

**JOINT REGIONAL PLANNING PANEL  
(East)**

<b>JRPP No</b>	2014SYE124
<b>DA Number</b>	DA2014/1083
<b>Local Government Area</b>	Hurstville City Council
<b>Proposed Development</b>	Demotion of existing structures and construction of a new eleven (11) storey mixed use development with basement parking and offer to enter into a Voluntary Planning Agreement.
<b>Street Address</b>	1-5 Treacy Street and 1 Hill Street Hurstville
<b>Applicant/Owner</b>	Applicant: GR Capital Group Pty Ltd Owner: GR Capital Group Pty Ltd, J C Y Lee, Mrs I Y Lee, Ms S S Lee, Mr B Giarrizzo, Mr A Giarrizzo, Mr L Giarrizzo, Mr L Giarrizzo, Mrs J A Giarrizzo, Tabaja Pty Limited, St George and Sutherland Masterbuilders Association Limited
<b>Number of Submissions</b>	Application advertised for twenty-eight (28) days One (1) submission received
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Value over \$20M
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>▪ State Environmental Planning Policy No 55 - Remediation of Land</li> <li>▪ State Environmental Planning Policy – Infrastructure (2007)</li> <li>▪ State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development</li> <li>▪ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>▪ Hurstville Local Environmental Plan 1994</li> <li>▪ Draft State Environmental Planning Policy (Competition) 2010</li> <li>▪ Draft Hurstville (City Centre) Local Environmental Plan 2014</li> <li>• Hurstville Development Control Plan No 2</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Architectural Drawings – Dickson Rothschild Voluntary Planning Agreement – GR Capital Group Landscape Plans – Distinctive Living Design Statement of Environmental Effects – Daintry Associates SEPP 65 – Design Verification Statement – Dickson Rothschild Structural Report - Australian Consulting Engineers Pty Ltd Stormwater Plans - Australian Consulting Engineers Pty Ltd Geotechnical Report - Asset Geotechnical Aargis – Environmental Site Assessment BCA Report – Michael Wynn-Jones Australia

	Fire Engineering Report and Accessibility Report – AED Group Acoustic Report - Renzo Tonin and Associates Dilapidation Report- Australian Consulting Engineers Pty Ltd BASIX – Building and Energy Consultants Australia Access Report – AED Group Transport and Parking Assessment Australia – Mott MacDonald Waste Management Plan – Elephants Foot Recycling Solutions Pedestrian Wind Environment Statement – Windtech Risk Assessment Report QS Certificate and Report Construction Management Plan Amended Offer to Enter into a Planning Agreement – Gaiden's Lawyers Applicant's reponse to Design Review Panel Comments Revised Architecturals – Dickson Rothschild Revised Landscape Plans – Distinctive Living Design Revised Access Report – AED Group
<b>Recommendation</b>	Approval – subject to deferred commencement
<b>Report by</b>	Michael Watt – Director Planning and Development Hurstville City Council

## Assessment Report and Recommendation

<b>ZONING</b>	Zone 3(b) - City Centre Business
<b>APPLICABLE PLANNING INSTRUMENTS</b>	<ul style="list-style-type: none"> <li>▪ State Environmental Planning Policy No 55 - Remediation of Land</li> <li>▪ State Environmental Planning Policy – Infrastructure (2007)</li> <li>▪ State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development</li> <li>▪ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>▪ Hurstville Local Environmental Plan 1994</li> <li>▪ Draft State Environmental Planning Policy (Competition) 2010</li> <li>▪ Draft Hurstville (City Centre) Local Environmental Plan 2014</li> <li>▪ 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,</li> </ul>
<b>HURSTVILLE LOCAL ENVIRONMENTAL PLAN 1994 INTERPRETATION OF USE</b>	“Business premises”, and “Residential Flat Building”
<b>EXISTING DEVELOPMENT</b>	Dwelling houses and business premises
<b>COST OF DEVELOPMENT</b>	\$29,800,000.00
<b>FILE NO</b>	DA2014/1083
<b>HAS A DISCLOSURE OF POLITICAL DONATIONS OR GIFTS BEEN MADE?</b>	No

### EXECUTIVE SUMMARY

1. The application seeks development consent for demolition of existing structures, construction of a new eleven (11) storey mixed use development with basement parking, and offer to enter into a Planning Agreement accompanied this development application upon lodgement on land known as 1 – 5 Treacy Street and 1 Hill Street, Hurstville.
2. The application has been considered against the relevant planning controls. The application seeks minor variations to State Environmental Planning Policy No. 65

and Hurstville Development Control Plan No 2 which are considered to be acceptable as detailed within this report.

3. Council resolved *“That Council accepts the offer from Gadens Lawyers acting on behalf of GR Capital Group Pty Ltd the applicant, to enter into a Voluntary Planning Agreement (VPA) as part of the Development Application for 1-5 Treacy Street, Hurstville”* at its meeting on 19 November, 2014.
4. The application was notified/advertised to four hundred and thirty two (432) adjoining and adjacent owners/residents. In response, one (1) submission was received, and concerns in this submission have been addressed in this report.

## **RECOMMENDATION**

THAT the application be granted deferred commencement consent in accordance with the conditions included in the report.

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## **DESCRIPTION OF THE PROPOSAL**

The application seeks development consent for demolition of existing structures construction of a new eleven (11) storey mixed use development with basement parking. In detail the proposal comprises of the following works;

- Demolition of existing dwellings, building, and structures,
- Removal of trees within the subject site,
- Construction of eleven (11) storey building comprising of seventy five (75) units and two (2) commercial tenancies (total 400m2);

### Basement level 4

- Two (2) residential car spaces and storage areas

### Basement level 3

- Thirty three (33) residential car spaces and storage areas

### Basement level 2

- Thirty four (34) residential car spaces and storage areas

### Basement level 1

- Fifteen (15) residential car spaces and storage areas
- Nineteen (19) visitor spaces

### Ground floor lower

Tenancy 1 – commercial, Tenancy 2 – commercial, residential lobby, waste storage areas, bicycle storage and general storage, four (4) commercial spaces

### Ground floor upper

Fire control room, hydrant pump room, sprinkler pump room,

### First floor

2 x 1 bedroom residential units

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

#### Second floor

2 x 1 bedroom residential units  
1 x 1 bedroom + study residential unit  
2 x 2 bedroom residential units  
4 x 2 bedroom + study residential units  
1 x 3 bedroom residential unit

#### Third floor

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

#### Fourth floor

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

#### Fifth floor

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

#### Sixth floor

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

#### Seventh floor

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

#### Eighth floor

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

#### Ninth floor

2 x 1 bedroom + study residential units  
2 x 2 bedroom residential units  
2 x 2 bedroom + study residential units

1 x 3 bedroom residential unit

Tenth floor

2 x 1 bedroom + study residential units

2 x 2 bedroom residential units

2 x 2 bedroom + study residential units

1 x 3 bedroom residential unit

Roof top level

Communal landscaped roof top area, plant room

**HISTORY**

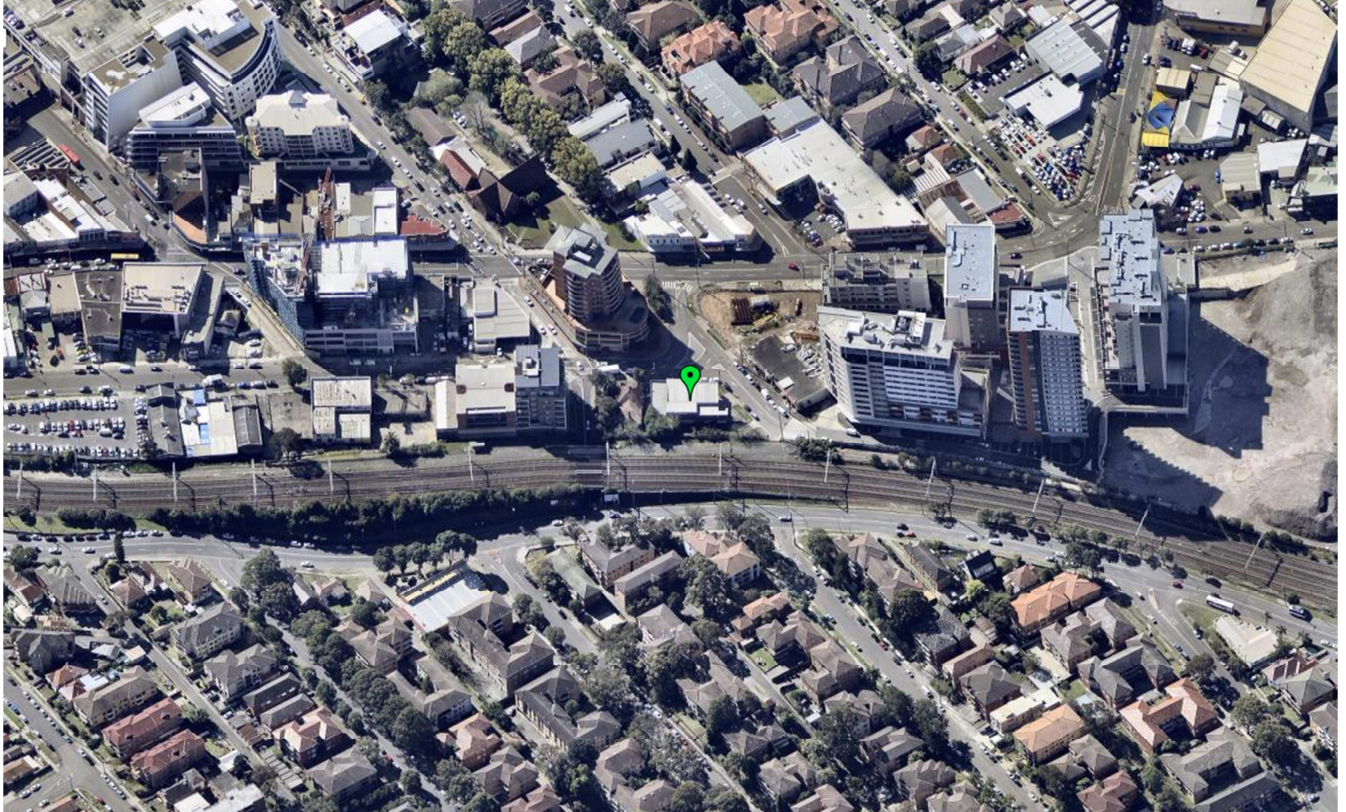
11 Apr 13	2012SYE103 – Hurstville 12/DA-367 – Demolition of existing structures and construction of mixed use development with basement parking at 1-5 Treacy Street, Hurstville. Refused by the JRPP.
7 Aug 14	PRE2014/0011 – Design Review Panel pre-lodgement meeting – Demolition of structures and construction of mixed use development with basement parking. It was recommended that the Panel's comments be taken into account for further development of the proposal.
3 Oct 14	Current development application lodged
17 – 31 Oct 14	Application advertised and notified for 14 days
31 Oct 14	Revised offer of VPA
19 Nov 14	Council resolved <i>"That Council accepts the offer from Gadens Lawyers acting on behalf of GR Capital Group Pty Ltd the applicant, to enter into a Voluntary Planning Agreement (VPA) as part of the Development Application for 1-5 Treacy Street, Hurstville"</i>
27 Nov 14	Joint Regional Planning Panel Briefing
11 Dec 14	St George Design Review Panel
21 Jan 15	Meeting with applicant
19 Feb 15	Minutes from Design Review Panel forwarded to applicant
6 Feb 15	Amended Plans received in response to comments from Design Review Panel. The changes are identified as follows;
	<u>Basement levels 1 – 4:</u> Minor internal changes to storage areas and area adjacent to lifts, minor wall changes
	<u>Ground floor lower:</u> Minor changes to commercial tenancies, lobby area and commercial waste bin storage
	<u>Ground floor upper:</u> Minor internal changes
	<u>First floor to Tenth Floor:</u> Minor internal wall changes, minor changes to bathrooms
	<u>Roof top level:</u> Pergola Structure
27 Feb 14	Draft Planning Agreement submitted
16 Mar 15	Applicant provided with comments on draft VPA

19 Mar 15

Updated VPA received from Gadens. Not received in time to allow for assessment in this report.

### DESCRIPTION OF THE SITE AND LOCALITY

The site is known as 1-5 Treacy Street, Hurstville and is bounded by Hill Street, Treacy Street and The Avenue. The site comprises of five (5) allotments, as follows:



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

The site is generally irregular in shape, with a total area of approximately 1,568sqm, and the following dimensions:-

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

The site is located within the eastern end of Hurstville City Centre approximately 500m from the Hurstville Railway Station, with the Illawarra Railway Line abutting the site to the south. The site is relatively flat and has a total of four driveways, two from Treacy Street and two from Hill Street. The area surrounding the subject site is characterised by a mix of commercial and mixed use commercial and residential buildings.

North of the site there is a twelve (12) storey building at 107 Forest Road including four (4) levels of above ground parking. North east of the site at 105 Forest Road and

1A Hill Street there is an approved development, yet to be constructed ranging from seven (7) to thirteen (13) storeys in height. East of the site there is a twelve (12) storey building constructed at 1 Sir Jack Brabham Drive.

Further west of the site there is a seven (7) storey building at 11-13 Treacy Street, and a development application consistent with a concept approval for sixteen (16) storeys has been lodged for a mixed use residential building at 21-35 Treacy Street, Hurstville.

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

- Treacy Street is one (1) way direction to the west;
- The Avenue is one (1) way south for traffic north of Treacy Street and two (2) way for traffic south of Treacy Street, where it intersects with Railway Parade, in Kogarah LGA;
- Hill Street to Treacy Street is one way south, before becoming two way into Sir Jack Brabham Drive adjacent to the railway line;
- traffic lights control the intersection of The Avenue and Treacy Street;
- traffic lights control the intersection of The Avenue and Railway Parade; and
- median islands are positioned to manage traffic from adjoining roads.

The above traffic management requires traffic entering The Avenue via the subway from Railway Parade to turn left into Treacy Street. Pedestrian crossings are provided at the intersections. Hurstville Council has proposed to widen The Avenue under the Illawarra Railway in the long term however there are no funding commitments for this work.

## **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.

### **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 and the proposed use as a mixed use building is not defined in the LEP. The components of the building comprising residential units and business premises are permissible uses under the Local Environmental Plan.

The objectives of the zone are as follows:

- “(a) to designate sufficient areas of land to meet the projected needs of the Hurstville Town Centre as a multi-functional regional centre,*
- (b) to facilitate development of land within the Hurstville Town Centre for commercial, retail, residential and community purposes,*
- (c) to provide a single business zone for the Hurstville Town Centre as a sub-regional centre,*
- (d) to facilitate the implementation of a development control plan for the Hurstville Town Centre:*
  - (i) by introducing appropriate floor space ratio controls,*



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

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

#### Clause 14 – Tree preservation orders

An assessment of the site has revealed no significant trees on the site. The site is located within an existing highly built-up area within Hurstville City Centre and is proposed to be excavated to its boundaries for four (4) levels of basement car parking. There are no significant trees or vegetation on the site and no objection is raised in relation to the development in relation to the provisions of this clause.

#### Clause 15 – Services

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

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

The proposal will involve excavation of the land for the proposed four (4) basement levels. A geotechnical report has been provided which is considered to be satisfactory ensuring adequate regard is given to any potential impacts to existing drainage patterns, soil stability and excavation. Should the application be approved appropriate conditions can address these issues including any requirements of RailCorp for works adjacent to the Illawarra Railway Line.

### **STATE ENVIRONMENTAL PLANNING INSTRUMENTS**

Compliance with the relevant State Environmental Planning Policies are detailed and presented below.

<b>State Environmental Planning Policy</b>	<b>Complies</b>
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	N/A
State Environmental Planning Policy 55 – Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index BASIX) 2004	Yes

## **STATE ENVIRONMENTAL PLANNING POLICY NO 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT (SEPP 65)**

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

### **Design Review Panel Comments**

An assessment of the proposal has been undertaken against the guidelines and rules of thumb contained in the Residential Flat Design Code. SEPP 65 requires a Design Review Panel (DRP) to give independent design advice to the consent authority on a development application for a residential flat building.

The proposal on the site was referred to the St George Region Design Review Panel (DRP) as a pre-development application, and then again on 11 December 2014 after the application had been lodged with Council. The DRP comments with respect design quality principles from pre-lodgement are provided below.

### **PRINCIPLE 1: CONTEXT**

DRP comment: *"The information before the Panel and comments made by the applicants representatives at the meeting lead to the conclusion that the contextual justification for increased development capacity, largely relies on the precedent of recent approvals for a building of equivalent height nearby (including by the Planning Assessment Commission). Other than this the proposal as it stands does not provide adequate rationale why Council's planning controls should be effectively set aside. There is no justification for the FSR increase from 3.0:1 to 4.87:1 as claimed by the applicant and the height control increase from 23m to 39m. The Panel notes that the 3.0:1 FSR and 23m height limit has been endorsed by the Draft LEP 2014.*

*This appears to remain unresolved.*

*The proposal shows limited response to the surrounding context and street scape specifically the ground floor interface with the public domain in terms of activation and the possible street widening of The Avenue. The proponent needs to engage with Council to resolve the street widening interface issue in the present situation and in the future.*

*Resolved.*

*The Panel feels that further investigation should be given to the provision of a public forecourt/square to contribute to the local amenity.*

*The Panel does not believe that an adequate and appropriate forecourt has been created:*

- the space is not of adequate dimensions to provide significant public amenity.*
- the excessively high planters and mail boxes interrupt and privatise the space.*

- *the adjoining commercial tenancies do not interact with the space.*

*this public domain improvement remains the key to any future increase in development potential on this site and needs to be very carefully thought through."*

Applicant's response: *"In the case of the subject site, a context-based argument is valid, providing an equitable outcome. The ground floor forecourt and lobby have been redesigned to take on board the panel's comments. The proposal also creates public benefit. Impacts are no greater than those arising from neighbouring developments. The changes include the following:*

- *Relocation of mail boxes within screened walls so as to not obstruct public movement within the forecourt.*
- *Removal of high planters.*
- *Redesign of wall between forecourt and lobby as 4 large glazed panels which remain open during daytime hours and support seamless movement between the interior and exterior of the building.*
- *Maximise street activation through generous outdoor dining allowance.*
- *Removal of solid walls between GF tenancies & lobby for new folding doors and maximum glazing. Emphasis is on an interactive, activated and animated public space.*
- *Seating furniture within the lobby is designed to be flexible so as to cater to differently sized gatherings and encourage engagement between members of the public and residents.*
- *Proposal of moveable furniture only along the sidewalk and forecourt so as to maintain flexibility in use and ensure adequate space for public recreation.*
- *Please see Architectural Drawing DA-205 and Landscape Lobby Interior Drawing package for further information."*

Council comment: *The applicant has incorporated amendments with the revised plans which are considered to adequately satisfy the issues raised by the Design Review Panel. The revised plans result in improved amenity over the original design.*

## PRINCIPLE 2: SCALE

DRP comment: *"The proposal is comparable to recent and approved surrounding development. However, the Panel feels that further direction is required from Council to clarify precisely what the determinants of scale are in this area.*

*This issue of scale continues to be unresolved.*

*With regard to the proposed height the applicant's shadow diagrams indicate that mid winter shadows would be cast on the front open spaces and residential flat buildings on the south side of Railway Parade at certain times in mid winter, which would not likely be an expectation of the occupants.*

*The proponent claims that adequate solar access is provided to residents on the south side of the railway line."*

Applicant's response: *"The proposed development is not only compatible within the context of recent approvals but also the allowable heights and FSRs in the area.*

*Sites to the east allowed are a height of 40-60m while sites to the north are allowed a height of 45m. While council allows a range of FSR and heights in the area (regardless of recent approvals), in either case the proposed development is compatible in bulk and scale with the desired future context of the area. Overshadowing to sites on the southern site of the railway are the same or less than those arising from adjacent approvals.”*

Council comment: The proposal is considered to be suitable for the subject site and adopts a built form commensurate of that of surrounding developments. The scale of the development is unlikely to detract from the desired future character of the area.

### PRINCIPLE 3: BUILT FORM

DRP comment: *“Generally acceptable within the context of the need to determine appropriate height and floor space ratio.*

*This statement still applies.*

*The inclusion of a public forecourt would change the form of the building and redistribute and/or reduce FSR and height.*

*The Panel feels that the minor indentation to the building does not constitute an appropriate public forecourt in terms of dimensions or public activation.”*

Applicant’s response: *The substantial redesign of the forecourt, lobby and adjacent tenancies as per council comments strives to achieve spaces which are animated and dynamic, suitable for engaging the public and supporting a range of public uses.”*

Council comment:

No objection is raised in relation to this aspect of the development.

### PRINCIPLE 4: DENSITY

DRP comment: *“See comments above.”*

Applicant’s response: *“As above.”*

Council comment: Concerns previously addressed. Intent of this principle is satisfactory.

### PRINCIPLE 5: RESOURCE, ENERGY AND WATER EFFICIENCY

DRP comment: *“To be further developed.*

*In a project of this scale one could expect a higher level of innovation in terms of resource use and energy and water efficiency.”*

Applicant’s response: *“No comment provided.”*

Council comment: The proposal meets both BASIX and Council’s requirements regarding energy efficiency.

## PRINCIPLE 6: LANDSCAPE

DRP comment: *"The proposal provides no at grade landscape. But rather chooses to borrow a small element of Council owned land (for possible future road widening) to achieve a significant floor space benefit. This needs to display public benefit (landscape softening and or interface interaction) both in an interim as is condition and more importantly in a condition where the future road widening has taken place.*

*The proposal has been vastly improved.*

*The proponent has proposed a substantial roof top terrace which requires further development and landscape detail.*

*The design of the roof top terrace provides appropriate amenity for residents and is acceptable.*

*It is suggested above that an at-grade public forecourt be considered either central to the building or on the north west corner (which might enable improved treatment of pedestrian path to railway underpass and future road widening). A forecourt would also facilitate provision of ground level landscaping.*

*See notes above."*

Applicant's response: *"The site is zoned B4 which is a commercial zone. The provision of streetscape improvements is appropriate to the zoning and location within the city centre. Consideration has been made in the regard but it is our opinion that the proposed setbacks to the Avenue and Chamfered corner to the building to accommodate for future road widening. The proposed location of the public forecourt works better in terms of solar access."*

Council comment: The proposal is considered to be an improvement over the existing condition.

## PRINCIPLE 7: AMENITY

DRP comment: *"Insufficient space is provided in front of the lifts in the basement for disabled persons and people with strollers/prams. As the project proceeds a more specific allocation of basement storage to units needs to be scheduled. The plans presented showed good provision of storage within the units.*

*The space in front of the lifts remains an issue.*

*Basement storage is dramatically improved.*

*The applicant is requested to refine the shown turning circles of service vehicles to correspond with likely direction of travel into and out of the site.*

*Resolved.*

*The current plans indicate kitchen windows to Units 1.01, 1.10, 2.01 and 2.10 2m apart with louvres in a narrow slot. The design needs to be resolved in terms of adequate of daylight access and fire safety.*

*Resolved.*

*Units 1.03 and 2.03 are indicated with internal bedrooms which is unsatisfactory.*

*The proposal does not demonstrate how the lobby water feature will be operated and maintained. Access for mobility impaired persons needs to be provided through the lobby and to the reception area and lifts, which could not be achieved across stepping stone type paving as shown in the submitted drawing set.*

*The Panel is still concerned that the operation and maintenance of the water feature in the lobby to ensure its ongoing performance has not been demonstrated. Mobility access has been addressed.*

*Space around lift lobbies is still tight and should be increased to facilitate furniture moving and access for disable persons.*

*At some stage it would be desirable if the proponent can demonstrate how the substation fits into the street context.*

*This remains to be demonstrated.”*

Applicant's response: *“The clearance in front of the lifts has been revised on all floors in response to Council's comments. A clearance of 2-2.58m has been achieved in all basement floors. A clearance of 2.5m has been achieved for GF and all levels above. This change subsequently improves the building separation of south facing units. Considering disabled persons require 1540mm clear to make a full turn, the increase from 2m to 2.5m lobby areas will indefinitely achieve ease of movement for impaired individuals. Please see Architectural drawing DA-201-210 for further information.*

*As per council's comments from Pre-DA, Units 1.03 and 2.03 have been reconfigured without internal bedrooms so that direct natural sunlight & ventilation is available. Please see Architectural drawing DA-207-208 for further information.*

*The ongoing operation and maintenance of the lobby will be addressed in the future strata management plan which can be developed in detail following building consent. The proposed treatment of the substation involves a 1.8m high powder-coated aluminium screen to Hill Street. Please see Architectural Drawing DA-401-402 and DA-901 for further information.”*

Council comment: *No objection is raised in relation to this aspect of the development.*

## **PRINCIPLE 8: SAFETY AND SECURITY**

DRP comment: *“Water safety is of a primary concern in the lobby area.*

*This remains so.”*

Applicant's response: *“As above.”*

Council comment: *The proposed lobby area forms a shallow decorative feature and is unlikely to result into any adverse safety or security impacts.*

## PRINCIPLE 9: SOCIAL, DIMENSIONS AND HOUSING AFFORDABILITY

DRP comment: *“Adaptable units are yet to be nominated. The Panel strongly recommends that there should be a mix of adaptable unit types.”*

*Adaptable units are included but the design should be revised to ensure alignment of plumbing is retained in future layout. Post adaptable layout should not rely on relocating toilets.”*

Applicant’s response: *Following the changes to lift lobby clearances, minor changes have been proposed to adaptable units. The Architectural Drawings DA-751-753 have been updated alongside the access report to confirm revised unit layouts meet adaptability requirements. The adaptable units propose the relocation of sanitary fittings because capped services ensure ease of future change with minimal cost and building work. Capped services are very commonplace within the industry today and are supported by the access consultant on pages 21 and 23 within his report.”*

Council comment: The applicant has incorporated minor changes within the amended plans to adequately satisfy the concerns above. The proposal is considered to adequately satisfy the intent of this principle.

## PRINCIPLE 10: AESTHETICS

DRP comment: *“The Panel recognises that this is a work in progress and looks forward to further development of the building modeling and facades.”*

*The proposal provides a generally acceptable aesthetic solution to a rapidly developing high density mixed use area. There is a risk that if the glass screen elements and shade elements are not well executed the overall aesthetic quality will suffer.”*

Applicant’s response: *“We concur with the Design Review Panel’s comments. The client also places significant emphasis on executing the façade elements to the highest level of quality.”*

Council comment: The proposal on balance is considered to be appropriate.

Design Review Panel concluded as follows;

*“Within the framework of the ongoing discussion about height and floor space ration the Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65”.*

### **Residential Flat Design Code**

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	Ensure future development	The proposal is	Yes

Height	responds to desired future scale and character of street and local area	considered to be appropriate for the subject site and immediate surrounding context.	
Building Depth	Maximum 18m (glass line to glass line). For wider buildings must demonstrate how satisfactory daylight and natural ventilation are achieved	12.8-21.8m range, however acceptable amenity provided	No – but acceptable
Building Separation	<u>Up 4 storeys/12m:</u> -12m between habitable rooms/balconies -9m between habitable rooms/balconies and non-habitable rooms -6m between non habitable rooms to non-habitable rooms	Building appropriately separated adjoining development.	Yes
Street setbacks	Use different setback controls to differentiate between urban and suburban character areas.	The proposal seeks to provide a nil setback given its urban context which is considered to be appropriate	Yes
Side and rear setbacks	Relate side setbacks to existing streetscape patterns	The proposal seeks close to nil setbacks which is considered to be appropriate given the urban context and scale of surrounding developments.	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.		
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone	Given the context of the site, appropriate planting has been located within the communal rooftop	No – but acceptable
Fences and walls	Respond to the identified architectural character for the street and/or the area. Clearly delineate the public and private domain	Walls and articulation along the public domain are considered to be appropriate	Yes
Landscape design	Landscape design should optimise useability, privacy, social opportunity, equitable access and respect neighbour's amenity.	Landscape satisfies objectives and is considered to be appropriate within no material adverse	Yes



		impacts to adjoining properties	
Open Space	Communal open space should be generally 25% of the site area.	Communal private open space (470sqm) is located on the roof which is considered to be appropriate	Yes
Orientation	Position and orientate buildings to maximise solar access	Orientation of buildings results in appropriate solar access	Yes
Planting on structures	Design for optimum conditions for plant growth	Landscaping within roof top communal area considered to be appropriate	Yes
Stormwater Management	Reduce the volume impact of stormwater on infrastructure by retaining it on site	OSD on site which is considered to be acceptable	Yes
Safety	Undertake a formal crime prevention assessment of the development	Proposal is considered to generally satisfy crime prevention principles	Yes
Visual privacy	Provide reasonable levels of visual privacy	Acceptable levels of privacy provided within design	Yes
Building Entry	Create entrance which provides a desirable residential identity for development	Entrance is centrally located along Treacy Street	Yes
Parking	Provide adequate car parking for the building and integrate parking with the design of the building		No – but acceptable
Pedestrian Access	Promote residential flat development that is well connected to street and contributes to accessibility.	Design of proposal is considered to be well connected to the street which acceptable accessibility provided	Yes
	Barrier free access to at least 20% of units	20% of units barrier free	Yes
Vehicle Access	Limit width of driveways to 6 metres. Integrate adequate car parking and servicing access without compromising character	Due to the splay of the site along the western boundary, the proposal seeks to provide a 10m wide driveway. This is to provide adequate and appropriate vehicular manoeuvrability. This does not result any	No – but acceptable

		material adverse impact.	
Apartment Layout	-Maximum depth from window of single aspect apartment 8.0m -The back of a kitchen should be no more than 8 metres from a window. -Width of cross-over apartments more than 15 metres deep should be a minimum of 4 metres	Acceptable depth and layout	Yes
Apartment Mix	To provide a diversity of apartment types, which cater for different household requirements now and in the future	Appropriate mix of unit types	Yes
Balconies	Primary balconies to be a minimum of 2 metres in depth	2m in depth minimum	Yes
Ceiling Heights	Residential buildings/floors -habitable rooms minimum 2.7m -non habitable rooms minimum 2.25m	More than 2.7m  2.1m – 2.2m for bicycle storage on ground floor lower. Other non-habitable rooms over 2.25m	Yes  No – but acceptable
Flexibility	Provide apartment layouts which can accommodate the changing use of rooms	Proposed layout is considered to be flexible	Yes
Internal Circulation	Maximum of 8 units to be accessible from a double loaded corridor	9 on the first floor, 10 on the second floor and 8 on levels three to ten	No – but acceptable
Storage	To provide adequate storage for every day household items within easy access of the apartment 1br = 6m <sup>3</sup> 2br = 8m <sup>3</sup> 3br = 10m <sup>3</sup>	Adequate levels of storage provided within each apartment composition	Yes
Acoustic Privacy	Protect acoustic privacy of residents in apartments and in private open spaces	Satisfactory	Yes
Daylight Access	-Min 70% of units receive min 3 hours of solar access to living rooms and private open space mid-winter  -Max 10% units southerly aspect	Acceptable solar access provided in relation to standards	Yes
Natural Ventilation	-60% of residential units should be naturally cross ventilated.	67% of units are naturally cross	Yes

	-25% of kitchens should have access to natural ventilation.	ventilated. More than 72% of units have natural ventilation.	
Facades	Facades must define and enhance the public domain and desired street character	The façade of the proposed development is appropriate in its context and will contribute positively to the desired future character of the area.	Yes
Roof design	Provide quality roof designs which contribute to the overall design	Flat roof with landscaped communal roof top garden is considered to be appropriate	Yes
Energy efficiency	Reduce reliance on artificial heating and cooling	The development achieves the target scores required by BASIX	Yes
Maintenance	Supply waste management plans as part of the development application	Waste management plan submitted	Yes
Water conservation	Encourage use of rainwater tanks, use AAA rated appliances and store rainwater on site	BASIX certificate submitted addresses water conservation	Yes

### **STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

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

At the time of writing this report RailCorp have not granted concurrence. A deferred commencement consent is recommended

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

### **DRAFT STATE ENVIRONMENTAL PLANNING POLICY (COMPETITION) 2010**

Draft State Environmental Planning Policy (Competition) 2010 has been considered in the assessment of this report.

### **DRAFT AMENDMENT TO STATE ENVIRONMENTAL PLANNING POLICY NO 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT (SEPP 65)**

An amendment to SEPP 65 was placed on exhibition from the 23 September 2014 to 31 October 2014. The amendments to SEPP 65 are still in draft form and have not been formally adopted. In terms of the subject development it is considered to be consistent with the draft policy.

## **DRAFT HURSTVILLE LOCAL ENVIRONMENTAL PLAN (HURSTVILLE CITY CENTRE) 2014**

Hurstville City Council exhibited the draft Hurstville Local Environmental Plan (Hurstville City Centre) 2014 (Draft LEP) and draft amendments to Development Control Plan 2 – Hurstville City Centre (Draft DCP2) from Thursday 17 July to Thursday 14 August 2014.

On 17 September 2014, Council resolved to adopt the draft LEP and forward the draft LEP to NSW Department of Planning and Environment in accordance with the Act. Council also resolved to approve the draft DCP2 at this meeting, in accordance with the Act and related Regulation. The Draft DCP2 will become effective when the LEP is made by the Minister for Planning.

The LEP is not considered to be imminent and certain, however the provisions of the LEP have been considered in the assessment of this application. It is noted that the current height and floor space ratio requirements of DCP 2 will be the same under the new LEP.

The maximum height and floor space ratio for the subject site is identified as 23m and 3:1 respectively. The proposed development has a height of 39.7m and a floor space ratio of 4.9:1. The non-compliance with the height requirements is discussed in the report below.

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

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

#### Demolition

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

### **3. Development Control Plans**

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

#### **DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 2.2 NEIGHBOUR NOTIFICATION AND ADVERTISING OF DEVELOPMENT APPLICATIONS**

The application was notified/advertised to four hundred and thirty two (432) adjoining and adjacent owners/residents in accordance with Council's requirements.

#### **DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 4.2 THE CONTROLS**

The development as has been assessed against the "controls" that apply to the subject site as follows.

<b>Block 28, Site 28A</b>	<b>Proposed</b>	<b>Complies</b>
<b>Use</b> Ground floor = commercial	Ground floor = Commercial comprising of two tenancies	Yes
Upper levels = residential	Upper levels = residential	Yes
<b>Height</b>		

"S" 23m maximum	39.7m	No (1)
<b>FSR</b> "V" 3:1 maximum	4.9:1	No (1)
<b>Active Street Frontage</b>	Active street frontage proposed for Treacy Street	Yes
<b>Setbacks</b> <u>Street setbacks:</u> Street alignment	Predominantly on Street alignment	Yes
<b>Awnings</b> Cantilevered to Treacy Street	Cantilevered awnings to Treacy Street incorporated within design	Yes
<b>Balconies</b> Minimum 1/unit, 8sqm in size 2m minimum width	Minimum balcony size and width provided	Yes
<b>Vehicle Access</b> Treacy Street on the Avenue	Access from Hill Street	No (2)
<b>Car parking in basement</b>	Car parking contained within basement level and ground floor	No (3)
Commercial 1 per 50sqm (70%min) on site (400sqm) = 5.6 spaces (6 spaces rounded up)	4 (however surplus of 10 spaces in total)	No (4)
Residential 1 per 100sqm (100%min) on site (7,330sqm) = 7.3 (74 spaces rounded up)	85	Yes
Visitors 1 per 4 units (75 Units) = 18.25 (19 spaces rounded up)	19	Yes
Total car spaces	107	

#### (1) Height and Floor Space Ratio

Development Control Plan No 2 requires that the proposed development has a maximum height of 23m and a floor space ratio of 3:1. In support of these variations the Statement of Environmental Effects submits:

*"There are only two DCP non-compliances HOB an FSR. It is again reinforced that the basis for these variations are;*

- *The VPA – public interest*
- *Context – building range from 8-19 as built with FSR up to 6.71:1*
- *Lack of adverse impacts*
- *Dominance of positive impacts*

*The highest point of the building is the lift over at RL99.99m AHD with the predominant building height to the parapet being RL96.90m AHD. The HOB at 23m HOB would be 83.90m AHD.*

*Therefore the, maximum HOB to the lift overrun is 16.09m above the 23m with the predominant building height being 13.0m above the 23m HOB.*

*The GFA of the building calculated in accordance with the current LEPP definition is 7,730sqm (FSR 4.9:1). The maximum GFA of the DCP at an FSR of 3:1 is 4,734sqm."*

As evident from the above table, the proposal exceeds the existing controls (in DCP 2) and adopted controls (draft City Centre LEP) by a significant amount. The proposed height of 39.7m exceeds the existing and adopted height of 23m by around 70% and the proposed FSR of 4.9:1 exceeds the existing and adopted FSR by around 66%. In relation to these issues the following comments are made:-

*1. Inconsistency with an objective of Zone 3(b) City Centre Business in Hurstville LEP 1994*

In relation an inconsistency with the objective (e) of *Zone 3(b) – City Centre Business*, under HLEP 1994 “to improve traffic flow in and around the Hurstville Town Centre”, it is noted that the VPA includes a proposal to contribute road widening along The Avenue and contribute to an enhancement to the Hurstville City Centre road system (see later section in this report).

*2. Integrated land use and transport planning issues*

Council was required to undertake a Transport Management and Accessibility Plan (TMAP) exercise in response to the amount of floor space (1,141,000sqm) in the *draft City Centre LEP*, the potential accessibility and infrastructure implications and inconsistency with s117 *Direction 3.4 Integrating Land Use and Transport*.

Council adopted the *TMAP 2013 Report* in June 2013. Land Use Scenario 5 of the *TMAP 2013 Report* recommended approximately 861,354sqm of floorspace in the draft City Centre LEP to 2036. Council endeavoured to reduce the floor space in the draft City Centre LEP on specific sites, resulting in a decrease of approximately 50,000sqm. The floorspace in the draft City Centre LEP thus remains higher than the recommended floor space in the TMAP by 229,646sqm.

Therefore, any further increases to the floor space under the draft City Centre LEP will have implications on the traffic and infrastructure for the City Centre and be inconsistent with *Direction 3.4*.

*3. Finalisation of draft City Centre LEP*

On 17 September 2014, Council resolved to adopt the draft City Centre LEP and forward the draft City Centre LEP to NSW Department of Planning and Environment for making. Council adopted a maximum height of 23m and a maximum FSR of 3:1 for the subject site. The draft City Centre LEP was provided to the Department on 1 October 2014.

This major variation in the planning controls with regard to the subject DA, as discussed above, will effectively amplify the inconsistency with *Direction 3.4*, lead to potential accessibility and infrastructure implications and thus be inconsistent with the recommendations of the *TMAP 2013 Report* which provide a total ‘sustainable’ floor space for the City Centre.

These variations are further considered in relation to the Voluntary Planning Agreement accepted by Council discussed in Section 4 below.

### (2) Vehicle Access

Council controls require Vehicular Access on the Avenue. The proposal seeks to provide vehicular access to the service both commercial and residential uses from Hill Street. This is considered to be a more appropriate and safer location given the existing traffic condition on the Avenue as a main road.

### (3) Car Parking in Basement

Council's controls require car parking to be located within the basement. The proposal seeks to contain the majority of the car parking spaces within the basement with the exception of four (4) commercial spaces located on the ground floor. This does location of these car parking spaces on the ground floor do not result in any adverse impacts and provides direct same level access to both commercial tenancies located on this level.

### (4) Commercial Car Parking

Council's controls require a minimum of one (1) car parking space per 50sqm of commercial floor area, with a minimum of 70% to be provided. The proposal results in 400sqm of commercial floor area requiring a total of six (6) car spaces to be provided whereby this proposal seeks to provide four (4) car spaces. It is noted that the proposal provides a surplus of ten (10) car parking spaces in total which is considered sufficient to service the proposal.

## ***DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 5.1 DESIGN GUIDELINES FOR BUILDING, PUBLIC DOMAIN AND OPEN SPACE***

The proposal has been considered against the relevant provisions within this subsection and is considered to be satisfactory. The proposal adopts a built form which is considered to be appropriate for the site and is sympathetic to the surrounding context.

## ***DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 6.1 CAR PARKING***

The proposal has been assessed the relevant controls within this subsection and is considered to be satisfactory.

## ***DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 6.3 ACCESS AND MOBILITY***

An access report has been provided to support this proposal. This is supported subject to standard conditions of consent in accordance with the relevant Australian Standards and BCA requirements. In this regard, the requirements of this subsection have been met.

## ***DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 6.4 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN***

The proposal has been considered in accordance with the relevant controls within this subsection and considered satisfactory.

## ***DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 6.5 ENERGY EFFICIENCY***

The proposal has been considered against the relevant controls within this subsection. The proposal satisfies the Statutory BASIX requirements in addition to Council's controls in relation to energy efficiency.

## **DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 6.7 DRAINAGE AND ON-SITE DETENTION REQUIREMENTS**

Council's Manager Development Advice has supported the proposal subject to conditions of consent. The proposal results in appropriate drainage and OSD which does not result in any material impact.

## **DEVELOPMENT CONTROL PLAN NO 2 - HURVILLE CITY CENTRE - SECTION 6.9 WASTE MANAGEMENT**

A Waste Management Plan has been provided in accordance with the requirements contained within this subsection which clearly identifies the disposal, reuse and recycling of materials used within this proposal.

### **4. Voluntary Planning Agreement**

This section of Section 79C requires consideration of *“any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F”*, of relevance to the development application.

#### ***Background to the planning agreement***

1. On the 3 October 2014 Council received an offer to enter into a planning agreement as part of Development Application (DA2014/1083) submitted for 1-5 Treacy Street, Hurstville.
2. On 29 October 2014 an updated offer to enter into a voluntary planning agreement (VPA Offer) was provided to Council (Attachment 1). The VPA Offer sets out the works and dedications proposed to be made under a VPA and included supporting documentation. In summary the offer included the developer providing:
  - Dedication of 27.3sqm of land along the western boundary of the site to widen the footpath, including design and construction of a new footpath adjacent to The Avenue and landscape works and planting adjacent to the footpath and kerb and gutter upgrade works.
  - Design and landscaping works including a retaining wall to support the plantings on the opposite side of The Avenue from the development site.
  - Public domain works including footpath and paving upgrades, landscaping and installation of public furniture along the frontages of the Site and to the north of the Site.
  - Dedication free of charge a ground floor commercial tenancy of 82sqm and one (1) at grade car space.
  - Complete the works and dedication of land prior to the issue of an Occupation Certificate for the Development Application.

The estimated cost of the works (outlined in a spreadsheet attached to the letter of offer) was \$890,349.14.

3. This VPA Offer was not publicly exhibited with the Development Application (which was exhibited during October 2014) as it was only an offer to Council to enter into a planning agreement at that stage and a draft Planning Agreement had not been submitted to Council.



4. Council officers undertook an initial review of the proposed works and dedications in the VPA Offer and in summary not all of the proposed works and dedications were considered to provide sufficient public benefit.
5. On 19 November 2014 a report was provided to the Committee of the Whole on the VPA Offer. The report outlined that the offer was not supported by Council officers and recommended that Council decline the offer. Council however resolved: -

*“That Council accepts the offer from Gadens Lawyers acting on behalf of GR Capital Group Pty Ltd, the applicant, to enter into a Voluntary Planning Agreement (VPA) as part of the Development Application for 1-5 Treacy Street, Hurstville”.*

6. On 27 February 2015 Council received a draft Planning Agreement document from Gadens. No explanatory note for the draft Planning Agreement was submitted.
7. On 16 March 2015 the applicant was advised that the draft Planning Agreement does not accurately reflect the VPA Offer accepted by the Council.
8. On 19 March, 2015 the applicant submitted an “updated VPA”. This was not received in time to allow for referral to Council for consideration or assessment in this report.

#### **Outline of draft Planning Agreement**

The draft Planning Agreement received by Council on 27 February 2015 (Attachment 2) offers, in addition to section 94 contributions payable under Council's Section 94 Development Contributions Plan:-

- the Developer to carry out and provide the public domain works, road upgrades, landscaping and the dedication of land to Council. The Contributions Works will be undertaken in accordance with the Public Domain Plan and Public Domain Work Statement provided for at Schedule 1 of the PA, to a maximum cost of \$890,000. These public domain works include:
  - Zone 1 – Public domain upgrades on the west side of Hill Street north and south side of the site (\$254,434.90)
  - Zone 2 – this includes the dedication of 27.3sqm strip of land along the western boundary of the site to widen the footpath including construction of footpath, landscaping works and improvements to the kerb and gutter (\$142,571.60)
  - Zone 3 – Public domain upgrades to the west side of The Avenue, on the opposite side from the development (\$30,579.35)
  - Zone 4 – Public domain upgrades to the north and south side of Treacy Street (\$154,888.20)
- the developer is to maintain the landscaping works for a period of one (1) year
- dedication of land, being 81sqm of commercial floor area (Tenancy 2) shown in Schedule 2.
- prior to the issue of a final occupation certificate the developer is to dedicate land and works to Council.

#### **Status of the VPA Offer and draft Planning Agreement**

Council has accepted the VPA Offer from Gadens Lawyers, dated 29 October 2014. The report to the Committee of the Whole on the 19 November 2014 outlined the offer and Council resolved:-

*"That Council accepts the offer from Gadens Lawyers acting on behalf of GR Capital Group Pty Ltd, the applicant, to enter into a Voluntary Planning Agreement (VPA) as part of the Development Application for 1-5 Treacy Street, Hurstville".*

The draft Planning Agreement document did not accurately reflect and include all of the dedications in the VPA Offer that was submitted and agreed to by the Council on 19 November 2014. Given this and given Council's acceptance of the VPA Offer, the VPA Offer is the only document which can be considered at this stage.

Further consideration of the updated VPA is required by Council to ensure compliance Council's planning Policy Agreements Policy prior to finalising the document and reporting to Council to enable public exhibition of the planning agreement.

In this regard the consent authority is empowered, under Section 93I(3) of the Environmental Planning and Assessment Act, to impose a condition on a development consent which it grants requiring the entry into a planning agreement in the terms of an offer made by the developer. The planning agreement cannot be entered into until after the agreement is notified, and a condition is proposed to require that the planning agreement (notified and as per the VPA Offer accepted by the Council on the 19 November 2014) be entered into as a condition of the granting of any development consent. In this regard the condition proposed should read:

*"Pursuant to section 80A(1) of the said Act, the planning agreement notified (and as per the offer to enter into a planning agreement accepted by Council on 19 November 2014 and as submitted in Gadens Lawyers letter of 29 October 2014) and relating to this development application the subject of this consent must be entered into before the issuance of any Construction Certificate under this consent"*

#### **Assessment of the Merits of the VPA Offer**

In order to consider the merits of the VPA Offer and whether support can be given to the variations proposed an assessment of the VPA Offer against Council's Policy on Planning Agreements has been undertaken. Under Clause 2.5 of the Policy on Planning Agreements, Council is required to apply an 'Acceptability test' in order to assess the acceptability of offers.

***(a) is the proposed planning agreement directed towards a proper or legitimate planning purpose ordinarily ascertainable from the statutory planning controls and other adopted planning policies applying to development and the circumstances of the case?***

Comment: Yes. The applicant submitted a VPA Offer to Council in connection with a DA for the development of 1-5 Treacy Street, Hurstville which comprises a mixed use development. The planning purposes served by the VPA Offer include:

- the provision of public amenities or public services; and
- the provision of transport or other infrastructure relating to land.

***(b) does the proposed planning agreement provide for public benefits that bear a relationship to development that is not wholly unrelated to development?***

Comment: In part. Some of the works and dedications contained in the VPA Offer are considered to provide public benefits that bear a relationship to the development of the site, as they could not be required by way of a condition of consent. However some of the works and dedications are not considered to provide sufficient public benefits. In this regard:-

- *Dedication of 27.3sqm of land along the western boundary of the site to widen the footpath including construction of a new footpath adjacent to The Avenue and landscape works and planting adjacent to the footpath and kerb and gutter upgrade works.*

The dedication of the land to allow for the future road widening of The Avenue is considered to be a public benefit. The Director of Service Delivery advised support for the dedication as long as all the services are placed and or relocated underground at no cost to Council.

Provision of land for these future road works is consistent with Council's TMAP recommendations (RN1) to improve road infrastructure (which is targeted at increasing road capacity on rail crossings and improve network reliability on both regional roads and city centre access routes). Council's Development Contributions Plan does not require or levy for the dedication of this land. Therefore the land dedication can be considered to provide a public benefit.

With regard to the footpath and landscaping works off-site, some of the works could be considered to provide public benefits. However some of the footpath works immediately adjoining the Development would normally be required by way of conditions of consent. The level of detail provided in the plans and schedules is unclear. The Director Service Delivery states that all the works in Zone 1 must be approved by Council and conform to Council's specifications.

- *Landscaping works including a retaining wall on the opposite side of The Avenue from the development site*

These works could be considered of public benefit, however the Director Service Delivery advised that Council would prefer to carry out this work.

- *Public domain works including footpath and paving upgrades, landscaping and installation of public furniture along the frontages of the Site and to the north of the Site.*

Some of the public domain works on the subject land would be required as a condition of any development consent and are not considered to be a public benefit.

Not all of the public domain works north of the site and surrounding street frontages are considered of public benefit. The Director Service Delivery advised that the works are not practical as they would not match the existing paving. However the kerb extension at the intersection of Treacy Street and Hill Street is supported and that the

provision of timed parking etc is the responsibility of the RMS and need their approval.

- *Dedication of an 82sqm retail tenancy and car space*

Council's Director of Administration advised that there is limited community public benefit for the retail floor space and car space other than its value in rent or sale to pay for other community priorities.

***(c) will the planning agreement produce outcomes that meet the general values and expectations of the public and protect the overall public interest?***

Comment: It is considered that the VPA Offer will produce the outcomes identified in (b) above which meet the some of the general values and expectations of the public in relation to the development of land.

***(d) does the proposed planning agreement provide for a reasonable means of achieving the relevant purposes and outcomes and securing the benefits?***

Comment: The VPA Offer has been accepted by the Council on the 19 November 2014. The VPA Offer however provides limited detail of how the works will be secured. The VPA Offer is expressed on the basis that s94 continues to apply.

However the VPA Offer states that Council should consider taking the benefits provided under the VPA into account when determining a contribution under s94. No changes to the s94 contributions levied under Council's Development Contributions Plan are supported. The increase in population density and consequent demands on community facilities, services and open space need to be addressed.

***(d) does the proposed planning agreement protect the communities reasonable planning expectations and avoid environmental harm?***

Comment: The proposed development exceeds the maximum building height and FSR for the land under DCP No.2 and the draft Hurstville City Centre LEP which is currently with the Department of Planning and Environment for making. As planning controls for the site were only recently exhibited and adopted by the Council (17 September 2014), it is considered that there would be a reasonable planning expectation by the community that those controls relating to maximum building height and maximum FSR would be applied to any development application. In this regard it is noted that there was only one submission from the public on this proposal.

The VPA Offer does warrant consideration in regard to whether these controls may be considered unreasonable given the circumstances and, as a consequence whether there may be any resulting adverse impact or mitigation of impact from allowing a variation.

***(e) does the proposed planning agreement promote the Council's strategic objectives in relation to the use of planning agreements?***

Comment: The VPA Offer promotes the Council's strategic objectives in relation to the use of planning agreements by: facilitating high density development close to facilities and services in Hurstville City Centre and providing a more flexible development contributions system for Council and supplementing the application of s94 contributions.

***(f) can the proposed planning agreement be taken into consideration in the assessment of the relevant rezoning application or development application?***

Comment: Yes. The VPA Offer was submitted with the DA for 1-5 Treacy Street, Hurstville and the Council resolved on the 19 November 2014 *"to accept the offer...to enter into a Voluntary Planning Agreement as part of the Development Application for 1-5 Treacy Street, Hurstville"*.

***(g) does the proposed planning agreement conform to the fundamental principles governing the council's use of planning agreements?***

Comment: Clause 2.1 of Council's Policy on Planning Agreements provides the principles governing the use of planning agreements. The VPA Offer accepted by Council generally conforms to these principles.

***(i) are there any relevant circumstances that may operate to preclude the Council from entering into the proposed planning agreement?***

Comment: No.

## **5. Impacts**

### ***Natural Environment***

The proposal seeks the removal of trees on site which are not any arboricultural significance and excavation to accommodate basement levels which are commensurate of other similar developments. The proposal is not considered to result in adverse impacts to the natural environment.

### ***Built Environment***

The proposal is not considered to result in any adverse impacts to the built environment. The proposal seeks minor variations to State Environmental Planning Policy No. 65 and Hurstville Development Control Plan No 2 which satisfy the requirements of the controls. Furthermore it is noted that the additional floor area and height attributing to additional visual bulk and scale does not result in negative streetscape, amenity or solar access impacts. The applicant has submitted that the visual impact of the development is consistent with the existing and developing character of the area.

### ***Social Impacts***

The proposal is not considered to result in any adverse social impacts. The proposal is considered to be an improvement over the existing condition of which the Hurstville CBD is currently undergoing change. The proposal results in additional housing stock and improved commercial floor space.

### ***Economic Impacts***

The proposal is not considered to result in any adverse economic impacts.

### ***Suitability of the Site***

The proposal is considered to be suitable for the subject site for the reasons contained within this report. The additional height and floor area are not considered to detract from the site or surrounding area within the visual catchment.

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

The proposal is considered to be in the public interest for the reasons contained within this report.

### **Resident**

The application was advertised/notified to four hundred and thirty two (432) adjoining and adjacent owners and residents and one (1) submission was received.

This submission raised no objection to the development however wished *“to make a comment about a specific issue of traffic management, which the proposed development will certainly greatly exacerbate.”* Areas of concern were:-

- intersection of Forest Road, PJ and Hill Street;
- right turn (North bound) traffic turning into PJ Road and then turn left into Hill Street to access Jack Brabham Drive;
- Driver view approach a Right turn from North Bound Forest Road into PJ Road;
- Right turning (North Bound traffic) turning into PJ Road and trying to access can only do so illegally by cross and unbroken centre line.

The author considered that *“that the proposed development will greatly exacerbate the issue of conflicted traffic flow.”* The author recommended “that a traffic management plan, based on current data be undertaken and that this current problem, and the additional traffic generated by the development proposal be addressed in a subsequent amended Development Application.”

Comment: The applicant has submitted a Transport and Parking Assessment Study which modelled three development scenarios. This study shows that *“the assessment of traffic generated under both worst case scenarios (400m2 commercial floorspace and 130 or 300 residential units) for the proposed development of 1-5 Treacy Street indicated that the traffic impact on the surrounding intersections is minor and can easily be accommodated without any required changes to the network.”*

## **Council Referrals**

### ***Team Leader Subdivision and Development***

Council's Team Leader Subdivision and Development Supports the proposal subject to conditions of consent.

### ***Senior Building Surveyor (Major Projects)***

Council's Senior Building Surveyor supports the proposal subject to conditions of consent.

### ***Senior Traffic Engineer***

Council's Senior Traffic Officer raises no concerns with the proposal.

## **External Referrals**

### ***RailCorp***

The application was referred to RailCorp on 20 November 2014. In response, comments were received on 25 November 2014 seeking additional information. A deferred commencement condition is imposed to obtain concurrence. An additional condition is imposed to ensure that all RailCorp requirements are met prior to before, during and post construction.

### ***Ausgrid***

The application was referred to Ausgrid on 16 November 2014. In response, comments were received which have been incorporated within the conditions of consent.

### ***Kogarah Council***

The application was referred to Kogarah Council on 16 November 2014. In response, no comments were received.

### ***Design Review Panel***

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

## **Public Interest**

The proposal is considered to be in the public interest for the reasons contained within this report.

## **7. CONCLUSION**

The application seeks development consent for the demolition of the existing structures and construction of a mixed use development containing seventy five (75) apartments and 400sqm of commercial floor space at the ground floor level with ten (10) residential storeys above and basement parking and storage. This proposal includes a Voluntary Planning Agreement (VPA) which includes public domain works and dedication of land to assist in the widening of the Railway Underpass adjoining the site.

The proposed development has been assessed against the requirements of the relevant planning instruments and Development Control Plans and seeks minor variations SEPP 65 and to height and floor space ratio controls contained in Development Control Plan No 2.

Although the proposed development exceeds the height and FSR requirements, the height is not inconsistent with that of adjoining existing and proposed developments. In terms of the FSR variation, this results in an increase in the number of residential units on the site.

An assessment of the impact of these variations concludes that the development has no adverse impacts in terms of solar access and privacy to adjoining developments.

In support of these variations a VPA has been submitted and accepted by Council. This agreement is still to be finalised and is aimed at providing public benefits to

support the variations to Council's planning controls. These benefits are public domain works that extend to road works, footways, landscaping and lighting as detailed by the VPA.

Accordingly, the application is recommended for deferred commencement approval subject to conditions of consent.

## **DETERMINATION**

THAT pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants a deferred commencement consent to Development Application DA2014/1083 for demotion of existing structures, construction of a new eleven storey mixed use development with basement parking on Lots 1 and 2 in DP 306979 of Section A DP 2752, Lots 14 and 15 in DP 2752 and known as 1-5 Treacy Street and 1 Hill Street, Hurstville, subject to the following:

**The Development Application described above has been determined by the granting of a Deferred Commencement Consent subject to the conditions specified in this notice.**

This Development Application is a Deferred Commencement Consent under Section 80(3) of the Environmental Planning and Assessment Act (as amended) 1979. Strict compliance is required with **all conditions appearing in Schedule 1** within **twelve (12) months from the Determination Date of this consent**. Upon confirmation in writing from Hurstville City Council that the Schedule 1 Conditions have been satisfied, the consent shall commence to operate as a Development Consent for a period of five (5) years from the **Determination Date of this consent**.

### **Schedule 1**

- A. DEF1002 - **Deferred Commencement – Transport Sydney Trains** - The consent must not operate without expressed written approval from Transport Sydney Trains. Transport Sydney Trains requirements must be satisfactory met.

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

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

### **Schedule 2**

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

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



**Right of Review** – If you are dissatisfied with this decision, you may request a review of the determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within six (6) months of the date of this Notice of Determination and be accompanied by the relevant fee. You must ensure that an application for review of determination gives Council a reasonable period in which to review its decision having regard to the relevant issues and complexity of the application (Section 82A is not applicable to Integrated or Designated Development).

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

### **Schedule A – Site Specific Conditions**

#### **GENERAL CONDITIONS**

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

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

<b>Reference No.</b>	<b>Date</b>	<b>Description</b>	<b>Revision</b>	<b>Prepared by</b>
DA-101	5/2/15	Site Plan	D	Dickson Rothschild
DA-102	5/2/15	Public Domain Plan	B	Dickson Rothschild
DA-201-204	5/2/15	Basement Floor Plans 1-4	D	Dickson Rothschild
DA-205	5/2/15	Ground Floor Plan – Lower	D	Dickson Rothschild
DA-206	5/2/15	Ground Floor Plan - Upper	D	Dickson Rothschild
DA-207	5/2/15	Level 1 Floor Plan	B	Dickson Rothschild
DA-208	5/2/15	Level 2 Floor Plan	B	Dickson Rothschild
DA-209	5/2/15	Levels 3 – 10 Floor Plan	B	Dickson Rothschild
DA-210	5/2/15	Communal Open Space Plan	B	Dickson Rothschild
DA-211	5/2/15	Roof Plan	B	Dickson Rothschild
DA-252	3/10/14	Proposed works before and after future road widening – Basement	A	Dickson Rothschild

		1		
DA-253	5/2/15	Proposed works before and after future road widening – Ground Floor	B	Dickson Rothschild
DA-301	5/2/15	Section AA	D	Dickson Rothschild
DA-302	3/10/14	Section BB	B	Dickson Rothschild
DA-401	5/2/15	North Elevation	C	Dickson Rothschild
DA-402	3/10/14	East Elevation	B	Dickson Rothschild
DA-403	5/2/15	South Elevation	B	Dickson Rothschild
DA-404	3/10/14	West Elevation	A	Dickson Rothschild
DA-701	3/10/14	Balcony Detail 1	A	Dickson Rothschild
DA-702	3/10/14	Balcony Detail 2	A	Dickson Rothschild
DA-751	5/2/15	Adaptable Units – Type 1	B	Dickson Rothschild
DA-752	5/2/15	Adaptable Units – Type 2	B	Dickson Rothschild
DA-901	3/10/14	Materials and Finishes Schedule	B	Dickson Rothschild

2. **GEN1002 - Fees to be paid to Council** - The following must be submitted to either Council or an Accredited Certifier before a Construction Certificate is issued:

(a) Fees to be paid to Council:

**Schedule of fees, bonds and contributions**

Fee Type	Paid	Amount	Receipt Date	Receipt No
Development Application Fee	X	\$20,365.00	3 Oct 14	2022709
Plan First Fee	X	\$19,072.00	3 Oct 14	2022709
Notification Fee	X	\$320.00	3 Oct 14	2022709
DA Advertising Fee	X	\$1,105.00	3 Oct 14	2022709
Company Search Fee	X	\$20.00	3 Oct 14	2022709
Design Review Panel Fee	X	\$2,121.50	3 Oct 14	2022709
Design Review Panel Imaging Fee	X	\$103.00	3 Oct 14	2022709
Long Service Levy		\$1,043,000.00		
Builders Damage Deposit		\$6,000.00		
Inspection Fee for Refund of Damage Deposit		\$135.00		
S94 Residential (Community Facilities)		\$12,682.24		

S94 Residential (Open Space, Recreation, Public Domain)		\$814,920.02		
S94 Non-Residential Hurstville City Centre (Public Domain)		\$115,254.30		

**The following fees apply when you submit an application to Council for the Subdivision Certificate.**

**The following fees apply where you appoint Council as your Principal Certifying Authority (PCA). (If you appoint a private PCA, separate fees will apply)**

PCA Services Fee		\$7,855.00		
Construction Certificate Application Fee		\$7,855.00		

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

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

**a. Amount of Contribution**

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

<b>Contribution Category</b>	<b>Amount</b>
Community Facilities	\$115,254.30
Open Space, Recreation and Public Domain Facilities	\$814,920.02
<b>Total:</b>	<b>\$930,174.32</b>

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

**b. Indexing**

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

**c. Timing and Method of Payment**

**The contribution must be paid prior to the release of a Construction Certificate as specified in the development consent**

**Please contact Council prior to payment to determine whether the**

**contribution amounts have been indexed from that indicated above in this consent and the form of payment that will be accepted by Council.**

Contributions must be receipted by Council before a Construction Certificate is issued.

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

**4. GEN1004 - Section 94 Contributions - Non Residential Development in Hurstville City Centre (Public Domain)**

**a. Amount of Contribution**

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

<b>Contribution Category</b>	<b>Amount</b>
Public Domain Facilities	\$12,682.24
<b>Total:</b>	<b>\$12,682.24</b>

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

**b. Indexing**

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

**c. Timing and Method of Payment**

**The contribution must be paid prior to the release of a Construction Certificate as specified in the development consent**

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

Contributions must be receipted by Council before a Construction Certificate is issued.

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

5. **GEN1014 - Long Service Levy** - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to [www.lspc.nsw.gov.au](http://www.lspc.nsw.gov.au) or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**
6. **GEN1016 - Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
- (a) Payment to Council of a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$6,000.00.**
  - (b) Payment to Council of a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$135.00.**
  - (c) At the completion of work Council will:
    - (i) review the dilapidation report prepared prior to the commencement works;
    - (ii) review the dilapidation report prepared after the completion of works;
    - (iii) Review the Works-As-Executed Drawings (if applicable); and
    - (iv) inspect the public works.
- The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.
- (d) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.
- (e) Fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

#### **SEPARATE APPROVALS UNDER OTHER LEGISLATION**

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

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve; and
- (k) Stormwater and ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

The relevant Application Forms for these activities can be downloaded from Hurstville City Council’s website at: [www.hurstville.nsw.gov.au](http://www.hurstville.nsw.gov.au)

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

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

- (a) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council’s Specifications for vehicular crossings.
- (b) Construct a new full width (boundary to kerb) footpath in paving material approved and specified by Council’s Engineer for the full frontage of the site in Treacy Street and Hill Street in accordance with Council’s Specifications for footpaths. This work shall include the reconstruction of Council’s two kerb inlet pits outside the development site at the intersection of Treacy Street and Hill Street
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Treacy Street and Hill Street in accordance with Council’s Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in

accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.

- (e) Construction of any new kerb extension on the corner of Treacy Street and Hill Street together with any street tree planting/landscaping.

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

To apply for approval:

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

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

- 9. **APR6004 - Engineering - Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the Roads and Maritime Services, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications **before the commencement of work in the road**.
- 10. **APR7001 - Building - Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/roadway where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act and s138 of the Roads Act 1993:

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and
- (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email [hans.pilly.mootanah@rms.nsw.gov.au](mailto:hans.pilly.mootanah@rms.nsw.gov.au) to obtain concurrence for the hoarding structure.

11. **APR7003 - Building - Below ground anchors - Information to be submitted with Section 68 Application under LGA 1993 and Section 138 Application under Roads Act 1993** - In the event that the excavation associated with the basement car park is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the Local Government Act 1993 and the Roads Act 1993 for approval, prior to commencement of those works. In this regard the following matters are noted for your attention and details must be submitted accordingly:

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



associated with overcoming the difficulties caused by the presence of the 'live' anchors must be borne by the applicant.

## **REQUIREMENTS OF OTHER GOVERNMENT AGENCIES**

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

### **12. GOV1021 - NSW Government Agency –AUSGRID**

**Condition A:** Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements<sup>2</sup>.

**Condition B:** The applicant must check the location of underground cables by using Dial Before You Dig 3 and comply with the requirements of NS156: Working Near or Around Underground Cables (Ausgrid, 2010)<sup>4</sup>.

**Condition C:** Prior to the issue of a Construction Certificate (or an Occupation Certificate where a Construction Certificate is not required), the applicant must provide to council and Ausgrid a noise assessment report. The report must address, in relation to the adjacent substation, the requirements of the amenity or intrusive criteria in section 2.4 of the NSW Industrial Noise Policy (EPA, 2000)<sup>1</sup>.

**Condition D:** The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006)<sup>5</sup>.

**Condition E:** The development must comply with Tree Safety Management Plan (Ausgrid, 2007)<sup>6</sup>.

**Condition F:** The development must be carried out in accordance with ENA EG1-2006: Substation Earthing Guide (Energy Networks Association, 2006).

13. GOV1021 – **Transport Sydney Trains** - All requirements of Transport Sydney Trains must be adequately satisfied prior to issue of Construction Certificate, during works, prior to issue of Occupation Certificate and Ongoing conditions or other.
14. GOV1007 - **Sydney Water - Quick Check** - The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Care Centre to determine whether the development application will affect Sydney Water's sewer and water mains, storm water drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's website: [www.sydneywater.com.au](http://www.sydneywater.com.au)
15. GOV1008 - **Sydney Water - Section 73 Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Plumbing, Building and Developing section of Sydney Water's website to locate a Water Servicing Coordinator in your area. Visit: [www.sydneywater.com.au](http://www.sydneywater.com.au)

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

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

16. GOV1009 - **Sydney Water - Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act must be submitted to the Principal Certifying Authority prior to the issue of the Occupation/Subdivision or Strata Certificate.

17. GOV1010 - **Ausgrid - Substation or Kiosk** - Ausgrid shall be consulted to determine if an electricity distribution substation is required. If so, it will be necessary for the final film survey plan to be endorsed with an area, having the required dimensions as agreed with Ausgrid, indicating the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the Building Code of Australia. The substation site to be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. For details visit [www.ausgrid.com.au](http://www.ausgrid.com.au) or call 131365.

(a) written confirmation of Ausgrid's requirements is to be submitted **prior to the issue of the Construction Certificate**; and

(b) Ausgrid's requirements are to be met before the issue of the Occupation Certificate.

18. GOV1011 - **Ausgrid - Underground electrical conduits** - Ausgrid is to be consulted to determine if underground electricity conduits are to be installed in the footway. If so, the developer is to install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. The developer is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. For details visit [www.ausgrid.com.au](http://www.ausgrid.com.au) or call 131365.

(a) a copy of Ausgrid's requirements is to be submitted to Council **before issue of the Construction Certificate**;

(b) Where conduits are to be installed, evidence of compliance with Ausgrid's requirements is to be submitted **before the issue of the Occupation Certificate**.

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

19. GOV1012 - **Ausgrid - Clearances to electricity mains** - If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, Ausgrid is to be consulted to determine if satisfactory

clearances to any existing overhead High Voltage mains will be affected. If so, arrangements are to be made, at your cost, with Ausgrid for any necessary modification to the electrical network in question. For details visit [www.ausgrid.com.au](http://www.ausgrid.com.au) or call 131365.

20. Pursuant to section 80A(1) of the said Act, the planning agreement notified (and as per the offer to enter into a planning agreement accepted by Council on 19 November 2014 and as submitted in Gadens Lawyers letter of 29 October 2014) and relating to this development application the subject of this consent must be entered into before the issuance of any Construction Certificate under this consent.

#### **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

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

21. **CC3014 - Development Engineering - Allocation of car parking and storage areas** - A plan showing the allocation of each car space and storage area to each individual unit in accordance with the conditions of the development consent shall be prepared. **This plan shall accompany the application for the Construction Certificate.**
22. **CC4006 - Health - Acoustic Certification - Rooftop Mechanical Equipment (CBD only)** - The Construction Certificate plans must be accompanied by a certificate from a professional acoustic engineer certifying that noise from the operation of the roof top mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site. If sound attenuation is required, this must be detailed on the plans lodged with the Construction Certificate.
23. **CC4008 - Health -Car Wash Bays** - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

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

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate.

24. **CC7006 - Building - Vibration Damage** - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

Alternatively where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical

engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. **The report shall be submitted with the Construction Certificate application.**

25. CC7008 - **Building - Access for Persons with a Disability** - Access and sanitary facilities for persons with disabilities must be provided to and throughout the building in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.
26. CC2008 - **Development Assessment - Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:
  - (i) Location of existing and proposed structures on the site including existing trees (if applicable);
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iii) Location, numbers and type of plant species;
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage and watering systems.
27. CC7010 - **Building - Geotechnical Reports** - The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted **before the issue of the Construction Certificate** and is to include:
  - (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
  - (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
  - (c) On-site guidance by a vibration specialist during the early part of excavation.
  - (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
  - (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any

subsidence to the required setbacks and neighbouring sites.

**28. CC2001 - Development Assessment - Erosion and Sedimentation Control**  
- Erosion and sediment controls must be provided to ensure:

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

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

**29. CC3001 - Development Engineering - Stormwater System**

Reference No.	Date	Description	Revision	Prepared by
140407	6-8-14 to 23-09-14	Stormwater drawings	A to E	Australian Consulting Engineers

The above submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

The basement water shall pump to and all other stormwater shall drain by gravity to the upper level of Council's kerb inlet pit, located outside the development site in Hill Street in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).

**30. CC3004 - Development Engineering - Stormwater Drainage Plans**

Reference No.	Date	Description	Revision	Prepared by
140407	6-8-14 to 23-09-14	Stormwater drawings	A to E	Australian Consulting Engineers

The above submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

Stormwater drainage plans including pipe sizes, type, grade, length, invert

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

31. **CC3005 - Development Engineering - On Site Detention**

Reference No.	Date	Description	Revision	Prepared by
140407	6-8-14 to 23-09-14	Stormwater drawings	A to E	Australian Consulting Engineers

The above submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

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

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

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

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

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

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

32. **CC3018 - Development Engineering – Existing Sewer Main** - Council's records indicate that a Sewer main passes through the site.

The requirements of Sydney Waters shall be satisfied for the construction of the proposed building.

33. **CC3020 - Development Engineering – Alignment Levels** - An Application under Section 138 of the Roads Act 1993 shall be submitted to Council's Engineer for the issue of levels for the new kerb and gutter, Footpath design and alignment levels for the full frontages of the site in Treacy Street and Hill

Street.

These kerb and alignment levels shall be issued **prior to the issue of the Construction Certificate.**

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

34. **CC2008 - Development Assessment - Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:

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

35. **CC2003 - Development Assessment - Construction Site Management Plan - Major Development** - A Site Management Plan must be submitted with the application for the Construction Certificate, and must include the following measures:

- location of protective site fencing;
- location of site storage areas/sheds/equipment;
- location of building materials for construction, e.g. stockpiles
- provisions for public safety;
- dust control measures;
- method used to provide site access location and materials used;
- details of methods of disposal of demolition materials;
- method used to provide protective measures for tree preservation;
- provisions for temporary sanitary facilities;
- location and size of waste containers/skip bins;
- details of proposed sediment and erosion control measures;
- method used to provide construction noise and vibration management;
- construction traffic management details.

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

36. **CC2009 - Development Assessment - Pre-Construction Dilapidation Report - Private Land** - A qualified structural engineer shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of

adjoining premises including but not limited to:

(a) all adjoining properties.

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

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

37. **CC2010 - Development Assessment - SEPP 65 Design Verification Statement** - A certifying authority must not issue a Construction Certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development  
[www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3DDepl%20AND%20Year%3D2002%20AND%20No%3D530&nohits=y](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3DDepl%20AND%20Year%3D2002%20AND%20No%3D530&nohits=y).

38. **CC2011 - Development Assessment - BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 578956M dated 2 October 2014 approved with the Development Consent DA2014/1083, must be implemented on the plans lodged with the application for the Construction Certificate.

39. **CC2034 - Development Assessment - Design Quality Excellence**

(a) In order to ensure the design quality excellence of the development is retained:

- (i) The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
- (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
- (iii) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council.

40. **CC5004 - Trees - Tree Removal & Replacement - Public Land** - Permission is granted for the removal of the following trees located on Councils public



footpath:

(a) Trees located within the public reserve adjoining the site.

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

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

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

Fee Type	Fee Type	Amount
Administration Fee for Tree Removal	RC83	\$150.00
Replacement Tree Fee (per Tree)	RC83	\$125.00

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

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

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

- 41. CC6004 - Engineering - Traffic Management - Compliance with AS2890 -** All driveways, access ramps, vehicular crossings and car parking spaces shall be **designed and** constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
- 42. CC6005 - Engineering - Traffic Management - Construction Traffic Management Plan (Large Developments only) -** A Construction Traffic Management Plan detailing:
- (a) construction vehicle routes;
  - (b) anticipated number of trucks per day;
  - (c) hours of construction;
  - (d) access arrangements; and
  - (e) proposed traffic measures to minimise impacts of construction vehicles, and

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

43. **CC7002 - Building - Fire Safety Measures prior to Construction Certificate** - Prior to the issue of a Construction Certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a Certifying Authority. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Certifying Authority will then issue a Fire Safety Schedule for the building.
44. **CC7004 - Building - Structural details** - Structural plans, specifications and design statement prepared and endorsed by a suitably qualified practising structural engineer who holds the applicable Certificate of Accreditation as required under the Building Professionals Act 2005 shall be submitted along with the Construction Certificate application to the Certifying Authority for any of the following, as required by the building design:
- (a) piers
  - (b) footings
  - (c) slabs
  - (d) columns
  - (e) structural steel
  - (f) reinforced building elements
  - (h) retaining walls
  - (i) stabilizing works
  - (j) structural framework
45. **CC7011 - Building - Slip Resistance- Commercial, Retail and Residential Developments** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
46. **CC8001 - Waste - Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site, clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Principal Certifying Authority and copy provided to the Manager - Environmental Services, Hurstville City Council prior to the issue of any Construction Certificate.
47. **CC8005 - Waste - Waste Storage Containers - Mixed Use Developments** - For the Residential portion of the building the following waste and recycling facilities will be required:-

Larger 660 litre MB's may be used as an alternative, but an equivalent amount

of space will need to be provided, and it is noted that it is intended to provide 6 x 660 litre MB's and 4 x 660 litre MB's for domestic recycling. These are considered to be adequate provided they are serviced in accordance with Council's current servicing requirements.

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

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

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

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

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

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

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

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

commencement of works.

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

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

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

50. **PREC2008 - Development Assessment - Demolition Notification Requirements** - The following notification requirements apply to this consent:
- a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
  - b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Hurstville City Council advising of the demolition date, details of the WorkCover licensed asbestos demolisher and the list of residents advised of the demolition.
  - c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
51. **PREC2009 - Development Assessment - Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
52. **PREC6001 - Engineering - Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.
53. **PREC6002 - Engineering - Dilapidation Report on Public Land - Major**

**Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared on Council infrastructure adjoining the development site, including:

- (a) All public infrastructure adjoining the subject site

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

The report must include the following:

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

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

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

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

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.

- (f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.
- (g) Other.

Work must not proceed beyond each stage until the Principal Certifying Authority is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

- 55. **PREC7004 - Building - Structural Engineers Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.

#### **DURING WORK**

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

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

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

- 57. **CON2002 - Development Assessment - Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved separately by Council.
- 58. **CON5001 - Trees - Tree Removal on Private Land** - The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with AS4373 -2007 Pruning of Amenity Trees and the Trees Work Industry Code of Practice (WorkCover NSW, 1998).
- 59. **CON6002 - Engineering - Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act and/or under Section 68 of the Local Government Act 1993. Penalty

Infringement Notices may be issued for any offences and severe penalties apply.

60. **CON7001 - Building - Structural Engineer's Certification during construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of construction or prior issue of the Occupation Certificate.
61. **CON8001 - Waste - Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifying Authority and a copy provided to the Manager Environmental Services, Hurstville City Council.

#### **PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

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

62. **OCC3008 - Development Engineering - Consolidation of Site** - The site shall be consolidated into one allotment by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information Office prior to the issue of any Occupation Certificate (Interim or Final Occupation Certificate).

The consolidation Plan shall dedicate to the Council the 1m wide strip of land along the western boundary of the development site as road widening.

This Plan shall be lodged at Council with the application for a Subdivision Certificate together with the Sydney Water Section 73 Compliance certificate.

This Plan shall be registered at the NSW Land and Property Information Office prior to the issue of any Occupation Certificate (Interim or Final Occupation Certificate).

63. **OCC7005 - Building** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.
64. **OCC7006 - Building** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about

the location of water storage tanks, construction of booster pump and valve rooms, definition of large isolated building and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

65. OCC2004 - **Development Assessment - BASIX Compliance Certificate** - A Compliance Certificate must be provided to the Principal Certifying Authority regarding the implementation of all energy efficiency measures as detailed in the BASIX Certificate No. 578956M dated 2 October 2014 and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.
66. OCC2005 - **Development Assessment - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
67. OCC2006 - **Development Assessment - Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

(a) all adjoining properties.

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

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

68. OCC2007 - **Development Assessment - Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
  - (a) Residential dwellings: seventy five (75)
  - (b) Residential visitors: nineteen (19)
  - (e) Commercial: four (4)
  - (g) Car wash bay: one (1)
69. OCC6002 - **Engineering - Vehicular crossing and Frontage work - Major development** - The following road frontage works shall be constructed in accordance with Council's, Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:
  - (a) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.



- (b) Construct a new full width (boundary to kerb) footpath in paving material approved and specified by Council's Engineer for the full frontage of the site in Treacy Street and Hill Street in accordance with Council's Specifications for footpaths. This work shall include the reconstruction of Council's two kerb inlet pits outside the development site at the intersection of Treacy Street and Hill Street
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Treacy Street and Hill Street in accordance with Council's Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.
- (e) Construction of any new kerb extension on the corner of Treacy Street and Hill Street together with any street tree planting/landscaping.

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

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

- (a) All public infrastructure adjoining the subject site.

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

The report must include the following:

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

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

Council's Engineering Services Section must advise in writing that the works

have been completed to their satisfaction prior to the issue of the Occupation Certificate. Further, Council will use this report to determine whether or not to refund the damage deposit.

71. **OCC7001 - Building - Fire Safety Certificate before Occupation or Use -** In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the Regulation. The Fire Safety Certificate must be in the form required by Clause 174 of the Regulation. In addition, each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate must state:

- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

A copy of the certificate is to be given (by the owner) to the Commissioner of Fire and Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

72. **OCC7002 - Building - Slip Resistance-** Floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in wet rooms in any commercial/retail/residential units are to comply with the slip resistant requirements of AS1428.1 (general requirements for access/new building work) and AS1428.4 (tactile ground surface indicators) and AS2890.6 (off-street parking). Materials must comply with testing requirements of AS/NZS4663:2002.

#### **ONGOING CONDITIONS**

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

73. **ONG7004 - Building -** Noise levels emitted from the mechanical exhaust system or any air conditioning unit must not exceed the background noise level when measured at any point on the boundary of the site.
74. **ONG2003 - Development Assessment - Maintenance of Landscaping -** All trees and plants forming part of the landscaping must be maintained on an ongoing basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turfed areas.
75. **ONG3004 - Development Engineering - Conditions relating to future Strata Subdivision of Buildings -**

**No approval is expressed or implied for the subdivision of the subject**

**building(s). For any future Strata subdivision, a separate Development Application or Complying Development Certificate shall be approved by Council or an Accredited Certifier.**

**Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:**

**(a) Unit Numbering**

Apartment type numbers shall be installed adjacent or to the front door of each unit.

The unit number shall coincide with the strata plan lot numbering.

**(b) Car Parking Space Marking and Numbering**

Each basement car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

**(c) Designation of Visitor Car Spaces on any Strata Plan**

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

**(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan.**

- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
- iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

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

**The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).**

**(e) On Site Detention Requirements**

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

**(f) Creation of Positive Covenant**

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

*"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Hurstville City Council."*

Hurstville City Council is to be nominated as the Authority to release, vary or modify this Covenant.

76. **ONG3005 - Development Engineering – Additional requirements for the issue of a Strata Certificate** - In addition to the statutory requirements of the Strata Schemes (Freehold Development Act 1973) a Strata Certificate must not be issued which would have the effect of:

- a) The removal of any areas of common property shown upon the approved Development Application plans and allocated to any one or more strata lots;
- b) The removal of any visitor parking spaces from the strata scheme and allocated to any one or more strata lots; or
- c) Any unit's parking space or storage area is not strata subdivided as separate strata lot;
- d) Under no circumstances shall any future Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

**Note:** This condition has been imposed to ensure that: (a) common property is not alienated from the strata scheme and assigned to any one or more strata lots, (b) visitor parking is not alienated from the strata scheme and assigned to any one or more strata lots such that visitors would be restricted from lawful access and use of required visitor parking, (c) parking spaces and storage areas are not strata subdivided as separate strata lots which may be sold with full strata title rights as a parking space or storage area lot, reducing available parking and storage to strata lots and visitors required to reduce demand for on-street public parking.

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

- (a) Permit stormwater to be temporarily detained by the system;
- (b) Keep the system clean and free of silt rubbish and debris;
- (c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain;
- (d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- (e) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- (f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- (g) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- (h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- (i) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- (j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

78. **ONG7002 - Building - Annual Fire Safety Statement** - In accordance with Clause 177 of the Environmental Planning and Assessment Regulation, 2000 the owner of the building premises must cause the Council to be given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:

- (a) Within twelve (12) months after the date on which the fire safety certificate was received.
- (b) Subsequent annual fire safety statements are to be given within twelve (12) months after the last such statement was given.
- (c) An annual fire safety statement is to be given in or to the effect of

Clause 181 of the Environmental Planning and Assessment Regulation, 2000.

- (d) A copy of the statement is to be given to the Commissioner of Fire and Rescue NSW, and a further copy is to be prominently displayed in the building.

#### **ADVICE**

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

79. **ADV7001 - Building - Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
80. **ADV7004 - Building - Council as PCA - Compliance with the BCA** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- Mechanical ventilation, provided to bathroom, laundry and basement areas not afforded natural ventilation.
  - Firefighting services and equipment including hydrant systems, sprinkler systems, hose reels, mechanical air handling, portable fire extinguishers, smoke hazard management & warning systems, etc.
  - Emergency lighting and exit signs throughout the premises including courtyard and lobby areas.
  - Fire resistance levels of building elements including walls, floors, top floor ceiling, columns, roof, etc.
  - Construction of all fire doors and smoke doors (smoke doors to swing in the direction of egress) including operational and warning signage.
  - Fire compartmentation and separation details including all stairway, lift and service shafts.
  - Method of protection of wall openings, in the building standing less than 3 metres from the boundary and/or fire source feature.
  - Exit travel distances (including units on levels 3 to 7) and installations within exits must demonstrate compliance with the BCA.
  - Sound transmission and insulation details.
  - Disabled access that complies with the BCA and with AS 1428.1.2009
  - Certified Alternative fire engineering reports where required.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Principal Certifying Authority with the Construction Certificate Application. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative method of compliance with the BCA, such report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

81. ADV7005 - **Building - Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.
82. ADV7006 - **Building - Compliance with Access, Mobility and AS4299 - Adaptable Housing** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Development Control Plan No 1 - LGA Wide - Section 3.3 Access and Mobility and AS 4299 Adaptable Housing.
83. ADV2002 - **Development Assessment - Site Safety Fencing** - Site fencing must be erected in accordance with WorkCover Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

For more information visit [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

### **Schedule B – Prescribed Conditions**

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

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

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

- 84. PRES1001 - **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 85. PRES1002 - **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
- 86. PRES1003 - **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
- 87. PRES1004 - **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
- 88. PRES1007 - **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

### **Schedule C – Operational & Statutory Conditions**

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

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

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

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

- 90. OPER1002 - **Appointment of a Principal Certifying Authority** - The



erection of a building must not commence until the beneficiary of the development consent has:

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

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

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

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

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

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

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

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

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

- (a) A Construction Certificate has been issued by the consent authority, the council (if not the consent authority) or an accredited certifier; and
- (b) The beneficiary of the consent has appointed a Principal Certifying Authority for the subdivision work.

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

- (a) The consent authority and the council (if not the consent authority) of his or her appointment; and

- (b) The beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the subdivision work.

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

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

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

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

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

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

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

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

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