2011 is granted subject to compliance with the relevant requirements of the Environmental Planning and Assessment Act 1979 as amended ("the Act"), the Environmental Planning and Assessment Regulation 2000 ("the Regulation"), the Building Code of Australia ("the BCA"), Hurstville City Council's ("the Council's") Local Environmental Plan 1994, Development Control Plan No. 1 (Hurstville LGA Wide DCP) or Development Control Plan No. 2 (Hurstville City Centre) as applicable, and any applicable codes, except if varied by this consent.
2. **OC2 - Approved Plans** - The development shall be carried out in accordance with the details set out on the application form, supporting information received with the application and the schedule of plans and details below, except as amended by the conditions of this consent. A copy of the plans is stamped approved, and attached to this consent.

Plan Number	Plan Date	Description	Prepared By
000 Rev F, 003 Rev A, 004 Rev G, 005 Rev F, 006 Rev F,	19 Jul 12 13 Feb 12 13 Feb 12 13 Feb 12 13 Feb 12	Cover Sheet, Basement 4 Basement 3, Basement 2, Basement1,	Kann Finch Group
6071 – DA: 107 Rev C, 108 Rev D, 109 Rev C, 110 Rev C, 111 Rev C, 112 Rev C, 113 Rev C, 114 Rev C, 115 Rev C, 116 Rev D, 117 Rev E, 118 Rev E,	21 Jan 11, 22 Mar 11 30 Jan 12 22 Mar 11 22 Mar 11 22 Mar 11 22 Mar 11 22 Mar 11 22 Mar 11 22 Mar 11 19 Jul 12 19 Jul 12 19 Jul 12	Ground floor level, Level 01, Level 02, Level 03, Level 5, Level 06, Level 07, Level 08, Level 09, Level 10, Level 11, Level 12,	Kann Finch Group

119 Rev E, 120 Rev C, 121 Rev C, 122 Rev C, 123 Rev C, 124 Rev A, 125 Rev D 126 Rev B	19 Jul 12 22 Mar 11 22 Mar 11 22 Mar 11 22 Mar 11 22 Mar 11 19 Mar 12	Level 13, Level 15, Level 16, Level 17, Level 18, Level 19, Level 20.	
6071 – DA: 130 Rev C, 131Rev E, 132 Rev D, 133 Rev D, 134 Rev H, 135 Rev E 140 Rev B, 141 Rev B, 142 Rev B, 143 Rev B	19 Mar 12 19 Jul 12, 19 Mar 12 19 Mar 12 19 Jul 12 19 Mar 12 23 Mar 11 23 Mar 11 23 Mar 11 23 Mar 11	Building A Elevations, Building B Elevations, Building E North and West Elevation, Building E South & East Elevation Building B & A Section North- South Section Building A External Finishes, Building B External Finishes, Stage 2 Building E North and West Elevations External Finishes, Building E	Kann Finch Group
15 Sheets	Mar 11	Landscape Concept Plan	Context Landscape Design
-	Apr 10	Waste Management Plan	J D Macdonald
Report No 610.10259-R1	24 Mar 11	Thermal Comfort Assessment	SLR Global Environmental Solutions
Certificate No 367664M	24 Mar 11	BASIX Certificate	-
RHA Report 10-2768-R1	5 Dec 03	DA Acoustics and Vibration Assessment	Richard Heggie Associates
-	12 Nov 03	Services Infrastructure Investigation Report	Arnold Thompson and Associates Pty Ltd

(This condition is modified by 2011/DA-21 REV 03).

3. The proposal must comply with the provisions of the Building Code of Australia. However, if this requires any changes to the external portion of the building it may require a Section 96 Modification to be lodged and approved with Council, prior to the issue of the Construction Certificate.
4. **Subdivision** - No approval is expressed or implied to the subdivision of the subject land or dwellings. For any future Strata subdivision, a separate development application is required to be submitted and approved by Council.
5. **OC3 - Amenity** - The implementation of this development shall not adversely affect the amenity of the neighbourhood by way of the emission or discharge of noise, vibrations, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
6. **OC4 - Prescribed Conditions** - This development consent is subject to the conditions as prescribed pursuant to Section 80 A(11) and Section 85A(6)(a) of the Environmental Planning and Assessment Act 1979 and Clauses 98-98B of the Environmental Planning and Assessment Amendment Regulation 2000.

Erection of Signs

- (1) A sign must be erected in a prominent position on any work site on which building work, subdivision work or demolition is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number at which that person may be contacted outside working hours
 - (c) stating that unauthorised entry to the work site is prohibited
 - (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.
 - (3) This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
 - (4) These signage requirements do not apply in relation to Crown building work that is certified to comply with the technical provisions of the State's building laws.
7. **ZC1** - A positive covenant is to be created over the common property by an instrument pursuant to Section 88B of the Conveyancing Act 1919, to be submitted to Council for endorsement with the final subdivision plans. This covenant is to be worded as follows:

"It is the responsibility of the Building Owner/Owners Corporation to remove all graffiti, bill posters, unapproved signage, pamphlet boxes and the like, from the common property within 7 days of such information being reported to the Owners Corporation.

Hurstville City Council is to be nominated as the Authority to release, vary or modify this covenant."

8. MI130.1 - **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials.

Note: SAA/SNZ Handbook 197:1999 - An Introduction Guide to the Slip Resistance of Pedestrian Surface Materials may assist in the use of AS/NZS 4586:2004.

To Obtain a Construction Certificate

9. The following must be submitted to either Council or an Accredited Certifier before a Construction Certificate is issued:

- (a) Fees to be paid to Council:

Schedule of fees, bonds and contributions

Fee Type	Paid	Fee Type	Amount	Receipt Date	Receipt No
Development Application Fee	X	DA1	\$48,140.00	31 Jan 11	345070
Plan First Fee	X	AP35	\$51,392.00	31 Jan 11	345070
Notification Fee	X	AP12	\$1,037.00	31 Jan 11	345070
Imaging Fee	X	AP165	\$500.00	31 Jan 11	345070
Long Service Levy		AP34	\$28,1050.00		
Builders Damage Deposit		BON2	\$3,750.00		
Inspection Fee for Refund of Damage Deposit		DA6	\$125.00		
S94 - Open Space & Community Recreation		CONT9	\$2,072954.85		
S94 - Community Services & Facilities		CONT3	\$904,115.00		
S94 – Management		CONT8	\$66,711.71		
S94 – Library Infrastructure		CONT7	\$476,720.01		
S94 – Library Bookstock		CONT4	\$3,212.15		
S94 – Urban Spaces		CONT13	\$281,950.11		
S94 - Traffic Management within the Hurstville City Centre District		CONT10	\$139,834.23		

The following fees apply where you appoint Council as your Principal Certifying Authority (PCA). (If you appoint a private PCA, separate fees will apply)

PCA Services Fee		DA6	\$24,124.85		
Construction Certificate Application Fee		CC1	\$15,305.47		
Construction Certificate Imaging Fee		AP165	\$221.45		

Fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

(This condition is modified by 11/DA-21 REV 01).

- 9(a). The Construction Certificate for the development is to be issued in two (2) stages. Stage 1 is for any relevant works up to RL 60 and Stage 2 is to be for all relevant works above RL 60.

(This condition has been added to the consent by 11/DA-21 REV 01).

10. **BI1 - Building Code of Australia (“BCA”)** - A Construction Certificate must be obtained before the commencement of work from Council or an Accredited Certifier. Detailed plans and specifications for the proposed building must demonstrate compliance with the BCA.
11. **OC8 - Design Changes Required** - The following design changes are required and are to be incorporated into the plans to be lodged **with the Construction Certificate application**.
 - (a) Bicycle parking for the non residential component of the development being provided to the development at a rate of one (1) car space per one hundred (100) non residential car spaces provided on site (one (1) car space being equivalent to five (5) bicycle spaces). One (1) associated communal shower/change cubicle being provided to the non residential component. Bicycle spaces being provided for visitors at a rate of one (1) car space per one hundred (100) visitor spaces provided within the development (one (1) car space being equivalent to five (5) bicycle spaces) . These can be provided as individual bike racks mounted to a fixed structure in public area preferable adjacent to pedestrian entrances.
12. **BI2 - Long Service Leave Levy** - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to www.lspc.nsw.gov.au or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**
13. **BDI - Damage to Council Property** - In order to insure against damage to Council property the following is required:
 - (a) Payment to Council of a Damage Deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$3,750.00.**
 - (b) Payment to Council of a non refundable Inspection Fee to enable assessment of any damage and repairs where required: **\$125.00.**
 - (c) At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.
 - (d) Prior to the commencement of work a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal, shall be submitted to Council.
 - (e) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.

14. **SE941A - Traffic Management within the Hurstville City Centre District** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for the provision of traffic management facilities within the Hurstville City Centre District.

The contribution relates to Plan no. 1 and is based on the following criteria as a direct consequence of the proposed development:

- (a) The increased traffic volume raises the potentiality of conditions accelerating the deterioration of road pavement and/or traffic system operational conditions.
- (b) The provision of the scheduled facilities is essential to facilitate the traffic system operation due to the proposed development.
- (c) The provision of a facility is a direct requirement as a result of the proposed development.

The contribution rate for Residential/Retail/Commercial is \$2.14/\$13.73/\$34.81 per square metre respectively of nett increase in floor space.

The total traffic management contribution required and payable before the construction of the development proceeding beyond ground level RL 60 is \$139,834.23.

(This condition has been modified by 11/DA-21 REV 03).

15. **S942 - Open Space and Community Recreation** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for open space and community recreation facilities.

The contribution relates to Plan no. 2 and is based on the criteria that any development which results in a nett increase in the City's population will create extra demand on open space and community recreation facilities. Therefore the requirement for additional open space and embellishment of existing open space is a direct measurable consequence of the approved development.

The total open space and community recreation facilities contribution required and payable before the construction of the development proceeding beyond ground level RL 60 is \$2,072,954.85

(This condition has been modified by 11/DA-21 REV 03).

16. **S944 - Community Services and Facilities** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for community services and facilities. The contribution relates to Plan no. 4 and is based on the criteria that any development which results in a nett gain of people living in the City or a change in the population structure will create extra demand on community services and facilities.

The total community services and facilities contribution required and payable before the construction of the development proceeding beyond ground level RL 60 is \$904,115.

(This condition has been modified by 11/DA-21 REV 03).

17. **S945 - Management** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for Section 94 planning and management.

The contribution is related to Plan no. 5 and is based on the criteria that the significant costs to Council associated with Section 94 planning and management are a direct measurable consequence of the approved development. Therefore it is appropriate to seek to partly offset these costs from the development.

The total Section 94 Management contribution required and payable before the construction of the development proceeding beyond ground level RL 60 is \$66,711.71

(This condition has been modified by 11/DA-21 REV 01).

18. **S946 - Library and Information Services** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for library and information services.

The contribution is related to Plan no. 6 and is based on the premise that any development which results in a nett increase in the City's population will create extra demand on Council's library and information services provision. Furthermore, any such development will also generate an additional demand for the acquisition of library book stock.

Contributions are also sought from retail/commercial development within the Hurstville Town Centre, as defined by the map in the Plan.

- (a) The contribution rate for residential development is \$476,720.01
- (b) The book stock acquisition contribution for residential development is \$3,212.15

The total Library and Information Services Section 94 contribution required and payable before construction of the development proceeding beyond ground level RL 60 is \$479,932.15

(This condition has been modified by 11/DA-21 REV 03).

19. **S947 - Urban Spaces** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for urban spaces.

The contribution is related to Plan no. 7 and is based on the premise that any development which results in a nett gain of people living and working in the Hurstville Central Business District will create an extra demand on the urban space infrastructure and facilities.

- (a) The contribution rate for residential development is \$817/per dwelling.
- (b) The contribution rate for commercial/retail development is \$13.71/per square metre of gross floor area.

The total urban spaces Section 94 contribution required and payable before construction of the development proceeding beyond ground level RL 60 is \$281,950.11

(This condition has been modified by 11/DA-21 REV 03).

20. **S948 - Indexing of all Section 94 Contributions** - All contributions payable pursuant to Section 94 conditions must be paid before issue of the Construction Certificate, and will be indexed quarterly in accordance with the Consumer Price Index - Sydney All Groups, published by the Australian Bureau of Statistics. **If you seek to pay the contributions more than three (3) months from the date of this consent you must contact Council to determine the variation in the contribution(s) before payment.**

(This condition has been modified by 11/DA-21 REV 01).

21. **SM3 - Construction Management Plan** - Submit to the Principal Certifying Authority a Construction Management Plan that clearly sets out the following:
- (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
 - (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
 - (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
 - (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
 - (e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve - the proposed method of support is to be designed by a Chartered Civil Engineer with National Professional Engineering Registration 3 (NPER3) in structural design.
 - (f) A Soil and Water Management Plan detailing all sedimentation controls.
22. Remediation of the Stage 2 portion of the development site must be carried out in accordance with the Remediation Action Plan (RAP) prepared by Golder Associates on 14 December 2004 under report No 03623097/024-M and the Addendum to Remediation Action Plan report prepared by David Lane Associates in March 2011 as may be amended from time to time with agreement from the Site Auditor accredited by the NSW Office of Environment and Heritage.
23. **ST1 - Structural details** - Structural plans and specifications prepared and endorsed by a suitably qualified practising structural engineer shall be submitted along with the Construction Certificate application to the Principal Certifying Authority for any of the following, as required by the building design:
- (a) piers
 - (b) footings
 - (c) slabs

- (d) columns
- (e) structural steel
- (f) reinforced building elements
- (g) swimming pool design
- (h) retaining walls
- (i) stabilizing works

24. **IN3 - Fire Safety Measures** - Prior to the issue of a Construction Certificate a list of the fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a Construction Certificate, which is required to be submitted to either Council or an accredited certifier. Such list must also specify the Minimum Standard of Performance for each Fire Safety Measure included in the list. The Council or Accredited Certifier will then issue a Fire Safety Schedule for the building.
25. **Geotechnical Reports** - The developer must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer in relation to dilapidation reports, all site works and construction. This is to be submitted **before the issue of the Construction Certificate** and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks and any excavations.
 - (b) On-site guidance by a vibration specialist during the early part of excavation.
 - (c) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
 - (d) Sides of the excavation are to be piers prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
26. **PN9** - No excavation, pier hole drilling, construction or the like may be carried out **before the issue of the Construction Certificate**.
27. **PN10** - The site is not to be filled or excavated other than as strictly indicated on the approved plans.
28. **SM2 - Vibration damage** - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw.
- Alternatively where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. **The report shall be submitted with the Construction Certificate Application.**
29. **PN11** - Details of all proposed retaining walls, including height, materials, finish and structure, must be submitted **with the Construction Certificate Application**.

30. PW1 - The developer must ensure that appropriate dust suppression measures are installed/utilised during the periods of excavation/placement of fill/construction. Details of the means of dust suppression must be submitted **with the Construction Certificate application**.
31. PW4 - The developer must take all measures available to control the emission of dust from the site and in this regard adequate watering equipment acceptable to Council shall be used on the site at all times other than in wet weather. The developer must ensure that the contractor is able to control emission of dust from the site on weekends when windy conditions prevail. Details to be submitted **with the Construction Certificate application**.
32. PW5 - The developer must submit a site works plan detailing sedimentation controls, fencing, builders site sheds office and amenities, materials storage and unloading arrangements **with the Construction Certificate application**. This is required before the commencement of any work on-site, including demolition.
33. PW6 - **Vehicle Wash Bays** - All car washing shall be conducted in a roofed and bunded wash bay, with pre-treatment approved by Sydney Water, graded to a drainage point and connected to the sewer. Evidence of approval of the system by Sydney Water to be submitted **with the application for a Construction Certificate**.
34. All stormwater shall drain to the existing 675mm diameter pipeline in the south east corner of the subject site and to Council's existing box culvert located in Forest Road.
35. **On Site Detention** - An on-site detention (OSD) facility designed by a professional hydrological/hydraulic engineer shall be installed. The design must include the computations of the inlet and outlet hydrographs and stage/storage relationships of the proposed OSD using the following design parameters:

The permissible discharge rates shall be in accordance with Warren Smith & Partners Hydraulic Services Masterplan Report DA Submission dated 20 November 2003 issue D. In accordance with this report the permissible site discharge of water up to and including the 1 in 100 year storm event shall not exceed the following:
 - 248 litres per second to the Forest Road Catchment, and
 - 323 litres per second to the 675mm pipeline Catchment (Kemp Field Catchment)
 Full details shall accompany the application for **the relevant Construction Certificate**.
36. DR14 - The underground basement car park must pump to Council's kerb and gutter. All other stormwater must drain by gravity to Council's kerb and gutter.
37. FP3 - **Trade Waste** - A Trade Waste Agreement with Sydney Water must be obtained. If no trade waste agreement or grease trap is required, a letter from Sydney Water is to be submitted to Council to this effect. A copy of the Trade Waste Agreement or letter to Council shall be provided **before the issue of the Construction Certificate**.
38. PU1.1 - **Sydney Water - Access to Water and Waste Water Services** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted **with the application for a Construction Certificate**.

39. PU2 - **Sydney Water** - The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. A copy of the Sydney Water Quick Check approval is to be submitted to Council.

Please refer to the web site www.sydneywater.com.au for:

- * Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- * Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.

or telephone 13 20 92.

40. Detailed design plans and hydraulic calculations of the proposed stormwater drainage system are to be submitted to the Roads and Traffic Authority (RTA) for approval prior to the issue of the Construction Certificate. Details must be forwarded to:

RTA Sydney Asset Management
83 Flushcombe Road
BLACKTOWN NSW 2148

A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regard to any Civil Works requirements, please contact the RTA's Project Engineer, External Works, Phone 8814 2114 or Fax 8814 2107. Documentary evidence must be submitted to the Principal Certifying Authority with the application for a Construction Certificate.

41. RRI - **Access Levels** - An access levels application must be submitted to Council to obtain footpath alignment levels and vehicle crossing levels before designing internal driveways and car parking. Evidence that the proposed internal driveway design complies with Council's issued levels and general access standards shall be submitted **with the Construction Certificate application**.
42. PU5 – **Energy Australia - Underground Electrical Conduits** – Energy Australia is to be consulted to determine if underground electricity conduits are to be installed in the footway. If so, the developer is to install the conduits within the footway across the frontage/s of the development site, to Energy Australia's specifications. Energy Australia

will supply the conduits at no charge. The developer is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. . For details visit www.energy.com.au or call 131525.

- (a) Where conduits are to be installed, evidence of compliance with Energy Australia's requirements is to be submitted **before the issue of the Final Occupation Certificate**.

Where works within the road reserve are to be carried out by the developer, a Road Opening Permit Application must be submitted to, and approved by, Council **before the commencement of work**.

- 43. PU6 – **Energy Australia - clearances to electricity mains** - If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, Energy Australia is to be consulted to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. If so, arrangements are to be made, at your cost, with Energy Australia for any necessary modification to the electrical network in question. For details visit www.energy.com.au or call 131525.

The following condition only applies to developments where overhead low voltage mains are to be placed underground, within the Hurstville CBD area.

- 44. PU7 – **Energy Australia - Undergrounding Electricity Mains (Hurstville CBD area)** – Arrangements are to be made with Energy Australia to install underground all low voltage street mains in that section of the street/s adjacent to the development and to provide conduits for the future under grounding of high voltage mains. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. These works to be carried out at your expense. For details visit www.energy.com.au or call 131525.

- (a) Unless otherwise agreed with Energy Australia, Energy Australia's requirements are to be met before the issue of the Final Occupation Certificate.

Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre **before commencement of work**.

- 45. PU8 – The electricity supply to the subdivision must be underground.
- 46. PU9 - For all developments in the Hurstville CBD the developer shall be responsible for the payment of the full cost of undergrounding low voltage cables adjacent to the development; and the provision of conduits only for the future undergrounding of high voltage cables
- 47. PU10 - For all commercial/industrial and medium high density residential developments elsewhere in the City, the developer shall be responsible for :
 - (a) providing conduits for the future undergrounding of low voltage cables; and
 - (b) providing the connection to future underground supply to the development.

48. PU11 - **Water, Waste Water, Electricity, Gas and Telecommunications** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the developer's expense.
49. PU12 - **Telecommunications Aerial Cables** - Where the under grounding of low voltage electricity cables is required, the developer shall be responsible for arranging and payment of the cost of the under grounding of all telecommunications aerial cables, where the electricity poles are to be removed.
50. WA10 - A detailed Waste Management Plan must be provided with the application for the Construction Certificate, indicating how waste generated from the end use is proposed to be managed.
51. Prior to the issuing of the relevant Construction Certificate for works covered by the "Multiplex Hurstville Development Deed March 2007" executed 9 May 2007 and also the "Deed of Novation" of this Deed dated 30 April 2010, the applicant is to amend the current Deed with RailCorp so ensure that this Development Application also forms part of the Deed document. The Principle Certifying Authority shall not issue the relevant Construction Certificate for works covered by the "Multiplex Hurstville Development Deed March 2007" executed 9 May 2007 and also the "Deed of Novation" of this Deed dated 30 April 2010, until it has received written confirmation from RailCorp that this condition has been complied with.
52. The Applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of RailCorp's representative prior to the issuing of the relevant Construction Certificate for works covered by the "Multiplex Hurstville Development Deed March 2007" executed 9 May 2007 and also the "Deed of Novation" of this Deed dated 30 April 2010.
53. Prior to the issue of the relevant Construction Certificate for works covered by the "Multiplex Hurstville Development Deed March 2007" executed 9 May 2007 and also the "Deed of Novation" of this Deed dated 30 April 2010, the applicant shall obtain written advice from RailCorp as to the need to undertake a services search to establish the existence and location of any rail services. Should RailCorp advise that a services search is required then this shall be completed prior to the commencement of works.
54. An acoustic assessment is to be submitted to Council prior to the issue of the relevant Construction Certificate for works covered by the "Multiplex Hurstville Development Deed March 2007" executed 9 May 2007 and also the "Deed of Novation" of this Deed dated 30 April 2010, demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report.
55. Prior to the issue of the relevant Construction Certificate for works covered by the "Multiplex Hurstville Development Deed March 2007" executed 9 May 2007 and also the "Deed of Novation" of this Deed dated 30 April 2010, the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures

recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010.

56. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. These measures are to comply with RailCorp requirements. The Principle Certifying Authority shall not issue the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010, until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.
57. Prior to the issue of the relevant Construction Certificate the Applicant is to provide RaiCorp with a report from a qualified structural engineer demonstrating that the structural design of the development satisfies the requirements of Australian Standard AS5100 regarding derailment protection. The Principle Certifying Authority shall not issue the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010 until it has received written confirmation from RaiCorp that it has received this report and the Principle Certifying Authority has also confirmed that the measures recommended in engineers report have been indicated on the Construction Drawings.
58. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of RailCorp. The Principle Certifying Authority shall not issue the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010, until written confirmation has been received from the Rail Authority confirming that this condition has been satisfied.
59. Prior to the issue of the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010, a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to RailCorp for review and comment on the impacts on rail corridor. The Principle Certifying Authority shall not issue the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010, until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
60. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.

61. Prior to the issuing of the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010, the Applicant is to submit to RailCorp a plan showing all craneage and other aerial operations for the development and must comply with all RailCorp requirements. The Principle Certifying Authority shall not issue the relevant Construction Certificate for works covered by the “Multiplex Hurstville Development Deed March 2007” executed 9 May 2007 and also the “Deed of Novation” of this Deed dated 30 April 2010, until written confirmation has been received from the RailCorp confirming that this condition has been satisfied.
62. Where a condition of consent requires RailCorp’s endorsement the Principle Certifying Authority shall not issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from RailCorp that the particular condition has been complied with.
63. A copy of the plans must be referred to Sydney Airports Corporation Limited, PO Box 63, Mascot. NSW. 1460 (telephone 9667 9111), and any requirements of that Corporation must be complied with. Prior to the issue of the construction certificate written evidence of acceptance of the proposal must be submitted to the certifying authority issuing a Construction Certificate for the building work.
64. The car park exhaust must comply with Clause 3.7.2 of AS 1668.2 – 1991.

Before Commencing the Development

65. **IN3 - Appointment of Principal Certifying Authority** - No work shall commence in connection with this Development Consent until;
- (a) a construction certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - (b) the person having the benefit of the development consent has appointed a principal certifying authority for the building work; and
 - (c) the principal certifying authority has, no later than 2 days before building work commences:
 - (i) notified Council of his or her appointment;
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are required to be carried out in respect of the building work; and
 - (d) the person having the benefit of the development consent has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence for the residential building work involved;
 - (ii) notified the principal certifying authority of any such appointment, and

- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
- (e) the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

66. **BC1 - Construction Certificate - No work shall commence until you:**

- (a) Obtain a Construction Certificate from either Hurstville City Council or an Accredited Certifier - a fee applies for this service; and
- (b) Lodge with Hurstville City Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service.

67. **BC2 - Notice of Commencement - No work shall commence until** you submit a Notice of Commencement (form attached or available from our website) giving Council:

- (a) Not less than two (2) days notice of the date on which it is proposed to commence work associated with this Development Consent.
- (b) Details of the appointment of a Principal Certifying Authority (either Hurstville City Council or an Accredited Certifier).
- (c) Details of the name, address and licence details of the Builder.

Note: If the Principal Certifying Authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

68. **MI128 - Notice of Excavation** - The developer must notify the owners of the adjoining properties, by way of Certified Mail, of the proposed excavation of the subject land at least fourteen (14) days prior to the excavation of the site. Copies of the letters notifying the adjoining owners must be submitted to the Principal Certifying Authority **before the commencement of work.**

69. **MI129 - Dilapidation Report** - A Dilapidation Report on the adjoining properties detailing the existing condition of any existing walls, paths and fences, with photographs must be submitted to the Principal Certifying Authority **before the commencement of work.**

70. **BC3 - Site Safety Fencing** - Erect site fencing complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained through out any demolition and construction work.

71. **BC4 - Principal Certifying Authority (PCA) Sign** - A sign must be erected in a prominent position on the site indicating that entry to the site by unauthorised persons is not permitted, and including the contact details of the PCA. Where Council is the PCA, a sign may be obtained at no cost from Council's Customer Service Centre. A PCA sign must be erected on the site **before the commencement of any work.**

72. PW2 - The developer must ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work.
73. **ES1 - Erosion and Sedimentation Controls** - Erosion and sedimentation controls must be provided to ensure:
- (a) compliance with the approved Soil and Water Management Plan
 - (b) removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) all uncontaminated run-off is diverted around cleared or disturbed areas
 - (d) silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
 - (e) all erosion and sediment controls are fully maintained for the duration of demolition/ development works
 - (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
 - (g) all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) all water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
 - (i) pumped or overland flows of water are discharged so as not to cause, permit or allow erosion
 - (j) compliance with the Do it Right on Site brochure requirements published by SSROC

before the commencement of work (and until issue of the Occupation Certificate).

74. **RR2 - Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the Roads and Traffic Authority, in the case of State roads, for every opening of the public road to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications **before the commencement of work in the road.**
75. The Applicant shall provide a Geotechnical Engineering report to RailCorp for review by RailCorp's Geotechnical section prior to the commencement of works, and if deemed necessary by RailCorp, a Structural Report and excavation/construction methodology. The report(s) shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by RailCorp.
76. Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.

77. Given the site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from RailCorp.
78. Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.
79. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development landscaping and planting plan should be submitted to RailCorp for review.
80. Prior to the commencement of works appropriate fencing shall be installed along the rail corridor to prevent unauthorised access to the rail corridor. Details of the type of fencing and the method of erection are to be to RailCorp's satisfaction prior to the fencing work being undertaken.
81. Prior to the commencement of works the Applicant shall obtain RailCorp's endorsement of any hoarding or scaffolding along the common boundary with the rail corridor.
82. Prior to the commencement of work in connection with the excavation of the site associated with the basement levels, structural engineer's details relating to the method of supporting Council's roadway/footway in Forest Road and Durham Street, and the public utilities in the aforesaid roadways/footways, must be submitted to Council's Manager – Building Control, and be formally acknowledged by Council as acceptable.

Note: The structural engineer's details must be accompanied by a geotechnical investigation report prepared by a geotechnical engineer practising in the field of geotechnical investigations, which, in addition to setting out information on subsurface conditions of the site and specifying the design constraints that are to be placed on the foundation, earthworks and excavations for the proposed building, must specify the means of supporting/stabilising Council's roadway/footpath in Forest Road and Durham Street.

83. In the event that the excavation associated with the basement car park levels is to be supported by the use of either soldier piles or parallel flange channels incorporated in a 'Shotcrete' wall system, and which are held in place by belowground (cable) anchors that are constructed under Council's roadways/footways in Forest Road and Durham Street, an application must be lodged with Council's Manager - Building Control to construct the belowground (cable) anchors under its roadways/footways prior to commencement of any work in connection with the excavation of the site.

- Note:
- (a) the cable anchors must be stressed released when the building extends above ground level to the satisfaction of Council,
 - (b) the applicant must indemnify Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council until the cables are stress released.
Documentary evidence of a Public Risk Insurance Policy, which has a minimum cover to the value of ten (10) million dollars, is in the name of the applicant, and notes Council as an interested party, must be submitted to Council prior to commencement of the excavation work,
 - (c) the applicant must register a non-terminating bank guarantee in favour of Council for the amount of \$40,000.00. The guarantee will be

released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released, and

- (d) in the event of any works taking place on Council's roadway/footway adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors must be borne by the applicant.
- (e) The Bank Guarantee for the site will be paid once only for each stage of the development. Documentary evidence is to be submitted to demonstrate payment of this fee.

- 84. Prior to the commencement of any work in connection with the excavation of the site, including the construction of bored piles, the building site must be protected by a site security perimeter fence. In the event that any portion of the site security perimeter fence along Forest Road and Durham Street is to occupy any part of Council's footways along these roadways during the excavation work, the site security perimeter fence must be constructed as a Type A hoarding. Prior to construction of the Type A hoarding, an application under Section 68 of the Local Government Act, 1993, and in accordance with Section 138 of the Roads Act, 1993, to construct such structure must be lodged with and be approved by Council's Manager – Building Control.
- 85. For the reason that Building B will involve the height of such structure being more than 4m above footpath level or the horizontal distance between the road alignment and the nearest part of Building B along Forest Road being less than half the height of the building, when construction has reached a height of 4m above ground level, a 'B' Class hoarding, in accordance with the requirements of WorkCover New South Wales, must be erected over the portion of the footway of Forest Road adjoining the site.
- 86. In respect of Building A, for the reason that the height of this building will similarly be more than 4m above footpath level, and if the horizontal distance between the road alignment and the nearest part of Building A along Durham Street is less than half the height of the building within 15m of the street alignment, when construction has reached a height of 4m above ground level, a 'B' Class hoarding, in accordance with the requirements of WorkCover New South Wales, also must be erected over the portion of the footway of Durham Street adjoining the site.
- 87. Prior to commencement of work in connection with the erection of the 'B' Class hoarding/s, an application for such work, under Section 68 of the Local Government Act, 1993, and in accordance with Section 138 of the Roads Act, 1993, must be submitted to and be approved by Council's Manager – Building Control. Irrespective of whether a Type A or Type B hoarding system is erected, a Public Risk Insurance Policy with a minimum cover of ten (10) million dollars in relation to the occupation of and works within Council's road reserve, and which is applicable for the full duration of the proposed works, must be obtained. A copy of the Policy, which shall be in the name of the applicant and note Hurstville City Council as an interested party, must be submitted with the Section 68 application for the hoarding.

88. Prior to commencement of site works, a sign must be erected at the entrance of the property detailing permitted hours of work. The lettering is to have a minimum height of 50mm and is to contrast the background of the sign. The builder is to advise all sub-contractors, in writing, of the approved hours of work prior to commencement of excavation work.
89. Prior to commencement of site works, details setting out a “designated heavy vehicle route” in connection with the transporting of soil material to and from the site as well as transporting all waste material, existing landfill and spoil, from the site must be submitted to Council’s Traffic Analyst for approval.

During the Development

90. IN3 - The Principal Certifying Authority must carry out the last critical stage inspection and, as well, the Principal Certifying Authority, or another certifying authority, must carry out all other critical stage inspections, as are prescribed in the Environmental Planning and Assessment Regulation, 2000, together with the inspections required by the principal certifying authority and the undermentioned inspections:
- (a) All structural inspections,
 - (b) All inspections necessary to determine that the appropriate conditions attached to this consent have been complied with, and
 - (c) All inspections necessary to determine that the requirements of the Building Code of Australia are being met.

Where Council has been appointed as the principal certifying authority, a PCA Services Fee will be paid in accordance with the Schedule of Fees and Charges. Forty-eight (48) hours notice in writing, or alternatively twenty-four (24) hours notice by facsimile or telephone, must be given to Council when specified work requiring inspection has been completed.

91. **DD2 - Registered Surveyor's Report - Submit to the Principal Certifying Authority During Development Work**

A Registered Surveyor's Report must be submitted to the Principal Certifying Authority at each of the following applicable stages of construction:

- (a) Setout before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.

- (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.
- (h) Other.

Work must not proceed beyond each stage until the Principal Certifying Authority is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

92. **PN1 - Hours of Operation for Building and Demolition Work** - Work in connection with the proposed development or building that involves the demolition of any existing buildings, any excavation or earthworks, the depositing of materials on the site, the removal of spoil and materials from the site or the erection of the building that requires the use of any tools (including hand tools) or any power operated plant or machinery that creates noise on or adjacent to the site shall only be performed between the hours of 7.00 am and 5.00 pm, Monday to Saturday inclusive. No work is to take place on Sundays, Good Friday, Christmas Day, and any public holiday.

Additionally, construction work on all buildings (except that on single dwelling houses and associated structures on the site of a single dwelling house) is prohibited on Saturdays and Sundays on weekends adjacent to a public holiday.

A Penalty Infringement Notice may be issued for failure to comply with this condition.

93. **MI130.2 - Slip Resistance** - Details relating to the type of pedestrian surface materials to be used in areas such as the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units, the location of each type of surface material, the slip resistance classifications of those materials as determined through test methods using wet or dry conditions, and verification by way of, for example, copies of test reports issued by the CSIRO, that the pedestrian surface materials comply with AS/NZS 4586:2004 must be submitted to either Council or accredited certifier before installation of such materials.
94. **BC5 - Bulk Excavation or Filling Levels** - The bulk excavation or filling levels for footings or slabs, when placed, shall not exceed the levels as required by this consent. A surveyor's certificate verifying compliance with this condition must be submitted **before placement of concrete in footings or slabs**.
95. **DE4 - Ground Levels** - The ground levels of the site shall not be raised, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved separately by Council.
96. **MI1** - The street number of the property, according to its rateable address indicated in Council's records, must be clearly displayed on the front of the building, front fence or

the like. The addressing must conform to Australia Post's requirements. These are defined in Australian Standard "AS4819:2003 Geographic information – Rural and Urban Addressing". You are required to consult with Australia Post (Mr James Ramsey, Data Manager, Kingsgrove Delivery Network Ph: 02 9531 3236) prior to finalising the street number of the property.

97. MI7 - The shop number, at least 50mm high, must be clearly displayed adjacent to the entry door to each shop/unit.
98. MI25 - **Balcony Drainage** - The floors of the balconies must be graded and drained to a grated inlet and connected to the stormwater drainage system.
99. Waste and Recycling facilities are to be provided in accordance with the Waste Management Plan prepared by Sydney Land Holdings Pty Ltd dated December 2004, and the updated Waste Management Plan prepared by JD Macdonald dated April 2010.
100. Stage 2 portion of the site must be remediated in accordance with the Remedial Action Plan (RAP) prepared by Golder Associates on 14 December, 2004 under Report No. 03623097/024-M and the Addendum To Remediation Action Plan" report prepared by David Lane Associates in March, 2011. In this regard, the following action must be performed in connection with the Stage 2 development:
 - The finished level of the land on the Stage 3 side of the basement car park wall, which separates the Stage 2 and Stage 3 parts of the development, must be such that any stormwater falling on the ground surface to the east of the separating wall, i.e. until construction of Stage 3 occurs, will not pond on that side of the wall.
101. MI16 - No goods shall be stored or displayed outside the building.
102. MI17 - A separate Development Consent shall be obtained for the first commercial / retail / office use of each occupancy.
103. ZC2 - Only signage that is exempt under Council's Development Control Plan or has consent from Council may be affixed to the building. All signage must comply with Council's Development Control Plan. In particular:
 - (a) window signs should be on the inside of the glass and must not cover more than one half of the window
 - (b) if a language other than English is used on the sign, there must be an accurate English translation in lettering of at least the same size
 - (c) signs should look professional (not handwritten) and must be securely fastened
 - (d) signs, posters or notices must not be glued to any part of the exterior of the building
104. PV4 - All access driveways, queuing areas, ramps, gradients and the like for parking areas must be constructed in accordance with the provisions of Council's Development Control Plan, except where otherwise approved by Council.
105. RR8 - Any existing vehicular crossing and/or layback which is redundant must be removed, and the kerb, any other footpath and turf is to be restored at the expense of the beneficiary of this consent and in accordance with Council's Specification for Vehicular

Crossings and Associated Works. The work may be carried out either by Council, after payment of a quotation, or by a private contractor, subject to Council approval.

106. RR9 - Any utilities/services/drains/power poles that require relocating or altering as a result of construction of the vehicular crossing to Council's issued levels and/or Council's standard shape, is to be done in accordance with the requirements of the relevant service/utility and at the expense of the beneficiary of this consent.
107. MI21 - All enclosed and unrestricted car parking spaces, internal driveways and the like, shall be designed to conform with Council's Development Control Plan. Regard shall be given to the crossfall, in longitudinal profile, of the footpath in the design of footpaths.
108. MI21.1 - **Internal Driveways** - Internal driveways, entered from the footpath, shall be designed to conform with Council's Development Control Plan. Regard shall be given to crossfall, in longitudinal profile, of the footpath in the design of footpaths
109. PV1 - **Linemarking and Numbering** - All car parking spaces are to be sealed, graded, drained, clearly linemarked, and numbered.
110. PN4 - **Offensive Noise Generally** - The use of the premises, building services, equipment, machinery and ancillary fittings must not give rise to offensive noise as defined under the Dictionary of the Protection of the Environment Operations Act 1997.
111. PN6 - The maximum noise level from plant and equipment used on the site must not exceed the background noise level by more than 5dB(A) for the approved hours of the use, when measured at the boundary of the nearest residential premises.
112. LA3 - **Retaining Edge** - A retaining edge of masonry or other approved barrier of a minimum height of 150mm must be erected around the landscaped areas to contain the soil and mulch material and to prevent the encroachment of motor vehicles.
113. LA5 - **Wheel Stops** - The developer must install wheel stops to all parking spaces fronting landscape beds.
114. LA6 - **Common Taps** - The developer must provide a common tap/taps or an irrigation system to enable all landscape works to be adequately watered.
115. LA7 - **Protection of Tree Roots** - Underground services shall be routed to avoid existing tree root zones. Where trenching for services is unavoidable, any roots larger than 25mm in diameter shall be conserved and services placed below the roots.
116. LA8 - **Protection of Tree Roots** - During construction, protective fencing shall be provided around the existing trees and/or bushland to be retained.

This fencing shall encompass the maximum possible area covered by the drip line of the canopy to prevent damage to the trees and their root system by the movement of vehicles, the handling or storage of building materials, any excavation, filling, or the like. There is to be no storage of building materials, fill or equipment permitted under the canopy of trees retained on site. The Principal Certifying Authority is to approve on-site protection methods **before work commences and to ensure maintenance of those protection methods during construction works.**

117. PA3 - **Prohibition of Burning Off** - No article, material or the like shall be ignited or burnt whatsoever on or in association with the work on the site.
118. PW3 - The developer must remove any material deposited on public roads, adjacent to the site, resulting from construction/subdivision works, immediately it occurs and as directed by Council.
119. DE5 - The footpath and roadway shall be kept clear of obstructions, building materials, and liquid or solid waste of any type whatsoever at all times. Severe fines apply for an offence and where Council makes repairs or provides temporary public safety measures. The cost of these works may be deducted from the damage deposit.
120. RR6 - **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence. A severe penalty applies.
121. RR7 - **Maintenance of Road and Footpath** - During construction, the footpath and road are to be maintained in a condition which prevents any trip or safety hazard to pedestrian or vehicular traffic.
122. All vehicles transporting soil material to and from the site, as well as transporting all waste material, existing landfill and spoil from the subject site, must ensure that the entire load is covered by means of a tarpaulin(s) or similar material. The vehicle driver shall be responsible for ensuring that waste material, dust or dirt particles are not deposited onto the roadway during transit. The preferred method of covering loads is with an automated "enviro-tarp". It is a requirement under the Protection of the Environment Operations (Waste) Regulation, 1996 to ensure that all loads are adequately covered, and this shall be strictly enforced by Council's Law Enforcement Officers. Any breach of this legislation is subject to a \$500.00 "Penalty Infringement Notice" being issued to the drivers of those vehicles not in compliance with the regulations.
123. Geotextile fabric screens or similar measures erected to prevent sediment from the site, including deposited loads of sand or fill, being washed onto the road or any adjoining properties must be kept in place until completion of the building.
124. During bulk excavation the site is to be watered at intervals as are necessary to eliminate wind-blown dust being emitted from the site and to ensure there is no nuisance caused to the public/adjoining landowners.
125. Mud or clods of dirt must be scraped or removed from the wheels of trucks prior to such vehicles leaving the site during excavation works to prevent the tracking of the sediment onto the adjoining roadways.

Note: Should any sediment be deposited on the adjoining roadways, such sedimentation must be removed immediately by means other than washing or hosing, for example by a street sweeper. The collected material must be disposed of in a manner that will prevent its mobilisation. (Reason: To prevent the sediment material entering the street drainage system).

126. The car wash bay(s) must be connected to Sydney Water's sewer.

127. The floor surface of the waste/recycling and garbage room/s must be steel trowelled concrete, and be graded and drained to the requirements of Sydney Water. A hose cock must be provided adjacent to the entry of such area/s.

Before Occupation

128. **Occupation Certificate** (Class 1 to 10 buildings inclusive) - The building must not be occupied or used until an occupation certificate is issued by the principal certifying authority appointed for the erection of the building.

Prior to the issue of the occupation certificate the principal certifying authority for the building work to be carried out on the site must be satisfied that:

- (a) any preconditions required by the development consent to be met have been met; and

such building work has been inspected by that principal certifying authority, or, in the case of all inspections other than the last critical stage inspection, by another certifying authority, on such occasions as are prescribed in the Environmental Planning and Assessment Regulation, 2000, and on such other occasions as may be required by the principal certifying authority and the conditions required by this development consent.

129. **IN3 - Fire Safety Certificate Before Occupation or Use** - Prior to the issue of an occupation certificate the owner of the building must issue a fire safety certificate and must cause a copy of that fire safety certificate to be given to the principle certifying authority issuing the occupation certificate. The fire safety certificate must be issued to the effect that each essential fire safety measure specified in the fire safety schedule for the building to which the certificate relates:

- (a) has been assessed by a properly qualified person, and
- (b) was found, when it was assessed, to be capable of performing to at least a standard required by the current fire safety schedule for the building for which the certificate is issued.

Note: The owner of the building:

- (a) must cause a copy of the fire safety certificate (together with a copy of the current fire safety schedule) to be given to the Fire Commissioner, and
- (b) must cause a further copy of the fire safety certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

130. At completion of work, and prior to the issue of any first interim or final occupation certificate in respect of the Stage 2 development, a report prepared by prepared by a qualified contamination land professional, who is experienced in contaminated site assessment and management, and approved by a Site Auditor accredited under the Contaminated Land Management Act, 1997, validating that the remediation of the Stage 2 portion of the development site has been carried out in accordance with:

- i) the Remediation Action Plan (RAP) prepared by Golder Associates on 14 December, 2004 under Report No. 03623097/024-M, and

- ii) the Addendum To Remediation Action Plan report prepared by David Lane Associates in March, 2011, as may be amended from time to time with agreement from the Sits Auditor accredited by the NSW Office of Environment and Heritage.

must be submitted to both Council' Manager – Building Control - and to the private principal certifying authority, if used.

131. MI130.3 - **Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. A Compliance Certificate must be submitted to either the Council or accredited certifier detailing the results of the slip resistance measurements and that the pedestrian floor surfaces comply with AS/NZS 4586:2004 **before occupation.**
132. PU1.2 - **Sydney Water - Access to Water and Waste Water Services** - The Section 73 Certificate must be submitted to the Principal Certifying Authority **before occupation of the development/release of the plan of subdivision.**
133. PU3 - **Sydney Water - Trade Waste Water** - Trade waste water must be disposed of in accordance with the requirements of Sydney Water. For more details visit www.sydneywater.com.au or call 13 20 92. A copy of the trade waste water agreement must be provided to the Principal Certifying Authority **before the issue of the Occupation Certificate.**
134. BAI - **BASIX** - All energy efficiency measures as detailed in the BASIX Certificate No. 367664M dated 24 March 2011, and in the plans approved with the Development Consent, must be implemented **before issue of the Occupation Certificate.**
135. MI27 - **Driveway Construction** - A vehicular crossing shall be provided in accordance with Council's Specification for Vehicular Crossings and Associated Works. The work may be carried out by a private contractor (subject to Council approval).
- The work must be completed **before the issue of an Occupation Certificate.**
136. LA1 - **Completion to Approved Landscape Plan** - All landscape works in accordance with the landscape plan shall be completed before the issue of the occupation certificate.
137. WA7 - All rubbish and waste materials on-site must be removed before occupation of the premises/commencement of the approved activity.
138. The developer must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to RailCorp prior to the issuing of the Final Occupation Certificate. The Principle Certifying Authority shall not issue a Final Occupation Certificate until written confirmation has been received from RailCorp advising that the maintenance plan has been prepared to its satisfaction.
139. Parking spaces shall be clearly designated (sign posted and marked on ground) and line

marked prior to the issuing of the Interim and Final Occupation Certificate. Signage, pavement symbols and line marking shall comply with Australian Standards, AS 2890.1:2004 and AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

140. Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the Australian Standards AS2890.1.
141. At completion of work, and prior to issue of the Interim or Final Occupation Certificate, a certificate from a practising acoustical consultant (who is a member of either the Australian Acoustical Society, or the Association of Australian Acoustical Consultants) must be submitted to the principal certifying authority appointed for the erection of the building certifying that the noise mitigation measures implemented in the building comply with the criteria detailed in the report prepared by Richard Heggie Associates on 5 December, 2003 under Report No. 10-2768-R1, Revision 0, and titled "DA Acoustics and Vibration Assessment Report", as well as any conditions imposed by RailCorp. The certificate must further state that the methods of construction of any assemblies that have been specified in the above report, including the provision of alternative ventilation to the apartments that involve open windows and are exposed to road and rail traffic noise intrusion, have been installed.
142. At completion of work a report/s must be submitted to principal certifying authority appointed for the erection of the building from appropriately qualified persons stating that all of the recommendations/measures included in the under mentioned reports have been complied with:
 - a. Reports prepared by SLR Consulting Australia Pty. Ltd, dated 25 January, 2011 under Report No. 610-10259-R2, Revision 0 - titled "Environmental Winds" in the terms of wind effects; and dated 25 January, 2011 under Report No. 610-10259-R3, Revision 0 - titled "Reflectivity Glare Assessment" in terms of reflectivity; and
 - b. The SEPP Amenity Compliance Summary Expert Opinion prepared by Stephen King, Consulting Architect, on 21 January, 2011 and attached report titled "Evaluation Report: Solar Access and Natural Ventilation - Pre-DA Technical Performance Advice" in the terms of achieving compliance with the performance objectives of SEPP 65 (Residential Flat Design Code) for solar access and natural ventilation.
143. In the event that the air-handling systems involve water cooling towers, as laid down in Section 45 of Part 4 – Microbial Control - of the Public Health Act, 1991, such air-handling systems must be installed and maintained in accordance with the Public Health (Microbial Control) Regulation, 2000.

Note: Discharge water from the cooling towers must not be connected to the stormwater drainage system.

After Occupation/Ongoing Conditions

144. A sign with the population capacity table must be displayed in a prominent position within the building as per Clause 98D of the Environmental Planning and Assessment Regulation 2000.

145. **EF3 - Annual Fire Safety Statement** - The owner of the building must issue an annual fire safety statement in respect of each essential fire safety measure in the building premises and cause a copy of that certificate to be given to Council within 14 days of its receipt by the owner.

The annual fire safety statement must be to the effect that:

- (a) in respect of each essential fire safety measure, such measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing:
 - (i) in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule, or
 - (ii) in the case of an essential fire safety measure applicable otherwise than by virtue of a fire safety schedule, to a standard no less than that to which the measure was originally designed and implemented, and
- (b) the building has been inspected by a properly qualified person and was found when it was inspected to be in a condition that did not disclose any grounds for a prosecution under Part 2, Division 7 of the Environmental Planning and Assessment Regulation, 2000.

The owner of the building must also cause a copy of the statement (together with a copy of the current fire safety schedule) to be given to the Fire Commissioner and as well cause a further copy of the statement (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

146. **MI130.4 - Slip Resistance** - The pedestrian surface materials in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units must be maintained on a regular basis which must include, as part of the maintenance programme, inspections and testing of the floor surfaces which must be carried out in accordance with AS/NZS 4663:2004 - Slip Resistance Measurement of Existing Pedestrian Surfaces.
147. **MI7** - The shop/factory unit number, at least 50mm high, must be clearly displayed adjacent to the entry door to each shop/unit.
148. **Drainage Maintenance** - The on-site detention drainage facility shall be maintained at all times in accordance with the approved plans.
149. **PV6 - Residential Parking Requirements for 4 or More Units** - A minimum of one (1) resident parking space per 1 or 2 bedroom dwelling and two (2) resident parking spaces per 3 or more bedroom dwelling, one (1) visitor space per 4 dwellings, and a minimum of one (1) car washing area (can be a visitor space) shall be provided in accordance with the approved plans. The visitor spaces are to be clearly signposted with durable metal or similar signs. The visitor car spaces shall be shown as common property in any strata plan.
150. **Access to Visitors' Parking** - Visitor parking spaces are to be clearly signposted, with durable metal or similar signs, and accessible at all times. Any security gates or doors

must be located to permit sufficient manoeuvring area for visitor vehicles to enter and leave the property in a forward direction.

151. **PV8 - Parking Space Number/Availability, Retail / Commercial / Office Uses** - A minimum of ninety five (95) parking spaces (sixty three (63) for the retail component and thirty two (32) for the commercial component) are to be provided and these spaces must be unobstructed and available at all times for the parking of visitors/customers/employees/service vehicles.

151(a).One hundred and sixty one (161) car spaces located in the basement levels of the development are to be allocated and exclusively used by the Stage 3 development.

(This condition has been modified by 2011/DA-21 REV 02).

152. **PV9 - General Signage** - The owner of the property must maintain the car park, including all signs, line marking, and bay numbering, in accordance with AS 2890.1-1993 Australian Standard Parking facilities Part 1: Off-street car parking.
153. **PV10 - Car Park Direction Signage** - The direction of every entry/exit point and circulation route must be clearly marked in durable paint and/or durable metal or similar signposting.
154. **PVI2 - Use of Car Parking Spaces** – The car parking spaces shall be linemarked and used only for the parking of vehicles and not used for the storage of any materials or waste matter.
155. **PV13 - Use of Loading Dock(s)** - The loading dock(s) shall be linemarked, clearly signposted and used only for the purpose of loading and unloading of goods and not used for the storage of any materials or waste matter.
156. **PV14 - Prohibited Parking** - Staff, company and visitors' vehicles must only be parked in the spaces provided on the subject premises and not on adjacent footpath or landscaped areas.
157. **PV15 - Disabled Parking** - The parking space(s) for disabled persons must be sized/marked/signposted in compliance with Australian Standard 2890.1-1993.
158. **PV16 - Obstruction of Parking and Manoeuvring Areas** - Goods and/or waste or extraneous material must not be stored in the vehicular manoeuvring and parking areas. Those areas must be kept clear at all times for the manoeuvring of vehicles.
159. **PV18 - Vehicles must Enter and Exit in Forward Direction** - With the exception of garbage and recycling collection vehicles, all other vehicles must be driven in a forward direction entering or exiting the property. Adequate space must be provided and maintained on the land to permit all vehicles to turn. A durable metal or similar sign at the entrance of the site indicating that "All vehicles are to enter and exit the site in a forward manner".
160. **PV19 - Loading or Unloading** - The loading and/or unloading of all goods and materials used in conjunction with the development must take place within the property.

161. PV22 - Approved car parking spaces must not be partitioned or otherwise enclosed to form garages.
162. LA2 - **Maintenance to Approved Landscape Plan** - All landscape works in accordance with the landscape plan shall be maintained.
163. LA4 - **Parking on Landscaped Areas** - No vehicles, goods, materials or extraneous matter may be parked, deposited, or stored on any of the landscaped areas.
164. WA4 - **Handling of Waste** - No bottle, can or garbage disposal shall take place between the hours of 10.00pm and 8.00am daily.
165. WA5 - Service of trade waste bins must be carried out between 7.00am and 7.00pm. weekdays.
166. WA8 - The premises must be maintained in a clean and tidy state at all times.
167. ZC3 - No goods for sale or display are to be placed outside the front facade of the building unless approved by Council.
168. ZC7 - Under awning lighting to illuminate the footpath at night time for pedestrians is to be provided. The lighting should be energy efficient.
169. ZC9 – No tables, chairs, planters, display signs or goods and the like are to be placed on the footpath unless approved by Hurstville City Council.
170. ZC10 - The building exterior is to be maintained in a clean and neat manner, including the regular cleaning of windows. Any such window cleaning is to be done in a water efficient manner, for example no hosing of the windows is permitted.
171. ZC12 - The entrance to a shop or business must remain clear of obstructions to enable easy entrance/exit for customers, including those with a stroller, in a wheelchair or with visual impairment.
172. ZC14 - Amplified music/public address systems must not be audible outside the premises, unless approved by Hurstville City Council.
173. All vehicles including loading trucks must enter and exit the site in a forward direction.
174. All vehicles are to be wholly contained on site before being required to stop.
175. All loading and unloading must occur on site.
176. Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with Australian Standards, AS2890.1:2004 and AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

177. Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the Australian Standards AS2890.1.
178. **PN2 - Plant or machinery must not cause noise exceeding background** - All sound producing plant, equipment, machinery or fittings associated with or forming part of the mechanical ventilation system and/or the refrigeration system being sound insulated and/or isolated so that the noise emitted does not exceed the background noise level by more than 5db(A), when measured at the boundary of the property.
179. **Planning Certificates** - The Council may, pursuant to Section 149(5) of the Act, make a notation regarding the VPA on any certificate issued pursuant to Section 149(2) of the Act in relation to the Land or any other land affected by the VPA.

CONDITIONS RELATING TO ANY FUTURE STRATA SUBDIVISION OF BUILDING(S)

No approval is expressed or implied to the subdivision of the subject building(s). For any future Strata subdivision, a separate Development Application or Complying Development Certificate shall be approved by Council or an Accredited Certifier.

180. Balconies must not be used for the drying of washing or the airing or hanging of clothes, linen etc. where visible from a public place.
181. In the event that the residential units are strata subdivided, the By-Laws under the Strata Schemes (Freehold Development) Act, 1973 in respect of the ongoing waste management in the building must include rules stating that:
- (i) the owners corporation will employ sufficient staff to ensure that general waste and recyclable materials are separated into appropriate containers and presented for removal or collection on designated collection days, and
 - (ii) waste transfer equipment, storage spaces and containers are maintained in a clean condition.
182. **Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:**

a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit. The unit number shall comply with all requirements of Australia Post

b) Car Parking Space Marking and Numbering

Each basement car space shall be line marked with paint and numbered in accordance with the relative apartment number prior to the issue of any Strata Certificate. "Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

c) Designation of Visitor Car Spaces on any Strata Plan

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan

- All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
- All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan.
- Separate Utility Lots for individual car parking spaces shall only be created if these spaces are surplus to the minimum number of parking spaces required.

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

In addition to the statutory requirements of the Strata Schemes (Freehold Development Act 1973) a *Strata Certificate* must not be issued which would have the effect of:

- 1) The removal of any areas of common property shown upon the approved Development Application plans and allocated to any one or more strata lots,
- 2) The removal of any visitor parking spaces from the strata scheme and allocated to any one or more strata lots , or
- 3) Any unit's parking space or storage area is not strata subdivided as separate strata lot.

Note: This condition has been imposed to ensure that: (a) common property is not alienated from the strata scheme and assigned to any one or more strata lots, (b) visitor parking is not alienated from the strata scheme and assigned to any one or more strata lots such that visitors would be restricted from lawful access and use of required visitor parking, (c) parking spaces and storage areas are not strata subdivided as separate strata lots which may be sold with full strata title rights as a parking space or storage area lot, reducing available parking and storage to strata lots and visitors required to reduce demand for on-street public parking.

e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Hurstville City Council."

Hurstville City Council is to be nominated as the Authority to release, vary or modify this Covenant.

Other Approvals - Section 78(5), Local Government Act 1993

(e.g. Section 68 of Local Government Act may apply (only if they have applied for it as part of DA) i.e. outdoor tables and chairs or hoardings *; "Nil" if n.a.)

Advices to Applicant

183. **Consent Operation** - This consent operates from the date the original consent was endorsed, ie 8 November 2011, except as qualified by Section 93 of the Act.

This development consent will lapse unless acted upon within five (5) years from the date of the original endorsement, except as qualified by Section 99 of the Environmental Planning and Assessment Act 1979.

184. If you are not satisfied with this determination, you may:
- (a) Apply for a Review of a Determination under Section 96AB of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within twenty-eight (28) days from the date of this Notice of Determination and be accompanied by the relevant fee in accordance with Environmental Planning and Assessment Regulations 2000 Clause 123I. 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.
OR
 - b) Appeal to the Land and Environment Court within six (6) months after the date on which you receive this Notice of Determination, under Section 97AA of the Environmental Planning and Assessment Act 1979.
185. **AD1 - Dial Before you Dig** - contact Sydney One Call Service to ascertain which utility services are underground in the proposed excavation area, via details of:
- (a) street/house number and street name
 - (b) side of the street
 - (c) name of nearest cross street
 - (d) distance from nearest cross street

For more details visit www.dialbeforeyoudig.com.au or call 1100. You can find out the location of Council drainage pipes by contacting Council's Service Delivery Directorate.

186. **AD2 - Dividing Fences** - You must satisfy the requirements of the Dividing Fences Act before erecting any fencing on common boundaries. The Chamber Magistrate at the Local Court advises on the Dividing Fences Act, particularly for legal advice or disputes, and the Community Justice Centre can also assist with disputes.
187. **AD3 - Covenants** - irrespective of the terms of this consent you must make sure that covenants on the title of the property are complied with for proposed construction. For more details contact the Lands Department - www.lands.nsw.gov.au or call 9228 6713 or contact your Solicitor.
188. **AD4 - WorkCover Authority** - For premises which are/will be workplaces a copy of the approved plan to the WorkCover Authority shall be submitted to ensure that the proposal complies with WorkCover requirements. Where factory registration is required by WorkCover, a separate application to Council may be required for a statement of compliance with the egress provisions of the Building Code of Australia. If so it is best to do so as soon as possible. For more details visit www.workcover.nsw.gov.au or call 131050.

189. AD5 - **Australia Post** - A mail box meeting certain position, dimension and height requirements must be installed to satisfy Australia Post. For more details visit www.auspost.com.au or call 131318.
190. AD6 - **Access for Persons with a Disability** - In addition to Council's Development Control Plan and the Building Code of Australia, the Commonwealth Disability Discrimination Act 1992 may impose greater obligations on providing access/facilities for disabled persons. For more details visit the Human Rights and Equal Opportunity Commission website www.hreoc.gov.au or call 9284 9600.
191. AD7 - **Tree Preservation** - Council's Tree Preservation Order prohibits the ringbarking, cutting down, lopping, removing, injuring, or the wilful destruction of any tree, that is 3 metres or more in height, have a girth of 30 cm or more when measured 45 cm above the ground and/or has a branch spread of 3 metres or more, except with the specific consent of the Hurstville City Council. Severe penalties apply for an offence.
192. AD8 - **Stencilling** - Colouring or stencilling of the footpath crossing within the road reserve is prohibited.
193. AD9 - **Construction Zone** - You may apply for a construction zone on the roadway adjacent to the site for the duration of the construction work, by way of written application and payment of fees detailed in our Schedule of Fees and Charges.
194. AD10 - **Energy Australia** - The minimum safe distance from overhead power lines shall be maintained in accordance with the requirements of Energy Australia. For details visit www.energy.com.au.
195. AD11 - Other approvals required - Where it is proposed to:
- (a) Pump concrete from within a public road reserve or laneway.
 - (b) Stand a mobile crane within the public road reserve or laneway.
 - (c) Use part of Council's road/footpath area.
 - (d) Pump stormwater from the site to Council's stormwater drains.
 - (e) Store waste containers, skip bins, and/or building materials on part of Council's footpath or roadway.

an appropriate application for a Work (construction) Zone, a pumping permit, a hoarding, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee in accordance with Council's Schedule of Fees and Charges shall be submitted to Council and approval obtained before commencement of any of the those activities.

196. AD13 - A separate application must be lodged and approved under Section 68 of the Local Government Act 1993 for the erection of any A-Frames or signage boards