

JOINT REGIONAL PLANNING PANEL
Sydney East

JRPP No	2012SYE043
DA Number	12/DA-132
Local Government Area	Hurstville
Proposed Development	Demolition of buildings at 1A Hill St & construction of 7-13 storey mixed use development with basement parking.
Street Address	105 Forest Road and 1A Hill Street
Applicant/Owner	Leduva Pty Ltd
Number of Submissions	Nil
Recommendation	Deferred Commencement Approval
Report by	Laura Locke – Team Leader Major Projects

DESCRIPTION OF THE PROPOSAL

The application seeks approval for the demolition of the existing building at 1A Hill Street Hurstville and construction of a 3-13 storey mixed use development containing 917sqm of gross leasable retail/commercial floor space (10 commercial units) on the ground floor and 116 residential units above. Three levels of basement parking for 179 vehicles is accessed from Hill Street.

The residential unit breakdown within the development is as follows:

- 16 x 1 bedroom units
- 61 x 2 bedroom units
- 23 x 3 bedroom units
- 16 x 1 bedroom adaptable units

The building is designed to emphasise the corner of Forest Road and Hill Street. The 13 storey component of the development is located on the corner and the building then steps down to seven (7) and four (4) storeys along the Forest Road Frontage. On the Hill Street frontage the building has a (3) three storey podium before stepping up to seven (7) storeys where it adjoins Jack Brabham Drive and the railway to the rear.

There is communal open space in the form of a landscaped and terraced courtyard on level 1 of the development. The proposal also has communal landscaped open space located on the roof of the seven storey and the 13 storey components of the development.

The built form of the part of the development at 105 Forest Road is essentially the same building envelope in terms of height, floor space and building form as a development previously approved by the Land & Environment Court.

BACKGROUND

27 February 2007 The Land & Environment Court granted development consent for a 13 storey mixed use development on the site at 105 Forest Road. At the time of approval the development exceeded the controls in Council's development control plan. This development has 'physically commenced' for the purposes of s95 of the EP& A Act – (05/DA-450).

12 June 2008 Council granted a Section 96 modification to 05/DA-450 to carry out internal and external modifications to the approved development at 105 Forest Road Hurstville.

1 April 2009 Council granted development consent to carry out alterations to the existing hotel on 1A Hill Street, including a first floor addition and use of the ground floor as a place of entertainment. This application was known as 08/DA-84.

28 April 2011 The applicant lodged a DA with Council to erect a mixed use building up to 13 storeys comprising 19 commercial tenancies at ground level and 121 residential units with basement car parking. This application

was subsequently withdrawn by the applicant after Council officers advised that they could not support the significant non-compliances with Council's planning controls at the time – (11/DA-131).

2 May 2012 Subject application lodged – (12/DA-132).

DESCRIPTION OF THE SITE AND LOCALITY

The property is generally flat and located on the south-eastern corner of Forest Road and Hill Street Hurstville, opposite Treacy Street. The site is made up of two lots, 105 Forest Road (1,758sqm) and 1A Hill Street (876sqm). The combined site is irregular in shape and has a total site area of approximately 2634m². It has a street frontage of approximately 54m to Forest Road and approximately 82m to Hill Street.

The Forest Road site is currently vacant, although some minor earthworks have been undertaken on the site in order to prevent the previous development consent from lapsing. Number 1A Hill Street contains a single storey commercial building that is currently vacant. The previous use of this site was for a pub and a restaurant.

To the east of the site is a multi storey mixed use development known as "East Quarter". The approved building heights in this development range from six storeys to 20 storeys. A private access road to the East Quarter development adjoins the southern boundary of the subject site.

On the opposite corner of Hill Street and Forest Road is a 13 storey mixed use building incorporating some above ground car parking.

There are some recent development approvals for mixed use developments in near vicinity of the site including a 16 storey building at 21 Treacy Street approved under Part 3A of the EP&A Act.

COMPLIANCE AND ASSESSMENT

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

1. Environmental Planning Instruments

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

In accordance with this policy, all new residential dwellings and those seeking alterations and additions as identified under this policy require a BASIX certificate that measures the Building Sustainability Index to ensure dwellings are designed to use less potable water and are responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for house and units.

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

STATE ENVIRONMENTAL PLANNING POLICY No.65 – DESIGN QUALITY OF RESIDENTIAL FLAT BUILDINGS

The proposal was referred to the St George Region Design Review Panel for consideration. The following is an assessment of the proposal pursuant to the design principles in SEPP No.65. The comments of the Design Review Panel are shown in italics and the officer's assessment follows each design principle.

Generally

The application relates to a consolidated site previously the subject of two separate development applications. That part of the site on the corner at 105 Forest Road with its taller 13 storey component has previously been approved by the Land and Environment Court in the form indicated in the present submission. The remaining part of the site at 1A Hill Street was the subject of a development proposal viewed and reported on by the Panel in October 2011. This could not be supported primarily because of its substantially excessive FSR and height, as well as the consequential negative amenity issues, and was subsequently withdrawn.

The present proposal is a new application which includes both sites with the intention that this approach would allow better integration of the overall design in detail. Critically the density of the combined development exceeds the current FSR controls, but the Hill Street section assessed on its own would comply with the density control of 3:1.

If noncompliance of the combined site application became an issue triggering refusal the applicant advised that the present application would be withdrawn and they would rely on the Court approval for the corner site, and then submit a separate proposal for the Hill Street site. In these unusual circumstances it is considered that the FSR could reasonably be accepted as proposed, and thus potentially lead to a better overall outcome.

In addition to density the October report of the Panel on the previous application for 1A Hill Street included strong reservations in relation to:-

- *Height, bulk and scale*
- *Minimal landscaped area and overshadowed communal space.*
- *Lack of other communal spaces/facilities*
- *No natural light to lift lobbies*
- *Lack of continuity of street awning*
- *Clear glass balustrades*
- *Lack of solar protection to many windows*
- *Provision of only a single elevator to the high-rise tower.*

Comment: It is agreed that the proposed development is a better urban design solution than previously lodged with Council due to a greater level of compliance, built form stepping down to Hill Street and integrated car park access.

1. Context

Earlier reports have fully described the context. The main constraints are related in particular to very large-scale development on the immediately adjoining site to the east with it impacts in relation to scale, overshadowing and bulk, and the acute angle at the corner of the two streets bounding the other sides of the site. In combination with the permissible density and the already approved building that comprises of the order of two-thirds of the total development, options are extremely limited in relation to the building

form. The basic configuration of the building plan and the maximum height has in reality been pre-determined.

Comment: When the proposal is considered in the context of the surrounding development it is considered acceptable.

2. Scale

In reviewing the previous application for the Hill Street site the Panel suggested that the emphasis on the four storey lower levels of the Forest Road building could be continued along Hill Street to provide a more comfortable human scale. The current proposal generally responds to this suggestion, and in combination with the street awning should result in an acceptable outcome in relation to scale.

Comment: This current application has responded to the concerns of the Design Review Panel and the scale along Hill Street in particular is considered to be acceptable.

3. Built Form

The Hill Street tower element is seven storeys in height by contrast to the eleven storeys previously proposed has, with a four storey link to the corner building {sic}. The internal courtyard is smaller than desirable, but in other respects the configuration of the form is acceptable.

Comment: The configuration of the development is generally acceptable. Whilst it is agreed that it would be more desirable to have a larger communal courtyard, it is also acknowledged that the site is constrained by the irregular shape of the site.

4. Density

For the reasons stated above the density is acceptable.

Comment: Density is discussed further in a subsequent section of this report.

5. Resource, Energy and Water Efficiency

Subject to BASIX

Comment: A BASIX certificate has been provided with the application

6. Landscape

The previous Panel report read in part:-

“There is no deep-soil area since this communal space is above the basement parking levels. It is also mostly overshadowed in winter months. A more interesting and functional communal garden could be achieved by creating a series of stepped terraces integrated with the ramp. This could avoid the ‘sunken feel’ of the current design. A variety of seating areas should be provided in this space.”

The current design appears to have responded to this suggestion but there is no seating indicated. Although the space is unlikely to be active because of its overshadowing and lack of privacy it could be a pleasant area and attract some use perhaps in hot summer months, and should be developed further with seating and perhaps a play space for small children.

There is no indication of attention to landscape on either of the street frontages where there is major opportunity to enhance the environment with large street trees, paving, lighting etc in cooperation with Council.

Comment: Amended plans were received addressing the Panel's concerns in relation to seating and more functionality in the main courtyard space. The applicant has also introduced roof terraces on the Forest Road and Hill Street buildings which provide seating and landscaping for the use of residents.

An indicative street planting plan has been submitted, however, street planting is to be in accordance with Council's policies.

7. Amenity

The majority of concerns raised about the earlier scheme have been addressed. The awning is now continuous, natural lighting available to lift lobbies, adjustable screens are indicated on balconies, and a second elevator is provided

The Design Verification Statement (p.5) states that '1A Hill Street exceeds 70% of units with the required hours of solar access', although this appears problematic because of the orientation of the units. It is recommended that Council check this matter with the applicants.

At ground floor level the shop-front glazing to the commercial/retail tenancies is shown with a setback of approximately one metre. Since these set-back spaces typically collect debris it is suggested they be deleted.

Subject to the above minor issues the amenity should be of good standard.

Comment: The application has been amended so that the ground floor setback for the commercial tenancies has been deleted.

The applicant has provided additional information relating to solar access and provided a breakdown of solar penetration per unit. The proposal does not meet the requirement in SEPP 65 that 70% of the units maintain 3 hours of solar access.

The proportion of units that achieve the required 3 hours is 54%. The applicant has provided the following justification:

"The development at 105 Forest Road was approved in the Land and Environmental Court with 55% of units will have the required hours of solar access. Due to the predominantly southern orientation of the site, 52% of units at 1A Hill Street will have the required hours of solar access and 30% of units will have the afternoon solar penetration. Therefore, the total solar access for 1A Hill Street with at least 2 hours of sun penetration is 74%.

	105 Forest Road		1A Hill Street		Combined	
	No. of units	%	No. of units	%	No. of units	%
Total with Min. 3 hrs	46	55%	17	52%	63	54%

solar access						
Total with Afternoon / Dusk solar access	13	16%	10	30%	20	20%
Total with no solar penetration	24	29%	6	18%	30	26%
Total no of Units	83		33			

Due to the north-south orientation of the proposal it is difficult to achieve a design that meets the requirement for 70% of the dwellings in the Hill Street portion of the site to have 3 hours solar access. The irregular shape of the allotment and the desirability to orientate buildings towards the public street and towards the view to the south, also render it difficult to achieve compliant number of units with 3 hours solar access.

It should also be noted that any building that complies with Council's adopted planning control height of 45m (or even the previous control of 10 storeys) on the 105 Forest Road site, would have a detrimental impact on the solar access of a building on 1A Hill Street.

8. Safety and Security

Satisfactory

Comment: The entrances to the development are clear and the development provides for active street frontages for both Forest Road and Hill Street.

9. Social Dimensions

A series of initiatives are recommended to facilitate communal interaction:-

- *Small rooftop common room with kitchen facilities and terrace, and accessible by the elevators.*
- *Seating etc in courtyard area*
- *A small seating area to rear of lobby at ground-level entrance.*

Similar measures should also be considered for the Forest Road section

Comment: Communal roof areas have been introduced as well as some seating in the lobbies. The social dimensions of the development are considered satisfactory.

10. Aesthetics

Satisfactory

Recommendation: *The application is supported subject to the detailed matters raised above under Landscape, Amenity and Social Dimensions being resolved to the satisfaction of Council.*

Comment: The applicant has amended the proposal as suggested by the Design Review Panel and the proposal is now satisfactory in terms of built form and amenity.

STATE ENVIRONMENTAL PLANNING POLICY No.55 – REMEDIATION OF LAND

Site 105 Forest Road was previously used as a service station, but has since been decommissioned. The previous development application on this site approved by the Court has determined that the site is now suitable for the development proposed.

According to Council's records the site at 1A Hill Street has not been used for any potentially contaminating uses.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposal was required to be submitted to Roads and Maritime Services (RMS) and Railcorp for comment.

RMS have advised that they have no objection to the proposal subject to conditions.

Railcorp requested additional information relating to geotechnical and construction information. The applicant has been advised of the requirements of Railcorp and has submitted additional information. At the time of writing this report Railcorp have not granted concurrence. A deferred commencement consent is recommended pending the concurrence of Railcorp.

The applicant has provided a report from a qualified acoustic consultant that provides recommendations to reduce the impact of noise and vibration from the adjacent rail corridor and busy road. These measures are recommended as conditions of development consent.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 1994

The subject site is zoned 3(b) City Centre Business. The proposed development is permissible in the zone.

The objectives of the 3(b) City Centre Business zone are as follows:

- (a) *to designate sufficient areas of land to meet the projected needs of the Hurstville Town Centre as a multi-functional regional centre,*
- (b) *to facilitate development of land within the Hurstville Town Centre for commercial, retail, residential and community purposes,*
- (c) *to provide a single business zone for the Hurstville Town Centre as a sub-regional centre,*
- (d) *to facilitate the implementation of a development control plan for the Hurstville Town Centre:*
 - (i) *by introducing appropriate floor space ratio controls,*
 - (ii) *by encouraging an economically viable retail core which is centrally located and in close proximity to public transport,*
 - (iii) *by enhancing employment opportunities and to service the needs of the local and regional community,*
 - (iv) *by encouraging and facilitating the use of public transport,*

- (v) *by providing and enhancing pedestrian and public open space areas for shoppers and workers,*
- (vi) *by maintaining and improving the environmental and aesthetic quality of the Hurstville Town Centre and its surrounds,*
- (vii) *by ensuring adequate and accessible off-street car parking, and*
- (e) *to improve traffic flow in and around the Hurstville Town Centre.*

The proposed development is generally consistent with the objectives of the zone.

Clause 15 – Services

The proposed development will have facilities for the supply of water and for the removal or disposal of sewage and drainage in accordance with the requirements of the Local Environmental Plan.

There is a large Sydney Water owned water main that traverses the north western corner of the site. This water main is required to be relocated in order to facilitate the basement for the development.

The applicant has provided an in-principle letter of approval from Sydney Water for the relocation of the water main. A deferred commencement approval is recommended for this development requiring the relocation of the water main.

Clause 22 – Excavation, filling of land

The excavation of the land is considered appropriate in order to provide for basement car parking.

Clause 22B – Remediation of contaminated land

Clause 22B states:

- (1) *This clause applies to any development on contaminated land.*
- (2) *Consent must not be granted for development to which this clause applies unless the consent authority is satisfied:*
 - (a) *that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (b) *if the land requires remediation to be made suitable for that purpose, that the land will be remediated before the land is used for that purpose.*
- (3) *Nothing in this clause affects the application of State Environmental Planning Policy No 55—Remediation of Land to land to which this plan applies.*

See heading - State Environmental Planning Policy No 55—Remediation of Land above.

Clause 33 - Development in the Vicinity of a Heritage Item

Clause 33 states:

- (1) *Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item.*

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

Comment

The subject site is in the vicinity of several buildings which are identified as heritage items under the Hurstville Local Environmental Plan, namely, 112 Forest Road which is diagonally opposite the subject site, 136-136A Forest Road, and 140-142 Forest Road, Hurstville.

The proposed building is considered to be sufficiently separated from these buildings so as to have a negligible impact on the adjoining heritage items.

2. Draft Environmental Planning Instruments

DRAFT HURSTVILLE LOCAL ENVIRONMENTAL PLAN (HURSTVILLE CITY CENTRE) 2011

The draft LEP 2011 was placed on public exhibition from 23 January 2012 to 29 February 2012. Following exhibition the LEP was adopted by Council on 12 April 2012. At the meeting on 12 April Council resolved to make an amendment to the draft LEP to rationalise the proposed building heights on this site as agreed with the applicant.

Council forwarded the LEP to Planning & Infrastructure on 18 May 2012 for the Minister to make the plan. Since that time Council has had several meetings with the Department regarding the content of the plan and at the Council meeting of 1 August 2012 made some minor amendments and resolved to submit the amended plan to the Department.

The draft LEP 2011 proposes to rezone the site to B4 Mixed Use Zone. Development for the purposes of retail/commercial premises and residential flat buildings are permissible with Council's development consent in the B4 Mixed Use Zone.

The following is a table depicting the proposal's compliance with the core controls within the draft LEP:

Controls	Site	Development Standard	Proposal	Compliance
cl.4.3: Height of buildings	105 Forest Rd	45m	44.85m	Yes

	1A Hill Street	23m	26.63m	No
cl. 4.4: Floor space ratio	105 Forest Rd	3.5:1	5.0:1	No
	1A Hill Street	3.0:1	3.04:1	No (marginal non-compliance)

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’.

Further discussion on the height and floor space ratio of the development is contained in this report under the heading “Development Control Plan No.2 – Hurstville City Centre”.

Any other matters prescribed by the Regulations

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

Demolition

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

3. Development Control Plans

DEVELOPMENT CONTROL PLAN NO 2 - HURSTVILLE CITY CENTRE

At the time of lodgement DCP No.2 – Hurstville City Centre applied to the site. 105 Forest Road is known as Block 27A and 1A Hill Street is known as Block 27C under this DCP. The following built form controls applied at lodgement:

Block 27A Site Controls (105 Forest)	Requirement	Proposal	Complies
Height	2, 4, & 10 storey	4-13 Storeys	No
Floor Space Ratio	3.9:1	5:1	No

Block 27C Site Controls (1A Hill Street)	Requirement	Proposal	Complies

Height	3 storey	3 – 7 Storey	No – in part
Floor Space Ratio	2:1	3.04:1	No

During the assessment of this development application Council prepared an amendment to DCP No.2 .The purpose of the amendment to the DCP was to introduce Council’s adopted building height, floor space ratio and active street frontage controls in the Draft Hurstville Local Environmental Plan (Hurstville City Centre) 2011 into the current Development Control Plan No 2.

The DCP amendment was adopted by council on 1 August 2012. The date that the DCP commenced was 9 August 2012. The DCP amendment does not contain a savings provision and therefore this current application must be assessed under the amended planning controls, even though different controls applied at the time of lodgement.

The new built form controls that apply to the site are:

Block 27A Site Controls (105 Forest Road)	Control	Proposal	Complies
Height	45m	44.85m	Yes
Floor Space Ratio	3.5:1	5.0:1	No (1)

(1) Floor Space Ratio

The floor space ratio for the 105 Forest Road portion of the site is proposed at 5.0:1. This floor space ratio is the same as the Land & Environment Court approved development on the site. As previously stated in this report the development has physically commenced.

The Land & Environment Court accepted the building bulk even though it didn’t comply with the DCP at the time of approval. The Court approval was based on the site in consideration of the surrounding urban form.

As this proposal is not increasing the floor space ratio for this portion of the site and the floor space ratio has already been approved and could be constructed, it is considered appropriate to replicate the Court issued consent.

Block 27C Site Controls (1A Hill Street)	Requirement	Proposal	Complies
Height	23m	26.63m	No - lift over-run and roof access)

Floor Space Ratio	3.0:1	3.04:1	No (marginal non-compliance)
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(1) Height

The definition of building height in the DCP is consistent with the definition contained with the Draft City Centre LEP. Building height is defined as follows:

“the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like”

The proposal exceeds the maximum height by 3.63m. This height is mainly exceeded by the roof form that covers the lift and fire stair overrun and provides access to the communal open space on the roof. This roof only comprises 1/3 of the Hill Street frontage for the seven storey component and does not significantly contribute to the bulk and scale of the building.

The height of the parapet is 23.5m, which exceeds the control by 500mm. This additional height is negligible on a seven storey building.

Further to this, the additional height does not pose any amenity impact as the directly adjoining building is 13 storeys in height.

(2) Floor Space Ratio

The proposal exceeds the prescribed floor space ratio by 0.04:1 or 35sqm. The non-compliance is negligible and as the building is seven (7) storeys the additional floor space would not be perceptible when viewed from the public domain.

Block 27A & Block 27C Car Parking rates:

Parking controls	Requirement	Proposal	Complies
Residential car spaces: 1 car space/100sqm	100	111	Yes
Residential visitor car spaces: 1 car space/4 dwellings	29	15	No (1)
Retail: 1 car space/25sqm	37	49	Yes
Disabled Spaces	4	4	Yes
Total car spaces required	166	179	Yes - overall

(1) Car Parking Distribution

The applicant has provided parking for the retail/commercial tenancies at the retail rate of 1 space per 25sqm, instead of the commercial rate of 1 per 50sqm. This is supported as it is considered that most of the uses are likely to be retail in nature.

In the Statement of Environmental Effects the applicant has stated that the commercial floor space is 1010sqm, whereas the plans show that the floor space is 917sqm. There is an over supply of retail car parking within the development.

As the proposal provides for an additional 13 car parking spaces, it is considered that the parking can be re-allocated so as to meet the requirements of the DCP. A condition is recommended to this effect.

Section 6.3 – Access and Mobility

The proposed development complies with the requirements of Section 6.3 as follows:

Access and Mobility Requirements	Requirement	Proposal	Complies
Adaptable Housing	12 adaptable dwellings required to be provided, designed in accordance with the AS 4299. Access to the adaptable dwelling and relevant car spaces to be in accordance with AS 1428.2	16 adaptable dwellings provided within the development with appropriate access to the dwelling and the relevant car spaces	Yes (1)
Car parking for adaptable dwellings	One space required for each adaptable dwelling	One car space can be provided for each adaptable dwelling	Yes (2)
Commercial/Business Premises	Access in accordance with AS1428.2 and AS1735 (Lifts, escalators and moving walkways where required under the BCA.	Access can be provided as per the requirements.	Yes
Car parking for commercial/business premises	2% of parking spaces where 50 or more parking spaces provided in accordance with AS 2890	Car spaces can be provided as per the requirements.	Yes (2)

(1) Number of units

Council's DCP requires a minimum of 12 adaptable units to be provided. This proposal has 16 adaptable dwelling, exceeding Council's numerical requirements. Although the number of units provided has been exceeded, all of the adaptable units proposed are 1 bedroom units. This is not considered to provide adequate housing choice within the development for people with a disability.

A condition is recommended requiring that a 50% of the required accessible dwellings be 2 bedroom dwellings.

(2) Car parking for adaptable dwellings

A condition is recommended requiring each adaptable dwelling to have 1 accessible car parking space.

Section 6.4 – Crime Prevention through Environmental Design

The proposed development complies with the requirements of Section 6.4 as follows:

CPTED	Requirement	Proposal	Complies
Fencing	Allows natural surveillance to street	No fence proposed	Yes
Blind Corners	To be avoided	No blind corners evident	Yes
Communal Areas	Provide opportunities for natural surveillance	Natural surveillance to communal areas	Yes
Entrances	Clearly visible and not confusing	Entrances are clearly visible	Yes
Landscaping	-Avoid dense medium height shrubs -Allow spacing for low growing dense vegetation -Low ground cover or high canopy trees around car parks and pathways -Vegetation used as a barrier for unauthorised access	Appropriate landscaping provided as per landscape plan submitted	Yes
Lighting	-Access/egress points illuminated -Diffused/movement sensitive lighting provided externally -No light spill towards neighbours -Hiding places illuminated -Lighting is energy efficient	Appropriate lighting can be provided by applicant	Yes
Building Identification	-Clearly numbered buildings -Entrances numbered -Unit numbers provided at entry	Appropriate house numbering can be provided	Yes
Security	-Main entrances to multi-unit development utilise intercom and code/card locks for main entrance/car park	Appropriate security measures have been incorporated into the development	Yes
Ownership	Use of fencing, landscaping, colour and finishes to imply ownership	Appropriate features provided in the development to imply ownership	Yes
Maintenance	Use materials that reduce the opportunity for vandalism	Appropriate materials used	Yes
Mixed Land Uses	Provide appropriate mixed uses within buildings to increase opportunity for natural surveillance	Appropriate mixed land uses provided	Yes
Spaces	Spaces are clearly defined	Spaces are clearly defined	Yes
Shop front	Allow natural surveillance	Shop front allows natural surveillance	Yes
Building materials	Use of materials which reduce intruder access	Appropriate material used	Yes
Hours of operation	Adequate security for extended trading hours	Hours of operation not specified as development consent required for use of retail/commercial tenancies	N/A
Car Parking areas	Adequate lighting, security, security grilles, signage, relationship to car park to site and building layout	Basement car parking is appropriately located and secured	Yes

Open spaces/parks	Provide planting that maximises visibility and minimises opportunities for intruders to hide	Building designed as 'hard edge' to the street	Yes
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4. Impacts

Natural Environment

The proposed development is unlikely to have an adverse impact on the natural environment. The site does not contain any vegetation and as such no existing trees that will be compromised by the development. The provision of landscaping to the site will enhance the site and be an addition to the natural environment.

Built Environment

Built Form

At the time of the Land & Environment Court approval of the development at 105 Forest Road the site at Hill Street was in a different ownership and being used as a tavern, therefore did not form part of the development approval. Also at this time there was a significant disparity between the planning controls for the sites where the site at 105 Forest Road had a much higher development yield.

The applicant is relying on the Court issued consent for the building envelope for the 105 Forest Road portion of the development. This development has been 'physically commenced' for the purposes of Section 95 of the EP&A Act. The height, setback and floor space ratio proposed as part of this development application are the same as approved by the Land & Environment Court.

Whilst the development as a whole does not comply with Council's planning controls, it is considered that it is better urban design outcome than implementing two separate development approvals. If the applicant was to construct the development as per the Court issued consent and then lodge a development application for a complying development on the adjoining site there would be two vehicular crossings and two lots of servicing on Hill Street, resulting in a large portion of the site not containing an active street frontage. Also, the opportunity for the communal open space between the buildings would be lost.

As the building bulk and scale on 105 Forest Road has been accepted by the Court, and the building at 1A Hill Street largely complies with Council's planning controls, with only minor variation it is practical to grant development consent for a consolidated development where the elements that distract from the streetscape (such as basement entrances, substations, fire exits etc) are minimised through sharing.

Solar Access

The communal open space located on level 1 will receive little direct sunlight during the winter solstice. This is mainly due to the north-south orientation of the site. Although the proposal exceeds the FSR for the Forest Road portion of the development, the overall height complies. Due to the irregular shape of the allotment and following planning principles to orientate buildings towards the street, it is very difficult to achieve better solar access for this communal area.

The other two communal areas located on the rooftops of the buildings will achieve excellent solar access all year around.

The solar access for the units is discussed in the report above.

Social Impact

The provision of a mixed use development in a mixed use zone is not likely to result in any adverse social impact.

Economic Impact

The development provides over 900sqm of gross lettable floor space that will provide employment and business opportunities.

Suitability of the Site

The site is located on the fringe of the Hurstville City Centre and is located in proximity to other high density developments. The site is considered well located for the development proposed. The site is constrained by the large Sydney Water water main that traverses it, however this is proposed to be re-located as part of this development.

5. REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

Resident

A public notice was placed in the St George and Sutherland Shire Leader and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal.

No submissions were received.

Council Referrals

Manager - Development Advice

No objection subject to conditions

Senior Environmental Health Officer

No objection subject to conditions

External Referrals

NSW Roads and Traffic Authority

No objection subject to conditions

NSW Railcorp

Railcorp have requested additional information from the applicant. At the time of writing this report this application had been submitted and a further response from Railcorp has

not been received. It is recommended that any consent granted be deferred commencement consent for pending the acceptance of Railcorp of the additional information.

6. CONCLUSION

Although the development exceeds Council's planning controls for floor space ratio for part of the site and height for the rear portion of the site, it is not an unreasonable development when considered in the context of the existing Land & Environment Court approval and the surrounding high density development.

The portion of the development at 1A Hill Street largely complies with Council's controls and it is considered a preferable option that the development be considered as a whole rather than obtaining two separate approvals – one for each of the lots.

RECOMMENDATION

THAT pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, as amended, the JRPP grants a deferred commencement consent to Development Application 12/DA-132 for the **Demolition of buildings at 1A Hill St & construction of 7-13 storey mixed use development with basement parking at 1A Hill Street Lot A DP421265 & 105 Forest Rd LOT B DP 421265 HURSTVILLE** subject to the following:

- A. Formal approval being given by Sydney Water for and the physical relocation of the water main that traverses the site; and
- B. Concurrence by Railcorp being obtained.

Documentary evidence as requested or the above information must be submitted within 12 months of the granting of this deferred commencement consent. Commencement of the approval cannot commence until written approval of the submitted information has been given by Council.

Subject to A. above being satisfied, a development consent be issued, subject to the following conditions:

Schedule A – Site Specific Conditions

GENERAL CONDITIONS

These conditions have been imposed to ensure that the development is carried out in accordance with the approved plans and to ensure that the appropriate fees and bonds are paid in relation to the development.

1. GEN1001 - **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Reference No.	Date	Description	Revision	Prepared by
DA101	10.4.12	Basement 3	A	Form Architecture
DA102	10.4.12	Basement 2	A	Form Architecture
DA103	10.4.12	Basement 1	A	Form Architecture
DA105	12.3.12	Ground Floor Plan	A	Form Architecture
DA106	12.3.12	Level 01 Floor Plan	A	Form Architecture
DA107	12.3.12	Level 02 Floor Plan	A	Form Architecture
DA108	12.3.12	Level 03 Floor Plan	A	Form Architecture
DA109	12.3.12	Level 04 Floor Plan	A	Form Architecture
DA110	12.3.12	Level 05 Floor Plan	A	Form Architecture
DA111	12.3.12	Level 06 Floor Plan	A	Form Architecture
DA112	12.3.12	Level 07 Floor Plan	A	Form Architecture
DA113	12.3.12	Level 08, 09 & 10 Floor Plan	A	Form Architecture
DA114	12.3.12	Level 11 & 12 Floor Plan	A	Form Architecture
DA115	12.3.12	Level Roof Floor Plan	A	Form Architecture
DA201	12.3.12	Forest Road Elevation	A	Form Architecture
DA202	12.3.12	Hill Street Elevation	A	Form Architecture
DA203	12.3.12	1A Hill Street Elevation	A	Form Architecture
DA204	12.3.13	Elevation 1A Hill St	A	Form Architecture
DA211	12.3.12	Section AA	A	Form Architecture
DA212	12.3.12	Section BB	A	Form Architecture
DA213	12.3.12	Section XX	A	Form Architecture
DA214	12.3.12	Section YY	A	Form Architecture
DA215	12.3.12	Section ZZ	A	Form Architecture
1118A-2.2	18.7.12	Site Landscape Outline	2.2	Precinct Landscapes

2. GEN1002 - **Fees to be paid to Council** - 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	\$		
Plan First Fee	X	AP35	\$		
Notification Fee	X	AP12	\$		

Imaging Fee	X	AP165	\$		
Long Service Levy		AP34	\$		
Builders Damage Deposit		BON2	\$		
Inspection Fee for Refund of Damage Deposit		DA6	\$		
S94 - Open Space & Community Recreation		CONT9	\$		
S94 - Community Services & Facilities		CONT3	\$		
S94 - Drainage Services - Georges River		CONT5	\$		
S94 - Management		CONT8	\$		
S94 - Library Infrastructure		CONT7	\$		
S94 - Library Book stock		CONT4	\$		

**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	\$		
Construction Certificate Application Fee		CC1	\$		
Construction Certificate Imaging Fee		AP165	\$		

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.

3. **GEN1007 - Section 94 - 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 release of the Construction Certificate is \$833,835.56

4. **GEN1008 - Section 94 - 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 release of the Construction Certificate is \$398,003

5. **GEN1010 - Section 94 - 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 release of the Construction Certificate is \$29,363.15

6. **GEN1011 - Section 94 – 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 \$1,073; \$1,752 & \$2,400 per unit
- (b) The book stock acquisition contribution for residential development is \$6.04; \$9.86; \$13.82 per unit
- (c) The contribution rate for retail/commercial development is \$5.26 per square metre of gross floor area (as defined by Hurstville Local Environmental Plan 1994)
- (d) The book stock acquisition contribution for retail/commercial development is \$0.21 per square metre of gross floor area (as defined by Hurstville Local Environmental Plan 1994). The total contribution for this development is: \$192.57

The total Library and Information Services Section 94 contribution required and payable before release of the Construction Certificate is \$209,149.15

7. **GEN1003 s94 -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 is \$2.14/34.81 per square metre respectively of nett increase in floor space.

The total traffic management contribution required and payable before release of the Construction Certificate is \$53,320.77

8. **GEN1012 s94 -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 \$34.81/per square metre of gross floor area.

The total urban spaces Section 94 contribution required and payable before release of the Construction Certificate is \$107,328.99

9. GEN1013 - **Section 94 - 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. **You must contact Council prior to payment to determine whether the contribution(s) amount is varied from that indicated in the consent due to adjustments to the Consumer Price Index – Sydney All Groups, as published by the Australian Bureau of Statistics. If you engage an Accredited Certifier, payment must be made before the issue of the Construction Certificate. Failure to do so can result in problems including incorrect cheque preparation, return of payment and delay in obtaining your Construction Certificate.**
10. GEN1014 - **Long Service 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.**
11. GEN1016 - **Damage Deposit – Major Works** - 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: **<***Insert \$ amount***>.**
 - (b) Payment to Council of a non refundable inspection fee to enable assessment of any damage and repairs where required: **<***Insert \$ amount***>.**
 - (c) At the completion of work Council will:
 - (i) review the dilapidation report prepared prior to the commencement works
 - (ii) review the dilapidation report prepared after the completion of works;
 - (iii) Review the Works –As-Executed Drawings (if applicable); and
 - (iv) inspect the public works.
- The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.
- (d) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.

SEPARATE APPROVALS UNDER OTHER LEGISLATION

These conditions have been imposed to ensure that the applicant is aware of any separate approvals required under other legislation, for example: approvals required under the Local Government Act 1993 or the Roads Act 1993.

12. **APR6001 - Engineering - Section 138 Roads Act and Section 68 Local Government Act 1993**

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

A separate approval is required to be lodged and approved under **Section 138 of the Roads Act 1993** and/or **Section 68 of the Local Government Act 1993** for any of the following activities carried out in, on or over a public road (including the footpath):

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve; and
- (k) Stormwater and ancillary to public infrastructure on private land

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the **Construction Certificate**.

The relevant Application Forms for these activities can be downloaded from Hurstville City Council’s website [www.hurstville.nsw.gov.au/I want to/Download a Council Form](http://www.hurstville.nsw.gov.au/I_want_to/Download_a_Council_Form). For further information, please contact Council’s Customer Service Centre on (02)9330 6222.

13. **APR6003 - Engineering - Vehicular Crossing – Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- (a) Construct a full width (kerb to boundary) Footpath for the full length of the frontage of the site in Forest Road and Hill Street. This footpath shall be constructed in paving materials approved by Council’s Engineer.
- (b) Construct a 150mm thick concrete vehicle crossing reinforced with F72 fabric in Hill Street.
- (c) Replace all redundant laybacks in both Forest Road and Hill Street with kerb and guttering, and redundant concrete with paving materials approved by Council’s Engineer.
- (d) The kerb inlet pit located outside the site in Forest Road shall be reconstructed at the developers full cost to Council’s engineers levels and specification. This work shall include replacement of a short length of kerb and gutter either side of this pit to adjust the kerb to the correct levels.
- (e) Construct new 150mm high kerb with 450mm wide gutter for the full frontage of the site outside no.1A Hill Street (from the Boundary of No.105 Forest Road) to the proposed new vehicle crossing. This work shall be done in accordance with Council’s Engineers levels and specifications.

- (f) The kerb inlet pit located outside the site in Hill Street shall be reconstructed at the developers full cost to Council's engineers levels and specification in conjunction with the new kerb and gutter construction. These works shall provide a precast concrete kerb lintel of 1.8 metre opening length.

Constructing a vehicular crossing and/or footpath requires **separate approval** under **Section 138 of the Roads Act 1993**, prior to the issue of the Construction Certificate.

To apply for approval:

- (a) Complete the *Driveway Crossing on Council Road Reserve Application Form* which can be downloaded from Hurstville Council's Website at [www.hurstville.nsw.gov.au/I want to/Download a Council Form](http://www.hurstville.nsw.gov.au/I%20want%20to/Download%20a%20Council%20Form)
- (b) In the Application Form, quote the Development Consent No. (eg. 2012/DA-132) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council's adopted *Fees and Charges* for the administrative and inspection charges associated with Vehicular Crossing applications.

Please note, that an approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's *Specification for Vehicular Crossings and Associated Works* prior to the issue of the Occupation Certificate.

- 14. **Alignment Levels** - An access levels application must be submitted to Council to obtain footpath alignment levels and vehicular crossing levels for the full frontages of the site in Forest road and Hill Street 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**.
- 15. The bus shelter located in front of the site in Forest road shall be re-located to a new position as directed by Council's Engineering department **before the commencement of work**. This shall be at the full cost to the developer.
- 16. **APR6004 - Engineering - 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 a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications **before the commencement of work in the road**.

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the Environmental Planning and Assessment Act 1979.

- 17. **GOV1008 - Sydney Water - Section 73 Certificate** - 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 prior to the commencement of work.

18. GOV1009 - **Sydney Water – Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
19. GOV1010 - **Ausgrid – Substation or Kiosk** - Ausgrid shall be consulted to determine if an electricity distribution substation is required. If so, it will be necessary for the final film survey plan to be endorsed with an area, having the required dimensions as agreed with Ausgrid, indicating the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the Building Code of Australia. The substation site to be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. For details visit www.ausgrid.com.au or call 131525.
 - (a) written confirmation of Ausgrid's requirements is to be submitted **prior to the issue of the Construction Certificate**; and
 - (b) Ausgrid's requirements are to be met before the issue of the Occupation Certificate.
20. GOV1011 - **Ausgrid – Underground electrical conduits** - Ausgrid 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 Ausgrid's specifications. Ausgrid 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.ausgrid.com.au or call 131525.
 - (a) a copy of Ausgrid's requirements is to be submitted to Council **before issue of the Construction Certificate**;
 - (b) Where conduits are to be installed, evidence of compliance with Ausgrid's requirements is to be submitted **before the issue of the Occupation Certificate**.

Where works within the road reserve are to be carried out by the beneficiary of this consent, a Road Opening Permit Application must be submitted to, and approved by, Council **before the issue of the construction Certificate**.

21. GOV1012 - **Ausgrid – Clearances to electricity mains** - If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, Ausgrid 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 Ausgrid for any necessary modification to the electrical network in question. For details visit www.ausgrid.com.au or call 131525.

The following conditions have been imposed by Roads and Maritime Services

22. Australian Standards require the provision of an additional 1 metre adjacent to the blind aisle to assist in manoeuvrability. Evidence of this shall be provided on the construction certificate
23. All vehicles are to enter and exit in a forward direction
24. A construction management plan detailing construction vehicle routes, number of trucks, hours of operation and traffic control must be submitted to Council for approval prior to the issue of a construction certificate
25. All traffic control during construction must be carried out by accredited RMS approved traffic controllers
26. All disabled car parking spaces are to comply with Australian Standard 2890.6:2009

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

These conditions either require modification to the development proposal or further investigation/information prior to the issue of the Construction Certificate to ensure that there is no adverse impact.

27. **CC2004 - Development Assessment - Design Changes** - The following design changes are required and are to be incorporated into the plans to be lodged **with the Construction Certificate application**.
 - (a) A total of 16 adaptable dwellings must be provided. 8 x adaptable 1 bedroom dwellings and 8 x adaptable 2 bedroom units must be provided. These dwellings shall be designed in accordance with the latest Australian Standard on Adaptable Housing
 - (b) The recommendations for building construction as contained in the Acoustic Assessment submitted with the development application prepared by Koikas Acoustics dated 6 March 2012 shall be incorporated into the design. Certification from a qualified Acoustic Consultant shall be provided.
28. **CC2001 - Development Assessment - Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
 - (a) Compliance with the approved Erosion and Sediment Control 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 clean water run-off is diverted around cleared or exposed areas
 - (d) silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - (e) all erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
 - (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - (g) all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) Compliance with Managing Urban Stormwater – Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented before the commencement of work (including demolition and excavation) and must remain until the issue of the occupation certificate.

29. **CC2008 - Development Assessment – Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:
- (a) Location of existing and proposed structures on the site including existing trees (if applicable);
 - (b) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
 - (c) Location, numbers and type of plant species;
 - (d) Details of planting procedure and maintenance;
 - (e) Details of drainage and watering systems.
30. **CC2003 - Development Assessment - Construction Site Management Plan** - A Construction Site Management Plan must be submitted with the application for the Construction Certificate, and must include the following measures:
- location of protective site fencing;
 - location of site storage areas/sheds/equipment;
 - location of building materials for construction, e.g. stockpiles
 - provisions for public safety;
 - dust control measures;
 - method used to provide site access location and materials used;
 - details of methods of disposal of demolition materials;
 - method used to provide protective measures for tree preservation;
 - provisions for temporary sanitary facilities;
 - location and size of waste containers/skip bins;
 - details of proposed sediment and erosion control measures;
 - method used to provide construction noise and vibration management;
 - construction traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Construction Management Plan must be retained on site and is to be made available upon request.

31. **CC2009 - Development Assessment – Pre-Construction Dilapidation Report – Private Land** - A qualified structural engineer shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
- (a) The adjacent buildings on the East Quarter site at 93 Forest Road

The report shall be prepared at the expense of the beneficiary of the consent and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of five (5) working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction

dilapidation report was delivered to the adjoining properties must be provided to the Principal Certifying Authority.

32. CC2010 - **Development Assessment – SEPP 65 Design Verification Statement** - A certifying authority must not issue a construction certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of [State Environmental Planning Policy No 65—Design Quality of Residential Flat Development](#).
33. CC3001 - **Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.
 - (a) The underground basement car park must pump to and all other stormwater must drain by gravity to the upper level of the kerb inlet pit located outside the pipe in Forest Road.
34. CC2011 - **Development Assessment – BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 363787M_03 dated 16 April 2012, approved with the Development Consent 12/DA-132 must be implemented on the plans lodged with the application for the Construction Certificate.
35. CC6004 - **Engineering –Traffic Management – Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be **designed and** constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
36. CC6005 - **Engineering – Traffic Management – Construction Traffic Management Plan (Large Developments only)** - A Construction Traffic Management Plan detailing:
 - (a) construction vehicle routes;
 - (b) anticipated number of trucks per day;
 - (c) hours of construction;
 - (d) Access arrangements; and
 - (e) Proposed traffic measures to minimise impacts of construction vehicles

must be submitted to the satisfaction of Council's Engineers prior to the issue of the Construction Certificate. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

37. CC7002 - **Building – Fire Safety Measures** - Prior to the issue of a Construction Certificate a list of the essential 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 a Certifying Authority. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Certifying Authority will then issue a Fire Safety Schedule for the building.
38. CC7004 - **Building – Structural details** - Structural plans and specifications prepared and endorsed by a suitably qualified practising structural engineer who holds the applicable Certificate of Accreditation as required under the *Building Professionals Act 2005* shall be submitted along with the Construction Certificate application to the 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
- (j) structural framework

39. CC7011 - **Building – Slip Resistance- Commercial, Retail & Residential Developments -** 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 and must be detailed on the plans lodged with the application for the Construction Certificate.
40. CC8005 - **Waste – Waste Storage Containers – Mixed Use Developments -** For the **Residential portion** of the building the following waste and recycling facilities will be required:-
- (a) Domestic Waste:- <insert number> x 240 litre Mobile Bins (MB's);
 - (b) Domestic Recycling:- <insert number>x 240 litre MB's.

Larger 1,100 litre MB's may be used as an alternative, but an equivalent amount of space will need to be provided, and it is noted that it is intended to provide <insert number> x 1100 litre MB's for domestic waste and <insert number> x 1100 litre MB's for domestic recycling. These are considered to be adequate provided they are serviced in accordance with Council's current servicing requirements.

For the **Commercial portion** of the building appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:-

- (a) Retail Trading – shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
- (b) Restaurants and Food Shops – 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals; and,
- (c) Office – 0.01-0.03 cubic metres per 100 square metres of floor area per day.

All waste and recycling containers shall be stored in an approved waste storage area that is large enough to store the required number of bins, appropriate for the number of units and intended uses of the building, and is to be located in an area of the building that can be adequately serviced by waste collection vehicles.

If the Waste Storage Area is located in a part of the building that cannot be easily accessed by service providers, it will be the responsibility of the Owners Corporation to present the bins for collection to the kerb-side.

Details of the Waste Storage Area must be illustrated on the plans submitted with the application for the Construction Certificate.

41. **Health -Acoustic Certification – Rooftop Mechanical Equipment (CBD only)**
The *Construction Certificate* plans must be accompanied by a certificate from a *professional acoustic engineer* certifying that noise from the operation of the roof top mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site. If sound attenuation is required, this must be detailed on the plans lodged with the Construction Certificate.
42. **CC8001 - Waste – Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site, clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Principal Certifying Authority and copy provided to the Manager - Environmental Services, Hurstville City Council prior to the issue of any Construction Certificate.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

These conditions have been imposed to ensure that all pre-commencement matters are dealt with and finalised prior to the commencement of work.

43. **PREC2001 - Building regulation -Site sign – Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), the durable site sign issued by Hurstville City Council in conjunction with this consent must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
44. **PREC2002 - Development Assessment – Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2011 – Demolition of Structures, *NSW Work Health & Safety Act 2011* and the *NSW Work Health & Safety Regulation 2011* . The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifying Authority prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the *NSW Work Health & Safety Act 2011* and the *NSW Work Health & Safety Regulation 2011* unless specified in the Act and/or Regulation that a license is not required.

The asbestos removal work shall also be undertaken in accordance with the *How to Safely Remove Asbestos: Code of Practice* published by Work Cover NSW.

Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the Work Cover NSW website: www.workcover.nsw.gov.au

45. **PREC6001 - Engineering – Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction

Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.

46. **PREC6002 - Engineering – Dilapidation Report on Public Land – Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared on Council infrastructure adjoining the development site, including:

- (a) Forest Road for the full frontage of the site
- (b) Hill Street for the full frontage of the site

The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the Principal Certifying Authority and a copy provided to the Council.

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the structural engineer.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

Council will use this report to determine whether or not to refund the damage deposit after the completion of works.

47. **PREC7001 - Building – Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifying Authority at each of the following applicable stages of construction:

- (a) Set out 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.

DURING WORK

These conditions have been imposed to ensure that there is minimal impact on the adjoining development and surrounding locality during the construction phase of the development.

- 48. **CON2001 - Development Assessment - Hours of construction for demolition and building work** - Work in connection with the demolition of any existing buildings and the removal of spoil and materials from the site that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity shall be permitted to be performed on any Sunday, Good Friday, Christmas Day or any Public Holiday. A penalty infringement notice may be issued for any offence.

In addition to the foregoing requirements, construction work on all buildings (except that on single dwelling houses and associated structures on the site of a single dwelling house) shall be prohibited on Saturdays and Sundays on weekends adjacent to a public holiday.

- 49. **CON2002 - Development Assessment – Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved separately by Council.
- 50. **CON5001 - Trees – Tree Removal on Private Land** - The trees identified as ‘to be removed/pruned’ on the approved plans or by conditions of this consent shall be removed in accordance with *AS4373 -2007 Pruning of Amenity Trees* and the *Trees Work Industry Code of Practice* (Workcover NSW, 1998).
- 51. **CON6002 - Engineering -Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 52. **CON8001 - Waste – Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifying Authority and a copy provided to the Manager Environmental Services, Hurstville City Council.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Occupation Certificate.

53. **OCC2004 - Development Assessment – BASIX Compliance Certificate** - A Compliance Certificate must be provided to the Principal Certifying Authority regarding the implementation of all energy efficiency measures as detailed in the BASIX Certificate No. 363784M_3 dated 16 April 2012, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.
54. **OCC2005 - Development Assessment – Completion of Landscape Works** - All landscape works must be completed before the issue of the Final occupation certificate.
55. **OCC2006 - Development Assessment –Post Construction Dilapidation report – Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

(a) The adjoining buildings on the East Quarter Site at 93 Forest Road

The report is to be prepared at the expense of the beneficiary of the consent and submitted to the Principal Certifying Authority (PCA) prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of the Occupation Certificate.

56. **OCC2007 - Development Assessment – Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
- (a) Residential visitors: 29 spaces
 - (b) Retail: 37
 - (c) Adaptable Dwellings: 16 spaces

57. **OCC6002 - Engineering – Vehicular crossing and Frontage work – Major development** - The following road frontage works shall be constructed in accordance with Council's, *Specification for Vehicular Crossings and Associated Works* together with the *Vehicular Crossing Approval* issued by Council's Engineering Services Division:

Construct a full width (kerb to boundary) Footpath for the full length of the frontage of the site in Forest Road and Hill Street. This footpath shall be constructed in paving materials approved by Council's Engineer.

- (b) Construct a 150mm thick concrete vehicle crossing reinforced with F72 fabric in Hill Street.
- (c) Replace all redundant laybacks in both Forest Road and Hill Street with kerb and guttering, and redundant concrete with paving materials approved by Council's Engineer.
- (d) The kerb inlet pit located outside the site in Forest Road shall be reconstructed at the developers full cost to Council's engineers levels and specification. This work shall include replacement of a short length of kerb and gutter either side of this pit to adjust the kerb to the correct levels.

- (e) Construct new 150mm high kerb with 450mm wide gutter for the full frontage of the site outside no.1A Hill Street (from the Boundary of No.105 Forest Road) to the proposed new vehicle crossing. This work shall be done in accordance with Council's Engineers levels and specifications.
- (f) The kerb inlet pit located outside the site in Hill Street shall be reconstructed at the developers full cost to Council's engineers levels and specification in conjunction with the new kerb and gutter construction. These works shall provide a precast concrete kerb lintel of 1.8 metre opening length.

A private contractor shall carry out the above work, at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*.

The driveway and road frontage works are to be completed **before the issue of the Occupation Certificate**.

58. **OCC6008 - Engineering – Dilapidation Report on Public Land - Major Development Only** - Upon completion of works, a follow up dilapidation report must be prepared on Council infrastructure adjoining the development site, including:

- (a) Forest Road for the frontage of the site
- (b) Hill Street for the frontage of the site

The dilapidation report must be prepared by a qualified structural engineer. The report must be provided to the Principal Certifying Authority and a copy provided to the Council.

The report must include the following:

- (a) Photographs showing the condition of the road pavement fronting the site,
- (b) Photographs showing the condition of the kerb and gutter fronting the site,
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site
- (d) Photographs showing the condition of retaining walls within the footway or road, and
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate. Further, Council will use this report to determine whether or not to refund the damage

59. **OCC7001 - Building – Fire Safety Certificate before Occupation or Use** - Prior to the issue of an occupation certificate the owner of the building must issue a final fire safety certificate and must cause a copy of that final fire safety certificate to be given to the principle certifying authority issuing the occupation certificate. The final 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 final 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 final fire safety certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

60. **OCC7002 - Building – 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. Details of compliance must be submitted with the application for the Occupation Certificate.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Subdivision Certificate.

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.

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.

b) Car Parking Space Marking and Numbering

Each basement car space shall be line marked with paint and numbered in accordance with the relevant unit numbering.

“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

- a) No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building.

- b) 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.
- c) 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.
- d) 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.
- e) 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:

- a) The removal of any areas of common property shown upon the approved Development Application plans and allocated to any one or more strata lots,
- b) The removal of any visitor parking spaces from the strata scheme and allocated to any one or more strata lots , or
- c) 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.

ONGOING CONDITIONS

These conditions have been imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood or environment.

61. **ONG2003 - Development Assessment – Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained on an on-going basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turf areas.
62. **Health -Final Acoustic Report – Verification of Noise report**
Within three months from the issue of an occupation certificate, an acoustical assessment is to be carried out by an appropriately qualified person, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the use of the does not give rise to “offensive noise” as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).
63. **Health -Lighting – General Nuisance**
Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill.
64. **Health -Amenity of the neighbourhood**
The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
65. **ONG7002 - Building – 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 statement to be given to Council prior to or upon the due date for lodgement as required by Council.

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 9, 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.

ADVICE

This advice has been included to provide additional information and where available direct the applicant to additional sources of information based on the development type.

66. **ADV2002 - Development Assessment - Site Safety Fencing** - Site fencing must be erected in accordance 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 throughout any demolition and construction work.

For more information visit www.workcover.nsw.gov.au

Schedule B – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

67. **PRES1001 - Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
68. **PRES1002 - Clause 98 – Building Code of Australia and Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the *Home Building Act 1989* relates, there is a requirement for a contract of insurance to be in force before any work commences.
69. **PRES1003 - Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
70. **PRES1004 - Clause 98B – Home Building Act 1989** - If the development involves residential building work under the *Home Building Act 1989*, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the *Home Building Act 1989*.
71. **PRES1005 - Clause 98C- Entertainment Venues** - Schedule 3A of the *Environmental Planning and Assessment Act 1979* outlines the prescribed conditions which apply to Entertainment Venues.
72. **PRES1006 - Clause 98D – Erection of sign for maximum number of persons** - This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.
73. **PRES1007 - Clause 98E – Protection and support of adjoining premises**
If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule C – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

74. **OPER1001 - Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

75. **OPER1002 - Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

- (a) appointed a Principal Certifying Authority (PCA) for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the *Home Building Act 1989*) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and
- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

An **Information Pack** is attached for your convenience should you wish to appoint Hurstville City Council as the Principal Certifying Authority for your development.

76. **OPER1003 - Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

77. **OPER1004 - Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

78. **OPER1005 - Subdivision Work – Construction Certificate and Appointment of Principal Certifying Authority** - Subdivision work in accordance with a development consent cannot commence until:

- (a) A Construction Certificate has been issued by the consent authority, the council (if not the consent authority) or an accredited certifier; and

- (b) The beneficiary of the consent has appointed a Principal Certifying Authority for the subdivision work.

No later than two (2) days before the subdivision work commences, the PCA must notify:

- (a) The consent authority and the council (if not the consent authority) of his or her appointment; and
- (b) The beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the subdivision work.

An **Information Pack** is attached for your convenience should you wish to appoint Hurstville City Council as the Principal Certifying Authority for your development.

- 79. OPER1006 - **Subdivision work – Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the subdivision works.

A **Notice of Commencement Form** is attached for your convenience.

- 80. OPER1007 - **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the *Environmental Planning and Assessment Regulation 2000*.
- 81. OPER1008 - **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Hurstville City Council has been appointed PCA, Forty-eight (48) hours notice in writing, or alternatively twenty-four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

- 82. OPER1009 - **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

An **Occupation Certificate** Application Form is attached for your convenience.

If you need more information, please contact the Development Assessment Officer below on 9330-6222 during normal office hours.

Development Assessment Officer
Planning and Development Directorate