

**JOINT REGIONAL PLANNING PANEL
(East)**

JRPP No	2013SYE019
DA Number	13/DA-35
Local Government Area	Hurstville City Council
Proposed Development	Demolition of existing structures and vegetation, construction of a mixed use development, ranging between 4 storeys and 18 storeys, containing ground floor commercial area, 437 residential units, basement car parking area for 560 vehicles, construction of new vehicular and pedestrian through site-way, and landscaping and public domain works
Street Address	458-460 Forest Road and 1B Pearl Avenue Hurstville
Applicant/Owner	Applicant/Owner: Toga Hurstville Developments P/L
Number of Submissions	<p>Six hundred and three (603) adjoining and adjacent owners/residents notified on two occasions</p> <p>Application advertised for fourteen (14) days</p> <p>Five (5) submission including one petition containing twenty eight (28) signatures received after first notification period</p> <p>Four (4) submissions including one petition containing twenty eight (28) signatures received after second notification period</p>
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 (Infrastructure) 2007 • 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 2012 • 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 in 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 buildings
COST OF DEVELOPMENT	\$99,994,715.00
REASON FOR REFERRAL TO JRPP	Value over \$20M

FILE NO	13/DA-35
HAS A DISCLOSURE OF POLITICAL DONATIONS OR GIFTS BEEN MADE?	No

EXECUTIVE SUMMARY

1. This development application seeks consent for the demolition of existing structures and vegetation, construction of a mixed use development within three buildings, ranging between 4 storeys and 18 storeys, containing ground floor commercial area, 437 residential units, basement car parking area for 560 vehicles, construction of new vehicular and pedestrian through site-way, and landscaping and public domain works.
2. The proposed development has been assessed against the requirements of the relevant environmental planning instruments and development control plans and complies except in the height, floor space ratio arising from additional car parking and the provision of residential visitor car spaces.
3. The application was notified on two occasions to six hundred and three (603) adjoining and adjacent owners/residents and five (5) submissions including one petition containing twenty eight (28) signatures were received during the first notification period and four (4) submissions including one petition containing twenty eight (28) signatures were received during the second notification period. The issues raised in the submissions are detailed in the report.

RECOMMENDATION

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

DESCRIPTION OF THE PROPOSAL

The development application seeks consent for the demolition of existing structures and vegetation, construction of a mixed use development within three buildings, ranging between 4 storeys and 18 storeys, containing ground floor commercial area, 437 residential units, basement car parking area for 560 vehicles, construction of new vehicular and pedestrian through site-way, and landscaping and public domain works.

The proposed development involves the construction of three residential flat buildings, two of which are proposed to include ground floor commercial tenancies to the site's Forest Road frontage. The following description has been provided by the applicant's planning consultant:

Building A

Building A is a U-shaped building which is proposed to be built to the property boundary on Pearl Street and the proposed laneway at the northern and eastern site boundaries. The building wraps around the central communal courtyard and varies in height between 4 and 12 storeys. Building A is constructed around two lift cores located in the

vicinity of the northwest and north-eastern building corners. The western residential lobby is accessed directly from Pearl Street at the Lower Ground Level, with direct access to the communal open space courtyard at Ground Level. The eastern residential lobby is accessed directly from the pedestrian and vehicular laneway at Ground Level, with direct access provided to the communal courtyard. This building includes a rooftop communal open space area above the lower level component of the building (at Level 4), with access provided from the eastern and western lift lobby for all residents of the site. Building A has a maximum height of 40 metres (with the height of the lift overrun being 41.5m) above existing ground level at the Pearl Street frontage.

Building B

Building B is located at the south-eastern corner of the site opposite Bridge Street, and comprises an 18-storey residential flat building, two small ground-level commercial premises tenancies and a building manager's office. The building is designed around a central lift-core with typically 8-9 apartments per storey. The residential lobby is accessed at ground level from Forest Road adjacent to the entrance to the communal open space courtyard, with this entrance lobby also providing direct access to the courtyard. An awning is provided from Building B over the Forest Road pedestrian footpath adjoining this building. Building B has a maximum height of 56.75 metres above existing ground level at the Forest Road street frontage.

Building C

Building C is a V-shaped building located at the south-western corner of the site at the intersection of Forest Road and Pearl Street. The building is a 9-storey residential flat building designed around a central lift-core with typically 12 apartments per storey. Access to the residential building is provided from the Pearl Street at Lower Ground Level and from Forest Road at Ground Level adjacent to the communal courtyard entrance. An awning is provided from Building C over the Forest Road pedestrian footpath adjoining this building. Building C has a maximum height of 39.15 metres above existing ground level.

Basement Levels

The proposed development contains two basement levels and a lower ground floor level which contains car parking for the development. The total number of car spaces provided is 560 car spaces (including 44 disability accessible spaces) as follows:

Residential spaces: 464 spaces

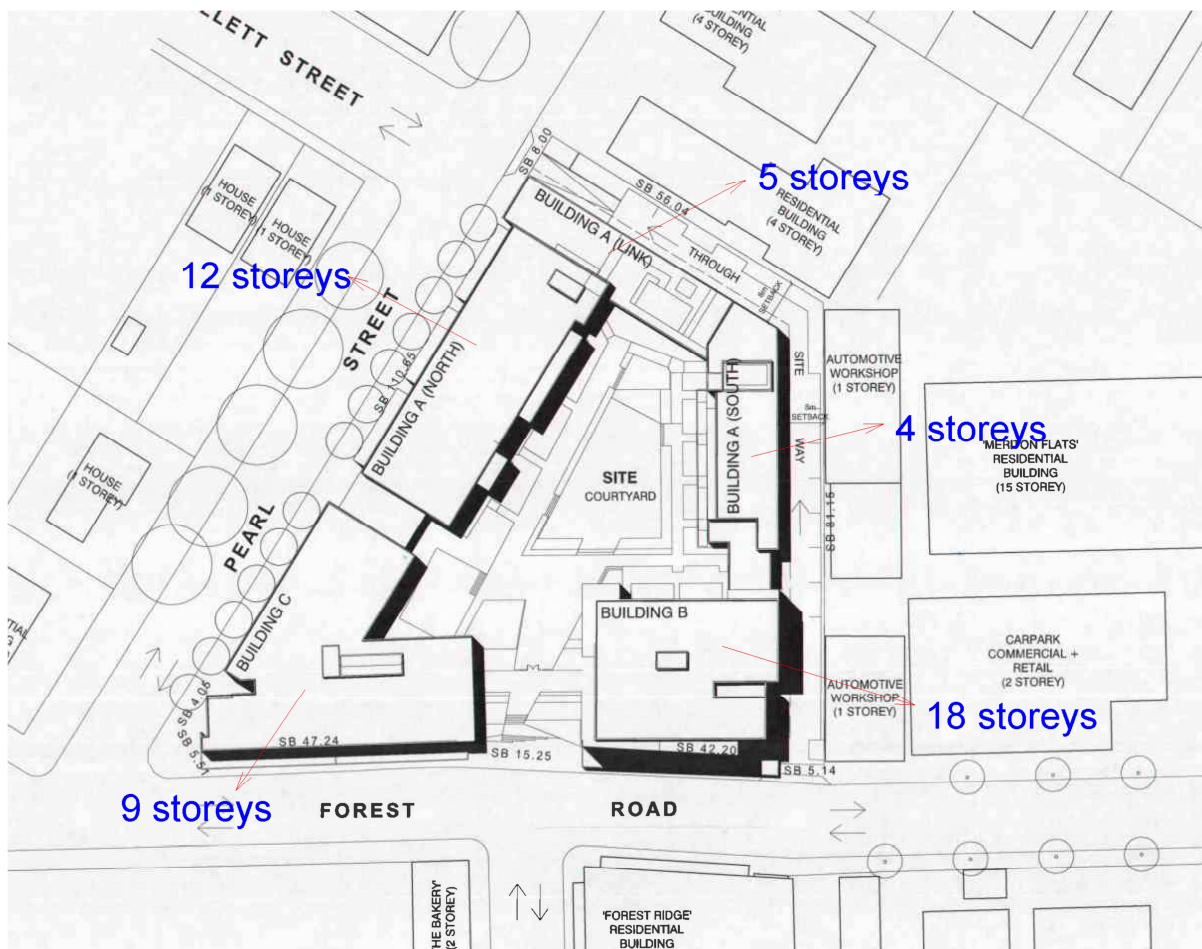
Residential visitor parking spaces: 73 spaces

Retail spaces (563sqm): 23 spaces

Apartment mix

The development will have the following apartment mix:

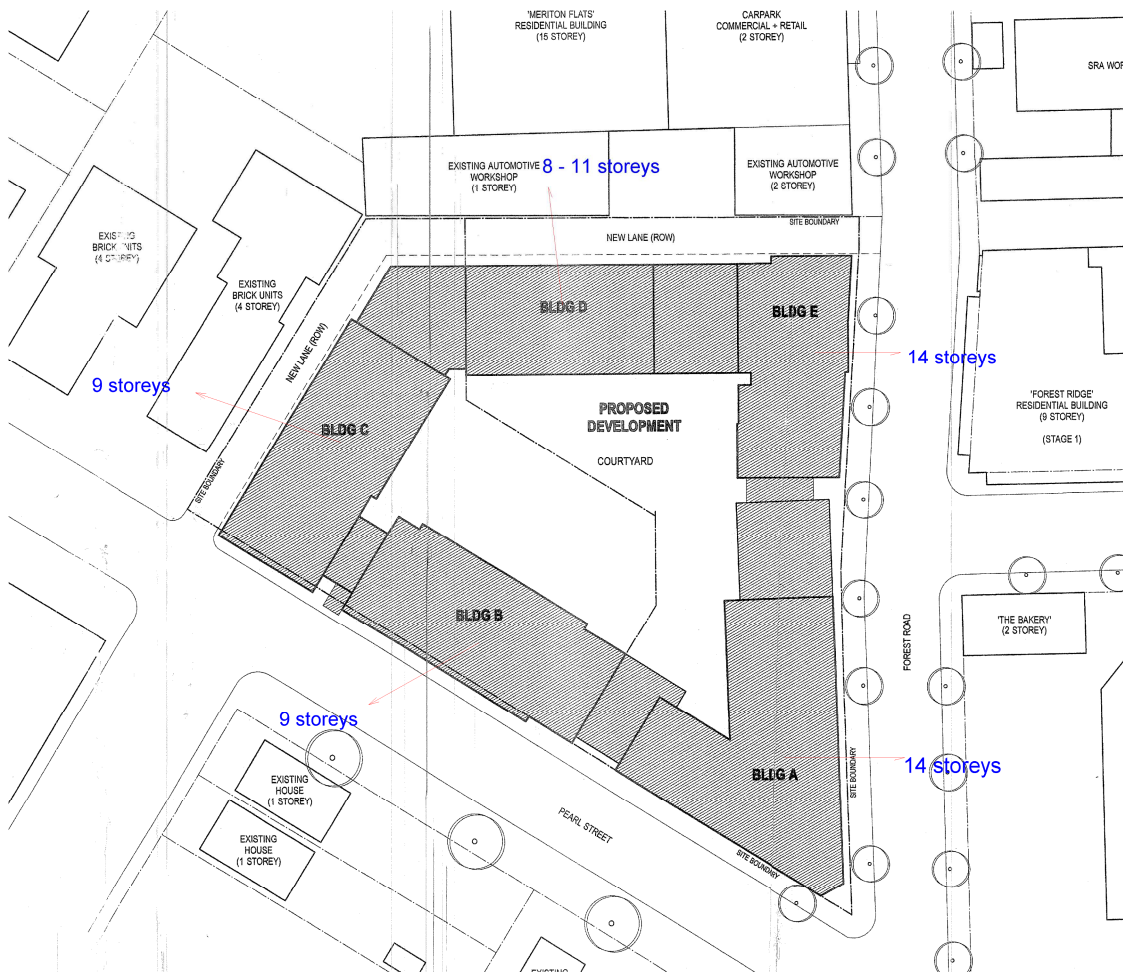
Building	1 Bed	1 Bed + Study	2 Bed	3 Bed	Total
A	16	52	109	5	182
B	10	36	87	13	146
C	8	43	47	11	109
Total	34	131	243	29	437



Proposed development

HISTORY

06.08.2008 Consent was granted to Development Application No 08/DA-194 for the construction of a mixed commercial/residential development on the subject site containing three (3) buildings with a height between nine (9) storeys and (14) storeys. The maximum height of the development was fourteen (14) storeys with a maximum RL of 113.5. This application formed stage 2 of a staged development application under the provisions of section 91AB of the Environmental Planning and Assessment Act. A previous consent was granted for two buildings on the site (total being five buildings on the site). The site plan of the approved development is below:



Approved development

- | | |
|-------------------|--|
| 22.02.2013 | Development application lodged for subject site. |
| 27.02.2013 | JRPP advised of receipt of development application. |
| 08.03.2013 | Application notified for fourteen (14) days. |
| 11.04.2013 | The application was referred to the Design Review Panel (DRP). The
DRP provided its comments and recommendations on 10 April 2013. |
| 11.04.2013 | Briefing held with JRPP. |
| 15.05.2013 | Applicant submits amended plans based on DRP comments and
comments provided by planning staff. The amendments undertaken
include the reduction in Building B from 21 storeys to 18 storeys. The
floor area from this building is redistributed to Buildings A and C. The
amended plans are the subject of this report. |
| 30.05.2013 | The amended application was referred to the DRP. The DRP provided
its comments and recommendations on 6 June 2013. |

DESCRIPTION OF THE SITE AND LOCALITY

The site is located at 458-460 Forest Road and 1B Pearl Street, Hurstville. The subject site is located 800 metres north-west of Hurstville Railway Station and 15 kilometres south-west of the Sydney CBD, and is located on Forest Road which is a key east-west subregional linkage between Peakhurst and Arncliffe. The locality is characterised by a number of older 3-5 storey residential flat buildings and more recent 10-15 storey commercial and residential flat buildings. The site is irregularly shaped with an area of 8,124sqm and street frontages to Forest Road (approx. 115m frontage) and Pearl Street (approx. 125m site frontage). The majority of the site is currently vacant and was partially excavated in 2002 in accordance with a previous development consent to a lower depth of RL 61.27m AHD. This site has been unutilised since excavation. Water has pooled within the lower excavated portions of the site and some small shrubs and vegetation have regrown within the previously excavated area.

Development within the site's Forest Road frontage comprises a two storey building known as 460 Forest Road (previously associated with the Dominelli Prestige car dealership) which has been adapted for use as a display apartment and marketing suite in recent years, for earlier residential development proposals for the site. A two storey pitched-roof building located at 458 Forest Road (the south-east corner of the site) is currently used as commercial premises by St George Mobile Cranes. The ground surface along the southern site frontage grades from the east (RL 68.69m AHD) to Pearl Street (RL 63.50m AHD).

Immediately to the north of the site is a four storey red brick residential flat building with vehicular access to Pearl Street. On the opposite side of Pearl Street, diagonal to the subject site is the Hurstville Private Hospital. To the east of the subject site is a vehicle smash repair workshop located at 454-456 Forest Road on a narrow block with a 15 metre frontage to Forest Road and an 80 metre site depth. This site is currently the subject of a development application that seeks consent for the erection of a 15-storey mixed commercial/residential development. This development application is currently the subject of an appeal in the Land and Environment Court following the refusal of the application by the Joint Regional Planning Panel. To the east of the smash repair station is a residential apartment complex known as 438 Forest Road, which comprises a 15 storey residential flat building and a 7 storey residential flat building with street front commercial/retail tenancies. The 15 storey tower is particularly prominent in views to and from the subject site. The Centennial Bakery located opposite the site at 319 Forest Road was constructed in 1888 and is a locally listed heritage item under LEP 1994 and the Draft LEP 2012.



COMPLIANCE AND ASSESSMENT

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

1. Environmental Planning Instruments

Hurstville Local Environmental Plan 1994

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

The objectives of the zone are as follows:

- “(a) to designate sufficient areas of land to meet the projected needs of the Hurstville Town Centre as a multi-functional regional centre,
- (b) to facilitate development of land within the Hurstville Town Centre for commercial, retail, residential and community purposes,
- (c) to provide a single business zone for the Hurstville Town Centre as a sub-regional centre,

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

It is considered that the proposed development is consistent with the objectives of the zone.

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

Clause 14 – Tree preservation orders

There is some vegetation on the site that will be removed to accommodate the proposed development. The removal of the vegetation is considered acceptable and the provision of new planting to the site, as proposed in the Landscape Proposal submitted with the application will compensate for the removal of the vegetation. The proposed landscaping to the site will introduce numerous trees, shrubs and plants to the site which will improve the current site conditions.

Clause 15 – Services

Pursuant to Clause 15, water supply, sewerage and drainage infrastructure is required to be available to the land. The above services can be provided to the proposed development on the land. Council's Team Leader – Subdivision and Development has advised of no objection to the proposed drainage of the site, subject to conditions of consent being attached to any consent granted.

Clause 22 – Excavation, filling of land

Under this clause, adequate regard is to be given to any potential impacts to existing drainage patterns and soil stability in the locality regarding excavation of the site for the lower ground level and basement levels proposed to the development. Should the application be approved, appropriate conditions relating to soil stability and stabilisation of adjoining buildings can be imposed which will satisfy this requirement.

Clause 22B – Remediation of contaminated land

Under this clause the consent authority cannot grant consent to a development unless it is satisfied that the land is suitable in its contaminated state or after remediation for the proposed development. The applicant has submitted a Phase 2 Environmental Site Contamination Investigation prepared by Aargus (Reference: ES5288, dated 20 December 2012) which concludes that the site is suitable for the proposed use subject to the preparation of a Remedial Action Plan. Accordingly, appropriate conditions of consent can be attached to any consent granted requiring the remediation of the site.

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

Clause 33 states:

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

The subject site is in the vicinity of the heritage item known as “Centennial Bakery” which is located at 319 Forest Road, opposite the subject site. Council’s LEP 1994 identifies in Schedule 2 - Heritage Items Part 1 Buildings and Works that the entire building of 319 Forest Road warrants the item’s listing. The heritage status of the building is maintained in the Draft Hurstville (City Centre) Local Environmental Plan 2012.

The applicant has submitted a Statement of Heritage Impact prepared by Rappoport P/L Conservation Architects and Heritage Consultants (April 2013, Job No 1946.2013) which assesses the impact the proposed development will have on the heritage item. The report concludes that the application could be approved without concern for the loss of heritage values of the “Centennial Bakery”.

Accordingly, no objection is raised to the proposed development with regards to heritage impact.

State Environmental Planning Policy (Infrastructure) 2007

The application was referred to NSW Roads and Maritime Services (RMS) and the Sydney Regional Development Advisory Committee for concurrence in accordance with Section 138 of the Roads Act 1993 and Clause 104 of SEPP (Infrastructure) 2007. The RMS has raised no objection to the application subject to conditions of consent being attached to any consent granted. The RMS raised concern about the design of the entry boom gate to the “laneway” as should the gate malfunction, vehicles would have to reverse into Forest Road. The location of the boom gate has now been amended so that it is located 25m from Forest Rd which allows appropriate room for queuing of vehicles without effecting Forest Road.

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

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

State Environmental Planning Policy No 55 – Remediation of Land

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

The applicant has submitted a Phase 2 Environmental Site Contamination Investigation prepared by Aargus (Reference: ES5288, dated 20 December 2012) which concludes that the site is suitable for the proposed use subject to the preparation of a Remedial Action Plan. Accordingly, appropriate conditions of consent can be attached to any consent granted requiring the remediation of the site.

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

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

There are a number of guidelines and rules of thumb contained in the Residential Flat Design Code which accompanies SEPP 65 that are applicable to the proposed development. These provide a meaningful and quantifiable assessment of the merits and deficiencies of the proposal, when assessed against SEPP 65 and in turn inform whether the design quality principles contained in SEPP 65 are addressed.

Clause 50 of the Environmental Planning and Assessment Regulation 2000 requires that an application that relates to a residential flat building be accompanied by a Design Verification Statement from a qualified designer stating that the design quality principles as set out in Part 2 of the SEPP 65 are achieved for the development. The Design Verification Statement submitted with the application states that the residential development was designed by Frank Stanisic, and that it was designed in accordance with the Design Quality Principles of SEPP 65.

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

STANDARD	OBJECTIVE	PROVIDED	COMPLIANCE
BUILDING HEIGHT	Ensure future development responds to desired future scale and character of street and local area	Proposed development responds to the desired future scale and character of street and local area under the current controls	Yes
BUILDING DEPTH	Maximum 18m (glass line to glass line)	11m to 30m depending on orientation, location and building type	Yes/No (1)
BUILDING SEPARATION	<u>More than 25m:</u> -24m between habitable rooms -18m between habitable rooms and balconies or non-habitable rooms -12m between non habitable rooms to non habitable rooms	The proposed development complies with the separation distances based on existing development.	Yes
SIDE AND REAR SETBACKS	Minimise impact on light, air, sun, privacy, views and outlook for neighbouring properties.	Proposed development has a setback of 8m from the rear and side common boundaries except for areas of modulation and articulation of building form	Yes
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.	Proposed FSR for built form is consistent with the current controls, however provision of additional parking spaces increases total FSR.	No (2)
DEEP ZONES SOIL	A minimum of 25% of the open space area of a site should be a deep soil zone, more is desirable. Exceptions may be made in urban areas where sites are built out.	3.6% (295.5sqm) of deep soil planting provided. Site located in urban area where basement area is provided for car parking purposes 13% (1039sqm) of site provides landscaping with a soil depth greater than 700mm which is capable of supporting large landscape planting	Acceptable
OPEN SPACE	Communal open space should be generally 25%	Communal open space/area provided in the	Yes

	<p>(245sqm) of the site area.</p> <p>Min private open space for apartment at ground level/podium is 25sqm.</p>	<p>central courtyard is 29.5% of the site area (2400sqm).</p> <p>Communal open space is also provided in the form of roof terrace to Building A (approximately 170sqm).</p> <p>Apartments on ground level have 25sqm private open space.</p>	
BUILDING ENTRY	Create entrance which provides a desirable residential identity for development, orient visitor and contribute positively to streetscape and building design.	Entrance lobbies to building located off communal courtyard and appropriately identified.	Yes
PEDESTRIAN ACCESS	<p>Promote residential flat development that is well connected to street and contributes to accessibility.</p> <p>Barrier free access to 20% of units</p>	<p>The residential flat development is well connected to street and contributes to accessibility.</p> <p>Access to 100% of units is barrier free</p>	Yes
VEHICLE ACCESS	<p>Limit width of driveways to 6 metres.</p> <p>Integrate adequate car parking and servicing access without compromising street character, landscape or pedestrian amenity and safety.</p>	<p>6m wide driveways</p> <p>Car parking and servicing access do not compromise the street character or pedestrian amenity and safety</p>	Yes
APARTMENT LAYOUT	<p>-Maximum depth from window of single aspect apartment 8.0m</p> <p>-The back of a kitchen should be no more than 8 metres from a window.</p> <p>-Width of cross-over apartments more than 15 metres deep should be a minimum of 4 metres.</p>	<p>-The habitable rooms of single aspect units are maximum 8m deep</p> <p>-The back of a kitchen is no more than 8 metres from a window.</p>	Yes
APARTMENT MIX	To provide a diversity of apartment types, which cater for different household requirements now and in	The proposal incorporates a diversity of mixture in the size of the units, and provision of 1, 2 and 3	Yes

	the future	bedroom units and 10% adaptable units	
BALCONIES	Primary balconies to be a minimum of 2 metres in depth.	All units have primary balcony with minimum 2m depth	Yes
CEILING HEIGHTS	<p>Mixed use building</p> <p>-GF retail/commercial minimum 3.3m</p> <p>-FF residential/retail/commercial minimum 3.3m</p> <p>Residential building in mixed use are</p> <p>-GF minimum 3.3m</p> <p>Residential buildings/floors</p> <p>-habitable rooms minimum 2.7m</p> <p>-non habitable rooms minimum 2.25m</p>	<p>Retail/commercial floor = 4m</p> <p>Residential floors = 2.7m, with non habitable rooms having 2.25m and 2.3m for service coordination.</p>	Acceptable as compliance with the Building Code of Australia is achieved for non habitable rooms.
INTERNAL CIRCULATION	Maximum of 8 units to be accessible from a double loaded corridor.	Maximum number of units off corridor is 12.	No (3)
STORAGE	<p>To provide adequate storage for every day household items within easy access of the apartment</p> <p>1br = 6m³</p> <p>2br = 8m³</p> <p>3br= 10m³</p>	<p>1br = 6m³</p> <p>2br = 8m³</p> <p>3br= 10m³</p>	Yes
DAYLIGHT ACCESS	<p>-Min 70% of units receive min 2 hours of solar access for dense urban environment</p> <p>-Max 10% units southerly aspect</p>	<p>-70% of units receive minimum 2 hours direct sunlight</p> <p>-7.5% of units have single southerly aspect</p>	<p>Yes</p> <p>Yes</p>
NATURAL VENTILATION	<p>-60% of residential units should be naturally cross ventilated.</p> <p>-25% of kitchens should have access to natural ventilation.</p>	<p>-60% of units naturally cross ventilated</p> <p>-100% of kitchens have access to natural ventilation</p>	Yes

The applicant has submitted that:

Building A has 11 and 12 metre depth to the through site way, and 23 metres to Pearl Street; Building B, the tower form, has 29 to 30 metre depth and; Building C has 18 metre depth to Pearl Street and Forest Road. While some building depths are in excess of 18 metres suggested by the RFDC for building forms, the overall amenity for solar access, ventilation and southerly facing dwellings has been achieved.

Comment

The proposed development does have some building depths that exceed the maximum suggested by the RFDC, however it is considered that the dwellings are not compromised as the development achieves the requirements of the RFDC in terms of solar access, ventilation, and orientation. The nature of the site is such that all dwellings have a frontage to either Forest Road, Pearl Street, the through site-way or to the internal courtyard. In this regard the amenity of the dwellings is not compromised by the fact that the building depth exceeds that suggested by the RFDC.

(2) Floor Space Ratio

Technically the floor space ratio does not comply with Council's DCP as any additional parking provided on-site must be included in the total floor space ratio calculation as required by the definition of gross floor area under Hurstville LEP 1994. The applicant has provided 560 parking spaces, when Council's controls require 495 spaces. The additional parking spaces generates an additional area of 858sqm, thus taking the total FSR to 4.6:1. This is discussed in detail later in this report.

(3) Building Circulation

The applicant has submitted that:

The building is organised around multiple access cores to animate the street, reduce long corridors and give staging flexibility. Building A has 20 dwellings per floor accessed from two lift cores – a double and single lift core, ie 10 dwellings per core. Building B has 8 and 9 dwellings per floor accessed from a single lift core with two lifts; and Building C has 12 dwellings per floor, accessed from a single lift core with two lifts. While the number of dwellings in some cases exceeds 8 dwellings as defined in the RFDC, dwelling amenity relating to solar access, cross ventilation and minimum southerly facing dwellings has been achieved.

Comment

Although the development has more than 8 dwellings off a corridor, with the maximum being 12 dwellings it is considered that the amenity of the dwellings is not compromised. Each dwelling is serviced by a lift and stairs and the provision of additional dwellings off the corridor does not result in a significant increase in movements in the corridor which may affect residents and their amenity.

Design Review Panel (DRP)

The application was referred to the DRP on two (2) occasions. Once when the application was lodged and once when amended plans were submitted. The comments provided by the DRP, the applicant, and development assessment officer where relevant, are as follows:

1. Context

DRP comment

Satisfactory.

2. Scale

DRP comment

Satisfactory.

3. Built Form

DRP comment

Appropriate as modified.

4. Density

DRP comment

Satisfactory.

5. Resource, energy and water efficiency

DRP comment

Generally appropriate.

6. Landscape

DRP comment

The Panel recommended the reconsideration of Forest Road entry terrace as a genuine usable public space in association with adjacent retail (such as a café) to enliven the transitional zone. In this respect more paving and less planting would be acceptable in this area.

Deep soil planting improvements are noted but the Panel suggested some further consideration along the southern portion of the laneway to achieve additional tree planting.

There is concern with the provision and design of planting in areas under building undercrofts and this should be reviewed.

Applicant's comment

"We support providing additional usable space adjacent to retail at the entry terrace. We propose that this recommendation becomes a consent condition in the approval, with changes to be developed during detailed design. Additional landscape zone can be accommodated in the laneway, in the location of a current parking space (similar to the landscape zone along the northern portion of the laneway). The depth of soil able to be provided in this area is 750mm which will allow tree planting of heights of

up to 6m. We propose that this recommendation becomes a consent condition in the approval, with changes to be developed during detailed design. The selection of plants in these areas and the extent of landscaping/paved area will be reviewed during detailed design.”

Development Assessment Officer's comment

There is no objection raised to the suggested changes being required as conditions of consent. Appropriate conditions have been provided in the recommendation, should consent be granted.

7. Amenity

DRP comment

The Panel was advised by the applicants that plans are available to demonstrate adaptability of the units. These plans were not tabled at the meeting. It is recommended that they be obtained and reviewed by Council's Planning Officer.

Applicant's comment

“These plans have been submitted to Council on 31 May 2013.”

Development Assessment Officer's comment

The applicant has submitted details of the adaptable dwellings to be provided within the development.

8. Safety and Security

DRP comment

Satisfactory. The Panel asked for confirmation that appropriate lighting levels will be provided along the lane. See comments on activation of entry forecourt under 'Landscaping'.

Development Assessment Officer's comment

Appropriate conditions of consent have been provided in the recommendation which require appropriate lighting to be provided to the through site-way, should consent be granted.

9. Social Dimensions

DRP comment

Satisfactory.

10. Aesthetics

DRP comment

Satisfactory.

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 cannot be determined. 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 2012

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 (City Centre) Local Environmental Plan (LEP) 2012. The S.65(2) Certificate contained certain conditions which required changes to the draft LEP 2012 maps prior to the public exhibition.

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

Council at its meeting on 12 April, 2012 resolved to adopt the Draft Hurstville (City Centre) LEP 2012 with a number of amendments and forward the draft Plan to the Department of Planning and Infrastructure under the Environmental Planning and Assessment Act 1979.

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) which was recently endorsed by Council after lodgement of this application. The Draft Hurstville (City Centre) LEP 2012 is due for completion in 2014.

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 on two occasions to six hundred and three (603) adjoining and adjacent owners/residents and five (5) submissions including one petition containing twenty eight (28) signatures were received during the first notification period and four (4) submissions including one petition containing twenty eight (28) signatures were received during the second notification period. The issues raised in the submissions are detailed below with the applicant's response and comment from the development assessment officer (DAO) provided:

Issue

The proposed development exceeds the Council controls. A building with less storeys would be in keeping with the controls and the existing streetscape and local amenity. A 3-4 storey development with a children's' playground and park should be provided on the site.

Applicant's comment

The proposed 'pop-up' height of Building B has been reduced to 18 storeys as part of the amended scheme which is appropriate for the gateway location of the site and allows for a more diverse built form with greater articulation of height and massing.

Detailed discussion of building bulk and scale is included within the Statement of Environmental Effects (SEE). High density residential redevelopment of the subject site has been envisaged and planned for more than 15 years. Various approvals have followed following from the Master Plan Development Consent (DA-201/1997) which was granted by Council on 8 October 1997 for a mixed use development with a maximum floor space of 38,751m² (a FSR of 4.77:1).

The current proposal provides for a reduced development density that is generally consistent with the applicable planning controls. The proposed building heights are consistent with the scale of development expected in a Major Centre. The current proposal seeks to reduce the heights of Buildings A and C below the maximum building height DCP control by between one and eight storeys, whilst increasing the 'pop-up' section at the south-east corner of Building B by four storeys above the DCP height control, in order to create an appropriate transition from the 'city centre fringe' to the Hurstville City Centre.

As discussed in the SEE, the proposal complies with the Hurstville Local Environmental Plan 1994, which is the applicable local planning instrument (LEP2012 does not apply to the City Centre). The proposal generally complies with the development controls contained within the Draft City Centre LEP and DCP No.2, with a variation to the 'pop-up' height to provide an improved built form. This variation is discussed in detail in the SEE and Architectural Design Report, and has been the product of design discussions with the St George Design Review Panel.

The suggested park is inconsistent with the zone objectives, desired land uses and development controls for the site under Hurstville City Council's current and draft planning controls.

DAO Comment

The proposed development complies with the height requirements established by Council for the subject site except for Building B which has a height of 56.75m and not

the maximum 45m as required for this building. The variation to this height is considered acceptable as discussed in the report below under the heading *Section 4.2 - The Controls*. Although a children's playground and park would be a nice addition to the area, the zone of the site permits the proposed retail/residential development.

Issue

The proposed development will result in overshadowing, loss of privacy and air circulation to adjoining developments

Applicant's comment

Shadow diagrams are provided with the Development Application (DA) documentation which illustrate the shadows cast by the proposed development. Whilst the increase in the height of Building B will result in some additional overshadowing, apartments within surrounding buildings will continue to receive a minimum of 2 hours of solar access between 9am and 3pm on June 21 in accordance with the Residential Flat Design Code 'Rule of Thumb' for amenity in dense urban areas following construction of the proposed development. Further detailed shadow diagrams have been provided to Council at the request of the Design Review Panel (DRP).

The proposed development is consistent with the building setback and building envelope requirements of the Hurstville DCP No.2. The introduction of a new laneway along the site's northern and eastern boundary ensures that appropriate building separation is achieved to ensure privacy of all dwellings.

The Forest Road street setback is consistent with the provisions of Hurstville DCP No.2 and with previous approvals for the site (which precede the development of the residential flat building at 313 Forest Road).

*The Wind Comfort Assessment prepared by Cundalls and provided at **Appendix G** of the Development Application finds that wind flows within the vicinity of the proposed development will not be significantly affected.*

DAO Comment

The proposed development will result in overshadowing to developments located on the opposite side of Forest Road. This applies to a development that has a height which complies with Council's requirements as well as the proposed development which exceeds the height requirement for Building B. The applicant has submitted shadow diagrams which show that the additional shadow resulting from the additional height at the winter solstice will be to the roofs of adjoining developments rather than the façade of the residential units. At 12 noon however there will be additional shadow to the two top most floors of the development at 313 Forest Rd directly opposite the subject site, but this is limited to the eastern corner of the building. They will continue to receive early morning and afternoon sun. It is considered that the additional overshadowing to the adjoining developments is acceptable as it does not result in a critical loss of solar access to these developments. Given that these development are located within the city centre the expectation is that solar access will be compromised due to the expected bulk and scale of developments.

In terms of privacy, the proposed development has located balconies away from adjoining developments where possible with the majority of balconies being located on the façade of the development and facing the internal common courtyard. This reduces the potential for reciprocal overlooking. The provision of balconies cannot be eliminated as a private open space area is required to be provided from each dwelling.

Air circulation to adjoining development will be maintained as the development complies with setback requirements which include a 1m setback to Forest Rd.

Issue

Views of the city skyline enjoyed by residents located on the building at 313 Forest Road will be completely blocked out and diminish the value of their properties.

Applicant's comment

The proposed development is generally within or lower than the building heights established under DCP No.2 and those which have previously been approved on the site, with the exception of the 'pop-up' in Building B which has been reduced from 21 storeys to 18 storeys in the amended scheme. Views from west-facing apartments within the upper levels of the 15-storey tower at 438 Forest Road may be partially affected by the proposed Building B 'pop-up' however these apartments will continue to benefit from wide-ranging district views and will not be significantly impacted by the proposed development.

The impact of a proposed development on property values is not in and of itself a planning consideration, except to the extent that prices reflect amenity. High density residential redevelopment of the subject site has been envisaged and planned for more than 15 years. Various approvals have followed following from the Master Plan Development Consent (DA-201/1997) which was granted by Council on 8 October 1997 for a mixed use development with a maximum floor space of 38,751m² (a FSR of 4.77:1). This and subsequent approvals have been publicly available and have been factored into the valuation of residential amenity within adjoining properties has already been taken into account by the market.

DAO Comment

The proposed development will result in a loss of views for those residential units which are located directly opposite the site on the opposite side of Forest Road, in particular the units located at 313 Forest Road which have a view of the city skyline. These units gain this view from the main bedroom or living room and the common roof top which is accessible to all units. The view from the roof top is partly affected by the existing development at 438-452 Forest Road.

Under the current height control and as approved (14 storeys and physically commenced) the view from 313 Forest Road to the city is lost from the top floor units and partially lost from the roof top. That is, the loss of this view occurs with a development complying with the height requirement or in the case of the proposed development (Building B) which exceeds the height requirement. In this regard the additional height to Building B does not increase the view loss.

Notwithstanding this, the site located at 454 Forest Road Hurstville which adjoins the subject site on the eastern elevation has a height limit of 23m (approximately 7 storeys)

under Council's requirements. A development on this site which complies with the height limit would maintain a view corridor from the common roof area of the development at 313 Forest Road to the city skyline.

In determining the impact of the view loss it's important to refer to the Land and Environment Court Principle on Views and view sharing as discussed in *Tenacity Consulting v Warringah Council* [2004] NSWLEC140

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

Comment:

The view in question is considered to be that of an iconic view. Although it is a considerable distance away from the site, it currently is a view of the whole Sydney City skyline including CentrePoint Tower.

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

Comment:

The view in question is obtained from the front boundary over other properties. It is obtained predominantly from a standing position from both a bedroom and living room balcony. The views experienced from the rooftop are obtained from both a standing and sitting position.

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

Comment:

The view is obtained from a number of different rooms, including a bedroom balcony for one unit, a living room balcony for another unit, and from the common rooftop area. The view from the bedroom balcony is not their primary living area, and this unit still maintains a significant vast view from their living room albeit it does not include the city skyline. With regards to the views from the living room, the impact of the view loss will be devastating with this proposal. However, a fully compliant building proposed on this site would have the same devastating impact to view loss as this proposal does.

The impact of the view loss from the rooftop terrace is considered to be moderate. A corridor view of the city skyline is still maintained with this proposed development, however the width of view is substantially reduced with the views of the distant horizon and residential development lost.

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

Comment:

Although the proposal exceeds the height limit, the extent of view loss is no different than that of a building which complies with the height and that of the previously approved building on the subject site. Therefore, the proposal is considered to be acceptable and reasonable in respect of view sharing as the impact is no worse.

Issue

A development of this size will create a substantial need for off street parking. A smaller building will result in less on-street parking being required. The development will also create increase in traffic and air and noise pollution and on-street parking will be in greater demand. The development provides insufficient loading and unloading areas and pedestrian access. Has an assessment been made of the entry/exit point on Pearl Street.

Applicant's comment

The proposed development provides pedestrian access as envisaged in Hurstville DCP No.2 through the provision of a through-site link from the Forest Rd/Bridge St intersection to Pearl Street, and the provision of pedestrian access through a new laneway along the eastern boundary of the site. Streetscape upgrades are also provided along both site frontages.

Vehicular access is generally consistent with previous approvals for the site, and the basement car park entrance is sited at the most appropriate and safe location along the Pearl Street frontage.

Traffic generation based on the proposed quantum and mix of apartments and commercial space has been taken into account in the Traffic Impact Assessment prepared by Arup and included within the Statement of Environmental Effects (SEE). This assessment finds that the proposed development is capable of allowing safe access to and from the road network for residential and service vehicle traffic generated by the proposed development to the existing road network. Further, the proposed development will not impact upon the safe operation of the surrounding road network or intersections.

The proposed development provides off-street resident parking above the rates specified by Hurstville City Council in order to ensure that residents do not park or store cars within public on-street parking. As detailed in the SEE, It is considered that the current proposed parking provision is the optimum level which promotes public transport usage whilst mitigating potential impacts on on-street parking use.

Construction traffic is addressed in the Traffic Impact Assessment prepared by Arup and will be subject to management through a detailed Construction Traffic Management Plan which is required to be prepared prior to the commencement of construction.

*The Traffic Impact Assessment prepared by Arup and provided at **Appendix F** of the Development Application finds that the proposed development is capable of being safely accommodated within the local road network. Road noise is addressed in the Acoustic Report prepared by Acoustic Logic and included at **Appendix H** of the Development Application.*

DAO Comment

The application was referred to NSW Roads and Maritime Services (RMS) for concurrence in accordance with Section 138 of the Roads Act 1993 and Clause 104 of SEPP (Infrastructure) 2007. The RMS has raised no objection to the application subject to conditions of consent being attached to any consent granted. The application provides parking for residents in excess of Council's requirements and car parking for resident's visitors has been provided at a rate of 1 car space/6 units. This is discussed further in the report below under the heading *Section 4.2 - The Controls*. The provision of this on site car parking is considered acceptable. The development provides a loading/unloading area in the through site-way provided to the development which allows vehicles to enter and exit in a forward direction without effecting traffic on Forest Road or Pearl Street.

The provision of this development will increase traffic movements in and around Forest Road and Pearl Street from that currently experienced. The primary use of the development however, is residential and as such traffic movements related to the residential dwellings will be intermittent. In this regard, it is unlikely that there will be a high volume of traffic or traffic movements at one time which will have adverse impacts on the surrounding road network.

Issue

There will be a loss significant trees and vegetation from the site.

Applicant's comment

Existing vegetation within the site will be replaced with new high quality street trees and landscape plantings which are appropriate for the site's urban context.

DAO Comment

There is some vegetation on the site that will be removed to accommodate the proposed development. The removal of the vegetation is considered acceptable and the provision of new planting to the site, as proposed in the Landscape Proposal submitted with the application will compensate for the removal of the vegetation. The

proposed landscaping to the site will introduce numerous trees, shrubs and plants to the site which will improve the current site conditions.

Issue

There is inadequate stormwater drainage.

Applicant's comment

A Site Based Stormwater Management Plan has been prepared by Wood & Grieve Engineers (Appendix K of DA) which demonstrates that the proposal is consistent with Council's Drainage and On-Site Detention Policy.

DAO Comment

The development can drain to the street in accordance with Council's requirements. Appropriate conditions of consent have been provided in the recommendation, should consent be granted.

Issue

Consideration is to be given to the effect excavation may have on adjoining developments and the road.

Applicant's comment

The proposed excavation required to facilitate the development will comply with the RMS Geotechnology Technical Direction GTD 2012/001 dated 27 April 2012 for the protection of roadways. Dilapidation surveys of adjoining properties and Council infrastructure will be undertaken prior to the commencement of works on site to ensure that existing structures and properties are protected.

*An Acoustic Report prepared by Acoustic Logic was included within the DA at **Appendix H** and addressed construction and operational noise impacts of the proposed development on surrounding sensitive receivers as well as potential noise impacts upon future residents of the proposed development.*

DAO Comment

The applicant will be required, as a condition of any consent granted, to prepare a dilapidation report. This report will identify the condition of adjoining buildings prior to and at the completion of construction work. This will identify any damage that has occurred to adjoining developments during the construction process.

Section 4.2 - The Controls

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

Block 10, Site 10B	Proposed	Compliance
Use One level retail/commercial and upper floors residential	Lower ground floor/ground floor retail facing Forest Road and residential above	Yes

Height 40m maximum for Buildings A and C and 45m maximum for Building B	Building A = 40m with the lift overrun being maximum 41.5m for 7.5sqm Building C = 40m maximum Building B = 56.75m	No (1)
FSR 4.5:1 maximum	4.6:1 (including additional parking spaces provided. 4.5:1 (excluding those spaces)	No (2)
Setbacks <u>Street setbacks:</u> 1m to Forest Road	Street setback = >1m	Yes
Awnings Cantilevered	Cantilevered awning	Yes
Balconies Minimum 1/unit, 8sqm in size 2m minimum width	Minimum 1/unit, 8sqm in size Minimum 2m dimensions	Yes
Vehicles Access Pearl Street and one entrance from Forest Road. There is a possibility of an entrance from the laneway if this is created	Pearl Street and the through site-way from Forest Road	Yes
Car parking in basement Residential: 1 car spaces/100sqm (36121sqm) = 362 spaces required Visitors: 1 car spaces/4 residential units (437 units) = 110 spaces required Retail: 1 car space/25sqm (563sqm) = 23 spaces required Car wash bay = 1 required (which can be a visitor space) Total = 495 car spaces required	Residential: 1 car spaces/100sqm (36121sqm) = 464 spaces provided Visitors: 1 car spaces/6 residential units (437 units)= 73 spaces provided Retail: 1 car space/25sqm (563sqm) = 23 spaces provided Car wash bay = 1 required (which can be a visitor space) Total = 560 car spaces provided	No (3)

(1) Height

For the purposes of assessing the height of the development, the height has been calculated from the ground level which exists on the perimeter of the site rather than the existing level of the excavated portion of the site which has been undertaken to physically commence the development consent granted to the site. It is reasonable to apply the levels at the perimeter of the site as they are indicative of the existing

ground level prior to excavation for the previous approval and are complying with the intent of the LEP.

The proposed development does not comply with the height requirements of DCP 2 for the lift overrun portion of Building A and the height of Building B. In terms of the lift overrun for Building A, the variation is minor and is not visible from the street. It does not add to the bulk and scale of the building as is limited to 7.5sqm of the roof area of Building A.

With regards to Building B the applicant has submitted the following statement to support the variation to the height:

DCP No.2 permits a maximum building height of 40 metres (12 storeys) across the site, with a 'pop-up' section of 45 metres (14 storeys) at the south-east corner of the site in the vicinity of Building B. A review of the development options achieved under the building heights by Stanisis Associate Architects found that the proposed building heights and the 'pop-up' height limits provide insufficient variation in the built form and instead create an imposing streetscape.

A review of development options by Stanisis Associate Architects found that development to the existing height parameters provides insufficient articulation or diversity in the built form, with the 'pop-up' height section providing only two additional storeys, or just over 10% of the total building height. This 'pop-up' will be largely imperceptible from street level and will make little, if any, positive contribution in terms of building articulation or streetscape character.

In order to achieve a more interesting urban form, the proposed design by Stanisis Associate Architects seeks to reduce the height of Buildings A and C below the height limit by between 1-8 storeys, whilst increasing the height of Building B within the pop-up' zone to 21 storeys. This development scheme provides a better transition from the Hurstville City Centre (to the east) to lower-scale residential development to the west on Pearl Street, and creates a built form along Forest Road which is more interesting and includes a landmark building at the western gateway to Hurstville City Centre ...the variation to the pop-up height control allows the provision of a higher level of residential amenity within the development site, and reduces the overall impact of development on surrounding properties.

The reduction in height to the central (northern) section of Building A achieves the key design outcomes promoted by the Design Review Panel (DRP) by improving solar access to the central portion of the development and communal open space area, allowing warm northerly breezes to enter the site and providing a suitable transition to lower scale development to the north.

The proposed variation to the 'pop-up' height was supported by the St George DRP and is considered to result in a better built form outcome for the site. In addition to the above, the proposed development is considered to be consistent with the objectives for building height under Clause 4.1.1.3 of the DCP, in that it:

- *achieves building heights which are consistent with the 'Major Centre' status of Hurstville under the Metropolitan Plan for Sydney 2036;*

- facilitates an improved transition between the Hurstville City Centre to the east and lower density residential development to the west of Pearl Street by elevating building height to the east and reducing heights below the height control towards Pearl Street;
- will not result in any adverse environmental impacts upon heritage items and
- will not result in any significant adverse impacts upon surrounding properties as it provides a better urban design and streetscape outcome for Forest Road.

In light of the above it is considered that the proposed building heights represent a better design outcome than a development complying strictly with the height provision and will result in minimal environmental impact. In these circumstances the variation to the height control is considered acceptable.

The original DA proposed buildings of various heights that provided a highly modulated scheme including buildings significantly below the height control in the Development Control Plan No. 2 (DCP No. 2), but also one building element (Building B) above the height control, marking the high point of the site. In response to concerns raised as to the acceptability of this variation, the height of the tower has been reduced and the displaced floor space relocated to the other buildings.

Building B has been reduced in height by 11.15m and to 18 storeys (top of parapet RL of 125.25) from 21 storeys. The site has a general height control of 40m with the highest point in the south-east corner, on Forest Road, (location of Building B) having a 45m height control. The original scheme was formulated following discussion with Council staff and the St George Design Review Panel (DRP) and in response to concerns that a two storey height difference between the tower element and other buildings would not provide sufficient height variation to distinguish the tower element. A variation to the 45m height control for the tower element, so that it can read as a tower will deliver a stronger urban design outcome. Building B, at 56.75m above ground level to the parapet 18 storeys, represents a modest departure from the DCP No. 2 control over a limited part of the site at 11% or 898m² of the total site (8,124m²). The Tower will still respond appropriately to the surrounding tall structures on adjacent sites and remains the building element marking the highest point of the site.

The floor space displaced by reducing the tower element to 18 storeys is distributed by adding 2 levels to the part of Building A fronting Pearl Street (increasing the number of storeys from 10 to 12); adding one level to the building element linking Building A and Building C on Pearl Street (the link element being 6 storeys in place of 5 storeys) and by infilling the building element linking Building A and Building B from 5 storeys to 10 storeys. The redistributed floor space is all within the height control with the minor exception of the lift overrun to Building A. The lift overrun is approximately 1.5m above the 40m height limit for an approximate area of 7.5m². This minor non-complying component is a small part of the building which will not be visible at ground level, as shown in the architectural plans. In addition, this element of the building does not contribute to the bulk and scale of the development.

The modified building heights do not change the floorplates or the total FSR or GFA across the development. The heights now proposed continue to respond to the overall built height across the site in the context of adjoining properties and development, whilst still providing a landmark built element to Forest Road and the Hurstville City Centre.

DAO Comment

The additional height to Building B is supported for the following reasons:

- The subject site is the first site on the northern side of Forest Road which is located within the city centre business zone and is the gateway location to the Hurstville City Centre (western book-end). As such the site forms the entry to the city centre and a taller development will be indicative of its location. As submitted by the applicant, the height controls of DCP 2 will result in a development with little variation in height and a height with predominantly uniform bulk and scale which increases the perceived mass of the development. The proposed increase to the height of Building B will provide interest to the built form of the development and identify each building as separate elements, while providing a more interesting skyline.
- The proposed increase in height does not result in any significant additional impacts to adjoining developments in terms of privacy, solar access, and view loss as detailed in the section of this report relating to the submissions received to the application. This is because in terms of view loss a complying development would result in a similar loss of view.
- The increase in height to Building B does not result in a higher floor area to the development. The floor space ratio of the development complies with requirements of DCP 2 as the architect has redistributed the floor area across the site, but with varying heights to each building.
- The height of the building does not encroach and is below the Obstacle Limitation Surface requirement of 137AHD versus 127.10AHD for the proposed development.

(2) Floor Space Ratio

The proposal technically does not comply with the maximum floor space ratio (FSR) of 4.5:1 due to additional parking spaces on-site being included in the calculation of FSR, in accordance with the definition for gross floor area in Hurstville LEP 1994. The proposal incorporates an additional 65 parking spaces, which equates to an additional floor area of 858sqm, thus taking the overall FSR to 4.6:1. If this additional parking was not included, then the FSR would comply with 4.5:1. The break-up of the parking ratios is discussed below.

The additional FSR has no impact on the bulk, scale and appearance of the building because the additional parking is located wholly within the basement. It creates no additional impacts on neighbours, or on the amenity of the surrounding area. Given that it is a technical non-compliance but generates no impacts, the variation is considered acceptable.

(3) Car parking

The applicant seeks approval to provide car parking for residential visitors at a rate of 1 car space/6 residential units and not at a rate of 1 car space/4 residential units

as required by DCP 2. Additional car parking will be allocated to dwellings above the requirements of DCP 2 in lieu of the reduced number of visitor spaces. The applicant has provided a Traffic Impact Assessment and Car Parking Provision Assessment prepared by ARUP (job number 228362-00, dated 20 February 2013 and 18 January 2013) to support the proposed car parking.

The Traffic Impact Assessment Report concludes that:

Vehicle access to the development is proposed via a car park access ramp off Pearl Street. The basement parking areas have been designed in accordance with Australian Standard AS2890.1 2004. A laneway is to be provided from Forest Road to Pearl Street which accommodates a loading bay and retail parking. The loading bay has been designed in accordance with Australian Standard AS2890.2 2002 for delivery vehicles up to an 8.8m MRV.

A laneway will be provided between Forest Road and Pearl Street which allows for through site linkages. Parking on the laneway provides public car parking in close proximity to the retail uses on the site and improves safety and street activation. There is only one access for the basement car park which is well located midway along the Pearl Street frontage and consolidates a number of existing driveway crossovers.

The proposed development is expected to generate approximately 145 vehicle trips in the AM and 163 vehicle trips in the PM. The estimated additional traffic flows have been modelled on the existing network using SIDRA 5.1. The results show that there are negligible changes to the capacity and delay on the network as a result of the proposed development. The proposed amendments to the network and laneway access are not expected to result in significant changes to level of safety currently provided on the road network.

The Car Parking Provision Assessment concludes that:

The location of the 458-460 Forest Road site is at the western edge of the Hurstville city centre approximately 800m from Hurstville Railway Station. Car ownership levels in Hurstville and the general trend upwards indicates that residents continue to have a desire to own a car however this does not necessarily lead to increased car usage in the commuter peak periods. The demographic data for Hurstville residents indicates that car trips to work are being replaced by public transport trips to work and therefore the likely traffic impact of the provision of additional car parking spaces is reduced, as these cars are mainly used for non-commuting trips, such as shopping, recreation and weekend use. The proposed car parking provision rates will provide a suitable balance between adequate on-site car parking for residents, visitors and retail users whilst minimising on-street car parking overflow.

Comment

The application was referred to NSW Roads and Maritime Services (RMS) and the Sydney Regional Development Advisory Committee for concurrence in accordance with Section 138 of the Roads Act 1993 and Clause 104 of SEPP (Infrastructure) 2007. The RMS has granted its concurrence to the application and raised no

objection to the application subject to conditions of consent being attached to any consent granted.

In terms of the design of the car parking spaces and areas, they have been designed in accordance with Australian Standards which is supported.

With regards to the provision of visitor car parking spaces, the justification provided is that car ownership has increased, so the development would benefit by having additional parking spaces allocated to the residents of the development, rather than visitor spaces. This will reduce on street parking by residents who do not have an on-site car parking space. Council's Senior Traffic Engineer has examined the application including the documents prepared by ARUP and advised that no objection is raised to the provision of visitor parking and residential parking as proposed. Accordingly, no objection is raised to the on-site car parking spaces as proposed.

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

Design Guidelines	Proposed	Compliance
5.1.1 – Street alignment: Buildings to be sited on street frontage.	Building is sited on street frontage as per DCP 2 requirement	Yes
Buildings to provide pedestrian amenity in form of active street frontages, building entrances, and awnings	An active street frontage is proposed with the retail use facing Forest Road and the “entry” to the communal courtyard	Yes
Buildings set back from street are to address the street with major facades, entrances, low fences, substantial planting, etc.	Building is setback from the street as per DCP 2 requirement	Yes
5.1.3 – Frontage articulation: Building frontages are to be articulated into separate building frontages and bays, using shop front separations, attached columns and steps in façade Changes of texture and colour should complement	Variety of articulation and changes in texture and colour are provided	Yes
5.1.7 – Roof Design Lift over-runs and plant equipment should be concealed	Lift over-runs and plant equipment are not readily visible from the street	Yes
Penthouses are encouraged to create interesting skylines using setback upper floors	No penthouses provided	N/A

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

Section 6.1 - Car Parking

The provision of on-site parking has been discussed in detail in the report above under the section entitled *Section 4.2 - The Controls*.

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 44 adaptable dwellings being required for the proposed development. The proposed development provides 44 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 362 residential car spaces are required for the development which equates to 8 disability accessible spaces being required. The plans show that development will provide 44 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. 23 spaces are provided for the retail component, 2 accessible car spaces are required for the retail component. The applicant has not specified the provision of accessible spaces for the retail component but given that 44 accessible spaces are to be provided for the development, 2 can be provided for the retail component.

Section 6.4 - Crime Prevention through Environmental Design

The proposal is deemed to satisfy the requirements of DCP 2 - Crime Prevention through Environmental Design (CPTED) by addressing CPTED principles. These are discussed below:

	Design requirements	Proposed	Compliance
Fencing	<ul style="list-style-type: none"> Front fence maximum 1m, unless open type 	No fencing is proposed	N/A
Blind corners	<ul style="list-style-type: none"> Direct pathways with permeable barriers Mirrors around corners Glass/steel panels in stairwells 	No blind corners evident. Entrances are direct from the street. Stairwells are located within the building and not visible externally	Yes
Communal/public areas	<ul style="list-style-type: none"> Habitable rooms adjacent to public viewing areas Good visibility to stairwells, entries, elevators 	Habitable rooms face onto street. Good views from living areas to the street. Entry lobbies are visible from common areas	Yes

Entrances	<ul style="list-style-type: none"> • Maximum one entry point per 6-8 dwellings • User can see into building before entering • Entrance clearly recognisable 	The building has one or two entry points for each building for the residential component which is clearly visible from common areas.	Yes
Site and building layout	<ul style="list-style-type: none"> • Main entrance orientated towards street, and not from rear lanes • Habitable rooms at front of dwelling 	Main entrance to the site is from street. Habitable rooms are orientated towards the front and rear of the development	Yes
Landscaping	<ul style="list-style-type: none"> • Low hedges and shrubs or high canopied vegetation • No continuous barrier of dense growth • Ground cover or 2m clean trunks around children's play areas, car parks and pedestrian pathways • Prickly plants used as barriers • Avoid vegetation that conceals building entrances • Large trees next to second storey windows or balconies 	Proposed landscaping as per landscape proposal submitted is satisfactory	Yes
Lighting	<ul style="list-style-type: none"> • Use of diffused and/or movement sensitive lights • Access/egress routes illuminated • No glare or dark shadows produced • No lighting spillage onto neighbouring properties • Users can identify a face 15 metres away • Use of energy efficient lamps/fittings/switches 	Can be subject to condition of consent	Yes
Building identification	<ul style="list-style-type: none"> • Each individual dwelling numbered • Unit numbers provided on each level • Building entries state unit numbers accessed from that entry 	Can be subject to condition of consent	Yes
Security	<ul style="list-style-type: none"> • Intercom, code or card locks for building and car park entries • Door and window locks comply with AS 220 • Security access to basement parking via main building • External storage areas well secured and lit 	Details not provided however access to residential lobbies is secured. Details of separation of residential and retail car spaces are not provided but can be achieved through conditions of consent	Yes

Maintenance	<ul style="list-style-type: none"> • Provision for the speedy removal of graffiti and repair/cleaning of damaged property • Provision of information advising where to go for help and how to report maintenance or vandalism 	Can be subject to condition of consent	Yes
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Section 6.5 - Energy Efficiency

A BASIX Certificate has been submitted with the application which meets the target scores. The proposed development also results in appropriate solar access to the dwellings within the development and to adjoining developments, as previously discussed in the report.

Section 6.7 - Drainage and On-Site Detention Requirements

The proposed development can drain to the street in accordance with the requirements of DCP 2 and appropriate conditions of consent have been attached to the recommendation should consent be granted.

Section 6.9 – Waste Management

The proposed development provides appropriate residential and commercial waste facilities within the development which have been designed in consultation with Council's Manager – Environmental Services. In addition to this appropriate conditions of consent have been attached to the recommendation should consent be granted. The applicant has requested that larger waste bins be provided to the development from those usually required by Council as requested by its private contractor. This matter remains unresolved but can be addressed through conditions of consent.

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

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

4. Impacts

Natural Environment

Although the proposal includes a large amount of excavation for the basement levels, this is not uncommon in the Hurstville CBD area. It is considered the proposal is unlikely to adversely impact on existing drainage patterns and soil stability in the locality. The proposed development will result in the existing vegetation being removed from the site which is not considered to be significant. The proposed landscape proposal for the development will introduce numerous trees, shrubs, and ground cover to the development which will improve the current site conditions.

Built Environment

The proposed development is unlikely to have an adverse impact on the built environment. The development has 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. The increased height to Building B is not considered to have a significant additional impact on adjoining developments in terms of view loss and solar access. In particular, the view loss which will occur with the proposed development will be the same as a development that complies with the height requirement of Council's DCP 2.

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 submissions to the application have been discussed in the report above.

Internal - Council Referrals

Team Leader – Subdivision and Development

Council's Team Leader – Subdivision and Development has raised no objection to the development subject to conditions of consent being attached to any consent granted.

Senior Building Surveyor

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

Senior Environmental Health Officer

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

Manager – Environmental Services

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

Development Engineer

Council's Development Engineer has raised no objection to the application subject to conditions of consent being attached to any consent granted.

Senior Traffic Engineer

Council's Senior Traffic Engineer has advised that no objection is raised to the development.

External Referrals

Roads and Maritime Services (RMS)

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

Design Review Panel

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

Energy Australia

No response received.

NSW Police Service

No response received.

Sydney Airport Corporation Limited

No response received.

6. CONCLUSION

The application seeks permission for the demolition of existing structures and vegetation, construction of a mixed use development, ranging between 4 storeys and 18 storeys, containing ground floor commercial area, 437 residential units, basement car parking area for 560 vehicles, construction of new vehicular and pedestrian through site-way, and landscaping and public domain works.

The proposed development has been assessed against the requirements of the relevant planning instruments and development control plans and does not comply in terms of height, provision of residential visitor spaces, and FSR. These issues have been discussed in the report and it is considered that a variation to these requirements is acceptable for the reasons detailed in the report.

The issues raised by the submissions received to the application have been discussed in the report. Accordingly it is recommended that the application be approved subject to conditions of consent.

RECOMMENDATION

THAT pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Joint Regional Planning Panel grant development consent to Development Application 13/DA-35 for demolition of existing structures and vegetation, construction of a mixed use development, ranging between 4 storeys and 18 storeys, containing ground floor commercial area, 437 residential units, basement car parking area for 560 vehicles, construction of new vehicular and pedestrian through site-way, and landscaping and public domain works on Lot 10 DP 839477, Lot 372 DP 776312, and Lots 27, 28, 29, 30 DP 240828 and known as 458-460 Forest Road and 1B Pearl Street Hurstville, subject to the following conditions of consent:

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
Project No 12010, Drawing No. DA001 002 003 101 102 103 104 105 106 107 108 109 110 111	Received 15 May 2013	Drawing list Site plan Site analysis Basement 2 Basement 1 Lower ground floor Ground floor Level 1 Level 2 Level 3 Level 4 Level 5 Level 6 Level 7	A	Stanisic Architects

112 113 114 115 116 117 118		Level 8 Level 9 Level 10 Level 11 Level 12-16 Level 17 Roof level		
201 202 203 204		South elevation Forest Road North west elevation Pearl Street East elevation through siteway Northeast elevation through siteway	A	Stanisic Architects
301 302 303 304 305 306 307 308		Section A-A Section B-B Section C-C Section D-D Section E-E Section F-F Section G-G Section H-H and I-I	A	Stanisic Architects
SK01 SK02		Forest ridge outlook Cross ventilation section	-	Stanisic Architects
Drawing No. 12-101_DA_ 01 02 03 04 05 06 07 08 09 10 11 12 13 14	May 2013	Site context Concept diagrams, Landscape precedents Colour master plan Soil depth diagram Landscape proposed levels Roof terrace detail design Forest road entry detail design Landscape sections (2 sheets) Indicative plant palette images (2 sheets) Landscape masterplan Planting plan-ground floor + streetscape Planting plan-roof terrace	B	Arcadia Landscape Architecture

15		Planting details +		
16		specifications		
Unit type C4, G1, G1/1, G1/2, G1/3, G1/4, G1/5, G7, G7/1	6 March 2013	Adaptable unit details	-	Stanisic Architects
Drawing No 69044.D01	December 2012	Contour and Detail Survey	A	Smec Urban Consulting Group
-	22 February 2013	Wind Comfort Assessment	C	Cundall
Document ref: 20121174.1/0901A/R1/JZ	9 January 2013	Development Application Acoustic Report	1	Acoustic Logic
Ref: ES5288	20 December 2012	Phase 2 Environmental Site Assessment	0	Aargus

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	Amount	Receipt Date	Receipt No
Development Application Fee	X	\$58872.43	22/02/13	377332
Plan First Fee	X	\$63996.62	22/02/13	377332
Notification/Advertising Fee	X	\$1325.00	22/02/13	377332
Company Search Fee	X	\$20.00	22/02/13	377332
Long Service Levy		\$TBA		
Builders Damage Deposit		\$3,750.00		
Inspection Fee for Refund of Damage Deposit		\$130.00		
S94Residential (Community Facilities)		\$657,864.95		
S94 Residential (Open Space, Recreation, Public Domain)		\$4,651,504.19		

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		\$TBA		
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Construction Certificate Application Fee		\$TBA		
Construction Certificate Imaging Fee		\$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.

3. **GEN1003 - Section 94 Contributions** - Residential Development (Community Facilities and Open Space, Recreation, Public Domain)

a. Amount of Contribution

Pursuant to *Section 94 of the Environmental Planning and Assessment Act, 1979* (as amended) and *Hurstville Section 94 Development Contributions Plan 2012* the following contributions towards the cost of providing facilities shall be paid to Council:

Contribution Category	Amount
Community Facilities	\$657,864.95.
Open Space, Recreation and Public Domain Facilities	\$4,651,504.19.
Total:	\$5,309,359.14.

This condition and contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

b. Indexing

The above contributions will be adjusted at the time of payment to reflect changes in the Consumer Price Index (All Groups Index) for Sydney, in accordance with the provisions of the *Hurstville Section 94 Development Contributions Plan 2012*.

c. Timing and Method of Payment

The contribution must be paid prior to the release of the construction certificate as specified in the development consent.

Please contact Council prior to payment to determine whether the contribution amounts have been indexed from that indicated above in this consent and the form of payment that will be accepted by Council.

Contributions must be receipted by Council before a construction certificate is issued.

A copy of the *Hurstville Section 94 Development Contributions Plan 2012* may be inspected or a copy purchased at Council's offices (Civic Centre, MacMahon Street, Hurstville NSW 2220) or viewed on Council's website <<http://www.hurstville.nsw.gov.au/Strategic-Planning.html>>.

4. **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.

5. **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.

6. **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. For further information, please contact Council's Customer Service Centre on (02)9330 6222.

7. 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 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Pearl Street in accordance with Council's Specifications for footpaths.
- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.
- (c) 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 Forest Road in accordance with Council's Specifications for footpaths.
- (d) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Pearl Street in accordance with Council's Specifications for kerb and guttering.
- (e) 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

- (b) In the Application Form, quote the Development Consent No. (eg. 13/DA-35) 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.

8. **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.

9. **APR7001 - Building – Hoarding Application**

Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class (overhead type) hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footways/roadway where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act and Section 138 of the Roads Act 1993:

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

10. APR7003 - Building - Below ground anchors – Information to be submitted with s68 Application under LGA 1993 and s138 Application under Roads Act 1993

In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the Local Government Act 1993 and the Roads Act 1993 for approval, prior to commencement of those works. In this regard the following matters are noted for your attention and details must be submitted accordingly: Included as Subpoint "(I)" under condition APR6001.

- (a) Cable anchors must be stressed released when the building extends above ground level to the satisfaction of Council.
- (b) The applicant must indemnify Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- (c) Documentary evidence of such insurance cover to the value of ten (10) million dollars must be submitted to Council prior to commencement of the excavation work.
- (d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of \$ 50,000.00.
The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- (e) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors must be borne by the applicant.

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.

11. GOV1008 - Sydney Water - Section 73 Certificate - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

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

The Notice of requirements must be submitted prior to the commencement of work.

12. **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.

13. **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 site 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.

14. **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**.

15. **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.

16. **GOV1003 - NSW Roads & Maritime Services (RMS) – Stormwater discharge to Main Roads**

The post development stormwater discharge from the subject site into the RMS drainage system must not exceed the pre-development discharge.

Should there be any changes to the RMS drainage system then detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of works.

Details should be forwarded to:
The Sydney Asset Management
Roads & Maritime Services
PO BOX 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before the RMS's approval is issued. With regard to Civil Works requirement, please contact the RMS's Project Engineer, External Works Ph: 8849 2114 or Fax: 88142107.

17. GOV1002 - NSW Transport, Roads & Maritime Services – Kerb and gutter works to Main Roads

The design and construction of the proposed new driveway on Forest Road shall be in accordance with AS2890.1-2004 and RMS requirement. The existing driveways located on the southern property boundary shall be removed and replaced with kerb and gutter to match existing.

Details of these requirements of the proposed driveway and kerb and gutter works can be obtained from RMS Project Services Manager, Traffic Projects Section, Parramatta, telephone 8849 2496.

18. Detailed design plans of the proposed gutter crossing are to be submitted to the RMS for approval prior to the commencement of any roads works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RMS.

19. The proposed through site-way is identified as "one-way" operation, therefore in this regard all vehicles are to enter and exit the site in a forward direction.

20. All vehicles are to be clear from the edge of carriageway and shoulder before being required to stop. The on-site landscaping at the through site-way entrance is to be rearranged in such a manner that it is self enforcing.

21. Existing parking restrictions shall remain along the entire property frontage on Forest Road.

22. All demolition and construction vehicles should be wholly contained within the site and vehicles must enter and leave the site before stopping. If this is not possible for all construction activities, the applicant will be required to obtain a Road Occupancy Licence. To assess the impact of the proposed work on the traffic flow and road safety along the RMS road the applicant shall contact the RMS Transport management Centre on telephone 83961513 or fax 83961520 ten working days prior to the commencement of work.

23. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with AS 2890.1-2004 and AS 2890.2-2002.
24. The proposed development shall be designed such that road traffic noise from Forest Road is mitigated by durable materials and complies with the requirements of Clause 102 – (impact of road noise and vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.
25. The developer is to submit detailed documents and geotechnical reports relating to the excavation of the site and support structures to RMS for approval in accordance with Technical Direction (GTD 2012/001).

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.

26. **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 Forest Road entry terrace is to be redesigned as a usable public space in association with adjacent retail (such as a café) to enliven the transitional zone. In this respect more paving and less planting would be acceptable in this area. This condition is imposed as a result of the recommendation made by the Design Review Panel. Details are to be provided in an amended landscape plan with the Construction Certificate.
 - b) An additional landscape zone is to be accommodated in the laneway, in the location of a current parking space (similar to the landscape zone along the northern portion of the laneway). The depth of soil provided in this area is to be a minimum 750mm to allow for appropriate planting. This condition is imposed as a result of the recommendation made by the Design Review Panel. Details are to be provided in an amended landscape plan with the Construction Certificate.
 - c) The residential car parking spaces and retail car parking spaces are to be separated so that access to the residential car spaces is not available to retail users in accordance with crime prevention principles.
 - d) Appropriate lighting is to be provided to the through site-way which allows appropriate illumination in accordance with crime prevention principles.
 - e) A minimum of ten (10) dwellings within the development are to be designed as adaptable dwellings in accordance with the relevant disability access provisions.
27. The applicant is to surrender any previous consents relating to the subject site. Written confirmation of this is to be provided with the Construction Certificate.
28. **CC2001 - Development Assessment - Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion and Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) all clean water run-off is diverted around cleared or exposed areas
- (d) silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) all erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with Managing Urban Stormwater – Soils and Construction (Blue Book) produced by Landcom 2004.

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

29. 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.

30. In accordance with the recommendations of the Phase 2 Environmental Site Assessment from Aargus dated 20 December 2012, a Remedial Action Plan(RAP) is to be prepared detailing the removal of the four (4) UST's and associated structures, along with the potentially impacted soil surrounding the

tank pits and the Asbestos containing material (ACM) present within the site. The RAP is to be prepared in accordance with the EPA guidelines and deposited with Council prior to the issue of the Construction Certificate.

31. **CC2009 - Development Assessment – Pre-Construction Dilapidation Report – Private Land** - A qualified structural engineer shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

(a) All 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.

32. **CC2010 - Development Assessment – SEPP 65 Design Verification Statement** - A certifying authority must not issue a construction certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of [State Environmental Planning Policy No 65—Design Quality of Residential Flat Development](#).

33. **CC3001 - Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

(a) All stormwater shall drain by gravity to the upper level of the new kerb inlet pits on Pearl Street in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).

34. **CC3004 - Development Engineering -Stormwater Drainage Plans (By Engineer Referral Only)**

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.**

35. **CC3018 - 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. Reference is made to the *Site Based Stormwater Management Plan (SBSMP) dated 19 Feb. 2013 Revision B by Wood & Grieve Engineers* and part of *Section 4.6 Pre-Development Peak Stormwater Condition –*

‘By undertaking an overall site investigation and the existing pre-developed site can be generally categorised as a car yard/ open area Hardstand. By establishing the percentage of existing impervious area and the Council’s applicable development category for each of the site’s catchments, the pre-development f_1 and C_{10} values have been evaluated and are listed below in Table 3’.

This assessment needs to be re-evaluated on the following basis -

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**.

36. CC3019 - Development Engineering – Stormwater Overland Flow

The SBMSP, part section 4.4, refers to stormwater runoff from the courtyard –

‘Catchment 3 is the landscaped area within the centre of the courtyard. This has been designed to discharge uncontrolled to the road drainage and is installed within Stage 1.’

The final Stormwater Management Plans need to include the provision of a stormwater interception system for the courtyard area that caters for the design storm event. Overland flow must not pose a risk of inundation to habitable area and an appropriate fail-safe overland flow path is to be established.

Evidence from an appropriately qualified person that this design requirement has been met and certification given that overland flow meets the guidelines of the *"Floodplain Development Manual the management of flood liable land, 2005*, shall **accompany the application for the Construction Certificate.**

37. CC3019 - Development Engineering - Stormwater Pipeline Extension Works.

An application under section 138 of the local Government act shall be submitted to Council for the extension of the stormwater pipeline in Pearl Street. Details for the required plans and documentation to be lodged for this application can be obtained by contacting Council's Development Engineer. This application shall be approved by Council **Prior to the issue of the Construction Certificate**

38. 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**

39. 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.**

40. CC2011 - Development Assessment – BASIX Commitments - All energy efficiency measures as detailed in the BASIX Certificate Nos. 460437M_02 and 462649M_02 dated 22 May 2013, approved with the Development Consent

13/DA-35, must be implemented on the plans lodged with the application for the Construction Certificate.

41. **CC6004 - Engineering –Traffic Management – Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).

42. **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.

43. **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.

44. **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

45. **CC7011 - Building – Slip Resistance-** Commercial, Retail & Residential Developments - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.

46. **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:- 75 x 240 litre Mobile Bins (MB's) serviced 3 x weekly, or 25 x 1100 litre MBs serviced 2 x weekly
- (b) Domestic Recycling:- 75 x 240 litre MB's serviced 2 x weekly

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 cubic 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.

47. **CC8001 - Waste – Waste Management Plan** - The Waste Management Plan submitted with the application is to be amended to incorporate the provision of all of these facilities shall be submitted to Council prior to the issue of any Construction Certificate. These amendments are to incorporate the following information:-

- a dedicated and detailed Plan showing the location of all Waste Storage Areas and Compartments where applicable;
- details of the proposed location of each level's 'Waste Room', and the method of transferring waste and recyclable material from this room into the proposed 'garbage chutes' that service these areas;
- the method of transferring waste from these chutes into receptacles that will be used for the collection of all waste and recyclable material;
- detailed manufacturing specifications in relation to the construction and function ability of all proposed garbage chutes, referencing any relevant Australian Standards; and..

- a detailed and dedicated plan of management in relation to the proposed 'Waste Room' and the ability of this facility to adequately, safely, and conveniently meet the needs of all servicing requirements, noting that "all waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed and maintained in accordance with any applicable regulatory requirements and relevant Australian Standards".

48. CC4003 - Health -Regulated Systems – Details & Fit out

Details of the regulated system must be submitted to the Principal Certifying Authority. Such details must demonstrate compliance with the following:

- *Public Health Act 2010 (as amended)*
- *Public Health Regulation 2012 (as amended)*
- *AS/NZS 3666.1:2002 Air-handling and water systems of buildings-Microbial control-Design, installation and commissioning (as amended)*

49. 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.

50. 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.

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.

51. 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.

- 52. 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 AS2601:2011 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

- 53. 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.

- 54. 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 Forest Road and Pearl 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.

55. 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.

56. PREC7003 - Building – Site Audit Report and Site Audit Statement

Prior to the commencement of any work, other than demolition or excavation in association with the remediation of the site, a Site Audit Report and Site Audit Statement are to be submitted to Council. These documents must clearly state that the site is suitable for the proposed use.

Note: The Applicant must comply with clauses 17 and 18 of *State Environmental Planning Policy No.55—Remediation of Land*.

Note: Words and expressions used in these conditions have the same meaning as in the *Contaminated Land Management Act 1997*

57. PREC7004 - Building - Structural Engineers Details – Supporting Council road/footway

Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways must be submitted to the satisfaction of Council's Building Control Department.

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.

58. **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.

59. **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.

60. **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.

61. **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.

62. **CON7001 - Building - Structural Engineer's Certification During Construction**

The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent

practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.

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.

63. 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 Nos. 460437M_02 and 462649M_02 dated 22 May 2013, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.

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

65. 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 damaged has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

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

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

- (a) Residential dwellings: 464
- (b) Residential visitors: 73
- (c) Retail: 23
- (d) Loading/Services::As shown on the approved plan
- (e) Car wash bay: A minimum of one (1) which can be a visitors space

- (f) A minimum of twelve (12) disability accessible car spaces being provided from the approved car parking spaces. One (1) car space is to be allocated per adaptable dwelling and two (2) car spaces are to be allocated to the retail component of the development.

67. 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 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Pearl Street in accordance with Council's Specifications for footpaths.
- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.
- (c) 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 Forest Road in accordance with Council's Specifications for footpaths.
- (d) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Pearl Street in accordance with Council's Specifications for kerb and guttering.
- (e) 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**.

68. 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 Forest Road and Pearl 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

69. 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.

70. 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.

70. OCC3012 - Development Engineering – Bus Shelter

The removal or relocation of the existing bus shelter in Forest Road shall be done with the consent of Council's Engineer.

71. OCC3009 - Development Engineering - Consolidation of Site

The site shall be consolidated into one allotment and by a Plan of Subdivision being prepared by a Registered Surveyor and submitted to Council with an application for a Subdivision Certificate. This Plan shall create the following:

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

"It is the responsibility of the Lot Burdened 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.

The 88B instrument shall be submitted to Council for endorsement by Council's Authorised Officer (with three copies of the subdivision plan).

- b) A 5.815 metre x 5.915 metre splay to the corner of Forest Road and Pearl Street shall be dedicated for the purposes of road widening. This road widening area is defined as Lot 41 in DP 713973.

Any existing or new fencing shall be removed or adjusted to the new splay alignment **prior to the issue of the Subdivision Certificate**.

The plan shall be submitted to Council with an application for a Subdivision Certificate. This Plan of Consolidation/Subdivision shall be registered at the NSW Department of Lands **prior to the issue of any Occupation Certificate (interim or final)**.

72. OCC4003 - Health -Regulated Systems – Inspection, Certification and Registration

Certification by a 'competent person' as defined under the *Public Health (Microbial Control) Regulation 2000* must be submitted that verifies that the regulated system has been installed in accordance with:

- (a) *Public Health Act 2010 (as amended)*
- (b) *Public Health Regulation 2012 (as amended)*
- (c) *AS/NZS 3666.1:2002 Air-handling and water systems of buildings-Microbial control-Design, installation and commissioning (as amended)*

and can operate as required by Part 2 of the *Public Health Regulation 2012* (as amended).

The owner must register the regulated systems with Council and provide the Principal Certifying Authority with evidence of registration pursuant to Clause 12 of the *Public Health Regulation 2012* (as amended).

73. 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.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

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

74. SUBL9003 - Subdivision - Requirements for Application of The Subdivision Certificate

To enable registration of the plan of subdivision at NSW Land and Property Information (Land Title) Office, the person acting on the consent must apply for a Subdivision Certificate pursuant to section 109J of the Environmental Planning and Assessment Act 1979.

To enable the determination of the application for a Subdivision Certificate by Hurstville City Council, the applicant must submit the following: -

- (a) Application for Subdivision Certificate form completed with payment of fees current at lodgement.
- (b) Three (3) copies of the final plan of subdivision prepared by a Registered Surveyor.
- (c) The Original Deposited Plan Administration Sheet(s) plus one (1) copy.
- (d) The Original of any relevant 88B instrument plus one (1) copy.
- (e) A Section 73 (Sydney Water) Compliance Certificate for the Development.

IMPORTANT NOTES:

- (i) **A Subdivision Certificate cannot be issued unless all relevant conditions of the development consent that are to be satisfied prior to the issue of the Subdivision Certificate have been complied with.**
- (ii) **Council will check the consent conditions on the relevant subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.**
- (iii) **Plans of subdivision, Administration Sheets, 88B Instruments and**

copies must not be folded.

- (iv) **All Subdivision Plans, Deposited Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer)**

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.

75. 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.

76. 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.
- (c) 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.

77. 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.

(b) Car Parking Space Marking and Numbering

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

78. **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.

79. **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.

80. ONG4002 - Health -Final Acoustic Report – Verification of Noise report

Within three months from the issue of an occupation certificate, an acoustical assessment is to be carried out by an appropriately qualified person, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the use of the does not give rise to "offensive noise" as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).

81. ONG4004 - Health -Operation of Regulated Systems

The occupier must operate *regulated systems* in compliance with Part 2 of the Public Health Regulation 2012 (as amended).

Where there is any change in the regulated system the occupier must register the changes in the *regulated systems* with Council.

Water cooling system must be certified by a *competent person* annually as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.

82. 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.

83. ONG4018 - Health -Amenity of the neighbourhood

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

84. The frequency of waste and recycling collections shall initially and in general be carried out three times per week for domestic waste and twice per week for domestic recycling. However if it is determined by the Manager, Environmental Services that the frequency of such services is unsatisfactory in relation to the needs and requirements of the development, and its impact on the amenity of the area, the frequency of such collections shall be redetermined by the Manager, Environmental Services.
85. All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed and maintained in accordance with any applicable regulatory requirements and relevant Australian Standards.
86. The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced. All bins are to be presented to the Pearl Street frontage of the property in a location approved by Council.
87. The Owners Corporation shall be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

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.

- 88. 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

89. ADV4002 - Health -Additional information on Legionnaires Disease

The NSW Code of Practice for the Control of Legionnaires' Disease can be downloaded free from:
http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires_disease.pdf

90. ADV4003 - Health -Acoustical Engineer Contacts & Reference Material

Further information including lists of Acoustic Engineers can be obtained from:

- **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php))

- **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au)
- NSW Industrial Noise Policy – Office of Environment & Heritage (www.environment.nsw.gov.au)

91. ADV4006 - Health – Noise – Advice

Noise related conditions

Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links relating to Noise:

- **Community Justice Centres**—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- **Department of Environment and Conservation NSW**, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- **New South Wales Government Legislation** home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).
- **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
- **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).
- **Department of Gaming and Racing** - (www.dgr.nsw.gov.au).

Schedule B – Prescribed Conditions

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

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

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

92. **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.
93. **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.
94. **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.
95. **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*.
96. **PRES1007 - Clause 98E – Protection and support of adjoining premises**
If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule C – Operational & Statutory Conditions

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

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

97. **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.

98. **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.

99. **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.

100. **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.

101. **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*.

102. **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.

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

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

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

If you need more information, please contact the Senior Development Assessment Officer below on 9330-6284 during normal office hours.

Attachment 1 – View Analysis submitted by applicant