

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

<b>JRPP No</b>	<b>2013 SYE013</b>
<b>DA Number</b>	<b>2012/DA-367</b>
<b>Local Government Area</b>	<b>Hurstville City Council</b>
<b>Proposed Development</b>	<b>Demolition of existing buildings and construction of a new sixteen (16) storey mixed use building with basement parking</b>
<b>Street Address</b>	<b>1-5 Treacy Street, Hurstville</b>
<b>Applicant/Owner</b>	<b>Applicants - Mathew Manos of CMT Architects and Tabaja P/L</b>  <b>Owners - Tabaja Pty Ltd , B. &amp; T. Giarrizzo, A. &amp; L. Giarrizzo, J.A. Giarrizzo, St George and Sutherland Master Builders Association Ltd, Dr. J. Lee Pty Ltd Superannuation Fund.</b>
<b>Number of Submissions</b>	<b>Advertising/Notification – Two (2) submissions received</b>
<b>Recommendation</b>	<b>Refusal</b>
<b>Report by</b>	<b>Ilyas Karaman – Senior Development Assessment Planner</b>

**Assessment Report and Recommendation**

**EXECUTIVE SUMMARY**

The application seeks approval for demolition of the existing buildings on site for the construction of a new sixteen (16) storey mixed use building with basement parking.

The proposal significantly exceeds the maximum height requirements of 23m and the maximum floor space ratio of 3.0:1 under Council's Development Control Plan - Hurstville City Centre with a proposed height of 55m and floor space ratio of 7.98:1. The proposed variations to the controls of the DCP lack adequate justification for exceeding the height and density requirements with respect to any additional benefits to the amenity of residents or the community.

The proposed design is considered to result in an overdevelopment with numerous issues of poor amenity in the proposed building design and as such cannot be supported in its present form by the St George Design Review Panel.

The proposal was publicly exhibited in accordance with statutory requirements and received two (2) submissions as discussed in the report.

**RECOMMENDATION**

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

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## DESCRIPTION OF THE PROPOSAL

The application proposes demolition of existing structures and construction of a sixteen (16) storey building containing 5 x basement levels, commercial space on the ground and first floors and 122 residential units over 14 floors at 1-5 Treacy Street, Hurstville

The development will comprise specifically of the following:

### Basement 5

- 31 residential car spaces (including 3 disability accessible spaces)

### Basement 4

- 39 residential car spaces (including 3 disability accessible car spaces)

### Basement 3

- 10 commercial tenant spaces
- 28 residential spaces (including 3 disability accessible residential car spaces)

### Basement 2

- 12 commercial tenant spaces
- 26 residential spaces (including 1 disability accessible residential car space)
- Includes 2 disability accessible commercial car spaces

### Basement 1

- 30 visitor car spaces including 2 disability accessible car spaces
- 6 commercial tenant spaces

### Ground floor

- Two commercial tenancies with total floor area of 712.4sqm

### Level 1

- Two commercial tenancies with total floor area of 801.4sqm

### Level 2

- 1 x 1 bedroom residential unit
- 6 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 1 bedroom + study residential unit
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### Level 3

- 1 x 1 bedroom residential unit
- 5 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 1 bedroom + study residential unit

### Level 4

- 1 x 1 bedroom residential unit

- 7 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 1 bedroom + study residential unit

#### Level 5

- 1 x 1 bedroom residential unit
- 5 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 1 bedroom + study residential unit

#### Level 6

- 1 x 1 bedroom residential unit
- 6 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 3 bedroom + study residential unit

#### Level 7

- 1 x 1 bedroom residential unit
- 5 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 3 bedroom + study residential unit

#### Level 8

- 1 x 1 bedroom residential unit
- 6 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 3 bedroom + study residential unit

#### Level 9

- 1 x 1 bedroom residential unit
- 5 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 3 bedroom + study residential unit

#### Level 10

- 1 x 1 bedroom residential unit
- 6 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 3 bedroom + study residential unit

#### Level 11

- 1 x 1 bedroom residential unit
- 5 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 3 bedroom + study residential unit

#### Level 12

- 1 x 1 bedroom residential unit
- 7 x 2 bedroom residential units
- 1 x 2 bedroom + study unit

- 1 x 1 bedroom + study residential unit

#### Level 13

- 1 x 1 bedroom residential unit
- 5 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 1 bedroom + study residential unit

#### Level 14

- 1 x 1 bedroom residential unit
- 7 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 1 bedroom + study residential unit

#### Level 15

- 1 x 1 bedroom residential unit
- 5 x 2 bedroom residential units
- 1 x 2 bedroom + study unit
- 1 x 1 bedroom + study residential unit

Vehicular access to the basement level of the property is via the street frontage at Hill Street. Pedestrian access to the commercial areas is from a central lobby at the Treacy Street frontage, whilst pedestrian access to the residential units are from Hill Street and The Avenue of with two (2) lifts at each end to service the building.

### **BACKGROUND**

21 Dec 12- Development application 12/DA-367 lodged with Council for for demolition of the existing buildings on site for the construction of a new sixteen (16) storey mixed use building with basement parking.

15 Jan 13- Council requested additional information regarding the proposal's compliance with Design Quality Principles of SEPP No. 65 and against the Residential Flat Design Code.

11 Feb 13 – Additional information was received by Council regarding the proposal's compliance with SEPP No. 65 Design Quality Principles and the Residential Flat Design Code.

18 Jan 13- Advertising and notification up until 5 Feb 13;

7 Mar 13 - Application presented to Design Review Panel;

15 Mar 13 - Minutes of DRP provided to applicant;

Further note, a preliminary development application was not lodged with Council for the proposed development.

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

The site is known as 1-5 Treacy Street, Hurstville and is located on the corner of Hill Street. The site comprises of five (5) allotments, as follows:

- No. 1 Treacy Street (Lots 1 & 2 DP 306979 and Lot 16 of Section A DP 2752), containing a single storey brick and metal building containing tyre business;
- No. 3 Treacy Street (Lot 15 DP 2752), containing one half of a pair of semi-detached dwellings; and
- No. 5 Treacy Street (Lot 14 DP 2752), the other half of a pair of semi-detached dwellings.

The site is generally irregular in shape, with a total area of approximately 1,568m<sup>2</sup>, and the following dimensions:

- front (northern) boundary of 45.72m;
- rear (southern) boundary of 66.07m;
- side (western) boundary of 27.23m; and
- side (eastern) boundary of 35.84m.

The site is located within the eastern end of Hurstville town centre approximately 500m from the Hurstville Railway Station, with the Illawarra Railway Line abutting to the south. The site is relatively flat and has a total of four driveways, two from Treacy Street and two from Hill Street. The area surrounding the subject site is characterised by predominantly commercial developments of various heights. There is also residential development in the vicinity of the subject site within mixed commercial development, or as residential flat buildings.

The existing surrounding built form is a mixture of residential and commercial/retail buildings with heights that range from two (2) storeys to twelve (12). The height and density controls are based on site specific blocks under Council's Development Control Plan No.2 – Hurstville City Centre as amended in accordance with the Draft LEP City Centre 2011. The methodologies of the height and density controls are largely influenced by the Hurstville City Centre Master plan, 2004.

North of the site at 107 Forest Road is a twelve (12) storey building in height including four (4) levels of above ground parking. Northeast of the site at 105 Forest Road and 1A Hill Street is a recent approved building, yet to be constructed ranging from 7 to 13 storeys in height. East of the site at 1 Sir Jack Brabham Drive is a 12 storey building recently constructed.

Further west of the site along at 11-13 Treacy Street is a seven (7) storey building, note height controls vary from four (4) storeys to a maximum of seven (7) storeys along Treacy Street, provided site amalgamation is undertaken and a view corridor can be established. There is a transition on further sites at 29A and 29B with a height reduction to a maximum of four (4) storeys.

It is noted that on this block at 21-35 Treacy Street an approval has been granted under Part 3A of the Environmental Planning and Assessment Act 1979 by the Planning Assessment Commission (PAC) with the CIV being \$134 million dollars. This mixed use building will consolidate seven (7) allotments of land with an area of 4,119 sqm at a height of sixteen (16) storeys.

The road traffic management immediately adjacent the site, at the intersection of Treacy Street and The Avenue includes the following:

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

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

## **COMPLIANCE AND ASSESSMENT**

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

### **Statutory Controls**

- State Environmental Planning Policy No. 65 - Design Quality in Residential Buildings;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy No 55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007;
- Hurstville Local Environmental Plan 1994;
- Section 94 contribution of E.P. & A. Act 1979;
- Draft State Environmental Planning Policy (Competition) 2010
- Draft Hurstville Local Environmental Plan (City Centre) 2011

### **Policy Controls**

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

### **Determining Authority**

As this proposal has a Capital Investment Value (CIV) of greater than \$20 million, the determination of the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

## **1. Environmental Planning Instruments**

### Hurstville Local Environmental Plan

The land is zoned no. 3(b) (City Centre Business Zone) under the provisions of the Hurstville Local Environmental Plan (LEP) 1994 and the proposed use as a mixed use building is not

defined in the LEP, however it is a permissible use, given that it is not listed as a prohibited use in the zone. The other components of the building are listed being the residential units defined as a “Residential Flat Building” and the commercial areas are defined as “business premises”.

#### Clause 14 – Tree preservation orders

An assessment of the site has revealed only no significant trees on the site. The site is considered to be within an existing highly built-up area within Hurstville town centre and is proposed to be excavated to its boundaries for five (5) levels of basement car parking. As such, it is considered the existing shrubs on site provide minimal environmental amenity or soil stability in terms of clause 13. The landscape plan as proposed on the ground floor will mainly provide landscaping to the rear of the site and with further landscaping at the roof top.

#### Clause 15 – Services

Pursuant to Clause 15, water supply, sewerage and drainage infrastructure is required to be available to the land. It is considered the above services can be provided to the proposed development on the land. Council’s Manager Development Advice has advised of no objections to the proposed drainage of the site, subject to imposed conditions of consent such as on-site detention system, the underground basement be required to pump out any storm water and that all other storm water to be discharged by gravity to the upper level of Council’s kerb inlet pit, located in Hill Street.

#### Clause 22 – Excavation, filling of land

The proposal will involve excavation of the land for the proposed five (5) basement levels. In consideration to this clause, should the proposal be approved, that a condition of consent is recommended that the geotechnical report be submitted prior to the commencement of any works to ensure adequate regard is given to any potential impacts to existing drainage patterns and soil stability within the locality.

#### Clause 25A – Advertising and signage.

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

#### State Environmental Planning Policy No 55 – Remediation of Land

A phase 1 and phase 2 site assessment by Aargus P/L in accordance with the statutory requirements was undertaken on the site. The above assessment concluded the risk of contamination as being low and recommended that the site can be made suitable for the proposed development after remediation of any potential contamination of the site. Should the application be approved, the remediation of the site as recommended will be imposed as a condition of any development consent granted.

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

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

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

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

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

At the time of writing this report Railcorp have not granted concurrence. A deferred commencement consent is recommended pending the concurrence of Railcorp, should the application be approved.

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. An electrolysis report of testing at the site was carried out by Corrosion Control Engineering, which recommended protective measures to mitigate the corrosive effects of stray traction currents. Should the application be approved, these measures including those in the acoustic report are recommended as conditions of any development consent granted.

#### SEPP No. 65 – Design Quality of Residential Development

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

An assessment of the proposal has been undertaken against the guidelines and rules of thumb contained in the Residential Flat Design Code. As such, the proposal cannot satisfy the Residential Flat Design Code without addressing the overall amenity provisions of the proposal. That being the raised concerns with the uncertainty to the proposed design and use of vertical voids at the southern end of the majority of the residential units and whether there will be adequate cross ventilation provided to these units? Further, there are additional concerns of adequate solar access requirements and aural privacy to the subject bedrooms located near these vertical voids, which protrude throughout the residential component of the building from its roof level and down through 14 floors to level 2 of the building. These issues are discussed further in the following section under the comments of the St George Region Design Review Panel (DRP).

SEPP no.65 requires a Design Review Panel (DRP) to give independent design advice to the consent authority on a development application for a residential flat building.

The proposal on the site was referred to the St George Region Design Review Panel (DRP) on 7 March 2013. The DRP comments with respect design quality principles are provided in italics below:

#### ***Context***

*The Panel views the site analysis plan as inadequate. It only assesses impacts on the site and makes no assessments of the nature of the surrounding development or the potential to*



*resolve amenity impacts. The site analysis plan shows no understanding of the surrounding context, including streets, their hierarchy and streetscape, built form, ground floor interface, rail corridor impacts, views, and outlook. Consequently, the overall design approach fails to demonstrate any type of contextual relationship in terms of the existing or the future character of the locality.*

*The information before the panel and comments made by the applicants representatives at the meeting lead to the conclusion that the contextual justification for increased development capacity, largely relies on the precedent of a recent Planning Assessment Commission approval for a building of equivalent height nearby and the Metropolitan Planning Strategy's encouragement of increased supply of residential accommodation. Other than this, the application does not provide adequate rationale why Council's planning controls should be effectively set aside. There is no justification for the FSR increase from 3.0:1 to 7.98:1 (increase of 266%) and the height control increase from 23 metres to 55 metres (increase of 239%).*

*The Panel is concerned with the lack of transition in scale to the surrounding sites. Although there is a 12 storey building to the north, it is set back above a 3 storey podium structure addressing the street frontages. Similarly the 12 storey building to the east in Hill Street is separated from the street frontage facing the subject site by a one storey structure. The proposed development rises 14 storeys across the entire site with a minimal set back of 3 metres above the two storey colonnade to the commercial levels.*

*The Panel sees no reason as to why the height limit should be exceeded by such a large margin and is concerned that the proposal seeks to set a precedent that will make it extremely difficult for the council to maintain its planning controls. The panel also notes that the significant departures from FSR and height controls are proposed with no public benefits offered by the development.*

*During the panel meeting, a query was raised about the constructability of the proposal as drawn. Substantial transfer structures will be required at the basement 1 ceiling level where a totally different structural column layout needs to be supported above yet the floor to floor height is shown at 2.8 metres. At the ceiling level of the first floor commercial level another substantial transfer structure will be required to support the different structural layout of the apartments above, which will impinge on the 3.8 metre ceiling height and at the sixteenth floor another transfer structure will be required to support the columns of the roof over the communal space at roof level impinging on the ceiling heights of the top apartments. Should it be necessary to change the design to accommodate the necessary beams the building will be further increased in height.*

### **Built Form**

*See comments above on Height and Context.*

*The proposed building would impose an overbearing bulk in the streetscape of the locality. The north façade lacks articulation of form and comprises repetitive elements above third floor level. The south façade, placed hard on the boundary with the railway corridor will read as the back side of the building particularly as the decision to place units in the south boundary imposes severe constraints on the size and nature of openings.*

*The panel is also concerned that the placement of apartments and open galleries in this position may not accord with RailCorp standards for building adjacent to the rail corridor in*

*terms of fire prevention measures and prevention of objects being thrown onto rail tracks and trains. Consultation with RailCorp will be required. .*

### **Density**

*See comments on Context, Scale and Built Form.*

*The floor plans of the residential levels are considered to result in severely compromised amenity for the proposed apartments as a result of maximising the building envelope and the resulting unit numbers. Refer to Amenity.*

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

*The Panel questions whether the majority of the units facing north will be cross ventilated via the fourteen storey high voids. Given the privacy and potential acoustic impacts on the windows facing into the voids it is unlikely that they would be able to be open. The panel is not aware as to whether air conditioning of the apartments is proposed. It will be necessary to provide expert evidence by a wind engineer that the percentage of natural ventilation required under RFDC can be achieved.*

*There is also a concern about the ability to naturally ventilate the apartments on the south side of the building abutting the rail corridor boundary due to the difficulty of acoustically addressing the noise from the railway in such a way that windows, particularly bedroom windows, can be open to allow cross ventilation.*

*The required 70% of apartments would receive direct sunlight in winter and daylight in accordance with the guideline of the RFDC.*

*The car park layout is very inefficient and results in 5 levels of basement parking. The panel questions the viability of excavating 5 levels and notes this is further evidence the proposed density is too high.*

### **Landscape**

*The panel does not support the configuration of communal open space on Level 2. The linear strips along the north are unusable and would create privacy impacts for adjacent units. It is recommended that this space be incorporated into the private space of units. Similarly the central space between units 2.03 and 2.04 has limited use and potential wind tunnel effects and should be deleted. The applicant's suggestion to make this an enclosed common room or gymnasium is considered to be of more utility for the occupants of the building.*

*The panel expressed concern that the planters on the south side of the building are unviable. Their location on the south side with no sun and with exposure to southerly winds would require significant expenditure and a rigorous maintenance regime to sustain. The planting along the rail line is in an undercroft and has very limited amenity. As above, this would require rigorous specification of appropriate soil profiles, planter depths and species to be able to survive. The scheme incorporates no deep soil zones, area should comply with minimum requirements as nominated in the RFDC. With the removal of the southern units, a consolidated planting zone could be provided along the boundary. The redesign of the carpark to eliminate large aisles would allow some deep soil along the rail corridor. This could support unimpeded soil zones and larger, shade tolerant trees. .*

*It is understood the landscape strip along The Avenue belongs to Council. The proposal to step this area into a series planted terraces should be redesigned to allow for capacity for large street tree planting.*

*While the panel generally supports the use of roof space for communal open space, the proposed space provides little amenity and diversity in use. Successful communal space for a large development should provide a variety of spaces or outdoor rooms that can be used by individuals, small groups or larger gatherings. Amenities in the form of a toilet and common sink should also be incorporated.*

*If a colonnade is desired, street trees should be considered in lieu of an awning. (Refer to Aesthetics)*

### ***Amenity***

*The Panel does not view favourably the “breezeway” access and 14 storey high for the following reasons:*

- The voids on the south side of the north facing apartments are an unsatisfactory way of providing daylight and natural ventilation to the second bedrooms and living areas facing into them. These voids are only 2 metres wide extending through fourteen floors. No light will penetrate to the lower floors.*
- Privacy is proposed to be maintained by providing 1800mm obscure glass screens (not shown in the drawings but advised at the panel meeting), which will create a claustrophobic outlook from the bedroom windows (through a 900mm slot at the ceiling level). The opportunity to provide better light and outlook from a more open gallery type access is denied by the placement of the two southern apartments at each level in addition to the necessary lifts and fire stairs.*
- The two units along the southern side of the corridor also have severely compromised amenity. Each apartment has a single aspect to either due east or west. This results in limited solar access. Bedroom look out to a narrow balcony and the lift core wall. Elimination of the southern apartments would enable the north facing apartments to be proper dual aspect apartments with effective ventilation and the opportunity to resolve privacy issues in a better way than as proposed.*

*The DA drawings do not show in unit storage in the eastern north facing apartments and in the apartments on the south boundary. Storage areas are indicated in the basement levels. A full schedule of unit storage will be needed to demonstrate satisfactory storage arrangements in accordance with the guidelines of the RFDC for each apartment.*

*Eleven one bedroom adaptable apartments are indicated in the drawings at the south west corner of the building at floors 2 to 11. The panel is of the opinion that it is inequitable to consign the adaptable apartments to the least desirable apartments and also that the adaptable apartments should be reflective of the overall apartment mix.*

*The panel suggested that the driveway entrance be relocated further south in Hill Street and consolidated with the garbage access to enable a better commercial space floor plan and to reduce pedestrian vehicle conflict for persons entering the eastern entrance lobby to the apartments.*

## **Safety and security**

*It was noted that the residential access route on the west side of the building at ground floor level is convoluted and provides screening creating an unsafe situation. This aspect of the layout requires amendment. The further development of the design should take into account CPTED guidelines*

*See comments under Amenity on driveway location and Landscape on communal open space.*

*The colonnade along the western side is obscured by planting and elevated about the street. This could provide opportunities for concealment.*

## **Social, dimensions and housing affordability**

*Refer to comments under Amenity in relation to the panel's view on the inequitable provision of adaptable apartments and the need for these to reflect the overall apartment mix.*

*The panel is also of the view that the apartments on the south side of the building will be perceived to have a much lower level of amenity than the north facing apartments and reflect a lower standard of accommodation.*

## **Aesthetics**

*The Panel believes that the proposed development is too large in the existing context and with regard to the future character of the locality as described in the council's planning controls. The high and wide north façade consists of repetitive elements over fourteen levels, which are not relieved significantly by the proposed change of colour. A building of less height and bulk and greater façade articulation would be more appropriate than the proposed change of facade treatment indicated at the commercial levels, floor 2 and the roof. The south elevation appears to be treated as the back end with outcome being a building that is not of consistent aesthetic quality in the round.*

*The panel questions the need for both a colonnade and an awning. If a colonnade is used it should be open at either end to allow a continuous path of travel. As a standalone building, a colonnade could be an acceptable solution. This would also provide the opportunity for street trees instead of an awning.*

## **RECOMMENDATION**

*The design cannot be supported in its present form, particularly in relation to the extent of non compliance with the council's FSR and height controls and the shortcomings in amenity of the proposed apartments, and should be substantially amended as outlined above for reconsideration by the Panel.*

**Comment:** The issues as raised by the DRP to the overall proposed building design with respect to the design quality principles of SEPP No.65 are considered to be significant resulting in poor amenity and an inefficient building design. It is further agreed as per the comments of the DRP that the applicant lacks adequate justification for exceeding the height and density requirements and as such the current proposal is not acceptable.

The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment. The proposal, including the disposal of stormwater, is consistent with Council's requirements for the disposal of stormwater in the catchment.

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

### Draft Hurstville City Centre Local Environmental Plan 2011

Exhibition of the Draft Hurstville City Centre Local Environmental Plan (HCCLEP) 2011 has concluded under the Environmental Planning and Assessment Act 1979 and Regulations as proposed and was resolved by Council at its meeting on 30 November 2011.

Further, at the Council meeting of 12 April 2012, Council resolved to adopt the Draft HCCLEP 2011 with a number of amendments.

The Department issued a Gateway Determination to permit the formal public exhibition of the draft HCCLEP 2011 on 23 November 2011. The timeframe in the Determination for completing the draft HCCLEP 2011 is 18 months, i.e. 30 May 2013. This will allow the TMAP study to be finalised and its findings addressed in the draft HCCLEP 2011, prior to finalisation of the draft Plan by Council. At this stage, the Draft HCCLEP 2011 is not imminent and certain.

Under the Draft HCCLEP 2011, the site is proposed to be rezoned to B4 Mixed Use Zone. Development for the purposes of retail/commercial premises and residential flat buildings are permissible in the zone with Council's development consent.

Under the Draft HCCLEP 2011, the maximum building height for the site is 23m with a maximum FSR of 3.0:1. The proposal is well over the controls for maximum height and the maximum floor space ratio with a proposed height of 55m and total floor space ratio of 7.98:1. As such the proposal is inconsistent with Draft HCCLEP 2011 and its future desired built form of Hurstville City Centre.

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

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

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

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

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

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**

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

The table below is a summary of the compliance with controls from Council's Development Control Plan No 2, Section 4.2. The site is identified as Block 28 and site 28A in the Hurstville City Centre.

<b>DCP No. 2 – Hurstville Town Centre</b>	<b>Required</b>	<b>Proposal</b>	<b>Complies</b>
Use	<ul style="list-style-type: none"> <li>▪ Retail/commercial</li> <li>▪ Retail/ residential</li> </ul>	<ul style="list-style-type: none"> <li>▪ Commercial / Residential</li> </ul>	Yes
Height	23m	55m	No (1)
FSR	3.0:1	7.98:1	No (2)
Awnings	Cantilevered to Treacy Street	Awning to Treacy street and other street frontages	Yes
Balconies	Minimum 1 balcony per unit with min. 8sqm	Min. 8sqm each min. 2.0m dimension	Yes
Street setback	Nil	2m at ground and level one - commercial 3m at upper levels to Treacy Street	Yes
Vehicle Parking	Basement.	All provided in basement.	Yes
<u>Min . % on site / Use / Rate (sqm)</u>	min. 70% on site / Commercial / 1 per 50sqm : req = 31	Commercial car spaces provided: 28	Yes
	min. 70% on site / Retail / 1 per 25sqm	Residential car spaces provided:124	Yes
	min. 100% on site / Resid. / 1 per 100sqm, req =110	Residential visitor space provided: 30	Yes
	Visitors / 1 per 4 units Total req'd = 31 spaces	Total provided: 182	Yes
	Total required: 171	Note, total no. of car spaces comply whilst spaces to be redistributed	

		to appropriate use.	
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As can be seen from the table above, the proposal complies with the Development Control Plan No. 2 with the exception of variations discussed below.

### (1) Height

The height requirements for site 28A in the DCP is a maximum of 23m, which is equivalent to approximately seven (7) storeys in height. The maximum height as proposed is 55m or 16 storeys with a roof top terrace. The applicant has stated the reasons for exceeding the height requirements is based on the following:

- Metropolitan Planning Strategy and its aim to increase the supply of residential accommodation;
- The surrounding built form and approved developments including the 16 storey approval by PAC at 21-35 Treacy Street;
- That the DCP no.2 states to future design principles as to develop buildings between 23m to 60m.

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

In this case, the site is located away from Forest Road separated by an existing 12 storey building, north of the site at 107 Forest Road and northeast of the site at 105 Forest Road the approved building will be a maximum height of 13 storeys in height. As such, these taller buildings are suited along Forest Road and are still able to provide a view corridor to Botany Bay and the coast. The proposed building height of 55m or 16 storeys on the site will impact the view corridor of the approved building at 107 Forest Road and in particular the existing 12 storey building at 105 Forest Road. As such the proposed building height of 55m or sixteen (16) storeys is considered to be an overdevelopment of the site, whilst the height control of seven (7) storeys on the site is consistent with the desired built form as specified in the DCP.

### (2) Floor Space Ratio

The DCP permits a maximum floor space ratio on the site of 3.0:1 for a 23m high building . The proposed development has a total floor space ratio of 7.98:1 well in excess of the FSR control. The majority of this additional floor space is comprised in the additional storeys for the residential units. The proposed built form as depicted on the photomontage appears bulky and out of scale as an overdevelopment on the site.

As previously discussed the proposed amenity to residential units are considered to be poor with regards to cross ventilation and solar access and as such the additional floor area is considered excessive and cannot be supported.

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

This development guidelines requires 1 adaptable dwelling for the first eight units and then 1 for every 10 units after that, or part thereof. This equates to a total of thirteen (13) adaptable dwellings to be provided in the development. There are eleven (11) proposed adaptable units all being one bedroom units with a total of fourteen (14) accessible parking spaces. It is considered that all the adaptable units as one bedroom units are not considered to be equitable and should be redesigned to provide a more representative mix of other number of bedroom units.

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

The proposal is has been assessed against the Development Control Plan No. 2 - Crime Prevention through Environmental Design (CPTED) by addressing CPTED principles. The assessment has revealed the main issue of concern is the proposed pedestrian access to the residential lobbies located at the east and west end of the building, which appears to be convoluted and secondary as compared to the proposed pedestrian access available to the commercial lobby, directly from Treacy Street. In particular, the residential lobby via The Avenue is accessed via stairs near the railway underpass or by a narrow 1m western pathway, which extends along the commercial ground floor between landscaping to access, the recessed entry of this residential lobby. As such, it is considered the residential lobbies be relocated to a more central area with direct access, which is easily identifiable from the main street frontage at Treacy Street.

## **DIVISIONAL REFERRALS**

### **4. Impacts**

#### **Natural Environment**

A geotechnical report as submitted with the application will be required to be implemented to ensure the soil stability and no impact on drainage in the immediate area. It is considered unlikely the proposal will significantly impact the natural environment, given the existing setting is a highly built up environment.

#### **Built Environment**

The proposed building is considered to be an overdevelopment being bulky in appearance and excessive in height as previously discussed. The general appearance of the building from the Treacy Street elevation above the commercial floors has repetitive elements and appears to be overbearing on the streetscape.

#### **Social Impact**

The proposal provides for a variety of unit types. However, the proposed eleven (11) adaptable units as one bedroom units are not considered to be equitable and should be redesigned to provide a more representative mix of other number of bedroom units.

#### **Economic Impact**



The proposal will create employment during the demolition and construction phases of the development and further increase generally employment opportunities during the use of the commercial units.

### **Suitability of the Site**

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

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

### **Resident**

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

Accordingly, two (2) submissions were received with the proposal during the notification period, which are summarised below.

*Traffic on Treacy Street is already overcrowded, particularly Saturday mornings with visitors car parking places unavailable will exasperate the existing situation.*

Comment: The applicant's Traffic Report by Terraffic P/L dated 22 November 2012 Ref: 12061 has stated that the proposed development has no unacceptable traffic implications in terms of road network capacity. Council's Senior Traffic Engineer has advised of no objections to the proposal with the exception to the potential reverse manoeuvring of the loading vehicles in and out of the site. As such, turning path diagrams of the maximum vehicle to access the loading dock is to be provided by the applicant, should the development be approved. In addition, the total number of parking spaces as provided on site exceeds the minimum number of car spaces as required by the DCP.

*The proposed development will result in overshadowing to level 4 at 107 Forest Road.*

Comment: Given the location of the building at 107 Forest Road and its distance from the subject site, it is unlikely that any overshadowing will significantly impact solar access to this building.

*Privacy concerns from the issue of overlooking from another building into the units at 107 Forest Road.*

Comment: The building separation between the proposed building and the existing building is considered to be adequate with regards to privacy.

*Safety close to railway lines issue on further noise in that area with east quarter still not complete.*

Comment: The development is subject to the concurrence of RailCorp regarding safety is not compromised to the railway network from the proposed development, should the application be approved. Further, the issue of noise emission from construction works will be required to

comply with standard conditions of consent regarding restrictions to the permitted hours of any works carried out during the day with any building approval granted.

*Reduction in rental or property values due to loss of views of city and Botany Bay.*

Comment: There is no evidence to indicate that the proposal if approved will result in a reduction in rental value due to loss of any views.

Footprint: *Looking at the surrounding properties it is clear that for such a small footprint a building height of no more than ten storeys is appropriate. To reduce the development height to match those properties adjacent to the railway line would create a uniformity of height more fitting to the surroundings.*

Comment: The height of the proposed development is not supported as previously discussed in the report.

## **Council Referrals**

### Senior Health and Building Surveyor

No objections were raised by the Senior Health and Building Surveyor subject to recommended conditions of consent with access, fire safety with the Building Code of Australia.

### Manager, Environmental Services

There were no objections to the proposal subject to the recommendations for adequate size of waste storage facilities for the proposed uses, which will be required to be further increase on the site and to be submitted prior to the issue of a construction certificate. Further, it will be the responsibility of the Owners Corporation to present the mobile garbage bins for collection and return them to the storage area after they have been emptied, should the application be granted approval.

### Senior Traffic Engineer

Council's Senior Traffic Engineer has advised of no objections to the proposal with the exception to the potential reverse manoeuvring of the loading vehicles in and out of the site. As such, turning path diagrams of the maximum vehicle to access the loading dock is to be provided by the applicant, should the development be approved.

### Manager - Development Advice

Council's Manager of Development Advice has raised no objections to the proposal and commented on the standard requirements for mixed use developments and provisions for the on-site detention system and drainage requirements. Further that the proposed construction of the steps on the Road Reserve of The Avenue seem to be part of the fire egress from the building any such works together with the proposed landscaping will be subject to Council approval, prior to any construction certificate being issued. Should the application be approved by Council, it is recommended a Positive Covenant be required on the Title, to ensure the owners of the building are responsible for the maintenance of the steps and pathway.

### Senior Environmental Health Officer

No objections were raised subject to recommended standard conditions of any consent granted regarding acoustic noise generated from the development.

## **External Referrals**

### Urban Design Review Panel

The comments of the Urban Design Review Panel been previously discussed in an earlier section of this report.

### RailCorp

A deferred commencement consent is recommended pending the concurrence of Railcorp, should the application be approved. 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. An electrolysis report of testing at the site was carried out by Corrosion Control Engineering, which recommended protective measures to mitigate the corrosive effects of stray traction currents. Should the application be approved, these measures including those in the acoustic report and any further as recommended conditions by RailCorp are to be included in any development consent granted.

## **6. CONCLUSION**

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

The assessment has found that the proposal is well in excess of the height and floor space ratio controls as required in the Development Control Plan No. 2 –Hurstville Town Centre and the applicant's reasons for the variations cannot be justified. As such the proposal is considered to be an overdevelopment of the site and its desired built form in this specific area of the Town Centre. The proposal will visually impact on the existing and desired streetscape of Hurstville Town Centre. Further the issues of the proposed design as raised in the report will result in numerous issues of poor amenity to any future occupants of the building. As such, based on the abovementioned reasons, the proposal cannot be supported.

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

A. Further, that pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the **Joint Regional Planning Panel** refuses development consent to Development Application 12/DA-367 for the demolition of the existing buildings on site for the construction of a new sixteen (16) storey mixed use building with basement parking on Lots 1 and 2 DP 306979, Lot 14 DP 2752, Lot 15 DP 2752 and Lot 16 of Section A DP 2752 and known as 1-5 Treacy Street, Hurstville for the following reasons:

1. The proposed height exceeds the maximum height control of 23m under Hurstville Development Control Plan No. 2 - City Centre. (Section 79C(1)(a)(iii)).

2. The proposed floor space ratio exceeds the required 3.0:1 floor space ratio under Hurstville Development Control Plan No. 2 - City Centre. (Section 79C(1)(a)(iii)).
3. The proposal is seen to be an overdevelopment of the subject site being excessive in density and height and unsympathetic in appearance to the existing and desired streetscape. (Section 79C(1)(b)).
4. The proposal is unsatisfactory in relation to Clause 30(2) of State Environmental Planning Policy No.65 – Design Quality of Residential Flat Developments with regard to design quality principles. (Section 79C(1)(a)(i)).