

**JOINT REGIONAL PLANNING PANEL
(East)**

JRPP No	2012SYE014
DA Number	2012/DA-241REV1
Local Government Area	Hurstville City Council
Proposed Development	Section 96(2) application to modify Development Consent No 12/DA-241 for a mixed retail/residential development by providing an additional level containing six (6) residential units and modifying the light voids and ventilation and services shaft
Street Address	9 Dora Street, Hurstville
Applicant/Owner	Applicant: George El Khouri Architects Owner: Xycom P/L
Number of Submissions	Fifty-three (53) adjoining and adjacent owners/residents notified Application advertised for fourteen (14) days No submissions received
Recommendation	Approval subject to conditions of consent
Report by	Paula Bizimis – Senior Development Assessment Officer Hurstville City Council

Assessment Report and Recommendation

ZONING	3b City Centre Business Zone
APPLICABLE PLANNING INSTRUMENTS	<ul style="list-style-type: none"> • State Environmental Planning Policy No 55 - Remediation of Land • State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Hurstville Local Environmental Plan 1994 • Draft State Environmental Planning Policy (Competition) 2010 • Draft Hurstville (City Centre) Local Environmental Plan 2011 • Hurstville Development Control Plan No. 2: Section 2.2 - Neighbour Notification and Advertising of Development Applications, Section 4.2 - The Controls, Section 5.1 - Design Guidelines for Building, Public Domain and Open Space, Section 6.1 - Car Parking, Section 6.3 - Access and Mobility, Section 6.4 - Crime Prevention through Environmental Design, Section 6.5 - Energy Efficiency, Section 6.7 - Drainage and On-Site Detention Requirements, Section 6.9 - Waste Management, Section 6.10 - Development of a Heritage Item or on the Vicinity of a Heritage Item
HURSTVILLE LOCAL ENVIRONMENTAL PLAN 1994 INTERPRETATION OF USE	“Demolish”, “Shop”, and “Residential Flat Building”
EXISTING DEVELOPMENT	Single storey commercial building
COST OF DEVELOPMENT	\$23,824,000 for entire development as modified
REASON FOR REFERRAL TO JRPP	Value over \$20M
FILE NO	2012/DA-241REV1 (12/DA-241:2)
HAS A DISCLOSURE OF POLITICAL DONATIONS OR GIFTS BEEN MADE?	No

EXECUTIVE SUMMARY

1. On the 19 November 2012 consent was granted by the Joint Regional Planning Panel to Development Application No. 12/DA-241 for the demolition of existing structures and construction of a thirteen (13) storey, forty-five (45m) high building containing two (2) ground floor retail units, four (4) basement levels of car parking, and twelve (12) floors of residential units (66 units in total).
2. The current Section 96(2) application seeks permission to modify the approved development by providing an additional level to the development which contains 1 x 1 bedroom, 4 x 2 bedroom and 1 x 3 bedroom residential units, removing the light void on the south west elevation, relocating the ventilation and services shaft, and enlarging the approved 1 x1 bedroom dwelling and balcony into the void space of the reconfigured ventilation and services shaft. The total number of residential units will be seventy two (72).
3. The proposed development has been assessed against the requirements of the relevant environmental planning instruments and development control plans and does not comply with the floor space ratio requirements of the Hurstville Development Control Plan No 2. This is discussed in the report.
4. The application was notified to fifty three (53) adjoining and adjacent owners/residents, and advertised for fourteen (14) days. No submissions were received in reply.

RECOMMENDATION

The development application is recommended for approval subject to conditions of consent.

BACKGROUND

On the 19 November 2012 consent was granted to Development Application No. 12/DA-241 for the demolition of existing structures and construction of a thirteen (13) storey, forty-five (45m) high building containing two (2) ground floor retail units, four (4) basement levels of car parking, and twelve (12) floors of residential units (66 units in total). The consent was granted subject to conditions of consent including the following which are relevant to this application:

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
<i>Job No 2012-02, Sheet No DA 1001, 1002, 1003, 1004</i>	<i>Jul 12</i>	<i>Basement 1 Plan, Basement 2 Plan, Basement 3 Plan, Basement 4 Plan</i>	<i>B</i>	<i>George El Khouri Architects</i>
<i>Job No 2012-02, Sheet No DA 1100, 1101, 1102, 1103, 1104, 1105</i>	<i>Jul 12</i>	<i>Ground Floor Plan, Level 01 Floor Plan, Level 02-11 Typical Floor Plan, Level 12 Floor Plan,</i>	<i>B</i>	<i>George El Khouri Architects</i>

		<i>Lower Roof Plan, Roof Plan</i>		
<i>Job No 2012-02, Sheet No DA 2000, 2001, 2002, 2003</i>	<i>Jul 12</i>	<i>North East/Street Elevation, North West Elevation, South West/Rear Elevation, South East Elevation</i>	<i>B</i>	<i>George El Khouri Architects</i>
<i>Job No 2012-02, Sheet No DA 3000</i>	<i>Jul 12</i>	<i>Section A-A</i>	<i>B</i>	<i>George El Khouri Architects</i>
<i>Job No 2012-02, Sheet No DA 4000, 4001, 4002, 4003, 4004, 4005</i>	<i>Jul 12</i>	<i>Shadow Diagrams</i>	<i>B</i>	<i>George El Khouri Architects</i>
<i>Job No 2012-02, Sheet No DA 4500, 4501</i>	<i>Jul 12</i>	<i>Solar Diagram and cross Flow Diagrams</i>	<i>B</i>	<i>George El Khouri Architects</i>
<i>Job No 2012-02, Sheet No DA 5000</i>	<i>Jul 12</i>	<i>Finishes Schedule</i>	<i>B</i>	<i>George El Khouri Architects</i>
<i>Job No 2012-02, Sheet No DA 6000</i>	<i>Jul 12</i>	<i>Streetscape Diagram</i>	<i>B</i>	<i>George El Khouri Architects</i>

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

<i>Fee Type</i>	<i>Paid</i>	<i>Fee Type</i>	<i>Amount</i>	<i>Receipt Date</i>	<i>Receipt No</i>
<i>Development Application Fee</i>	X	<i>DA1</i>	<i>\$16,124.50</i>	<i>9 Sep 12</i>	<i>369315</i>
<i>Plan First Fee</i>	X	<i>AP35</i>	<i>\$14,137.60</i>	<i>9 Sep 12</i>	<i>369315</i>
<i>Notification Fee</i>	X	<i>AP12</i>	<i>\$220.00</i>	<i>9 Sep 12</i>	<i>369315</i>
<i>Company Search Fee</i>	X		<i>\$20.00</i>	<i>9 Sep 12</i>	<i>369315</i>
<i>Urban Design Review Panel</i>	X		<i>\$2,000.00</i>	<i>9 Sep 12</i>	<i>369315</i>
<i>DA Advertising Fee</i>	X		<i>\$1,105.00</i>	<i>9 Sep 12</i>	<i>369315</i>
<i>Long Service Levy</i>		<i>AP34</i>	<i>\$77,315.00</i>		
<i>Builders Damage Deposit</i>		<i>BON2</i>	<i>\$3,750.00</i>		
<i>Inspection Fee for Refund of Damage Deposit</i>		<i>DA6</i>	<i>\$130.00</i>		
<i>S94 - Open Space and Community Recreation</i>		<i>CONT9</i>	<i>\$430,197.00</i>		
<i>S94 - Community Services and Facilities</i>		<i>CONT3</i>	<i>\$228,469.00</i>		
<i>S94 - Management</i>		<i>CONT8</i>	<i>\$16,856.31</i>		
<i>S94 - Library Infrastructure</i>		<i>CONT7</i>	<i>\$116,539.00</i>		
<i>S94 - Library Bookstock</i>		<i>CONT4</i>	<i>\$656.29</i>		

S94 - Residential Traffic and Parking in Hurstville CBD		BO1	\$11,720.78		
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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	\$14,650.02		
Construction Certificate Application Fee		CC1	\$8,820.89		
Construction Certificate Imaging Fee		AP165	\$500.00		

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 \$430,197.00.

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 \$228,469.00.

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 \$16,856.31.

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 \$116,539.00.*
- (b) *The book stock acquisition contribution for residential development is \$656.26.*

The total Library and Information Services Section 94 contribution required and payable before release of the Construction Certificate is \$117,195.26.

7. **GEN1003 – Section 94 -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 is \$2.14 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 \$11,720.78.

30. **CC2011 - Development Assessment – BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 407316M_03 dated 10 January 2012, approved with the Development Consent 12/DA-241 must be implemented 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:- 17 x 240 litre Mobile Bins (MB's);
(b) Domestic Recycling:- 22 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.

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.

51. **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. 407316_03 dated 10 January 2012, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.
54. **OCC2007 - Development Assessment – Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
- (a) Residential dwellings: 55 car spaces
(b) Residential visitors: 17 car spaces
(c) Retail: 17 car spaces
(d) Car wash bay: 1 car wash bay (which can be a visitor space)

DESCRIPTION OF THE PROPOSAL

The current Section 96(2) application seeks permission to modify the approved development by:

- Providing an additional level to the development which contains 1 x 1 bedroom, 4 x 2 bedroom and 1 x 3 bedroom residential units. The total number of residential units in

the development will be 72 (additional floor area of 569sqm).

- Remove the light void on the south west elevation, and relocate the ventilation and services shaft.
- Enlarge the approved 1x 1 bedroom dwelling and its balcony on levels 1 to 11 into the void space of the reconfigured ventilation and services shaft (additional floor area of 70sqm).

The development as modified will be for the demolition of existing structures and construction of a mixed use retail and residential development with associated car parking. The development will comprise a fourteen (14) storey, forty-five (45m) high building, with ground floor comprising two (2) retail units, four (4) basement levels, and thirteen (13) levels above ground level containing seventy two (72) residential units. Specifically the proposed development will include the following:

Basement 4

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

Basement 3

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

Basement 2

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

Basement 1

- 13 car spaces including 3 disability accessible car spaces
- 28 storage areas
- 2 lifts and 2 stairs
- Pump room and electrical room

Ground floor

- Two (2) retail units (Shop 1 and Shop 2) with a floor area of 48sqm and 183.8sqm respectively (retail floor area of shops 231.8 m²). The applicant has submitted that the courtyard area at the rear of the ground floor will be used as common open space (214.5sqm) and will not be allocated to the shops
- Entrance lobby for residential units
- Commercial plant room
- Substation
- Waste room
- Vehicle entry/exit to basement levels
- OSD tank
- 2 lifts and 4 stairs

Level 1

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

Levels 2 – 11

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

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

Proposed Level 12

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

Level 13

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

DESCRIPTION OF THE SITE AND LOCALITY

The subject site known as 9 Dora Street Hurstville is located on the western side of Dora Street near the north western corner of MacMahon Street Hurstville. The site comprises four lots which are lots 1 and 2 DP 224116, lot 167 DP 335747, and lot 168 DP 1958. The site has a frontage of 40.2m, depth of 24.3m and a total site area of 976.9sqm. Existing development comprises a single storey commercial building which, for the most part is vacant, except for part of the building which used for the sale of porcelain products.

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

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



COMPLIANCE AND ASSESSMENT

Assessment of Section 96(2) Application

Under section 96(2) of the Environmental Planning and Assessment Act an application to modify the development consent under section 96(2) can be considered by the consent authority if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

The applicant has submitted the following information regarding the proposed development being substantially the same development as that for which consent was originally granted:

The proposal is the subject of a Section 96(2) modification application as it involves the addition of a new building level and proposes to enclose a light well on the south-western building elevation. However, the proposal does not require a new development application and is considered to be substantially the same as the originally approved development given that the building envelope remains the same as approved development (i.e. the additional building level is achieved by reducing each approved residential level by 250mm and thus creating

sufficient space for a new building level, whilst maintaining the DCP and RFDC desired floor to ceiling heights of 2.7m). Furthermore, the proposal does not seek to alter the approved land uses on the site, the general building appearance and architectural expression of the building will remain substantially similar to the approved development, and impacts on neighbouring properties will not be altered as a result of the proposal (given that the building envelope remains unchanged).

In reaching this conclusion, we have considered guidance provided by the Land & Environmental Court Case, Moto Projects (No. 2) Pty Limited v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298, which outlines principles for determining whether a S.96(2) application is 'substantially the same' as an originally issued development consent. The assessment of 'substantially the same' needs to consider qualitative and quantitative matters.

In terms of a quantitative assessment, the development will continue to comply with the prescribed DCP height limit of 45m and the building envelope will remain the same as approved. The proposal will result in an increase in gross floor area that creates a non-compliance with the 6:1 FSR maximum prescribed by the DCP. However, given that the building envelope is being maintained, alterations to numerical compliance have no material effect. In addition, the provision of car parking on the site, retail floor space, land use mix, boundary setbacks and private/communal landscaping will remain as originally approved. It is therefore demonstrated that in terms of a quantitative assessment, the proposed modifications remain substantially the same as the originally approved development.

In terms of a qualitative assessment of the proposal, the relationship between the approved building and the surrounding properties remain essentially the same as originally approved. The proposal will not introduce any new amenity impacts on the surrounding properties in terms of loss of privacy, view loss or overshadowing. The appearance and architectural expression of the building when viewed from the public domain and surrounding properties will not be substantially altered as a result of the proposal. On this basis, qualitatively, the proposal remains substantially the same as the originally approved development.

It is therefore demonstrated that the proposed modifications do not alter the essence or fundamental nature of the approved development, and it remains quantitatively and qualitatively the same as originally approved.

It is therefore considered that the proposed development will not have any significant or adverse environmental impacts on the locality and it satisfies the criteria for classification as a Section 96(2) application.

Comment

It is considered that the proposed development is substantially the same development. Although the modified development will result in an additional residential level and an increase in the floor area of the development of 639sqm the height and building envelope of the development will remain as originally approved. The removal of the light void will have negligible impact on the external rear elevation of the development as the "window" of the light void will be maintained and will now form the window to the bedroom. The proposed development will maintain the approved uses being ground floor shops, residential units, and basement car parking areas and as such the development will remain fundamentally as

originally approved. In this regard it is considered that the development as modified is substantially the same development for consent was originally granted.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment

There was no requirement for the application to be referred to any other body.

- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment

The application was notified in accordance with Council's requirements.

- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment

No submissions were received in response to resident notification/advertising of the proposed development.

Other Considerations Relevant to a Section 96(2) Application

In determining an application for modification of the development consent, the relevant matters referred to in Section 79C(1) must be taken into consideration. The following is a discussion of matters under Section 79C as being relevant to the current Section 96 application:

1. Environmental Planning Instruments

Hurstville Local Environmental Plan 1994

The site is zoned 3(b) – City Centre Business Zone under the provisions of the Hurstville Local Environmental Plan (LEP) 1994 and the proposed development, being a modification of the approved development, is permissible in the zone with the consent of Council.

The objectives of the zone are as follows:

- “(a) *to designate sufficient areas of land to meet the projected needs of the Hurstville Town Centre as a multi-functional regional centre,*

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

It is considered that the proposed development is consistent with the objectives of the zone. With regards to (d)(i) the floor space ratio of the development will be increased and this will result in the development not complying with the requirements of Hurstville Development Control Plan No 2 (DCP 2). The approved development had a floor space ratio of 5.98:1 and the proposed floor space ratio will be 6.56:1.

On principle the floor space ratio requirements of DCP 2 should be maintained particularly as amendments to DCP 2 were introduced at the same time the original development application was lodged. Notwithstanding this, the proposed increase to the floor space ratio will result in no material change to the building envelope or the approved uses of the development. The proposed development will comply with all other relevant requirements and there are no additional adverse impacts from the development in terms of privacy and solar access. The provision of six (6) additional residential units to the development is unlikely to generate vehicular movements significantly above that of the original development and as such there is unlikely to be adverse impacts to the surrounding developments in terms of traffic generation. The site's location within the Hurstville CBD and within close proximity to public transport is appropriate for a development that provides a mixed retail/residential development. For these reasons, the proposed increase to the floor area of the development is acceptable.

The modified development is consistent with the clauses of the LEP which are relevant to the development.

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

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

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

The modified development does not affect the development's compliance with the provisions of SEPP 55.

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

The following table shows the modified development's compliance with the relevant provisions of the Residential Flat Design Code, which have been affected by the proposed development:

STANDARD	OBJECTIVE	PROVIDED	COMPLIANCE
FLOOR SPACE RATIO (FSR)	To ensure that the development is in keeping with the optimum capacity of the site and the local area. FSR is not specified in the Design Code.	The floor space ratio will exceed Council's requirements. This has been discussed previously in the report and is supported.	Acceptable
APARTMENT LAYOUT	-Maximum depth from window of single aspect apartment 8.0m -The back of a kitchen should be no more than 8 metres from a window. -Width of cross-over apartments more than 15 metres deep should be a minimum of 4 metres.	-Single aspect units are 8m deep -Cross through units from window to window all less than 15m	Yes
APARTMENT MIX	To provide a diversity of apartment types, which cater for different household requirements now and in the future	The proposal incorporates a diversity of mixture in the size of the units, and provision of 1, 2 and 3 bedroom units	Yes
BALCONIES	Primary balconies to be a minimum of 2 metres in depth.	All units have primary balcony with minimum 2m depth	Yes
CEILING HEIGHTS	Mixed use building -GF retail/commercial minimum 3.3m -FF residential/retail/commercial minimum 3.3m Residential building in mixed use are -GF minimum 3.3m Residential buildings/floors -habitable rooms minimum	Retail/commercial floor = 3.7m Residential floors = greater than 2.7m	Yes

	2.7m -non habitable rooms minimum 2.25m		
INTERNAL CIRCULATION	Maximum of 8 units to be accessible from a double loaded corridor.	Maximum number of units off corridor are 6	Yes
STORAGE	To provide adequate storage for every day household items within easy access of the apartment 1br = 6m ³ 2br = 8m ³ 3br = 10m ³	1br = 7m ³ 2br = 8m ³ 3br = 10m ³	Yes
DAYLIGHT ACCESS	-Min 70% of units receive min 3 hrs of solar access -Max 10% units southerly aspect	-85% of units receive minimum 3 hours direct sunlight -16.67% of units have single southerly aspect	Yes No (1)
NATURAL VENTILATION	-60% of residential units should be naturally cross ventilated. -25% of kitchens should have access to natural ventilation.	-85% of units naturally cross ventilated -100% of kitchens have access to natural ventilation	Yes

(1) Units with single southerly aspect

The proposed development has 16.67% of units with a single southerly aspect which is above the maximum 10% required by SEPP 65. This is the same percentage as the approved development and as such there will be no increase in the number of units with a single southerly aspect with the modified development.

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

2. Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Competition) 2010

The aims of this policy are to:

- a) Promote economic growth and competition, and

- b) Remove anti-competitive barriers in environmental planning and assessment.

The policy includes criteria to remove anti-competitive barriers to commercial development, being retail premises, business premises, and/or office premises. This policy is not relevant to this application, as the intended specific use of each retail unit is unknown at this stage. Hence, the commercial viability, potential loss of trade, etc is irrelevant. The use of retail premises is permissible on this site and is encouraged in the current controls and the intended proposed controls. The existing facilities and services are adequate to support this proposal in general.

Draft Hurstville (City Centre) Local Environmental Plan 2011

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

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

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

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

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

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

Section 2.2 - Neighbour Notification and Advertising of Development Applications

The application was notified to fifty three (53) adjoining and adjacent owners and residents, and advertised for fourteen (14) days. No submissions were received in reply.

Section 4.2 - The Controls

The development as modified has been assessed against the “controls” that apply to the subject site as follows:

Block 10, Site 10B	Proposed	Compliance
Use Ground floor = retail/commercial Upper levels = commercial/residential	Ground floor = retail Upper levels = residential	Yes
Height 45m maximum	45m (14 storeys)	Yes
FSR 6:1 maximum	6.56:1	No, this has been discussed previously in the report and the additional floor area is acceptable
Setbacks <u>Street setbacks:</u> Build to street alignment for ground floor, upper floors residential setback in accordance with the Residential Flat Design Code <u>Ground floor:</u> full site coverage allowed <u>Top floors:</u> setback from rear boundary to form courtyard to adjacent properties at rear	The proposed development complies with the setback requirements	Yes
Awnings Cantilevered awning to Dora Street	Cantilevered awning to Dora Street	Yes
Balconies Minimum 1/unit, 8sqm in size 2m minimum width	Minimum 1/unit, 8sqm in size Minimum 2m dimensions	Yes
Vehicles Access Dora Street	Dora Street	Yes
Car parking in basement Residential: 1 car space/100sqm (6178sqm) = 62 spaces required Visitors: 1 car spaces/4 residential units (72 units)= 18 spaces required Retail: 1 car space/27.5sqm (231.8sqm) =	Total = 90 car spaces provided	Yes

9 spaces required		
Car wash bay = 1 required (which can be a visitor space)		
Total = 89 car spaces		

Section 6.1 - Car Parking

On site car parking is provided in accordance with the relevant requirements as detailed in the report above. The proposal also complies with the general provisions of this section relating to Australian standards for circulation spaces and sizes of spaces.

The application was not referred to NSW Roads and Maritime Services (RMS) for comment as the RMS provided advisory conditions of consent to the original application which were included in the development consent.

Section 6.3 - Access and Mobility

Adaptable dwellings

DCP 2 requires that 1 adaptable dwelling be provided for the first 8 units and then 1 for every 10 units after that, or part thereof. This equates to a total of 8 adaptable dwellings being required for the proposed development. The proposed development provides 12 adaptable dwellings.

Accessible residential car spaces

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

Accessible retail car spaces

1 car space per 20 spaces or part thereof, where parking areas have more than 20 spaces but less than 50 spaces is required for retail uses. Given that 9 spaces are provided for the retail component, no accessible car spaces are required for the retail component.

Section 6.5 - Energy Efficiency

A BASIX Certificate has been submitted with the application which meets the target scores. The proposed development will have no additional impacts to adjoining developments in terms of solar access.

4. Impacts

Natural Environment

The modified development is unlikely to have additional impacts on the natural environment from that previously considered. Although the proposal includes a large amount of excavation for the basement levels, this is not uncommon in the Hurstville CBD area. It is considered the proposal is unlikely to adversely impact on existing drainage patterns and

soil stability in the locality. The site currently has no significant vegetation and the street tree located at the front of the site can be removed.

Built Environment

The proposed development is unlikely to have an adverse impact on the built environment. Although the proposed development proposes an increase to the floor area of the approved development, the development will maintain a building envelope that is consistent with the requirements of the relevant planning instruments and development control plans and has acceptable impacts in terms of solar access and privacy.

Social and Economic Impacts

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

Suitability of the Site

The subject site has no impediments that preclude it from being developed for the proposed development.

5. REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

Resident Submissions

The application was notified to fifty three (53) adjoining and adjacent owners/residents, and advertised for fourteen (14) days. No submissions were received in reply.

Internal - Council Referrals

No internal referrals were required for this application.

External Referrals

No external referrals were required for this application.

6. CONCLUSION

The application seeks permission to modify development consent no. 12/DA-241 under the provisions of Section 96(2) of the Environmental Planning and Assessment Act. It is proposed to modify the approved development by providing an additional level to the building to provide six (6) residential units and amending the design of the light voids and ventilation and services shaft. The proposed amendments will increase the floor area of the building which results in the development not complying with the floor space ratio requirement of Hurstville Development Control Plan No 2. This non compliance has been discussed in the report and a variation to the floor space ratio is supported on the basis that there will be negligible impacts on the approved building envelope and on adjoining developments. Accordingly the application is recommended for approval.

RECOMMENDATION

Pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act, as amended, the application (known as 2012/DA-241REV1) to modify Development Consent No 12/DA-241 granted on 19 November 2012 for the demolition of existing structures and construction of a thirteen (13) storey, forty-five (45m) high building containing two (2) ground floor retail units, four (4) basement levels of car parking, and

twelve (12) floors of residential units (66 units in total) on Lots 1 and 2 DP 224116, Lot 167 DP 335747, and Lot 168 DP 1958 and known as 9 Dora Street Hurstville be modified by amending the description of the development so that it reads “*Demolition of existing structures and construction of a fourteen (14) storey, forty-five (45m) high building containing two (2) ground floor retail units, four (4) basement levels of car parking, and thirteen (13) floors of residential units (72 units in total)*” and modifying conditions 1, 2, 3, 4, 5, 6, 7, 30.40, 51, 54, and adding condition 20A to the consent, as highlighted in the consent below:

BEFORE COMMENCING BUILDING WORK, you must obtain a Construction Certificate from the Council or an Accredited Certifier.

DEVELOPMENT CONSENT is granted to the Development Application described above, subject to the conditions in Schedules A, B and C.

Consent Operation - This consent operates from the date of endorsement set out in this notice and will lapse five (5) years after that date, unless development has commenced within that time, pursuant to the provisions of the Sections 83, and 95 of the Act.

Right of Review – If you are dissatisfied with this decision, you may request a review of the determination from Hurstville City Council under Section 82A of the Environmental Planning and Assessment Act 1979 within six (6) months of the endorsement date on this notice. (Section 82A is not applicable to Integrated or Designated Development).

Right of Appeal – Alternatively, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the NSW Land and Environment Court within six (6) months of the endorsement date on this notice.

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
Job No 2012-02, Sheet No DA 1001, 1002, 1003, 1004	Jul 12	Basement 1 Plan, Basement 2 Plan, Basement 3 Plan, Basement 4 Plan	B	George El Khoury Architects
Job No 2012-02, Sheet No DA 1100, 1101,	Jul 12	Ground Floor Plan, Level 01 Floor Plan, Level 02-11 Typical	B	George El Khoury Architects

1102, 1103, 1104, 1105		Floor Plan, Level 12 Floor Plan, Lower Roof Plan, Roof Plan		
Job No 2012-02, Sheet No DA 2000, 2001, 2002, 2003	Jul 12	North East/Street Elevation, North West Elevation, South West/Rear Elevation, South East Elevation	B	George El Khouri Architects
Job No 2012-02, Sheet No DA 3000	Jul 12	Section A-A	B	George El Khouri Architects
Job No 2012-02, Sheet No DA 4000, 4001, 4002, 4003, 4004, 4005	Jul 12	Shadow Diagrams	B	George El Khouri Architects
Job No 2012-02, Sheet No DA 4500, 4501	Jul 12	Solar Diagram and cross Flow Diagrams	B	George El Khouri Architects
Job No 2012-02, Sheet No DA 5000	Jul 12	Finishes Schedule	B	George El Khouri Architects
Job No 2012-02, Sheet No DA 6000	Jul 12	Streetscape Diagram	B	George El Khouri Architects
Job No 2012-02, Sheet No S96 1001, 1002, 1003, 1004	Jan 2013	Basement 1 Plan, Basement 2 Plan, Basement 3 Plan, Basement 4 Plan	A	George El Khouri Architects
Job No 2012-02, Sheet No S96 1100, 1101, 1102, 1103, 1104, 1105, 1106	Jan 2013	Ground Floor Plan, Level 01 Floor Plan, Level 02-11 Typical Floor Plan, Level 12 Floor Plan, Level 13 Floor Plan, Lower Roof Plan, Roof Plan	Ground Floor Plan B, all other plans A	George El Khouri Architects
Job No 2012-02, Sheet No S96 2000, 2001, 2002, 2003	Jan 2013	North East/Street Elevation, North West Elevation, South West/Rear Elevation, South East Elevation	A	George El Khouri Architects
Job No 2012-02, Sheet No S96 3000	Jan 2013	Section A-A	A	George El Khouri Architects
Job No 2012-02, Sheet No S96	Jan 2013	Section B-B Driveway Profile	A	George El Khouri

3100				Architects
Job No 2012-02, Sheet No S96 4000, 4001, 4002, 4003, 4004, 4005	Jan 2013	Shadow Diagrams	A	George El Khouri Architects
Job No 2012-02, Sheet No S96 4500, 4501	Jan 2013	Solar Diagram and Cross Flow Diagrams	A	George El Khouri Architects
Job No 2012-02, Sheet No S96 5000	Jan 2013	Finishes Schedule	A	George El Khouri Architects
Job No 2012-02, Sheet No S96 6000	Jan 2013	Streetscape Diagram	A	George El Khouri Architects

(This condition is modified by 2012/DA-241REV1)

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	\$16,124.50	9 Sep 12	369315
Plan First Fee	X	AP35	\$14,137.60	9 Sep 12	369315
Notification Fee	X	AP12	\$220.00	9 Sep 12	369315
Company Search Fee	X		\$20.00	9 Sep 12	369315
Urban Design Review Panel	X		\$2,000.00	9 Sep 12	369315
DA Advertising Fee	X		\$1,105.00	9 Sep 12	369315
Long Service Levy		AP34	\$77,315.00		
Builders Damage Deposit		BON2	\$3,750.00		
Inspection Fee for Refund of Damage Deposit		DA6	\$130.00		
S94 - Open Space and Community Recreation		CONT9	\$469,188.00		
S94 - Community Services and Facilities		CONT3	\$249,113.00		
S94 - Management		CONT8	\$18,379.45		
S94 - Library Infrastructure		CONT7	\$127,070.00		
S94 - Library Bookstock		CONT4	\$715.56		
S94 - Residential Traffic and Parking in Hurstville CBD		BO1	\$13,220.92		

**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	\$14,650.02		
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Construction Certificate Application Fee		CC1	\$8,820.89		
Construction Certificate Imaging Fee		AP165	\$500.00		

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

(This condition is modified by 2012/DA-241REV1)

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 \$469,188.00.

(This condition is modified by 2012/DA-241REV1)

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 \$249,113.00.

(This condition is modified by 2012/DA-241REV1)

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 \$18,379.45.

(This condition is modified by 2012/DA-241REV1)

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 \$127,070.00.**
- (b) The book stock acquisition contribution for residential development is \$715.56.**

The total Library and Information Services Section 94 contribution required and payable before release of the Construction Certificate is \$127,785.56.

(This condition is modified by 2012/DA-241REV1)

7. **GEN1003 – Section 94 -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 is \$2.14 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 \$13,220.92.

(This condition is modified by 2012/DA-241REV1)

8. **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.

9. 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.
10. 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: **\$3750.00**.
 - (b) Payment to Council of a non refundable inspection fee to enable assessment of any damage and repairs where required: **\$130.00**.
 - (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.

11. 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%20want%20to/Download%20a%20Council%20Form). For further information, please contact Council’s Customer Service Centre on (02)9330 6222.

12. **CC3018 - Development Engineering - Extension of Council’s Stormwater System** - A Section 138 Roads Act Drainage Application is to be submitted to and approved by Council for the extension of Council’s drainage system. This extension shall be from the existing kerb inlet pit near the intersection of Queens Road to a point immediately upstream (South East) of the proposed vehicle crossing directly in front of the development site. The piped extension shall comprise 375mm (min) diameter class 3 reinforced concrete pipeline and a kerb inlet pit with 1.8 metre long (minimum) lintel opening in accordance with Council’s Drainage Specification.

This Section 138 Application shall be approved by Council **prior to the issue of a Construction Certificate**.

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 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council’s Specifications for vehicular crossings.

- (b) Construct a new full width (boundary to kerb) footpath in paving material approved and specified by Council's Engineer for the full frontage of the site in Dora Street in accordance with Council's Specifications for footpaths.
- (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's Specification for Vehicular Crossings and Associated Works. The work shall be carried out by a private contractor, subject to Council approval.

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%20Download%20a%20Council%20Form)
- (b) In the Application Form, quote the Development Consent No. (eg. 2012/DA-241) 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. **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.

- 15. **GOV1007 - Sydney Water – Quick Check** - The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Care Centre to determine whether the development application will affect Sydney Water's sewer and water mains, storm water drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then see Building and Renovating under the heading Building and Developing, or telephone 13 20 92. The appointed PCA must ensure

that a Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of the Construction Certificate.

16. 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.
17. 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.
18. 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**.
19. 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.

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.

20. **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) The proposed development is to be designed such that road traffic noise from Queens Road is mitigated by durable materials and complies with the requirements of Clause 102 (Impact of road noise or vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.
- (b) The swept path of the longest vehicle entering and exiting the site as well as manoeuvrability through the site shall be in accordance with Ausroads. In this regard, a plan showing the swept path of service vehicles entering and exiting the site shall be submitted to Council for approval, which shows that the development complies with this requirement.
- (c) The car parking spaces for the residential and retail component shall be separated such that entry to the residential car spaces is available only to residents and their visitors. This condition has been imposed so that the development complies with crime prevention principles.

- 20A. The ground floor open space/courtyard located at the rear of the site is to be used as common open space and allocated as “common property” in any strata plan of the development. This area is not to be used by the ground floor shops as seating area, retail area, or the like. Development consent is required for this area to be used for any purpose other than common open space.**

(This condition is added to the consent by 2012/DA-241REV1)

21. The recommendations of the Preliminary Environmental Site Assessment Phase 1 prepared by Aargus Australia (dated December 2011) are to be implemented. This includes the preparation of a Phase 2 Environmental Site Assessment prior to the issue of the Construction Certificate. The finding/recommendations of the Phase 2 Environmental Site Assessment are to be implemented at the relevant construction stages.
22. **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.

23. **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:

- (i) Location of existing and proposed structures on the site including existing trees (if applicable);
- (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
- (iii) Location, numbers and type of plant species;
- (iv) Details of planting procedure and maintenance;
- (v) Details of drainage and watering systems.

24. **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.

25. **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) All adjoining properties with a common boundary to the subject site.

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.

26. **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*](#).

27. **CC3004 - Development Engineering - Stormwater Drainage Plans** - The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a qualified practising hydraulics engineer (with details of qualifications being provided) in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, **shall accompany the application for the Construction Certificate**.

28. **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. The underground basement car park must pump to and all other stormwater must drain by gravity to upper level of the new kerb inlet pit required to be constructed directly in front of the development site as part of the extension of Council's stormwater system. The design of this proposed drainage system must be prepared by a qualified practicing hydraulics engineer (with details of qualifications being provided) and be submitted for approval with the Construction Certificate application.

29. **CC3005 - Development Engineering -On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

An on-site detention (OSD) facility designed by a professional hydrological/hydraulic engineer, shall be installed. The design must include the computations of the inlet and outlet hydrographs and stage/storage relationships of the proposed OSD using the following design parameters:

- (a) Peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden, at Annual Recurrence Intervals of 2 years and 100 years.

Refer to Flow Controls in Council's Draft/Adopted Stormwater Drainage Policy.

- (b) The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"This is an on-site detention basin/tank and is subject to possible surface overflow during heavy storms."

Full details shall accompany the application for **the Construction Certificate**

- 30. **CC2011 - Development Assessment – BASIX Commitments - All energy efficiency measures as detailed in the BASIX Certificate No. 407316M_04 dated 11 January 2013, approved with the Development Consent 12/DA-241 must be implemented on the plans lodged with the application for the Construction Certificate.**

(This condition is modified by 2012/DA-241REV1)

- 31. **CC3014 - Development Engineering - Allocation of car parking and storage areas** - A plan showing the allocation of each car space and storage area to each individual unit in accordance with the conditions of the development consent shall be prepared. **This plan shall accompany the application for the construction Certificate.**
- 32. **CC5004 - Trees – Tree Removal & Replacement - Public Land** - Permission is granted for the removal of the following trees located on Councils public footpath:

- (a) The tree located at the front of the site on Dora Street on the public reserve.

This work is to be undertaken at the applicant's expense. Please refer to Section O1 in Council's adopted Schedule of Fees and Charges for the administration and replacement tree fees which apply to this work.

You have the option of Council removing the Council street tree/s or engaging a private contractor to undertake the work.

Should you choose Council to undertake the work, the following fees apply:

Fee Type	Fee Type	Amount
Administration Fee for Tree Removal	RC83	\$140.00
Replacement Tree Fee (per Tree)	RC83	\$116.00
Cost of tree removal	RC83	TBA
Cost of Stump Grinding	RC83	TBA

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.

The fees must be paid to Council prior to the issue of the Construction Certificate and evidence of payment must be provided to the Principal Certifying Authority.

Should you choose a Private Contractor to undertake the work; the private contractor must have a minimum of \$10 million dollars public liability insurance. Prior to the commencement of any work, the form entitled Application for the Removal of a tree by private contractor on public footpath accompanied by evidence of the Public Liability Insurance must be lodged with Hurstville City Council Tree Services Division.

33. 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 AS2890.2 (for commercial vehicle facilities).
34. 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.

35. 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.

36. 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
37. CC7011 - **Building – Slip Resistance- Commercial, Retail and 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.
38. CC4006 - **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.
39. CC4008 - **Health - Car Wash Bays** - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted 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 - 18 x 240 litre Mobile Bins (MB's);**
- (b) **Domestic Recycling - 24 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.

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:-

- (c) **Retail Trading – shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;**
- (d) **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,**
- (e) **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.

(This condition is modified by 2012/DA-241REV1)

41. **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.

42. **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.

43. **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

44. **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.
45. **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 on Dora Street.

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.

46. **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.

47. **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.

48. **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.
49. **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.
50. **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.

51. **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. 407316_04 dated 11 January 2013, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.

(This condition is modified by 2012/DA-241REV1)

52. **OCC2005 - Development Assessment – Completion of Landscape Works** - All landscape works must be completed before the issue of the Final occupation certificate.

53. **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) All properties with a common boundary to the subject site.

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 damage 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.

54. **OCC2007 - Development Assessment – Allocation of car parking spaces - Car parking associated with the development is to be allocated as follows:**

- (a) **Residential dwellings: 62 car spaces**
- (b) **Residential visitors: 18 car spaces**
- (c) **Retail: 9 car spaces**
- (d) **Car wash bay: 1 car wash bay (which can be a visitor space)**

(This condition is modified by 2012/DA-241REV1)

55. **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:

- (a) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.
- (b) Construct a new full width (boundary to kerb) footpath in paving material approved and specified by Council's Engineer for the full frontage of the site in Dora Street in accordance with Council's Specifications for footpaths.
- (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's Specification for Vehicular Crossings and Associated Works. The work shall be carried out by a private contractor, subject to Council approval.

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**.

56. CON6003 - **Development Engineering** - The approval of the relative utility authority shall be obtained prior to any relocation or removal of the light pole located outside the site.
57. OCC3008 - **Development Engineering - Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Department of Lands prior to the issue of a final 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 on Dora Street.

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.
61. **OCC4004 - Health - Noise from mechanical plant and equipment – CBD Only** - Noise from the operation of mechanical, equipment, ancillary fittings, machinery, mechanical ventilation system and/or refrigeration systems must not exceed background noise when measured at the nearest lot boundary of the site. Where noise sensitive receivers are located within the site, noise from the operation of mechanical plant and equipment must not exceed background noise when measured at the nearest strata, stratum or community title boundary.

A professional engineer (acoustic) shall be engaged to certify that the design and construction of the all sound producing plants and equipment associated with the building complies with the above requirements. Certification shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

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.

62. **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 turfed areas.
63. **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.

- 64. **ONG4017 - 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.
- 65. **ONG3004 - Development Engineering - Conditions relating to future Strata Subdivision of Buildings** - No approval is expressed or implied for 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.
The unit number shall coincide with the strata plan lot numbering.
- (b) **Car Parking Space Marking and Numbering**
Each basement car space shall be line marked with paint and numbered in accordance with the strata plan lot 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.
- i. 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.
 - ii. 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.
 - iii. 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 and as required by the relative development consent for the building construction.
 - iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

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).

- (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.

66. **ONG3005 - Development Engineering – Additional requirements for the issue of a Strata Certificate** - 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;
- d) Under no circumstances shall any future Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

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.

67. **ONG3006 - Development Engineering – On-going maintenance of the on-site detention system** - The Owner(s) must in accordance with this condition and any positive covenant:

- (a) Permit stormwater to be temporarily detained by the system;
- (b) Keep the system clean and free of silt rubbish and debris;
- (c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain;
- (d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- (e) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- (f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;

- (g) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- (h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- (i) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- (j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

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.

- 68. **ADV3002 - Development Engineering - Existing Sewer Main** - Council's records show an existing sewer main located along the rear boundary of the site. The requirements of Sydney Water regarding this sewer main will have to be met for the proposed construction works

Any proposed landscaping, fencing or signage is not to impede the desired sight lines of all road users including pedestrians and cyclists.

All works/regulatory signage associated with the proposed development shall be at no cost to NSW Roads and Maritime Service.

- 69. **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 prescribed conditions apply.

70. 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.
71. 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.
72. 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.
73. 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.
74. 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 & 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.

75. **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.

76. **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.

77. **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.

78. **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.

79. **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.

- 80. **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.

- 81. **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.
- 82. **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.

- 83. **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 Paula Bizimis, Senior Development Assessment Officer below on 9330-6222 during normal office hours.