

**JOINT REGIONAL PLANNING PANEL
(East)**

JRPP No	2013SYE102
DA Number	DA2013/0385
Local Government Area	Hurstville City Council
Proposed Development	East Quarter Stage 3 - Construction of a mixed use retail/residential development comprising two buildings being 8 and 19 storeys high, basement car parking, landscaping and public domain works.
Street Address	93 Forest Road, Hurstville
Applicant/Owner	Applicant: East Quarter Hurstville Pty Ltd Owner: East Quarter Hurstville Pty Ltd
Number of Submissions	5 submission and a petition with 45 signatures
Recommendation	Refusal
Report by	Teresa Gizzi – Senior Development Assessment Officer Hurstville City Council

Assessment Report and Recommendation

ZONING	3(b) City Centre Business Zone
APPLICABLE PLANNING INSTRUMENTS	<ul style="list-style-type: none"> • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 55 - Remediation of Land • State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Hurstville Local Environmental Plan 1994 • Draft State Environmental Planning Policy (Competition) 2010 • Draft Hurstville (City Centre) Local Environmental Plan 2013 • Hurstville Development Control Plan No. 2: Section 2.2 - Neighbour Notification and Advertising of Development Applications, Section 4.2 - The Controls, Section 5.1 - Design Guidelines for Building, Public Domain and Open Space, Section 6.1 - Car Parking, Section 6.3 - Access and Mobility, Section 6.4 - Crime Prevention through Environmental Design, Section 6.5 - Energy Efficiency, Section 6.7 - Drainage and On-Site Detention Requirements, Section 6.9 - Waste Management, Section 6.10 - Development of a Heritage Item or on the Vicinity of a Heritage Item
HURSTVILLE LOCAL ENVIRONMENTAL PLAN 1994 INTERPRETATION OF USE	Residential Flat Building Shop
EXISTING DEVELOPMENT	Stages 1 and 2 of East Quarter - Mixed Use Commercial/Residential Development
COST OF DEVELOPMENT	\$110,075,640
REASON FOR REFERRAL TO JRPP	Value over \$20M
FILE NO	DA2013/0385
HAS A DISCLOSURE OF POLITICAL DONATIONS OR GIFTS BEEN MADE?	No

EXECUTIVE SUMMARY

1. Development consent is sought for the construction of Stage 3 of the East Quarter development on land known as 93 Forest Road, Hurstville. The application comprises the construction of two mixed use retail/residential buildings known as Building F and Building X which are to be 19 storeys and 8 storeys respectively. In total, the two buildings include 402 residential units and 3,514sqm of retail floor spaces. A part one/part four level basement for car parking is also proposed along with landscaping and public domain works.
2. The proposed development has been assessed against the requirements of the relevant environmental planning instruments and development control plan and found to be inconsistent with the relevant controls.
3. The application was notified to 34 adjoining and adjacent owners and residents, and advertised for 14 days. Five submissions and a petition with 45 signatures were received in reply.

RECOMMENDATION

The development application is recommended for refusal.

DESCRIPTION OF THE PROPOSAL

Development consent is sought for the construction of Stage 3 of the development known as 'East Quarter' which is located at 93 Forest Road, Hurstville.

Stage 3 comprises the construction of two buildings, 8 and 19 storeys high, to accommodate 402 residential apartments and 3,514sqm of retail floor space. The proposal also includes the provision of basement car parking, landscaping works, and works to the public domain.

The development proposes a Gross Floor Area (GFA) of 43,333.4sqm.

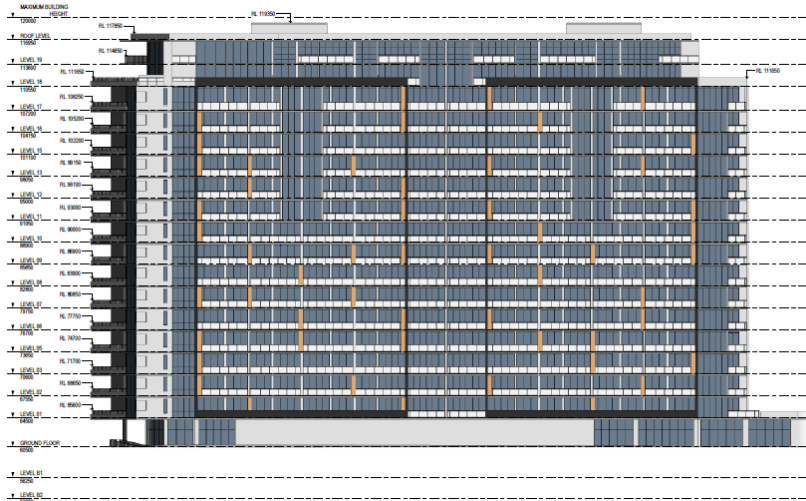
The specifics of each building are as follows:

Building F

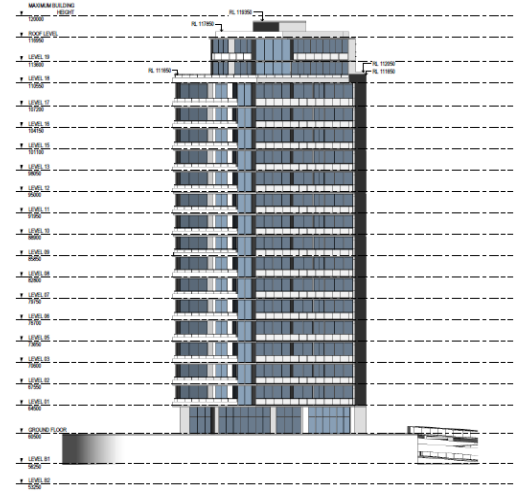
Building F is to be located in the south eastern corner of the site. It is proposed to be 19 storeys (60.9m) in height and comprises four levels of basement parking, ground floor retail and additional parking, and 17 storeys of residential accommodation. Basement level one is included as a storey due to its projection of 1.5m above the existing ground level. The building will extend for a length of approximately 90m along the southern boundary of the site. Building F is proposed to accommodate the following:

- 284 residential units comprising:
 - 120 x 1 bed
 - 107 x 2 bed
 - 57 x 3 bed

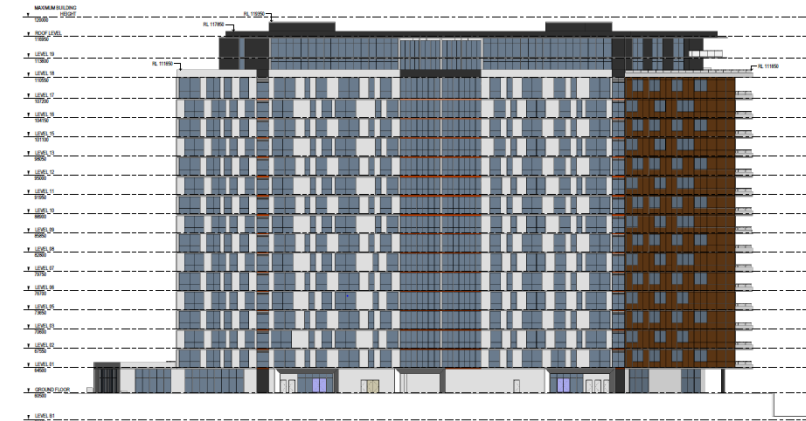
- 870sqm retail floor space



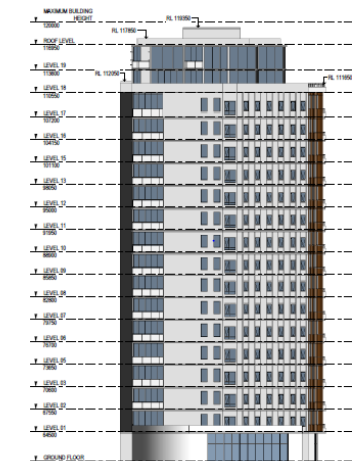
North Elevation



East Elevation



South Elevation



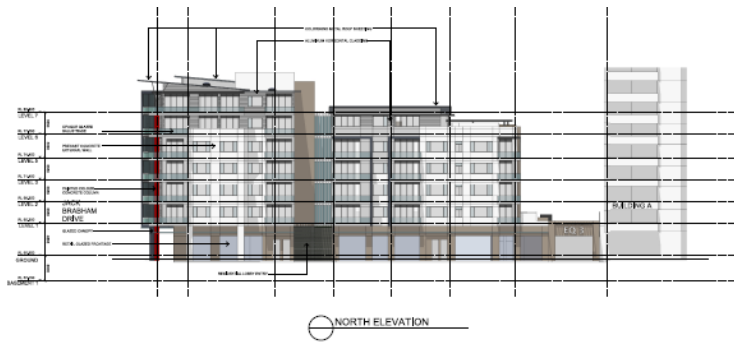
West Elevation

Building X

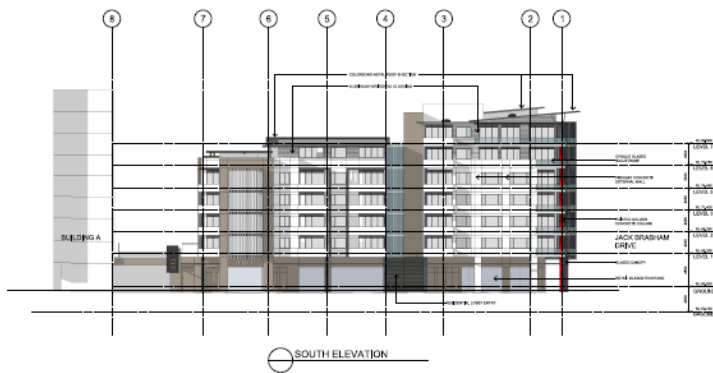
Building X is to be located in the north eastern corner of the site. It is proposed to be eight storeys (30m) high and is a 'U' shaped building which includes a podium level of retail floor space with six storeys of residential above. A single basement level is also located below this building however it is included as a storey due to its projection of 3m above the existing ground level. Building X will extend for a distance of approximately 71.6m along the eastern boundary and 63m along the northern boundary. The ground floor level (podium level) is proposed to connect to Building A which is now completed and formed part of Stage 2. Building X is proposed to accommodate the following:

- 118 residential units comprising:
 - 44 x 1 bed
 - 16 x 1 bed + study
 - 44 x 2 bed

- 14 x 3 bed
- 2644sqm retail floor space



North Elevation



South Elevation



West Elevation



East Elevation

The part one/part four storey basement is to accommodate 421 parking spaces. A further 76 spaces are to be provided at grade to serve as visitor parking for Stage 2, and an extra 237 parking spaces are provided within the existing basement levels below Stage 2 to serve as residential parking for this stage of the development. This is primarily due to a high level of contamination present along the eastern boundary of the site which prevents further excavation for provision of parking under Stage 3.

Significant landscaping works are also proposed including the provision of a 'wedge park' in front of Building F, communal open space at podium levels and street planting to improve the public domain in front of Building X.

Extension of the private road is also proposed to provide access to Durham Street.

Note: The proposed development documentation seeks consent for Buildings F and X to be 18 storeys and 7 storeys in respectively. However, an assessment of the application has found the basement of Building F is raised approximately 1.5m above the existing ground level and Building X is raised approximately 3m above existing ground level. Accordingly, the basement level B1 has been considered a storey for the purposes of this assessment.

HISTORY

- On the 17 June 2004, development consent no. 03/DA-1046 was granted for a mixed residential/retail/commercial development comprising seven (7) buildings and basement parking including demolition of the existing factory building and remediation of site at 95 Forest Road, Hurstville. The development consent was for the entire site known as "East Quarter" and incorporated Stages 1, 2 and 3. The development consent has been modified on sixteen occasions. The most recent modification to the development consent (2003/DA-1046REV16) approved the relocation of 76 car spaces from Stage 3 to Stage 2.

The modified consent requires the overall provision of 237 on site car spaces for Stage 3 within Stage 2.

- On the 8 November 2011 the Joint Regional Planning Panel granted a deferred commencement development consent for development application no 11/DA-21 to remediate the site and construct a mixed retail/commercial/residential development comprising three (3) buildings containing basement car parking area, ground floor retail, first floor commercial, and two hundred and fifty eight (258) residential units (known as Stage 2) at 93 Forest Road, Hurstville. The deferred commencement consent was activated on 12 January 2012. This development consent replaces Stage 2 of development consent 03/DA-1046.

This development consent has been modified on six (6) occasions (the most recent being MOD2013/0004). The approved Stage 2 development now provides 303 residential units, retail and commercial floor space as well as basement car parking for both Stages 2 and 3. The most recent modification also relocated 76 visitor spaces from Stage 2 to Stage 3 on grade parking.

A summary table of the development statistics to date is provided below:

Stage	Building	03/DA-1046	11/DA-21	Proposed under DA2013/0385
1	C	7 storeys	Height unchanged	Height unchanged
	D	12 storeys	Height unchanged	Height unchanged
2	A	10 storeys	13 storeys	Height unchanged
	B	10 storeys	11 storeys	Height unchanged
	E	16 storeys	19 storeys	Height unchanged
3	F	12 storeys	Height unchanged	19 storeys (including raised basement parking level B1)
	X	5 – 8 storeys	Height unchanged	8 storeys (including raised basement parking level B1)
Total FSR		2.63:1	2.77:1	3.19:1
Total Residential Units		629	748	873
Total Commercial		7,960sqm	593sqm	Unchanged
Total Retail		2,139sqm	2,678sqm	6,422sqm

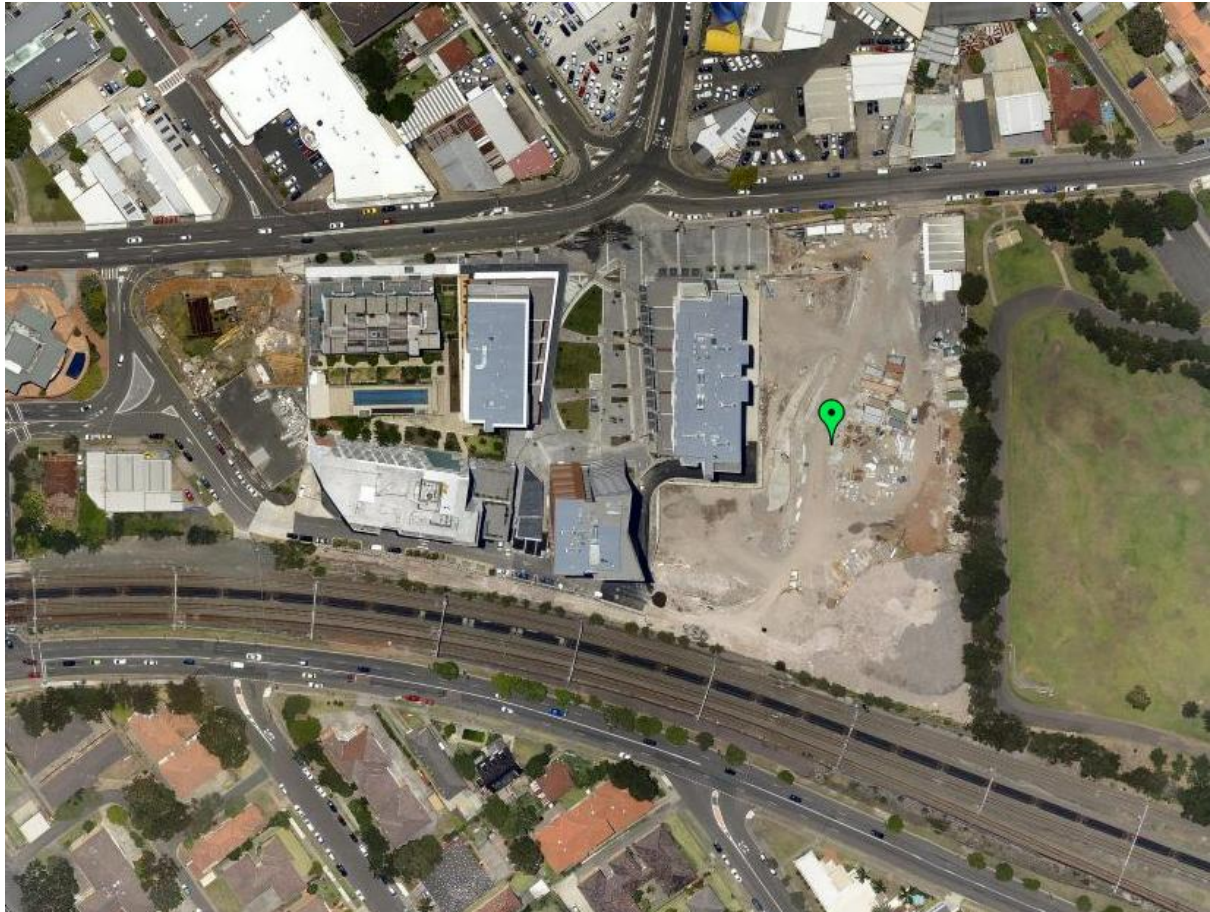
DESCRIPTION OF THE SITE AND LOCALITY

The subject site is legally identified as Lot 10 in DP 270611 and is commonly known as 93 Forest Road, Hurstville. The site is located on the southern side of Durham Street at its intersection with Forest Road.

The site of the East Quarter development has a total area of 2.844ha, however Stages 1 and 2 have now been completed and subdivision has taken place. The lot associated with Stage 3 has a frontage of approximately 75m to Durham Street and a site area of 13,360sqm.

The northern boundary of the site adjoins Durham Street and the southern boundary adjoins the Illawarra Railway Line. Opposite the site on the northern side of Durham Street are a number of commercial uses accommodated in one and two storey buildings. Adjoining the site to the east is Kempt Field, an area of public open space which is managed by Hurstville Council. The western boundary of Stage 3 will adjoin the now completed buildings within Stage 2 which comprise Buildings A and E which are 13 and 19 storeys respectively.

To the west of the East Quarter site is a property containing a single storey building which was previously used as a pub that is now vacant, but with approval for the construction of a 13 storey, mixed use development. Beyond Kempt Field and approximately 500 metres to the east of the site are single dwelling houses and on the southern side of the Illawarra Railway Line is mixed development comprising single dwellings and older style residential flat buildings.



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 under the provisions of the Hurstville Local Environmental Plan (LEP) 1994.

The construction of a mixed use development comprising retail and residential development is permissible in the 3(b) – City Centre Business zone with the consent of Council.

The objectives of the zone are as follows:

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

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

The proposal is considered to be inconsistent with objective (d)(i) and (vi) of the 3(b) – City Centre Business Zone for the following reasons.

- The Hurstville Town Centre Development Control Plan No.2 (DCP 2) has been developed in accordance with the objectives above. The DCP sets site specific development controls for a floor space ratio of 2.5:1. The proposed construction of Buildings F and X has a floor space ratio of 3.24:1 and brings the overall floor space ratio for the entire East Quarter site up to 3.19:1. In this regard, the development does not facilitate the implementation of DCP 2.
- In addition to the above, DCP 2 also provides a maximum building height control of 23m for Building X and 40m for Building F. The development proposes heights of 30m for Building X and 60.9m for Building F. In this regard, the proposal far exceeds the anticipated built form and scale of development in this location and is not considered to maintain or improve the environmental and aesthetic quality of the Hurstville Town Centre and its surrounds.

As provided later in this report, the application has also been considered by the Design Review Panel who have raised significant concerns with the overall scale of the development and the design of both buildings and also the surrounding open space. The comments of the Design Review Panel reinforce that the development would compromise the environmental and aesthetic quality of the town centre.

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

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 easily provided to the proposed development. Council’s Manager – Development Advice has raised no objections 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, particular regard is to be given to any potential impacts to existing drainage patterns and soil stability in the locality as result of excavation and/or filling of the site. The proposal includes excavation for up to four levels of basement. The applicant has submitted a geotechnical report prepared by Golder Associates dated 19 November 2003 which makes recommendations in relation to excavation works across the site. Should the application be approved, appropriate conditions relating to soil stability and stabilisation of adjoining buildings can be imposed which will satisfy this requirement of the HLEP 1994.

Notwithstanding the above, it is noted that the proposed basement levels B1 are located between 1.5m – 3m above the existing ground level. The architectural plans provided with the development indicated the surrounding ground level of the external areas will generally meet the finished floor level of the retail uses. Therefore it is assumed that all the external areas within Stage 3 will be raised by way of fill. No specific detail is given to demonstrate how this will be achieved and to what level the site will be filled. Insufficient information is provided to allow a full assessment of the effect of the proposed works on the future use of the land.

In this regard, the proposed development does not satisfy the requirements of Clause 22 of HLEP 1994.

Clause 22B – Remediation of contaminated land

Where development is proposed on contaminated land, Clause 22B requires that the consent authority must be satisfied that if the land requires remediation to be made suitable for the use, the required remediation is to be carried out before the land is used for this purpose.

As a result of the previous development approvals, the site is known to be significantly contaminated due to its prior use as a quarry and the landfill that was deposited on the site at the end of the quarrying operations. As discussed in detail later in this report under SEPP 55 – Remediation of Contaminated Land, insufficient information has been provided to demonstrate that the site is suitable for the proposed use, particularly in relation to the four basement levels in the south western corner of Stage 3.

In this regard, the proposed development does not satisfy the requirements of Clause 22B of HLEP 1994.

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 located in the vicinity of four heritage items. 140-142 and 144 Forest Road are identified as heritage items under HLEP 1994. 112 Forest Road is listed as a heritage item under HLEP 2012. The proposed development is located approximately 80m from the item at 112 Forest Road and 200m from the items at 140-142 and 144 Forest Road minimising the impact of the development on the heritage significance of these items. Further, Buildings A, B and C provide a visual buffer between the heritage listed properties and the proposed buildings.

A Heritage Impact Statement was considered in the assessment of Stage 2 and it was concluded that the character and appearance of the heritage items would not be affected. As this application for Stage 3 is further removed from the heritage listed sites it is considered that there will be no additional negative impacts on the significance of these items and accordingly, no additional Heritage Impact Statement is required in this instance.

The proposal is found to be consistent with Clause 33 of HLEP 1994.

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

A BASIX certificate has been submitted with the application (see Certificate No. 494642M dated Wednesday 31 July 2013).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Building F – 40 Building X – 40
Thermal Comfort	Pass	Building F – Pass Building X – Pass
Energy	20	Building F – 24 Building X – 24

If approved, a condition is recommended requiring compliance with the commitments indicated in the BASIX Certificate.

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that a consent authority must not consent to the carrying out of any development on land unless;

- (a) It has considered whether the land is contaminated, and*
- (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and*
- (c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for the purpose.*

Evidence of significant contamination has been found across the site as demonstrated in the various reports submitted with the previous applications for the property. It is known that the eastern portion of the site under Stage 3 is of particular risk due to its previous use as a quarry and the associated landfill that was used on the completion of quarrying works.

To support the application, a letter prepared by JBS&G (environmental consultants) dated 24 September 2013 has been submitted. The consultants have undertaken a review of the remedial action plan (RAP) and its addendum and provided the following:

'As documented in the Golder (2004) remedial action plan (RAP) and the Aargus (2012) RAP addendum, prepared following detailed consideration of the development plans, the overall Stage 3 remediation strategy comprises:

- Retention insitu of the landfilled material within the Stage 3 footprint a low permeability clay cap keyed in at the margins of the landfill area beneath the natural, low permeability clay and shale geology;*
- Installation of landfill gas drainage measures overlying the clay cap such that any landfill gas that may migrate from the landfilled material can be vented to the atmosphere and not accumulate beneath or within the constructed buildings;*
- Construction of a combined basement level underlying the proposed Stage 3 buildings at a minimum finished floor level of 56m RL such that the above measures can be installed without excavation of the underlying landfilled material; and*
- Given the retention of the landfilled material and construction of the landfill gas mitigation measures, it is anticipated that an ongoing environmental management plan (EMP) would require implementation at the completion of the remediation works.'*

The same letter prepared by JBS&G also refers to the site audit review by Dr Ian Swane of S&N and provides a summary as follows:

'The site audit review completed by Dr Ian Swane of S&N reviewed the available information with respect to the assessment of site contamination and prepared a Section B Site Audit Statement (SAS Ref: 201B, dated 26 October 2012) for the site and the existing SAS states that in the opinion of the auditor the site can be made

suitable for the proposed high density residential and commercial uses if the site is remediated in accordance with the Aargus (2012) RAP. The SAS includes other conditions that require to be addressed prior to the commencement of construction works.'

JBS&G conclude that:

'The available information provided in the existing remedial strategy documents and supporting site audit documentation are considered suitable to address the requirements for consideration of site contamination at the development application stage.'

The Addendum to the Remedial Action Plan dated February 2012 and prepared by Aargus Australia was also submitted with the application. A review of the Site Audit Statement referred to above has also been undertaken as it was located in Councils records.

It is noted that all documentation associated with the contaminated land within Stage 3 limits the finished floor level of the basement to RL 56.25m AHD. For example, the Site Audit Statement prepared by Dr Ian Swane of S&N, dated 26 October 2012 indicates that the site can be made suitable for the proposed development subject to compliance with the following conditions:

'4. Unless otherwise approved by the Site Auditor, all buildings in the Stage 3 area are to be restricted to a single basement with a basement level not below RL +56.25m AHD, which is the current level proposed for Building X...'

The single level basement located under Building X and part of Building F is consistent with this requirement.

However, it is noted that part of the basement under Building F within Stage 3 is to be excavated to accommodate four levels of basement to a finished floor level of RL 47.25m (9 metres below the minimum recommended above). The information provided is therefore ambiguous as it provides conflicting advice in relation to possible excavation as it relates to the remediation of the land.

In this regard, additional information and clarification is required before Council can be certain that the site is suitable for the development. Accordingly, the application fails to meet the requirements of SEPP 55.

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

SEPP 65 applies to new residential flat buildings, substantial redevelopment/ refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

'Residential flat building means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.'*

As previously outlined, the proposed development is for the construction of two mixed retail and residential buildings measuring 19 and 8 storeys in height for the provision of 402 residential units and associated basement car parking.

As per the definition of a 'Residential Flat Building' and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

Clause 50(1A) of the EPA Regulations 2000 requires the submission of a Design Verification Certificate from a qualified designer at lodgement of the development application. A Design Verification Certificate has been provided for Building X which identifies Rudi Valia (registration No, 6582) of DEM as the architect. For Building F however, although a SEPP 65 compliance statement has been submitted by the architectural firm responsible for the building, a Design Verification Certificate in which the qualified designer verifies that he or she designed, or directed the design, of the buildings has not been provided. Consequently, the development has failed to satisfy the requirements of Clause 50(1A) of the EPA Regulations 2000.

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9 - 18 and Council is also required to consider the matters contained in the publication "Residential Flat Design Code".

Accordingly the application was referred to the Design Review Panel who provided the following comments:

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Design Review Panel Comment:

The panel recognizes that the addition of the two buildings will complete the development of the site generally in accordance with the Masterplan. The associated

ground level streets and servicing access are crucial to the satisfactory resolution of the site. These should enhance, not detract from adjoining public areas such as Durham Street and Kempt Field. The scale of this development means that these servicing spaces will effectively act as new streets, laneways and public spaces and the design needs to be revised to produce attractive public spaces, with generous footpaths, street tree planting, seating and lighting.

The substantial area occupied by on-grade car parking detracts from the quality of the public domain. With the exception of a few spaces designated for short-term parking, vehicles should be located within basement level car parks and replaced with functional open space, tree planting, seating etc.

The panel notes this servicing area will also potentially provide a new gateway to Kempt Field and this new pedestrian link requires an appropriate design solution. It is also important that the new buildings are not excessively dominant in relation to the public park and it is also important that any change to the levels in the development site must be adequately resolved along the park edge.

The visual impact and overshadowing impacts to residential areas to the south of the railway are also critical considerations.

The panel is satisfied with the response of Building X to context within the scope of the approved staged DA except at the ground plane. The interface between the proposed retail entrance space and the retail in building A is minimal due to fire separation on the Western side. More effort is required to produce visual and active linkages between the retail areas and for the NS entrance area to be more activated and not finish in a blank Southern wall.

The panel does not support the proposed Building F as it relates to the context. Refer to detailed issues below.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Design Review Panel Comment:

Whilst the scale of Building X is generally satisfactory, Building F is unacceptable.

The approved 12 storey building was already problematic due to the shear wall effect, and the addition of an additional 6 levels will exacerbate this adverse impact – as demonstrated by the views in plan DA017.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Design Review Panel Comment:

The applicant explained the reason for the additional height below ground level is due to remediation issues and requirements to increase floor to floor heights under the BCA to 2.6m; and in addition the need to increase floor to floor heights in the residential floors by an additional 150mm per floor results in a total overall increase of 4.4m for the approved 12 floor proposal.

This could well be justified subject to detailed documentation which should be provided to Council. However this does raise concern about the interface between the floor level of the new development and Kempt Field which has not been demonstrated in the material provided to the panel.

In relation to Building X, the additional height is possibly acceptable however it is understood that the density has been increased due to retail/commercial space which has not been justified.

In relation to Building F, as well as the below ground increase, it is proposed that there would be an additional approx 16.5m with 6 additional residential levels. This is not acceptable as there has been no justification demonstrated for any increase which would result in potential negative impacts including:

- Compromising the landmark presence of Building E on the axis of Forest Road.
- Additional overshadowing particularly over the park, public domain and residential development on the south side of Railway Parade.
- Potential increase in wind and impacting on the amenity of public spaces.
- Increased demand for parking onsite reducing the potential for deep soil planting.
- Strong adverse visual impact particularly when seen from the South (see illustrations at p38 of the Urban Design Report).
- Creating an even more dominant built form as seen from Kempt Field.

Given its length, the approved 12 storey building would already be a very dominant structure.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Design Review Panel Comment:

The Stage 3 application proposes a very substantial increase above the original density of 2.5:1 for the full site, and above the recently approved increase to 2.7:1 of the whole site.

The application as proposed would increase the density over the entire site to 3.19:1.

There is no justification for such an increase and no substantive arguments were provided at the Review Meeting. No additional public benefits are offered. The increased density further compromises the site (in relation to a number of issues such as overshadowing, visual bulk and amenity).

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Design Review Panel Comment:

It should be expected, given the scale of this development application, that there would be major initiatives in relation to environmentally sustainable design over and above BASIX requirements as described on p45 of the SEE.

This should include consideration of:

- WSUD elements in streetscape and the public domain,
- Energy generation,
- Improved passive solar designs for apartments,
- Higher proportion apartments with natural ventilation,
- Deep soil provisions,
- Water harvesting and recycling.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Design Review Panel Comment:

- The streetscape and ground level offers very little amenity and has the appearance and character of an on-grade carpark. Given the scale of these spaces, access lanes should be treated as share-zones with high quality paving, street tree planting, lighting, seating, etc. Details are to be provided.
- Odd configurations, particularly related to angled on grade parking; creates awkwardly shaped footpaths that do not promote easy access between buildings and across the site.
- The proposed modification to the basement level carpark (as sighted above), creates a significant level change adjacent to Kempt Field. There is very limited information in the drawing package showing the resolution of this level change. This landscape interface should be expanded to provide appropriately scaled space for access stairs, ramps, and landscape embankments. Retaining wall heights should be carefully resolved along this interface to reduce the need for additional fencing and balustrading.
- There is no provision of deep soil on this site. This is not in accordance with the RFDC and should be provided. Given the scale of this site and the development, to not provide any consolidated deep soil and planting zones is unacceptable.
- Streetscape materials need high quality materials.
- Substation location adjacent to the park visually detracts from this space and should be relocated to a more appropriate visually unobtrusive area.
- The landscape plan submitted has no species list, no information on tree size, no sections, no existing conditions and this information needs to be provided.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Design Review Panel Comment:

Building X:

- The retail configuration in Building X is fragmented, requiring shoppers to travel outside to go from some retail outlets to others. This requires further resolution to achieve a properly integrated retail facility.
- Due to single lifts servicing each building core there should be an interconnection at mid and/or top levels to ensure alternative access when an elevator is out of service.
- Communal space on rooftop should work very effectively, there should also be a small covered/enclosed space to improve their amenity.

Building F:

- The provision of carparking on the north facing street frontage on the northern side of the ground level, creates an inactive street edge and detracts from this primary connection point to the park and to the public square to the west. The ground level parking within the building should be deleted.
- The Panel suggests the compliance of the fire distances within the basement should be verified.
- A detailed schedule of storage allocated to apartments should be provided showing the basement storage arrangement and numbers and storage provision within each apartment.
- Although amenity in relation to solar access and ventilation does satisfy RFDC recommendations, overall amenity is not of a particularly good standard. An additional 6 floors providing only this level of amenity is not recommended.
- The proposed south facing communal open spaces at level 18 are in shade and there is very little information of the design, facilities and amenity of these spaces which cannot be supported in the form indicated.
- Some apartments have very modestly scaled balconies, whilst others have enormous balcony spaces and this should be modified to create a more equitable provision for all apartments. Further details should be provided in relation to these spaces.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Design Review Panel Comment:

Building F:

The location of the lobbies at the back of the building concealed from adjoining developments and public spaces, coupled with the lack of active uses on ground floor would create potentially insecure entrances. This south side of the building would inevitably be windy and unwelcoming, and it appears that no cover for pedestrians is provided.

- With replanning of the ground level as suggested above, lobbies could be readily located on the northern frontage.

Building X:

- Satisfactory.

Principle 9: Social dimensions and housing affordability

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

Design Review Panel Comment:

See comments above re: communal spaces in both buildings.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Design Review Panel Comment:

Building F:

- The Panel is of the opinion that the façade treatments do not alleviate the aesthetic impacts of such a large, bulky wall of building.

Public Domain:

- The public domain appears to have been treated as residual space with little relationship to the built form massing and scale or views and outlook.
- The aesthetic quality of the proposed ground level lanes and access ways is poor and needs further design.

Building X:

- Satisfactory.

Design Review Panel Recommendation:

The Panel cannot support the application in its current form for the reasons outlined above.

In addition to the assessment undertaken by the Design Review Panel, an assessment of the application has been undertaken against the rules of thumb contained within the Residential Flat Design Code (RFDC). The following table outlines compliance with the RFDC, where applicable:

Clause	Standard	Proposal	Complies
Building Height	Ensure future development responds to desired future scale and character of street and local area	<p>The proposed development does not respond to the desired future scale and character of the street and local area under the current controls. The overall building significantly exceeds the floor space ratio applicable to the site and Building F, at 60.9m, exceeds the applicable height limit by approximately 20m. Although it is noted that Building E (to the west) has an overall height of 65.15m, Building F is far more dominant due to the size and scale of the building. Further, the excessive height of Building F relates poorly to the adjoining private open space at Kempt Field and will appear visually dominant from Railway Parade to the south.</p> <p>The development as proposed fails to appropriately respond to its context.</p>	No
Building Depth	Maximum 18m (glass line to glass line). Wider buildings must demonstrate how satisfactory daylight and natural ventilation are achieved	<p>Building F = 18.2m – 19.95m Building X = 14.5m – 23.5m</p>	No
Building	<u>For buildings up to four</u>	Between F & E = 17.8m at all	No, but

Clause	Standard	Proposal	Complies
Separation	<u>storeys/12m:</u> -12m between habitable rooms/balconies; -9.0m between habitable/balconies and non-habitable rooms; -6.0m between non-habitable rooms. <u>5 to 8 storeys/25m:</u> -18m between habitable rooms/balconies to habitable rooms/balconies -13m between habitable rooms/balconies to non-habitable rooms -9m between non habitable rooms to non habitable rooms <u>9 storeys and above</u> -24m between habitable rooms/balconies to habitable rooms/balconies -18m between habitable rooms/balconies to non-habitable rooms -12m between non habitable rooms to non habitable rooms	levels Between F & X = 24.6 – 36.8m Between X & A = 12.335m – 12.635m (levels 1, 2, 3 and 5), 16.635m (level 6) 43.5m (level 7) Internal Building X = 14m (levels 1, 2, 3 & 5), 36m (level 6) Although the development does not strictly meet the building separation requirements specified in the code, windows and balconies between the buildings have been offset to minimise amenity impacts. Sufficient solar access and privacy is still maintained. The separation is therefore acceptable.	acceptable
Street setbacks	Use different setback controls to differentiate between urban and suburban character areas. 5m -9m range is typical in suburban areas	The proposed street setbacks are consistent with the envisaged character for the edge of the Hurstville Town Centre.	Yes
Side and rear setbacks	Relate side setbacks to existing streetscape patterns.	The site setbacks are representative of the character envisaged for the location.	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.	The proposed development significantly exceeds the maximum floor space ratio of 2.5:1 for the site. While it is noted that the development approved to date already exceeds the FSR control with a total FSR of 2.77:1, the current proposal for Stage 3	No

Clause	Standard	Proposal	Complies
		pushes the overall FSR up to 3.19:1. Further, the FSR for Stage alone increases from 2.24:1 to 3.24:1. This departure from the control is excessive, and results in a development of such bulk and scale that it is inconsistent with the edge of the town centre location.	
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone	No significant deep soil zones are provided across the site. As per the comments of the Design Review Panel above this is not acceptable.	No
Fences and walls	Clearly delineate the public and private domain	Section 5.12 of the Urban Design Report prepared by Annand Associates Urban Design, dated 15 November 2013 indicates fences and walls are proposed along the boundaries of the site adjoining the railway line to the south and Kempt Field to the north. Fences and walls are also proposed within the vicinity of Building X. No elevations or detail has been provided to determine the treatment of such structures particularly as they relate to the public domain.	No
Landscape design	Landscape design should optimise useability, privacy, social opportunity, equitable access and respect neighbour's amenity.	See comments by the Design Review Panel above.	No
Open Space	Communal open space should be generally 25% of the site area.	Building F – 255sqm of communal open space is located on Level 18 of the building. This area of communal open space is south facing and generally not supported by the Design Review Panel as discussed	No

Clause	Standard	Proposal	Complies
	Min private open space for apartment at ground level/podium is 25sqm. Min preferred dimension in one direction is 4 metres	<p>above. Building X – podium level communal open space is provided, as are two roof top terraces with access off level 6. Ground level communal space – extensive areas of communal open space are provided at ground level including landscaped areas in front Building X adjacent to the street frontage and also in front of Building F. Whilst these areas are provided across the site, they offer limited functionality for recreational use.</p> <p>Building F - where the units at first floor level have access to the podium, balconies of 86sqm and 158sqm are provided. Building X – the open space above the podium in Building X has been dedicated as communal open space rather than allocated to each individual unit. Each unit at this level will still achieve private open space more akin to a balcony in size. The use of the area as a communal open space in this instance is considered an acceptable design outcome.</p>	Yes
Orientation	Position and orientate buildings to maximise solar access	Satisfactory	Yes
Planting on structures	Design for optimum conditions for plant growth	Insufficient information provided. See discussion by the Design Review Panel above.	No
Stormwater Management	Reduce the volume impact of stormwater on infrastructure by retaining it	Satisfactory	Yes

Clause	Standard	Proposal	Complies
	on site.		
Safety	Undertake a formal crime prevention assessment of the development	See comments provided by the Design Review Panel above. The location of the lobbies and pedestrian entrances at the rear of building F are of particular concern in relation to safety and security as they are concealed from the primary pedestrian areas of the site. Building X is satisfactory. A formal crime prevention assessment has not been provided with the development application. However an assessment is undertaken later in this report under Hurstville Development Control Plan No.2.	No
Visual privacy	Provide reasonable levels of visual privacy.	Satisfactory	Yes
Building Entry	Create entrance which provides a desirable residential identity for development	The entrances to Building F are located on the south side of the building opposite the Illawarra railway line. They are particularly poor from a pedestrian perspective in that they do not visually connect to the primary pedestrian areas within the site. It is considered that at the very least, the pedestrian entrances to Building F should be located on the northern side of the façade adjacent to the wedge park and at grade parking area. Building X is well designed with defined entrances on all frontages.	No
Parking	Provide adequate car parking for the building and integrate parking with the design of the building	The at grade car parking dominates the site and limits opportunities for the provision of landscaping. See comments by the Design	No

[illegible]

Clause	Standard	Proposal	Complies
	-Width of cross-over apartments more than 15 metres deep should be a minimum of 4 metres	Building X Single aspect unit depth – maximum 9m but generally 8m and considered acceptable. Kitchens – maximum 8m Crossover units - > 4m wide	
Apartment Mix	To provide a diversity of apartment types, which cater for different household requirements now and in the future	Satisfactory	Yes
Balconies	Primary balconies to be a minimum of 2 metres in depth	Building F – a number of units within Building F have primary balconies with a partial width of 1.6m. This significantly limits the functionality of the private open space and is not considered satisfactory. Building X – satisfactory	No
Ceiling Heights	Residential buildings/floors - minimum 3.3m for ground and first floor - minimum 2.7m for habitable rooms for all other residential floors - minimum 2.25m for non habitable rooms	Building F Ground floor retail – 4m All residential floors - 2.7m Building X Ground floor retail – 4m All residential floors - 2.7m Both buildings technically do not comply with the requirements of the RFDC as the floor to ceiling height of the first floor level is only 2.7m rather than 3.3m due to its residential use. Even so this is considered acceptable.	No, but acceptable
Flexibility	Provide apartment layouts which can accommodate the changing use of rooms	Satisfactory	Yes
Ground floor apartments	Optimise the number of ground floor apartments with separate entries. Ensure ground floor apartments have access to	N/A high rise development	N/A

[illegible]

Clause	Standard	Proposal	Complies
	-Max 10% units southerly aspect	Building F – 21% (60 units) are south facing Building X – 17% (20 units) are south facing	No
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>The Solar Access and Natural Ventilation report prepared by Steve King and dated 15 November 2013 provides the following:</p> <p>Building F 33.5% (95 units) are cross ventilated 28.5% (81 units) above level 10 which are considered to receive adequate ventilation Total – 62%</p> <p>Building X 71.2% (84 units) are cross ventilated Total – 62%</p> <p>Building F – 10% (30 units) Building X – 8% (10 units) Note: The Statement of Compliance provided for Building X indicates that 25% of kitchens are naturally ventilated as they are up against the external wall of the buildings. It is noted that this calculation includes kitchens with windows that open to the common corridors of the building. These are not considered to be adequately ventilated and pose a potential amenity issue in terms of odours and noise.</p>	<p>Yes</p> <p>No</p>
Facades	Facades must define and enhance the public domain and desired street character	<p>The façade to Building X is acceptable.</p> <p>The façade to Building F, particularly the northern elevation at ground floor level relates poorly to the wedge park and semi-public domain.</p> <p>The façade comprises a blank wall at ground floor level which extends for a length of</p>	No

Clause	Standard	Proposal	Complies
		approximately 46m in order to screen the car park. The façade fails to provide any form of activation and results in a disconnect between the building and the wedge park.	
Roof design	Provide quality roof designs which contribute to the overall design	Satisfactory	Yes
Energy efficiency	Reduce reliance on artificial heating and cooling	See the Design Review Panel comments above.	No
Waste Management	Supply waste management plans as part of the development application	Council's Manager of Environmental Services has reviewed the application and identified that waste storage areas for the development are of an insufficient size to meet the needs of the development.	No
Water conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Satisfactory	Yes

As is demonstrated by the comments provided by the Design Review Panel and also an assessment of the RFDC, the development does not adequately address the minimum requirements of SEPP 65. Where the application varies from the rules of thumb, insufficient justification has been provided to demonstrate why the proposal should be considered acceptable.

It is considered a number of the above issues arise as a result of the proposal being an overdevelopment of the site which compromises the amenity of the dwellings and the overall site layout.

The development is found to be inconsistent with SEPP 65 and therefore cannot be supported.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation; or*
- *Within 5m of an exposed overhead electricity power line.*

The application was referred to Ausgrid under clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.

At the time of writing, no comments have been received and it is therefore assumed that no objections are raised.

Clause 85 and 86

Pursuant to Clauses 85 and 86 of SEPP Infrastructure, the application was referred to RailCorp as the development is immediately adjacent to the rail corridor. RailCorp have provided their concurrence subject to a deferred commencement condition requiring the submission of structural detail and a further 18 consent conditions.

Clause 104

Pursuant to Clause 104(1) (a) the clause applies to new premises of the relevant size or capacity. (2) In this clause, "relevant size or capacity" means:

'in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3'

Clause 104 'Traffic generating development' of the SEPP requires the application be referred to the RMS within 7 days, and take into consideration any comments made within 21 days, if the development is specified in Schedule 3 of the SEPP.

Schedule 3 of the SEPP requires that the following residential flat developments are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity
	Site with access to any road
Apartment of residential flat building	300 or more dwellings

The development consists of 402 new dwellings.

The application was referred to the RMS for comment as traffic generating development under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007. The RMS responded on the 19 December 2013 with the following comments:

1. *RMS has previously dedicated a strip of land as road along the Forest Road frontage of the subject property, as shown by grey colour on the attached aerial.*

However, there are no objections to the development proposal on property grounds provided any new buildings or substantial structures are erected clear of the Forest Road, road reserve (unlimited in height or depth).

2. *The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.*
3. *The number of off-street parking spaces should be provided to Council's satisfaction.*
4. *Any changes to on-street parking should be referred to Council's Local Traffic Committee for consideration.*
5. *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) should be in accordance with AS 2890.1- 2004, AS 2890.2 – 2002 for heavy vehicle usage and AS2890.6:2009 for people with disabilities.*
6. *A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.*
7. *All works / regulatory signposting associated with the proposed development shall be at no cost to RMS.*

The application and the RMS comments have also been reviewed by Council's Traffic Engineer whose comments are provided later in this report. However, in response to the comments provided by the RMS Council notes the following:

- Should development consent be granted, comment No's 1, 2, 5 and 7 can be included as conditions.
- In relation to comment No.3, an assessment of parking provision is provided later in this report.
- In response to comment No.4, no changes to on-street parking are proposed and therefore referral to Council's Local Traffic Committee is not required.
- A Construction Traffic Management Plan prepared by GTA Consultants, dated 14 November 2013 has been submitted with the application that satisfactorily addresses the requirements of comment No.6.

2. Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Competition) 2010

The aims of this policy are to:

- a) Promote economic growth and competition, and
- b) Remove anti-competitive barriers in environmental planning and assessment.

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

Draft Hurstville (City Centre) Local Environmental Plan 2013

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 required the completion of a Transport Management and Accessibility Plan (TMAP) which was endorsed by Council on 12 June 2013.

The Draft Hurstville (City Centre) LEP 2012 was amended following the recommendations of the TMAP.

Council at its meeting on 10 December 2013 resolved to endorse Draft Hurstville (City Centre) LEP 2014 for public exhibition.

As Draft Hurstville (City Centre) LEP 2013 has been superseded by Draft Hurstville (City Centre) LEP 2013 but not yet publicly exhibited, neither document is considered "imminent and certain" and for these reasons the existing planning controls take precedence when giving consideration to this proposal.

A summary of the controls are provided below:

	Zone / Use	Maximum height	Maximum FSR
Hurstville LEP 1994	Zone 3 (b) – City Centre Business	-	-
Draft Hurstville LEP 2012	Zone B4 – Mixed Use	Building F – 40m Building X – 23m	2.5:1
Draft Hurstville LEP 2014	Zone B4 – Mixed Use	Building F – 40m Building X – 23m	2.5:1
Current Development Application	Mixed Use	Building F – 60.9m Building X – 30m	3.19:1

The controls contained within Draft Hurstville Local Environmental Plan 2014 are consistent with the current controls contained within the Hurstville Development Control Plan No. 2 – Hurstville City Centre. An assessment of the proposal against these controls is provided later in this report.

Any other matters prescribed by the Regulations

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

Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. As mentioned earlier in this report, a Design Verification Certificate has been provided for Building X which identifies Rudi Valia (registration No, 6582) of DEM as the architect. However, for Building F, although a SEPP 65 compliance statement has been submitted by the architectural firm responsible for the building, a Design Verification Certificate in which the qualified designer verifies that he or she designed, or directed the design of the buildings has not been provided. Consequently, the development has failed to satisfy the requirements of Clause 50(1A) of the EPA Regulations 2000.

3. Development Control Plans

Hurstville Development Control Plan No.2 – Hurstville City Centre

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

Section 2.2 - Neighbour Notification and Advertising of Development Applications

The application was notified to 34 adjoining and adjacent owners and residents, and advertised for 14 days. It is noted that the residents of Stage 2 were not notified of the Development Application as the sale of the units had not been completed and owner details were not available to Council. Five submissions and a petition with 45

signatures were received in reply. The submissions are discussed in a separate section later in this report.

Section 4.2 - The Controls

Block 27 Site B	Proposed	Compliance
Use As per LEP	Mixed use development comprising retail and residential accommodation	Yes
Height Building F – 40m Building X – 23m	Building F – 60.9m Building X – 30m	No (1)
FSR 2.5:1	FSR for stage 3 = 3.24:1 Overall FSR for all stages = 3.19:1 Note: The above calculation does not include additional gross floor area generated by excess parking. The additional parking provided within the basement levels equates to an additional 858sqm of gross floor area and an increase of 0.06:1 FSR for Stage 3. The additional floor area results in minimal additional visual bulk. This has not been included in this FSR assessment for the reasons provided under car parking later in this report.	No (1)
Balconies Minimum 8sqm with 2m minimum width to rear of site.	All units are provided with balconies of 8sqm or more, however a number of units within Building F do not meet the minimum width of 2m for the entire balcony.	No (2)
French balconies to Forest Road	Standard balconies have been provided to the street frontage of Building X which adjoins Durham Street.	No
Vehicle Access Forest Road	Vehicular access is proposed from Forest Road via Hill Street and a one way network will result in the exiting of vehicles onto Durham Street.	Yes

(1) Height and Floor Space Ratio

The original consent for Stage 3 of East Quarter was granted under DA2003/1046 in June 2004. It is noted that at the time the site benefited from existing use rights and only draft DCP controls were in place relating to height and FSR. The draft controls allowed for buildings ranging in height from 4-8 storeys and specified an FSR of 1.5:1.

This application is subject to the controls contained within Hurstville Development Control Plan No.2 - Hurstville City Centre which were designed to reflect the original consent.

A comparison of height and FSR between the current Development Application and the original consent is provided below:

	DA2003/1046	DA2013/0385
Height	Building X – 5-8 storeys Building F – 12 storeys	Building X – 8 storeys Building F – 19 storeys
Floor Space Ratio for Stage 3	2.24:1	3.24:1

Building X exceeds the height limit under DCP No.2 by 7m, a 30.5% variation. The additional height is primarily a result of increased floor to ceiling heights, the raising of the basement level to 3m above the existing ground level in order to accommodate capping of the contaminated area, and a reconfiguration of the building layout. Even though the variation is significant, the height of Building X relates appropriately to the surrounding development and is generally acceptable.

Conversely, the height of Building F exceeds the height limit by 20.9m. This equates to a variation of 52% of the overall height control. The additional height results in seven additional storeys above the previous approval (including the elevation of basement level B1).

The building is excessive in its overall bulk and scale. With a length averaging over 90m at ground level, 84m through the middle levels and 74m at the top two levels, combined with a height of 60.9m, Building F will dominate the overall East Quarter development. Further, as a result of earthworks associated with the development and the existing level differences, the adjoining open space at Kempt Field to the east has a ground level of 4m below the proposed ground level, therefore the building when viewed from the public open space will be visually overbearing.

The development as proposed does not respond to its context or its edge of centre location. Stage 3 forms the eastern most point of the Hurstville Town Centre and adjoins public open space to east, a light industrial/commercial area to the north with a height limit of 10m and residential buildings with a maximum height of 3 storeys to the south. The development makes no attempt to transition to the lower density zones around the site and does not reflect the desired future character of the area. In this regard, it is evident that the proposed height and density is excessive and imposing in this periphery city centre location.

Building F also results in additional, unnecessary impacts on the residential properties to the south, located on the opposite side of the railway line with a

frontage to Railway Parade. As demonstrated later in this report, these dwellings will experience a further reduction in solar access which is unjustified and unwarranted.

The overall increased height of the development increases the FSR to 3.24:1 for Stage 3, from 2.24:1 in the original approval. The increase equates to an additional 12,068.8sqm of floor space and a variation of 30% to the current FSR control. The overall FSR for the East Quarter site will increase from the approved 2.77:1 (11/DA-21) to 3.19:1, an increase of 0.42:1 or 15%.

Overall, there is no valid justification for the proposed increase in floor space ratio or building height to support such significant variations to the site specific development controls.

(2) Balconies

The proposed development has varied the control in that regular balconies have been provided to the front of the site adjoining Durham Street and Forest Road rather than French balconies. No objection is raised to this variation as it is considered to benefit the amenity of the units and the design of the development.

The point of contention is the depth of a number of balconies within Building F. Although the balconies meet the minimum 8sqm requirement, multiple balconies have a partial depth of only 1.6m severely limiting the overall functionality of their use for private open space. There is no reasonable justification as to why the balconies cannot meet the minimum 2m width requirement.

Block 27 Site B - Car Parking	Requirement	Complies
Residential car spaces: 1 car space/100sqm (39,819.4sqm)	399 car spaces	Complies 735 spaces provided (including 237 in the basement of Stage 2) See further discussion below.
(Residential visitor car spaces: 1 car space/4 dwellings (402 dwellings proposed)	101 car spaces	
	Total: 500 residential spaces	
Retail: 1 car space/27.5sqm (3514sqm)	128 car spaces	
At grade parking to be provided for Stage 2	76 spaces for visitor parking	
Total car spaces for development:	704 spaces	
Car washing bay for residential component (can also be a visitor space)	1 car washing bay	Yes, subject to condition Not shown but can be

		provided in a visitors space
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Car parking

As provided above, the application is required to accommodate 76 parking spaces for visitor parking for Stage 2 as required for previous approvals on the site. This has been accommodated at ground level.

Although the proposal meets the requirements of DCP 2, the applicant has requested that Council consider a reduction in the provision of residential visitor parking to a rate of 1 car space/6 dwellings. Therefore only 67 residential visitor parking spaces would be required resulting in a decrease of 34 spaces. Council's Traffic Engineer has reviewed the Traffic and Parking Impact Assessment prepared by GTA Consultants, dated 14 November 2013 and raises no objections to the variation. Accordingly, the overall requirement for parking is reduced to 670 spaces.

It is also noted that historically, residential parking for the East Quarter development has been provided at a higher rate of 1 space/1 or 2 bedroom unit and 2 spaces/3 bedroom unit which equates to an additional 74 parking spaces. Even with a reduction in visitor parking as discussed above, insufficient parking has been provided to meet the applicants preferred requirement. However, as the application satisfies the requirements of the DCP, this has no effect on the determination of this application.

It is noted in the definition of gross floor area additional parking above Council's requirements is to be included in the calculation. With 65 additional internal parking spaces, this would equate to 858sqm of gross floor area. This would increase the FSR for Stage 3 by 0.06:1. Historically, the additional gross floor area arising from the additional parking has not been included in the floor space ratio as the original approval was granted based on the higher parking rate described above. Given that parking for Stage 3 also relies on existing parking already completed within Stage 2, it would be unreasonable to include the additional area in the floor space ratio for this application.

The application is recommended for refusal, however should the Joint Regional Planning Panel be minded to approve the development it is requested that a condition be imposed requiring that at a minimum, parking is allocated as follows:

- Residential – minimum 399 spaces
- Residential visitors – minimum 67 spaces
- Retail – minimum 128 spaces
- Stage 2 allocation – 76 spaces

Subject to the above condition, the application is considered to meet the car parking requirements of DCP No.2.

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

The relevant design guidelines are addressed in the table below:

Design Guidelines	Proposed	Compliance
<p>5.1.1 – Street alignment: Buildings to be sited on street frontage except where setback.</p> <p>Buildings to provide pedestrian amenity in form of active street frontages, building entrances, and awnings</p> <p>Buildings set back from street are to address the street with major facades, entrances, low fences, substantial planting, etc.</p>	<p>The proposed buildings are setback from the street frontage consistent with the remainder of the East Quarter development.</p> <p>An active street frontage is proposed with the retail use in Building X. In Building F, whilst the retail does to some extent result in activation of the street frontage within the site, the expanse of wall that screens the carparking area and adjoins the wedge park at ground floor level results in poor pedestrian amenity.</p> <p>Building X satisfactorily addresses Durham Street in accordance with the requirements.</p> <p>Although Building F does not address a public road, it does address an internal link road which will provide access to retail uses and through the site to Kempt Field. In this regard, as discussed throughout this report, the blank design of the northern façade at ground floor level does not provide any element of visual interest at a pedestrian scale.</p>	<p>Yes</p> <p>No</p> <p>No</p>
<p>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 façade articulation Large expanses of curtain walling and blank walls are to be provided.</p>	<p>Building X - Variety of articulation and changes in texture and colour provided to satisfy requirements.</p> <p>Building F – Although Building F contains various articulation points, the overall length of the building combined with its excessive height results in an overbearing façade with minimal breaks and little visual interest. It is noted that a Schedule of Materials and Finishes has not been provided</p>	<p>No</p>

	for this building.	
<p>5.1.4 – Façade Composition Provide a balance of horizontal and vertical façade elements to relate to adjacent facades in the streetscape.</p> <p>Subdivide long facades with vertical windows and other façade elements to provide a balanced composition which contains vertical proportions.</p> <p>Avoid simple façade designs containing only horizontal or vertical elements.</p>	Generally acceptable, although it is noted that additional design elements could be introduced to the façade of Building F which due to its sheer length appears excessive in bulk and scale and lacks visual interest.	Yes
<p>5.1.5 – Balcony Design Provide a variety of balcony types</p> <p>Design balconies which are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness.</p> <p>Avoid all glass and all brick balconies.</p>	Generally acceptable.	Yes
<p>5.1.7 – Roof Design Lift over-runs and plant equipment should be concealed</p> <p>Penthouses are encouraged to create interesting skylines using setback upper floors</p>	<p>Lift over-runs and plant equipment are concealed</p> <p>No penthouses provided but upper levels of building are setback due to balcony location</p>	<p>Yes</p> <p>Yes</p>

Those guidelines that are included in other sections of this report have not been repeated here, such as parking, privacy, safety and security.

As is demonstrated by the table above, there are a number of issues relating to the design of the buildings. Refusal is recommended on this basis.

Section 6.1 - Car Parking

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

The proposed development was also referred to NSW Roads and Maritime Services (RMS) for comment. RMS has provided advisory conditions of consent to be included in any consent granted.

Council's Traffic Engineer has also provided the following comments:

'I've reviewed the applicants changes and from a Traffic Engineering perspective, there are no objections, due to the size and the scale of the

project the visitor parking can be discounted in agreement with the development section.

However I do have an objection to their Loading and unloading. Their Traffic Impact statement prepared by GTA mentions that their proposed loading dock facility would be shared between the residential and retail use. This is acceptable under the condition that the residential use is also for the purpose of loading and unloading in terms of for furniture removalists, deliver of goods to the residents etc, but not for parking.

The Traffic Impact Statement also mentioned that the manoeuvring area in front of the loading dock could accommodate an additional service if the loading bays are occupied. This is not acceptable and must not happen as this can disrupt the manoeuvrability of vehicles.

Other than the above, there are no objections to the proposed DA from a traffic perspective.

The traffic section would like to confirm and reiterate the same conditions as that placed by RMS in their document no D13/143502 Roads & Maritime Referral Response - 93 Forest Rd Hurstville.'

Comment: As the application is recommended for refusal, the issues raised by Council's Traffic Engineer have not been addressed by the applicant. Even so, it is considered that should the application be approved, conditions on the operations of the loading areas could be imposed to address the issues raised.

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 41 adaptable dwellings being required for the proposed development. The proposed development provided 42 adaptable dwellings consistent with the control.

Accessible car parking spaces

Accessible car spaces are to be provided as follows:

Rate	Required	Provided
Where more than 50 car spaces are required for residential developments, 2% of these spaces are to be accessible.	8 spaces required	Complies. 37 accessible spaces provided.
Where more than 50 car spaces are required for retail developments, 2% of these spaces are to be accessible.	3 spaces required	
Total required	11 spaces	

General Requirements

Access is available for all persons through the principal entrance of the residential buildings in accordance with AS1428.

Access to all retail floor space is required to be provided in accordance with AS1428:2 and AS1735. If consent is granted it is recommended that a condition be imposed to ensure compliance.

Section 6.4 - Crime Prevention through Environmental Design

An assessment of the application against the requirements of Development Control Plan No 2 - Crime Prevention through Environmental Design (CPTED) is provided below:

	Design requirements	Proposed	Compliance
Fencing	<ul style="list-style-type: none"> • Front fence maximum 1m, unless open type 	No fencing to the front boundary adjoining Durham Street 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 	<p>The southern elevation of Building F at ground floor level contains two recesses which appear to serve no specific purpose but create blind corners which may be a security risk.</p> <p>Building X has been designed to ensure blind corners are minimised.</p>	No
Communal/public areas	<ul style="list-style-type: none"> • Habitable rooms adjacent to public viewing areas • Good visibility to stairwells, entries, elevators 	<p>The buildings are well designed to ensure the habitable rooms on the upper floors face onto the street including internal roads.</p> <p>Even so, the inclusion of a blank façade at ground floor level on the northern side of Building F results in poor visibility of the adjoining wedge park. Further, the inclusion of parking at ground floor level and the location of the entrances on the south side of the building conceals the entrance doors of Building F from view. The design of the ground floor of Building F is considered unsatisfactory in this regard.</p>	No

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 	<p>The nature of the high density residential living requires that entrances serve more than 6-8 dwellings and this is considered acceptable.</p> <p>The entrances to Building X are easily identified and access is available to the residential floors from all lobby entrances.</p> <p>In comparison, the residential entrances to Building F are located on the southern side of the building. As a pedestrian entering the site, the entrances are not readily identifiable and provide no direct linkage to the semi public domain through the centre of the site. The entrances to Building F face the rail line and are located amongst the service rooms for the building. The locations of the entrances to Building F are unsatisfactory.</p>	No
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 	<p>All residential dwellings have habitable rooms located on the external walls of the building.</p> <p>Building X includes pedestrian entrances at all street frontages including frontages to internal roads.</p> <p>Building F fails to provide a clear entrance, which addresses the wedge park and link road and allows for passive surveillance of the entrances lobbys. While Building F does provide direct entrances off Jack Brabham Drive, given this is the rear road within the site and it is adjoining the Illawarra railway lane, it is not considered the appropriate location for the primary entrance into the building.</p>	No

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 	Insufficient detail in relation to landscaping has been submitted to determine compliance with this control.	No
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, subject to conditions
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, subject to conditions
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 	Insufficient information provided to demonstrate compliance.	No

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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As is demonstrated by the above table, the proposal does not satisfy the requirements of Section 6.4 – Crime Prevention Through Environmental Design of DCP No.2.

Section 6.5 - Energy Efficiency

A BASIX Certificate has been submitted with the application which meets the target scores. However, as indicated by the Design Review Panel in their comments provided earlier in this report, it is considered that a development of the size and scale proposed should go beyond the minimum provisions that meet BASIX requirements.

Section 6.5 requires solar access be maintained to the principal private open space of adjoining dwellings for a minimum of 3 hours mid winter. The most affected dwellings are located to the south of the site on the southern side of Illawarra Railway Line and Railway Parade.

The Shadow Impact Analysis submitted with the application provides the following comparison of impacts between the approved development and the current proposal on properties fronting Railway Parade.

Address	Sunlight Received as Approved (12 storeys)	Sunlight Received as Proposed (19 storeys)
508 Railway Parade	2 hours	2 hours
506 Railway Parade	2 hours	1 hour
504 Railway Parade	2.5 hours	1 hour
502 Railway Parade	5 hours	2.5 hours
1-3 Noble Street	3.5 hours	1.5 hours
5-7 Noble Street	4.5 hours	3 hours

As is demonstrated by the Shadow Analysis above, a number of the most affected dwellings to the south of the site will lose over 50% of their available sunlight access. The additional overshadowing caused by the addition of the non-compliant 20m in height to Building F is not justifiable and is not accepted.

The application results in poor amenity for adjoining properties and is not consistent with the objectives and controls of Section 6.5 Energy Efficiency and refusal is recommended on this basis.

Section 6.7 - Drainage and On-Site Detention Requirements

Council's Manager, Development Advice has assessed the application and raised no

concerns in relation to drainage subject to conditions of consent.

Section 6.9 – Waste Management

Council's Manager – Environmental Services has assessed the application and the submitted Waste Management Plans, but has advised that the waste storage areas provided within the proposal are of insufficient size to accommodate the required waste bins needed to serve the development.

Accordingly, the application is inconsistent with Section 6.9 of DCP No.2 and refusal is recommended on this basis.

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

The proposed site of Stage 3 has already been cleared and earthworks undertaken to resolve the contamination issues on the site. Consequently the proposal will not result in any loss of vegetation from the site.

The application does propose additional landscaping across the site, however insufficient detail has been provided to determine the extent of planting proposed.

Notwithstanding, the development is not considered to have a significant impact on the natural environment.

Built Environment

Landscaping

To address the contamination constraints across the site, the proposed basement levels have been raised up to 3m above the existing ground level. It appears from the plans provided that to ensure the basement levels do not dominate the ground floor area, the finished ground level of the external areas within Stage 3 are also to be significantly raised. Insufficient information has been given to demonstrate how these levels will be achieved and how the landscape design would be resolved. Further, insufficient information has been given to determine the impact of the significant level changes on the relationship between Kempt Field and the subject site.

The landscape plans also fail to provide detailed species lists and size of plants, a schedule of materials and finishes and the proposed finished levels which are essential in determining the acceptability of the development and its impacts on the built environment.

In the absence of information to provide otherwise, the development would be detrimental to the built environment.

Views

It is noted that the residents of Building E to the west of Building F benefit from expansive views of the surrounding area. The additional height to Building F will likely affect these views particularly those enjoyed of Botany Bay to the east.

A Visual Impact Assessment prepared by Dr. Richard Lamb, dated October 2013 was submitted with the application and includes a view impact assessment in accordance with the principles of view sharing established by the Land and Environment Court in *Tenacity Consulting Pty Ltd v Warringah Council*

The visual impact assessment has determined that view loss would primarily be a consideration for buildings within the subject site, given that the predominant surrounding land uses are residential buildings of only 1 – 3 storeys in height. With regards to the existing and approved buildings on the site, the applicant has stated that Buildings A, B, C, D and X would not be affected by the additional height of Building F. Building E however has been identified as being potentially affected.

The detailed view loss analysis was undertaken for levels 13 – 19 of Building E and concludes that views presently enjoyed by the south eastern corner unit located on these levels will be most affected. The report finds that views to the east will be partially lost, however significant lengths of the water/land interface towards Botany Bay would remain. Distant views towards Cronulla, Port Hacking and The Royal National Park would also remain unaffected.

As the affected view is currently enjoyed from the primary living areas of these dwellings, in isolation Dr Lamb considers the view impact to be severe. However, when considered in the context of the entire dwelling, the view loss is considered to be moderate and acceptable in the circumstances.

It is agreed that the view impact is best considered as moderate and that some views will be retained. However, Council disagrees that the view sharing impact is acceptable in this instance.

The fourth step in the assessment of view sharing is to consider the reasonableness of the proposal. Specifically the planning principle provides that:

*'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.'*

The view impacts that arise from this development occur solely as a result of the additional building height that exceeds the maximum DCP control of 40m by 20.9m.

Should the application comply with Council's height controls, the view loss would not occur. Accordingly, while Council generally agrees with the findings of the report in terms of the severity of the view loss, a moderate impact in this case is unreasonable and the application is recommended for refusal on this basis.

Schedule of Colours and Materials

A Schedule of Colours and Materials has not been submitted for Building F, therefore an assessment of the impacts on the Built Environment cannot be completed.

The Schedule of Finishes for Building X is considered acceptable subject to a condition requiring the glazing within the glass balustrading to have a translucent finish.

Social and Economic Impacts

The proposed development is not considered to result in any significant adverse social or economic impacts.

Suitability of the Site

The subject site is considered to be suitable for a mixed use development and has no apparent constraints which preclude it from being development for this purpose. Notwithstanding this, the proposed development is considered to be an overdevelopment of the site and not consistent with the intended scale of development anticipated by the relevant development control plan.

Public Interest

The planning controls contained within HLEP 1994 and the Hurstville DCP No.2 provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the desired future character envisaged for the locality.

The height and floor space ratio of the proposed development of Stage 3 significantly exceeds that provided by the controls with no reasonable justification for the variation.

Further, the additional height and FSR of the development results in additional impacts on the amenity of adjoining properties in terms of overshadowing and unreasonable view loss. The development also proposes multiple variations to a number of controls within SEPP 65 and DCP No.2 which result in poor amenity for future occupiers.

Finally, the proposed development is inconsistent with the existing built form in the area and fails to recognise the surrounding context. The relationship with the

adjoining public open space compromises the amenity of the area and the level changes provide a significant disconnect between the properties.

Given the above, the proposal is considered contrary to the public interest.

5. REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

Resident Submissions

Five submissions and a petition with 45 signatures were received in response to the notification of the proposal.

The submissions raise the following concerns:

1. Construction Management

The submitters have raised concerns with the potential disturbances caused by the construction of Stage 3, based on their experience with the construction of Stage 2. Specific issues raised relate to dust, noise, loss of on street parking, hours of construction. The submitters have proposed the following conditions/suggestions to address their concerns:

- a. Limit hours of construction to between 7am to 5pm Monday to Saturday with all entrances to the site closed outside these times to ensure that no workers or management are able to access the site after hours.
- b. Provide parking on site for all construction workers. One submitter has suggested that the tennis court on Roberts Lane be used for parking purposes.
- c. The use of the Durham Street for the work zone should not be allowed and instead parking restrictions of one hour should be imposed and enforced.

Comment: It is acknowledged that construction can result in temporary disturbances on surrounding properties. Should the application be approved, hours of construction will be restricted to between 7am and 5pm, Monday to Saturday. While it is noted that construction works can result in traffic impacts, there is no requirement for parking to be provided on site for the construction phase of the development. Further, the use of Durham Street is subject to a separate work zone application. Consequently, a reason for refusal on the basis of disturbance from construction cannot be sustained.

2. Traffic Impact Assessment

The request to reduce visitor parking provided on site should not be supported.

Comment: Council's Traffic Engineer has considered the proposed reduction in visitor parking and raises no objections to the variation.

3. Cleaning of Premises

The submitters have requested that the developer carry out weekly cleaning of the commercial premises across from the site and provide a living

allowance of up to \$700 a week during the construction period in order to compensate for the dust, noise and other nuisances which arise from construction.

Comment: This is a civil matter to be resolved between the relevant land owners. Such a condition cannot be legally imposed on a Development Consent.

4. Building Height

Concerns have been raised by occupants of Building E in Stage 2 that the proposed height of Building F is substantially higher than they were advised.

Comment: The application is recommended for refusal on the basis of excessive height.

Internal - Council Referrals

Manager, Development Advice

Council's Manager, Development Advice has raised no objection to the development subject to conditions of consent being attached to any consent granted.

Manager – Environmental Services

Council's Manager – Environmental Services has provided the following comments in relation to the application:

1. *'The location of the Waste Storage Areas for both Buildings F and X are on the ground floor areas of each building, and appear to be of an insufficient size to adequately house the required number of bins smaller than less the submitted Waste Management Plan did not adequately address.'*
2. *'An amended Waste Management Plan was submitted to address shortcomings in the design and provision of waste storage facilities. However it has only partly addressed the relevant issues, but it has no addressed the issue of waste storage areas or rooms not being large enough for the quantity of bins to be provided, as there has been no redesign of the building in these terms.'*

The application is recommended for refusal on this basis.

Traffic Engineer

The comments of Council's Traffic Engineer have been discussion under Clause 6.1 of DCP No.2 earlier in this report.

External Referrals

Roads and Maritime Services (RMS)

The application was referred to the RMS. Their response was discussed in detail earlier in this report.

Design Review Panel

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

Sydney Airport Corporation Limited

The Sydney Airport Corporation Limited have reviewed the application and raised no objections to the development subject to conditions relating to temporary construction activities and structures such as the use of cranes.

RailCorp

RailCorp has provided concurrence subject to the inclusion of a deferred commencement condition requiring the submission of structural details and a further 18 other conditions.

Ausgrid

Ausgrid have been notified of the proposed development however no comments have been received.

6. CONCLUSION

Development consent is sought for the construction of two residential flat buildings being 19 and 8 storeys high to accommodate 402 residential units and 3,518sqm of retail floor space. Part one, part four level semi-basement car parking is also proposed to accommodate 421 parking spaces. Additional parking spaces are provided across the site for 76 vehicles. The application also includes the extension of Jack Brabham Drive and the construction of an internal link road. Extensive landscape works are proposed and ramp connection is provided to Kempt Field to the east.

The application forms Stage 3 of the mixed use development known as East Quarter.

The proposed development has been assessed against the requirements of the relevant planning instruments and development control plans. There are multiple significant departures from the controls which cannot be supported. Of most significance is the increase in the height of Building F to 60.9m, some 20.9m over the building height control and an increase in floor space ratio to 3.24:1 for Stage 3 from 2.24:1. The development results in additional impacts on adjoining properties in terms of view loss and overshadowing and a number of the proposed new dwellings are provided with inadequate open space.

The proposal is an overdevelopment of the site and has no regard for the relevant planning controls and the anticipated character of the area.

The development is contrary to the objectives of the 3(b) City Centre Business Zone and is recommended for refusal.

RECOMMENDATION

THAT pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Joint Regional Planning Panel refuse development consent to Development Application DA2013/0385 for Stage 3 of East Quarter Development - mixed use development comprising two buildings - 19 & 8 storeys; basement parking; landscape and public domain works on Lot 10 DP 270611 and known as 93 Forest Road, Hurstville, for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the requirements of State Environmental Planning Policy No.55 – Remediation of Contaminated Land as insufficient information has been provided to demonstrate the site is suitable for the development.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with State Environmental Planning Policy 65 – Design Quality of Residential Flat Development. In particular, the development is inconsistent with the following Design Principles:
 - Principle 1 – Context
 - Principle 2 – Scale
 - Principle 3 - Built Form
 - Principle 4 – Density
 - Principle 5 – Resource, Energy and Water Efficiency
 - Principle 6 – Landscape
 - Principle 7 – Amenity
 - Principle 8 - Safety and Security
 - Principle 9 – Social Dimensions and Housing Affordability
 - Principle 10 - Aesthetics

Additionally the proposal is inconsistent with the following Rules of Thumb under the associated Residential Flat Design Code:

- Building Height
- Building Depth
- Floor Space Ratio
- Deep Soil Zones
- Fences and Walls
- Landscape Design
- Open Space
- Planting on Structures
- Safety
- Building Entry

- Parking
 - Pedestrian Access
 - Apartment Layout
 - Balconies
 - Internal Circulation
 - Storage
 - Daylight Access
 - Natural Ventilation
 - Facades
 - Energy Efficiency
 - Waste Management
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the requirements of the Hurstville Local Environmental Plan 1994. In particular, the proposal is inconsistent with:
- The objectives of the 3(b) City Centre Business Zone
 - Clause 22 – Excavation, Filling of Land
 - Clause 22B – Remediation of Contaminated Land
4. Pursuant to Section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 in that a design verification certificate was not provided for Building F.
5. Pursuant to Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the objectives of the B4 Mixed Use zone or the relevant Development Standards contained within Clause 4.3 - Height of Buildings and Clause 4.4 - Floor Space Ratio of the Draft Hurstville Local Environmental Plan 2013.
6. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following clauses of Hurstville Development Control Plan No.2 – Hurstville City Centre:
- Section 4.2 - The Controls (Building Height, Floor Space Ratio, Balconies)
 - Section 5.1 – Design Guidelines for Buildings, Public Domain and Open Space
 - Section 6.4 – Crime Prevention through Environmental Design
 - Section 6.5 – Energy Efficiency
 - Section 6.9 – Waste Management
7. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development will result in unreasonable view impacts and overshadowing negatively impacting on the amenity of adjoining properties.

8. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to adequately assess the impact of the development on the natural and built environment as they relate to landscaping, finished ground levels, and the schedule of finishes for the building elements
9. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest as it is inconsistent with the height, floor space ratio, density and quality of design the community can reasonably expect under the provisions of the relevant controls.