

JOINT REGIONAL PLANNING PANEL
(East)

JRPP No	2014SYE138
DA Number	DA2014/1132
Local Government Area	Hurstville City Council
Proposed Development	Demolition of Existing Structures and Construction of 3-4 Storey Residential Flat Building with 39 Dwellings and Basement Parking for use Affordable Housing under State Environmental Planning Policy (Affordable Rental Housing) 2009
Street Address	47-51 Lawrence Street, Peakhurst
Applicant/Owner	Applicant and Owner: St George Community Housing
Number of Submissions	Five submissions received
Recommendation	Approval
Report by	Teresa Gizzi – Senior Development Assessment Officer Hurstville City Council

Zoning	Zone R3 – Medium Density Residential
Applicable Planning Instruments	<ul style="list-style-type: none"> • Hurstville Local Environmental Plan 2012, • Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, • State Environmental Planning Policy No 55 – Remediation of Land, • State Environmental Planning Policy (Affordable Rental Housing) 2009, • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, • State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, • Development Control Plan No 1 – LGA Wide
Hurstville Local Environmental Plan 2012 Interpretation Of Use	Affordable Housing Residential Flat Building
Existing Development	Dwelling houses
Cost Of Development	\$9,677,448
Reason For Referral To JRPP	Private Infrastructure over \$5 million (Affordable Housing)
File No	DA2014/1132
Has A Disclosure Of Political Donations Or Gifts Been Made?	No

EXECUTIVE SUMMARY

1. Development consent is sought for the demolition of the existing dwellings and construction of a part three, part four storey residential flat building to comprise 39 units to be used as affordable rental housing and managed by a registered community housing provider.
2. The application has been assessed against the relevant planning instruments and Development Control Plans. Variations to the provisions of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, Hurstville Local Environmental Plan 2012 and Development Control Plan No 1 – LGA Wide are sought, however are found to be acceptable for the reasons provided in the report.
3. The application was advertised and eighteen (18) residents were notified of the development for a period of fourteen (14) days. Five (5) submissions were received.

AUTHOR RECOMMENDATION

That the application be approved subject to the attached conditions.

REPORT DETAIL

DESCRIPTION OF THE PROPOSAL

Development consent is sought for demolition of the existing dwellings and the construction of a part three, part four storey residential flat building comprising 39 units under the provisions of SEPP (Affordable Rental Housing) 2009.

The proposal will accommodate 13 x 1 bedroom units and 26 x 2 bedroom units. At basement level, 23 car parking spaces are provided along with 14 bike spaces and storage for each unit.

The development is proposed to be 100% affordable and is to be managed by a registered community housing provider, St George Community Housing.

HISTORY

13 Nov 2014	Application lodged
21 Nov 2014 – 5 Dec 2014	Application advertised and notified
22 Jan 2015	Application referred to Design Review Panel
9 Feb 2015	Additional information requested
19 - 27 Feb 2015	Amended plans and additional overland flow study provided

DESCRIPTION OF THE SITE AND LOCALITY

The subject site legally identified as Lots 241, 242 and 243 in DP 36317 and is commonly known as 47-51 Lawrence Street, Peakhurst.

The site has a frontage of 51.51m to Lawrence Street and total area of 2014.6sqm. The land falls approximately 5m diagonally across the site towards the street.

Adjoining the site to the east are single storey dwelling houses. To the west of the site is a single storey attached dual occupancy. The site adjoins a public reserve to the rear which provides a buffer to Jacques Avenue.



COMPLIANCE AND ASSESSMENT

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

1. ENVIRONMENTAL PLANNING INSTRUMENTS

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP (ARH) 2009) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, the SEPP (ARH) provides for new affordable rental housing by offering incentives such as floor space ratio bonuses and non-discretionary development standards.

Clause 10 – Land to Which Division Applies

Clause 10 prescribes the land in which in-fill affordable housing applies. The subject site is on land to which the division applies as it satisfies the following criteria:

- The proposed development is defined as a 'residential flat building' under Hurstville Local Environmental Plan 2012 and is permissible in the R3 Medium Density Residential Zone.

- The site is within an 'accessible area' as it is 350 metres walking distance to the bus stop located at the corner of Lawrence and Trafalgar Streets. The 944 bus route services this stop every half an hour Monday to Friday and hourly on the weekends.

Clause 14 – Standards that cannot be used to refuse consent

SEPP (Affordable Rental Housing) 2009 - Division 1 In-fill Affordable Housing	Control	Proposed	Complies
Clauses 11 and 12	Repealed	N/A	N/A
Clause 13 Floor space ratios	The FSR permitted on the land by HLEP 2012 (1:1) plus the following bonus: -0.5:1 if the gross floor area of the development used for affordable housing is 50% or higher 100% affordable housing = 1.5:1 FSR	1.34:1	Yes
Clause 14 Standards that cannot be used to refuse consent	(a) Repealed	N/A	N/A
	(b) Site area if the site is at least 450sqm	2014.6sqm	Yes
	(c) Landscaped area in the case of an application by a social housing provider at least 35sqm per dwelling. = 1,365sqm	19% (384sqm) As the development provides landscaped area well below the SEPP standard, an assessment against Council's DCP is provided later in this report.	No
	(d) Deep soil zones (i) 15% of the site can support trees or shrubs (ii) The deep soil area has minimum dimensions of 3m (iii) If practicable, two-thirds of the deep soil zone is at the rear of the site	18.5% (374sqm) of the site is provided as a deep soil zone with a minimum dimension of 3m. The site has no traditional 'rear' boundary as it benefits from two street frontages.	Yes
	(e) Solar access if 70% of dwellings receive 3 hours sunlight between 9am and 3pm in midwinter	Solar access to the apartments does not meet this minimum requirement. However, overall solar access to the development is considered satisfactory. Further, discussion is provided under SEPP 65 below.	No but satisfactory. See discussion later in this report.

(2) General A development authority must not refuse consent to development to which this Division applies on any of the following grounds	(a) Parking if, in the case of a social housing provided at least: (ii) 0.4 spaces per 1 bedroom units; 0.5 spaces per 2 bedroom unit, 1 space per 3 or more bedroom unit are provided = 16 required	23 provided	Yes
	(b) Dwelling size if each dwelling has at least: (i) 35sqm for a studio (ii) 50sqm for 1 bedroom (iii) 70sqm for 2 bedrooms (iv) 95sqm for 3 + bedrooms	Unit No. U103 falls just short of the 50sqm with a floor area of 48.1sqm. The dwelling benefits from a northern aspect and a floor to ceiling height of 2.7m which will provide a feeling of spaciousness. The spaces within the unit remain functional and it is considered a satisfactory level of amenity is maintained. All other units meet the minimum floor space requirements.	Satisfactory
Clause 15 Design Requirements	(1) A consent authority must not consent to development to which this Division applies unless it has taken into consideration the provisions of the <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy.	N/A as SEPP 65 applies	N/A
Clause 16 Continued application of State Environmental Planning Policy No 65 – Design of Residential Flat Development (SEPP 65)	SEPP 65 applies if the proposed development is defined as a “residential flat building”	SEPP 65 assessment provided later in this report	See assessment later in this report
Clause 16A Character of the local area	A consent authority must not consent to development to which this Division applies unless it has taken into	See assessment below this table	Yes

	consideration whether the design of the development is compatible with the character of the local area.		
Clause 17 Must be used as affordable housing for 10 years	(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that: (a) for 10 years from the date of the issue of the Occupation Certificate: (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and (ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the <u>Conveyancing Act 1919</u> , that will ensure that the requirements of paragraph (a) are met.	Should the application be approved, appropriate conditions will be imposed	Yes
Clause 18 Subdivision	Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.	No subdivision is proposed	N/A

Clause 16A - Character of the Local Area

The matter of assessing the character and compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council* (2003) NSWLEC 268 and *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two (2) cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- *“The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.”*

Comment: To the east of the site is a single storey dwelling house and to the west is a single storey dual occupancy. At the rear of the site is a narrow public reserve that addresses Jacques Avenue. The existing streetscape is characterised by one and two storey low density residential development however the area is currently in a period of transition. The recent rezoning of the Peakhurst area to R3 Medium Density Residential has made residential flat buildings permissible and already in Lawrence Street alone, six three storey residential flat buildings have been granted development consent.

The established character of the area is changing as a result of the rezoning, and for this reason, the development is consistent with the desired future character of the area and is compatible with the streetscape.

- *“The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.”*

Comment: The overall size of the development is greater than the two single storey buildings to the east and west. However, as mentioned above, the area is changing in character as three storey residential flat buildings are now a permissible form of development.

The development has been designed to reduce the visual bulk of the building. The building is well articulated and as the building rises, the setback from the western boundary has been increased. At the eastern boundary, the ground floor level has been lowered and setback from the boundary to reduce the visual impact of the development. The top storey is also setback from the street.

To assist in screening the development, generous landscaping has been proposed at the front and rear of the site to match the character of the area.

- *“The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site’s edges to destroying it and planting new vegetation.”*

Comment: The site has limited characteristics that could be preserved to reduce the bulk and scale of the development and improve compatibility. The existing landscaping present on the site primarily comprises small trees and extensive grassed areas of limited aesthetic value. However, the application has been designed to retain a large crepe myrtle at the front of the site and extensive replacement planting is proposed.

The land falls away steeply towards the western boundary which increases the height of the building at this point and results in a minor height non-compliance. However to manage the change in topography, the upper levels are stepped back at this point.

- *“The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.”*

Comment: The proposed colours and materials are compatible with the adjoining developments. They comprise a neutral colour palette of brick, copper, concrete and render.

The above was further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

- *“Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.”*

Comment: The physical impacts of the development on surrounding properties are assessed as consisting of overlooking, overshadowing, noise and constraints on the development potential of surrounding sites.

The proposed development would not result in any significant overshadowing of neighbouring properties and given its residential use, would not cause an unreasonable noise impact. The development potential of adjoining sites would also remain unaffected.

As detailed later in this report, the proposal is likely to result in overlooking of the adjoining properties to the east and west. The overlooking is limited to the rear gardens only and is considered to be minor. Conditions are recommended requiring screening of side balconies to further minimise this impact. In addition, given the current transition in the character of the area from low density residential to medium density, minor impacts are difficult to mitigate.

The physical impacts of the development when considered in the context of the site are acceptable.

- *“Is the proposal’s appearance in harmony with the buildings around it and the character of the street?”*

Comment: The harmony of a proposals appearance with the buildings around it and the character of the street are assessed having regard to building height, setbacks and landscaping.

As discussed above, adjoining the site to the east and west of the site are single storey buildings. The development has been lowered at the eastern boundary and the upper floor levels have been stepped away from the western boundary to reduce the visual impact of the development on these properties. It must also be acknowledged that the

locality is in a period of transition and that the adjoining properties are likely to be redeveloped for three storey residential flat buildings in the future. This is particularly the case for the property to the east which has recently been subject of a development application for this type of development.

The setbacks of the development from the street and the adjoining properties are considered appropriate to ensure the building does not appear visually dominant. Further, the proposed landscaping will define the edge of the site and once established provide a setting that is consistent with the landscape character of the locality.

In the context of an area that is undergoing transition, the proposed development is considered to be sympathetic to the surrounding buildings and the character and appearance of the locality.

Conclusion of Character Assessment

Comment: Given the changing character of the area, the design of the development is considered to appropriately respond to the constraints of the site and would not cause any unreasonable impact on the amenity of adjoining properties. The development is consistent with the desired future character of the area and is supported.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

The extent to which the proposed development complies with the Hurstville Local Environmental Plan 2012 is detailed and discussed in the table below.

Clause	Standard	Proposal	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The application is consistent with the aims of the plan.	Yes
1.4 - Definitions	Residential Flat building	The proposed development is defined as affordable housing and a residential flat building	Yes
2.3 - Zone objectives and Land Use Table	Development must be permissible with consent Meets objectives of R3 Zone	Residential flat buildings are permissible with development consent in the R3 Zone. Affordable housing is made permissible by SEPP (ARH) 2009. The development is consistent with the objectives of the zone in that it provides housing to meet the needs of the community and in a medium density residential environment.	Yes
2.6 - Subdivision	Subdivision is permissible with consent	No subdivision is proposed	N/A
2.7 - Demolition	Demolition is permissible with consent	Demolition is included in the application.	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	The applicant has indicated that the maximum height of the building is 12.375m. However, an assessment of the application has	No See discussion below

		found the maximum height to be 12.8m. This is discussed in detail later in this report.	
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	1.42:1 An FSR bonus is sought under SEPP (Affordable Rental Housing) 2009 and therefore the floor space ratio control within the HLEP 2012 is superseded.	N/A
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	Calculations by Council's Assessment Officer have been undertaken in accordance with Clause 4.5	Yes
4.6 – Exceptions to development standards	A written request to vary a development standard must be submitted by the applicant	A written request to vary the building height standard in accordance with Clause 4.6 has been submitted with the application	See discussion below
5.9 – Preservation of Trees or Vegetation	Trees to be removed are specified in DCP1	No significant trees as identified in DCP1 are proposed to be removed	Yes
5.10 – Heritage conservation	Heritage impact statement required if site involves heritage item	The site is not listed as a heritage item and there are no heritage items located within the vicinity of the site	Yes
6.1 – Acid Sulfate Soils	Acid Sulfate Soils Management Plan must be prepared	The site is not affected by acid sulphate soils	Yes
6.7 – Essential Services	Development consent must not be granted to development unless services that are essential for the development are available	Essential services are available to the development.	Yes

Detailed Assessment of Variation to Clause 4.3 - Height of Buildings Development Standard

Clause 4.3 of Hurstville Local Environmental Plan 2012 limits the maximum height of buildings on this site to 12m. The proposed three storey development has a maximum height of 12.8m. The variation to the height limit occurs at the front of the site towards the western boundary and comprises approximately 9% of the total roof area. However it is noted that most of the non-compliant portion has an average height of only 12.3m.

To support the non-compliance the applicant has provided a request for a variation to a development standard in accordance with Clause 4.6 of Hurstville Local Environmental Plan 2012.

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to

Development Standards under the HLEP 2012. The assessment is detailed as follows:

Is the planning control in question a development standard?

Comment: The prescribed Height of Buildings limitation pursuant to Clause 4.3 of the HLEP 2012 is a development standard.

What are the underlying objectives of the development standard?

Comment: The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the HLEP 2012 are:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes,*
- (c) to minimise the adverse impact of development on heritage items,*
- (d) to nominate heights that will provide a transition in built form and land use intensity.*

The applicant has submitted justification to support the variation which addresses the relevant objectives of the building height development standard. The applicant's justification is provided below:

- The proposal achieves objective (a) because it will have a height, bulk and scale compatible with the emerging character of the locality. Strict compliance with the standard would not improve its compatibility and may diminish it by compromising the design integrity of the building.*
- The proposal also achieves objective (b). The proposed variation does not adversely affect visual impact, views, privacy or solar access to existing development or to public areas.*

The applicants justification is supported for the following reasons:

- The bulk and scale of the development is consistent with the desired future character of the locality and generally consistent with new residential flat buildings in the area.
- Only 9% of the total roof area exceeds the building height and only a very small proportion of this area is actually 12.8m. Most of the non-compliant roof area is an average of 12.3m in height and the variation occurs as a direct result of a sudden dip in ground level at the north western corner of the site.
- The additional floor space permitted by SEPP (ARH) 2009 cannot be accommodated within the traditional building envelope established by HELP 2012 and DCP No.1 – LGA Wide. The proposed development is well designed to accommodate the additional space within a building of minimal environmental impact that remains compatible with new development in the area.
- The height of the development is consistent with the changing built form of the locality.
- The variation to the height would not result in an unreasonable visual impact on neighbouring properties or the streetscape and would not affect views in the locality.

- There are no significant overshadowing impacts on adjoining residential properties. Solar access to the public reserve to the south (rear) of the site is affected by the development; however it is not impacted by the non-compliant building element and is therefore to be expected.
- Privacy impacts as a result of the development are minor and can be managed via conditions of consent requiring screening to side balconies.
- The development is not heritage listed or in the vicinity of heritage items.

What are the underlying objectives of the zone?

Comment: In assessing the development's non-compliance, consideration must be given to its consistency with the underlying objectives of the R3 Medium Density Residential zone which are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that a high level of residential amenity is achieved and maintained.*
- *To provide for a range of home business activities, where such activities are not likely to adversely affect the surrounding residential amenity.*

The applicants justification is as follows:

- *Provides for the housing needs of the community within a medium density residential environment, particularly those who are not able to meet their needs in the private rental market;*
- *Expands the variety of housing in the area;*
- *Achieves a high level of amenity with good natural ventilation, solar access and private open space for residents of the development and no significant adverse amenity impacts on residents of neighbouring properties.*

Again the applicants submission is supported. The development is considered consistent with the objectives of the R3 Medium Density Residential zone for the following reasons:

- The development would provide affordable rental housing to meet the needs of the community and is compatible with the transitioning character of the area to a medium density residential environment.
- The development provides a variety of housing types for affordable housing.
- A high level of residential amenity is achieved for the future residents of the development and the amenity of the adjoining properties is maintained.

Is the variation to the development standard consistent with Clause 4.6 of the HLEP 2012?

(1) The objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment: To accommodate the additional floor space on the site permitted by SEPP (ARH) 2009 for use as affordable housing, it is acknowledged that there must be some degree of flexibility in the application of planning controls.

The proposed variation to the building height development standard occurs at the front of the building as a result of a dip in the ground level of the site. The variation would not cause any unreasonable visual impact on adjoining properties and it is not considered it would cause the development to appear excessive or over dominant in the streetscape. Additionally, the variation would not significantly affect the amenity of the neighbouring properties.

In this instance, it is considered that the variation to the development standard is acceptable.

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment: The site is not excluded from the operation of this clause.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The applicant has provided justification stating that the development is consistent with the objectives of the standard and that the application of the standard would be unreasonable and unnecessary in this case. The submitted arguments are provided below:

- The non-compliance is essentially 'technical' and very minor, arising from a dip in the general level of the existing ground level. The building has a uniformly flat roof and the height breach does not result from a section of non-compliant roof elevated above the rest of the roof level. The eastern part of the site (No47) occupies the floor of a natural valley formation, with the landform rising to the east and west. There is a localised depression towards the front of No47. The development involves 'regularising' this landform to produce a level front yard and a ground floor level similar to that of the neighbouring property No45A/45*

Lawrence St. The existing dip will therefore cease to be evident and the development will appear as if sitting on flat, natural ground. In this context, there will be no visual cues to suggest that this part of the building is any higher than any other part of the front facade and it would be unnecessary to reduce height to achieve technical compliance.

- The non-compliance could be rectified by cutting back the roof overhang and the floorplans of Units U403 and U404, resulting in loss of accommodation. However it is considered that this would result in an inferior design outcome because the development would have a curious indentation in built form, thus destroying the lateral form and unity of the front facade for no apparent reason; control of sunlight into the front rooms of U403 and U404 would be compromised, and the public benefit of providing much-needed affordable housing for low and middle income households would be diminished without any offsetting public benefit gain.*
- The height 'breach' does not result in additional impacts to neighbouring properties (specifically, the adjacent property No45A) such as overshadowing, overlooking or adverse visual impact.*

The submission provided by the applicant in this instance is agreed with and it is considered that the strict application of the development standard would be unreasonable and unnecessary in this instance.

- (4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment: A written request for the variation prepared by Shanahan Planning was submitted with the application which provides justification to address subclause (3). The extent of the variation is found to be consistent with subclause (3) and Clause 4.6 overall and the submitted justification is supported.

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

Comment: For the reasons detailed above, the proposal is considered to be consistent with the objectives of Clause 4.3 Height of Buildings and the objectives of the R3 Medium Density Residential Zone under HLEP 2012. Further the provision of affordable housing in the locality is of considerable public and benefit and is therefore in the public interest.

(b) the concurrence of the Director-General has been obtained.

Comment: Comment: Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under

environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, if the variation is found to be consistent with the objectives of the zone, the concurrence of the Director-General for the variation to the building height Development Standard can be assumed.

STATE ENVIRONMENTAL PLANNING POLICY NO 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

The extent to which the proposed development complies with the controls and principles in the State Environmental Planning Policy 65 – Design Quality of Residential Flat development is detailed and discussed in the tables below.

Application of SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of "Residential Flat Building" (RFB)	Complies with definition	Yes
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB	Erection of a new residential flat building	Yes
30 – Development Applications	Design verification statement provided by Qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect (Reg. No. 7806)	Yes

Part 2 Design Quality Principles under the SEPP

Principle 1: Context

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

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

Design Review Panel Comment:

The context has been well described by the proponents and this should be commended. The proposal responds well to the findings of the contextual analysis with a building that is very clear and well designed within the sites complex topography and evolving streetscape.

It is notable that some key site trees are flagged for removal however these proposals have not been accompanied by an arborist report. It would be preferred if existing trees could be

retained where possible for example the existing lagerstroemia specimen at the front of the site.

Development Assessment Officer Comment:

The applicant has amended the design to retain the Lagerstroemia (Crepe Myrtle) at the front of the site. The other trees on site are located within the building footprint and are difficult to retain. Council's Tree Management Officer has assessed the application and raised no concerns with the proposed tree removal.

It is noted that the Peakhurst area is in a period of transition due to the recent rezoning to R3 – Medium Density Residential. The development is consistent with the desired future character of the area and is therefore acceptable in its context.

Principle 2: Scale

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

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

Design Review Panel Comment:

Acceptable.

Development Assessment Officer Comment:

The proposed development exceeds the building height development standard by a maximum of 0.8m with a maximum height of 12.8m at the north western corner of the roof. The non-compliance comprises a small area (9%) of the roof only and it is noted that of the non-compliant area most is only 12.3m. The variation is a result of the site topography.

The highest point of the building is located near to the western boundary which adjoins a single storey dual occupancy. To maintain an appropriate relationship, the development has been designed to step away from this boundary so that the highest point of the building has a side setback of 9.5m. This is found to be acceptable.

The scale of the development is consistent with new residential flat buildings in the area and the desired future character of the locality.

Principle 3: Built Form

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

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

Design Review Panel Comment:

The perspectives describe a building that is simple, clear and elegant. The use of simple materials such as two (2) colours of brick and concrete is commendable. The entry slot causes some concern due to the proximity of adjacent windows. These need to be tested against fire and privacy requirements.

The rear boundary fence seems a little low and may invite overlooking, etc. It may be preferable to have a higher wall on the courtyard side.

Development Assessment Officer Comment:

The issues raised by the Design Review Panel have been addressed.

The windows to habitable rooms within the entry slot have been offset from those located opposite to preserve privacy. The bathroom windows are proposed to be obscure glazed and this will be enforced by a condition of consent. Study room windows are proposed to be located directly opposite each other however to preserve privacy a condition is recommended requiring that they also be obscure glazed.

A BCA report has been submitted with the application which indicates compliance with the fire safety requirements of the BCA.

The rear boundary fence has been modified to include a 1.8m high fence comprising a low retaining wall with open style aluminium fencing above and landscaping behind to ensure privacy.

The building is considered to be a high quality design that would contribute positively to the character and appearance of the streetscape and is consistent with the requirements of Principle 3.

Principle 4: Density

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

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

Design Review Panel Comment:

Acceptable

Development Assessment Officer Comment:

It is noted that the development benefits from additional floor space under the provisions of SEPP (ARH). In accommodating the additional floor space, a number of variations to both the Hurstville LEP 2012 and Hurstville DCP arise, however the development is considered to appropriately manage the impacts of the non-compliances. As such, the density of the development is considered appropriate.

Principle 5: Resource, energy and water efficiency

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

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

Design Review Panel Comment:
Refer to BASIX.

It is commendable that solar panels and water collection measures are proposed.'

Development Assessment Officer Comment:
Satisfactory.

Principle 6: Landscape

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

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

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

Design Review Panel Comment:
See context above regarding the retention of existing mature trees.

Otherwise, the proposal is acceptable.

Development Assessment Officer Comment:
The development has been amended to retain the Crepe Myrtle at the front of the site as requested by the Design Review Panel. Retention of additional trees on the site is not possible due to their location within the building footprint however, significant new landscaping is proposed across the site to ensure the landscaped character of the locality is retained.

Principle 7: Amenity

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

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

Design Review Panel Comment:

The units are well laid out and comfortable. Additional storage will be required within the units to comply with the RFDC.

The Panel encourages inclusion of communal open space with good access and due consideration given to use and amenity specific to the intended residents.

See notes above regarding proximity of windows in entry slot.

The adaptable unit on the ground floor facing Lawrence Street may be problematic due to its inaccessibility to the front gate. It is recommended that an accessible unit is found elsewhere.

Solar access needs to be confirmed as part of the DA.

Development Assessment Officer Comment:

The applicant has indicated that 69.2% (27) of units receive 3 hours sunlight between 9am and 3pm midwinter. The applicant has also advised that one additional unit will receive 3 hours of solar access between 1pm and 4pm increasing the figure to 71%.

An assessment of the application has found this not to be the case. As is demonstrated by the submitted shadow plans, it is clear three of the units identified by the applicant as compliant would not receive 3 hours of solar access into their primary living spaces. This results in only 61% (24) of units meeting the minimum requirement.

Even though this is not ideal, it is acknowledged that the development has been designed to maximise the number of north facing units and of the units with an eastern or western orientation, most will at least receive 3 hours of sunlight to their private open space. Further, the provision of solar access to the remainder of the development is constrained by the sheer width of the site and its north - south orientation. The solar access available to the development is not considered to compromise the amenity overall and is found to be satisfactory.

As discussed earlier in this report, privacy issues arising from the proximity of windows within the entrance have now been addressed and conditions will be imposed requiring the use of obscure glazing in this location.

The adaptable unit at ground floor level is additional to the minimum requirements and it is therefore not vital that the unit meets the accessible standards.

Communal open space has not been accommodated within the amended plans. However as all units are provided with private open space that meets or exceeds the minimum requirements, it is not considered the overall amenity of the development would be significantly compromised.

Overall, the amenity of the development is generally consistent with Principle 7 and is considered satisfactory.

Principle 8: Safety and security

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

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

Design Review Panel Comment:
Acceptable.

It is not clear whether or not there are secure gates at the Lawrence Street main entrance.

Development Assessment Officer Comment:

The development is considered to provide a satisfactory level of safety and security. Access points into the building are easily identifiable and good passive surveillance is available over both public and private areas. The application has also been amended to provide security gates at the front of the site as requested by the DRP and fencing is also proposed along the rear boundary that adjoins Jacques Avenue.

Principle 9: Social dimensions and housing affordability

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

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

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

Design Review Panel Comment:
Acceptable

Development Assessment Officer Comment:

The development provides affordable rental housing and as such is acceptable.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.

Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Design Review Panel Comment:

The building appears attractive and refined. How well this is achieved in construction will be reliant upon good detailing and a prudent choice of material. Against the solidity and reliability of brick and concrete, the glazed balustrades could be risky in terms of design quality and longevity. Alternatives should be sought.

Development Assessment Officer Comment:

The design and appearance of the development incorporates articulated elements and a variety of materials on all elevations providing an acceptable architectural outcome.

The applicant has retained the glazed balustrades, however further detail has been provided to demonstrate that the aluminium post and rail will be of a higher quality square finish to ensure the overall design is not compromised. This is considered acceptable.

Recommendation

Design Review Panel Recommendation:

- The Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65.*
- Furthermore, the Panel commends the clarity of the application submitted and the integrity of the design response.*

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 Height	Ensure future development responds to desired future scale and character of street and local area	The development exceeds Council's maximum building height development standard, however as discussed earlier in the report, the building is considered to be compatible with the character and appearance of the streetscape.	Satisfactory
Building Depth	Maximum 18m (glass line to glass line). For wider buildings must demonstrate how satisfactory daylight and natural ventilation are achieved	Maximum depth of 23.8m As discussed earlier in this report, solar access does not meet the minimum requirements but is considered acceptable.	Satisfactory

		<p>The building is well articulated to maximise solar access and natural ventilation throughout the building and the depth of the building is not considered to compromise the amenity of the development.</p>	
Building Separation	<p><u>3 to 4 storeys/12m:</u></p> <ul style="list-style-type: none"> -12m between habitable rooms/balconies -9m between habitable rooms/balconies and non-habitable rooms -6m between non habitable rooms to non habitable rooms 	<p><u>Relationship with building to the west – 45A Lawrence Street, Peakhurst</u></p> <p>Adjoining the site to the west is a single storey attached dual occupancy which contains a number of windows in the western elevation. The proposed finished floor level of Level 1 is at approximately the same level as the top of the windows opposite.</p> <p>The bedroom windows of the proposed unit 204 are within 4.5m of the lounge and bedroom windows of 45A Lawrence Street. To mitigate the impact, the windows are offset both vertically and horizontally which will satisfactorily protect privacy between the properties.</p> <p>The windows of unit 203 are within 8m of the windows opposite. Further, the balcony of proposed unit 203 is within 6m of the windows opposite. The windows at 45A Lawrence Street which are to be affected comprise a bathroom, laundry and kitchen. The proximity of the proposed balcony and windows to the laundry and bathroom windows are not of significant concern as they would not result in any significant impact. However, although offset vertically, the proximity of the proposed balcony to the neighbouring kitchen window may give rise to a privacy impact. To mitigate this issue, a screen is proposed on the section of the balcony which is directly opposite the kitchen window. This is not an ideal outcome in terms of separation and privacy, however combined with the</p>	Satisfactory

		<p>vertical offset is considered to maintain sufficient amenity and refusal is not warranted on this basis.</p> <p>At levels 2 and 3 of the western elevation, there are balconies which are orientated to the west. At level 2 these balconies are setback 4.5m from the side boundary, and at level 3 the balconies are setback 8m from the side boundary. Due to the significant vertical offset, the balconies of Unit No's. U303, U304, U403 and part of U402 will primarily overlook the roof of 45A Lawrence Street and will not result in a significant privacy impact on the windows of the dwelling.</p> <p>The upper level balconies of Unit No's.U202, U302 and part of U303 and U402 will result in some overlooking of the private open space of 45A Lawrence Street, however it is noted this impact would not be alleviated by an increased setback. Due to the height of these balconies and their proximity to the balcony, the roof of the pergola over the neighbouring outdoor open space will provide some protection of privacy. However, to manage the impact, it is considered the western edge of these balconies should be fitted with 1.6m min high privacy screens comprising 45degree angled louvres with the outside openings facing north. The privacy impacts are considered minor and are a symptom of the transitional nature of the area arising from the change in zone however with the screens in place are considered to be successfully managed. On balance, the privacy impact is not considered to justify refusal of the application.</p> <p><u>Relationship with existing building</u></p>	
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		<p><u>to the east – 53 Lawrence Street, Peakhurst</u></p> <p>53 Lawrence Street Peakhurst adjoins the site to the east and is currently occupied by a single storey dwelling house. The dwelling contains no openings within the western (side) elevation opposite the proposed building and separation of 7.8m is achieved.</p> <p>Along the eastern elevation of the proposed development there are balconies at levels 2 and 3 setback 4m from the side boundary. As with the property to the west above, these balconies will result in overlooking of the neighbouring private open space, however increasing the setback would not alleviate the issue. Even so, it is considered that the same privacy screens should be erected along the outer edge of the balconies to Unit No's. U310, and U409 and part of U309 and U408 to provide some protection of privacy.</p> <p>The impact arises as a result of the increase in zoning and the changing character of the area from single dwelling houses to residential flat buildings. When considered in the context of the transitional nature of the area, the privacy impacts of the development is considered acceptable.</p> <p><u>Future Development to the East and West</u></p> <p>The proposed residential flat building would not preclude future redevelopment of the properties to the east or west as residential flat buildings and suitable separation between properties can be achieved.</p>	
Street setbacks	Use different setback controls to differentiate between urban	The development complies with the applicable front and rear	Satisfactory

	and suburban character areas. 5m -9m range is typical in suburban areas	setback controls and is consistent with the character of the area.	
Side and rear setbacks	Relate side setbacks to existing streetscape patterns	The development does not comply with the DCP controls in relation to side setbacks on the eastern elevation. However as discussed later in this report, the variation to the side boundary envelope control would not result in any significant impacts and would not be detrimental to the character and appearance of the established streetscape.	Satisfactory
Floor Space Ratio (FSR)	To ensure that the development is in keeping with the optimum capacity of the site and the local area. FSR is not specified in the Design Code.	The development is consistent with the FSR control permitted under SEPP (Affordable Rental Housing) 2009. Although variations to the DCP controls do arise, the development satisfactorily accommodates the bonus floor space on the site with minimal impacts on the character and appearance of the streetscape and the amenity of adjoining occupiers.	Satisfactory
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone	70% of the open space area is deep soil zone.	Satisfactory
Fences and walls	Respond to the identified architectural character for the street and/or the area. Clearly delineate the public and private domain	The proposed fencing is considered appropriate.	Satisfactory
Landscape design	Landscape design should optimise useability, privacy, social opportunity, equitable access and respect neighbour's amenity.	The landscape plan submitted with the application proposes appropriate planting of the site including trees, shrubs, and ground covers	Satisfactory
Open Space	Communal open space should be generally 25% of the site area. Min private open space for apartment at ground level/podium is 25sqm. Min preferred dimension in one direction is 4m	No communal open space is proposed however each unit is provided with generous areas of private open space which meet or exceed the minimum requirements. It is considered that the private open space is satisfactory to ensure a reasonable level of amenity is provided.	Satisfactory
Orientation	Position and orientate buildings to maximise solar	The proposed building has appropriately been positioned and	Satisfactory

	access	oriented to maximise solar access	
Planting on structures	Design for optimum conditions for plant growth	Proposed planting on structures is considered acceptable.	Satisfactory
Stormwater Management	Reduce the volume impact of stormwater on infrastructure by retaining it on site	Satisfactory	Satisfactory
Safety	Undertake a formal crime prevention assessment of the development	Development is consistent with crime prevention principles	Satisfactory
Visual privacy	Provide reasonable levels of visual privacy	As discussed under building separation earlier in this report, privacy impacts on adjacent properties have been sufficiently mitigated. Additionally, the development has been designed to minimise privacy impacts between units. Further conditions requiring the use of translucent glazing are recommended to ensure privacy is achieved between the units which adjoin the entrance corridor.	Satisfactory
Building Entry	Create entrance which provides a desirable residential identity for development	The main entrance of the building is clearly visible and easily identified.	Satisfactory
Parking	Provide adequate car parking for the building and integrate parking with the design of the building	Basement car parking is proposed which is satisfactorily integrated with the design of the building.	Satisfactory
Pedestrian Access	Promote residential flat development that is well connected to street and contributes to accessibility. Barrier free access to at least 20% of units	The entrance to the building is clearly identified and is accessible. More than 20% of units are barrier free.	Satisfactory
Vehicle Access	Limit width of driveways to 6 metres. Integrate adequate car parking and servicing access without compromising character	The driveway is 6m wide. The basement level car park is satisfactorily integrated into the design of the development.	Satisfactory
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	The maximum depth of the units is 9.5m from the back of a kitchen to the nearest window. To maximise solar access and natural ventilation, each of the primary living spaces of these units has a width of at least 4m and an internal floor to ceiling	Satisfactory

	metres deep should be a minimum of 4 metres	height of 2.7m which is considered to result in satisfactory amenity for future residents.	
Apartment Mix	To provide a diversity of apartment types, which cater for different household requirements now and in the future	Units are provided in a variety of sizes and layouts to accommodate varying housing requirements.	Satisfactory
Balconies	Primary balconies to be a minimum of 2 metres in depth	All balconies have a minimum width of 2m or more.	Satisfactory
Ceiling Heights	Residential buildings/floors -habitable rooms minimum 2.7m -non habitable rooms minimum 2.25m	Complies	Satisfactory
Flexibility	Provide apartment layouts which can accommodate the changing use of rooms	Layout of units are considered acceptable	Satisfactory
Ground floor apartments	Optimise the number of ground floor apartments with separate entries. Ensure ground floor apartments have access to private open space.	Direct pedestrian access is provided to all ground floor units with a frontage to Lawrence Street. All ground floor units have access to private open space.	Satisfactory
Internal Circulation	Maximum of 8 units to be accessible from a double loaded corridor	12 units are accessible from each corridor, however this is not considered to significantly compromise safety and security or residential amenity and is not considered to warrant refusal of the application.	Satisfactory
Storage	To provide adequate storage for every day household items within easy access of the apartment 1br = 6m ³ 2br = 8m ³ 3br = 10m ³	Complies. Each unit benefits from a storage area within the basement level and additional storage is also provided within each apartment.	Satisfactory
Acoustic Privacy	Protect acoustic privacy of residents in apartments and in private open spaces	Satisfactory	Satisfactory
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	61% of units meet the minimum requirements for solar access and 15% (6) units have a southerly aspect. For the reasons provided earlier in this report, solar access to the development is considered acceptable.	Satisfactory
Natural Ventilation	-60% of residential units should be naturally cross	61.5% of units are naturally cross ventilated.	Satisfactory

	ventilated. -25% of kitchens should have access to natural ventilation.	More than 25% 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.	Satisfactory
Roof design	Provide quality roof designs which contribute to the overall design	The proposed roof contributes positively to the simple design of the development and is acceptable.	Satisfactory
Energy efficiency	Reduce reliance on artificial heating and cooling	The development achieves the target scores required by BASIX	Satisfactory
Maintenance	Supply waste management plans as part of the development application	The waste management plan submitted with the application is appropriate	Satisfactory
Water conservation	Encourage use of rainwater tanks, use AAA rated appliances and store rainwater on site	BASIX certificate submitted addresses water conservation	Satisfactory

Development Assessment Officer Final Recommendation:

The comments of the DRP have been considered in the assessment of this proposal, and the development has been assessed against the design quality principles of SEPP 65 and the provisions of the Residential Flat Design Code.

As discussed, the development proposes a numbers of variations to the residential flat design code. The variations primarily occur as a result of the need to accommodate the additional floor space on site as allowed by SEPP (ARH) 2009 without major impacts on the character and appearance of the streetscape. Although in some instances the variations are not ideal, the overall amenity of the development is not significantly compromised and refusal of the application is not warranted.

On balance, the development is found to be generally consistent with the design quality principles and provisions of SEPP 65 and is supported.

OTHER STATE ENVIRONMENTAL PLANNING INSTRUMENTS

Compliance with the other relevant state environmental planning policies is detailed and discussed in the table below.

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

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.

2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft environmental planning instruments relevant to the proposal.

3. DEVELOPMENT CONTROL PLANS

Planning legislation changes for DCPs

In March last year, a new Section 74BA was introduced into the Environmental Planning and Assessment Act 1979 which identifies the purpose and status of development control plans, highlighting the fact that Development Control Plans are to primarily provide guidance to compliment an environmental planning instrument (LEP), and that provisions in a Development Control Plan are not statutory requirements.

Section 79C(3A) provides guidance on how consent authorities must assess and determine DAs in relation to provisions that are contained within Development Control Plans. The section identifies that if:

- a Development Application meets the standards in a Development Control Plan, the consent authority is not to require more onerous standards with respect to the development; and
- a Development Application does not meet the standards of a Development Control Plan, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions.

The proposal has been assessed under the relevant sections of Development Control Plan No 1 as follows.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - SECTION 3.1 CAR PARKING

The extent to which the proposed development complies with Section 3.1 Car Parking is detailed and discussed in the table below.

Section 3.1	Standard	Proposal	Complies
3.1.4.1 - Resident parking	1 or 2 bedroom – 1 space 3 or more bedrooms – 2 spaces required	Resident parking is defined by SEPP (Affordable Rental Housing) 2009	N/A
3.1.4.2 – Dimension of car	Compliance with AS2890.1 2004 and AS2890.2	Subject to condition	Yes, subject to condition

spaces, car parking layout, circulation, egress and egress			
3.1.4.3 – Stencilling of driveways	Finished with plain concrete	Subject to condition	Yes, subject to condition
3.1.4.4 – Ramps transitions, driveways	Ramp grades to comply with AS2890.2 2004, Part 2 Longitudinal section 1:20 to be provided with development application	Subject to condition	Yes, subject to condition
3.1.4.5- Basement car parking	- Underground parking to be located under building footprint - Minimise visual impact on street - Mechanical ventilation and exhaust shafts to be illustrated in plans	Complies	Yes
3.1.4.6 – Parking for people with a disability	Compliance with AS1428 – Design for access and mobility and AS2890.6	Subject to condition	Yes, subject to condition
3.1.4.8 - Car washing area	1 space (which can be a visitor space)	Subject to condition	Yes, subject to condition

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.3 ACCESS AND MOBILITY

The extent to which the proposed development complies with Section 3.3 Access and Mobility is detailed and discussed in the table below.

Section 3.3	Standard	Proposal	Complies
Adaptable dwellings	1 adaptable dwelling/10 dwellings or part thereof (min) – 4 required Adaptable dwelling complies with AS4299	4 adaptable dwellings provided (U104 has not been considered as adaptable as stairs are proposed at the entrance)	Yes
Access requirements	Access in accordance with AS1428 for all persons through the principal entrance of the building and to common areas	The entrance walkway from the street is ramped to provide disabled access into the building. A condition is recommended to ensure the entrance complies with AS1428.	Yes, subject to condition
Accessible car space	1 space per adaptable dwelling	4 disabled parking spaces provided	Yes

	Layout complies with Australian Standard		
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DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.4 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The extent to which the proposed development complies with Section 3.4 Crime Prevention through Environmental Design is detailed and discussed in the table below.

Section 3.4	Standard	Proposal	Complies
Site and building Layout	<ul style="list-style-type: none"> -Provide surveillance opportunities -Building addresses street --Habitable rooms are directed towards the front of the building -Garages are not dominant -Offset windows 	<p>The proposed development provides appropriate opportunities for surveillance of the subject site and addresses the street.</p> <p>The basement car park is not considered to be a dominant feature of the overall streetscape.</p>	Yes
Building Identification	<ul style="list-style-type: none"> -Clearly numbered buildings -Entrances numbered -Unit numbers provided at entry 	The building and units can be appropriately numbered subject to conditions of consent	Yes
Entrances	Clearly visible and not confusing	The entrance to the site is clearly identified from the street.	Yes
Fencing	Allows natural surveillance to street	The proposed fencing allows for natural surveillance.	Yes
Blind Corners	To be avoided	No blind corners evident	Yes
Communal Areas	Provide opportunities for natural surveillance	No communal area is proposed	N/A
Landscaping	<ul style="list-style-type: none"> -Avoid dense medium height shrubs -Allow spacing for low growing dense vegetation -Low ground cover or high canopy trees around car parks and pathways -Vegetation used as a barrier for unauthorised access 	The proposed landscaping would not compromise the safety and security of the development	Yes
Lighting	<ul style="list-style-type: none"> -Diffused/movement sensitive lighting provided externally -Access/egress points illuminated -No light-spill towards neighbours -Hiding places illuminated -Lighting is energy efficient 	These requirements can be required as conditions of consent	Yes
Security	Provide an appropriate level	An acceptable level of	Yes

	of security for each dwelling, communal areas and car park	security is proposed including a security gate at the front entrance of the property.	
Car parks	Access to lifts and stairwells to be clearly defined	Access to the car parking area is clearly defined	Yes
Ownership	Use of fencing, landscaping, colour and finishes to imply ownership	Landscaping and driveways indicate ownership	Yes
Building maintenance	Use materials that can be easily cleaned or use anti-graffiti paint	The use of brick and metal fencing at the street frontages is appropriate to minimise opportunities for graffiti.	Yes

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.5 ENERGY EFFICIENCY

A valid BASIX Certificate has been submitted with the application and the BASIX Commitments have been detailed in the design of the proposal.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.7 DRAINAGE AND ON SITE DETENTION (OSD) REQUIREMENTS

Council's Team Leader Subdivision and Development has assessed the original drainage plans submitted with the application. No objections were raised subject to conditions.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.9 WASTE MANAGEMENT

A Waste Management Plan has been submitted with the application which is acceptable. If approved, standard conditions are recommended requiring appropriate waste management during construction and as part of the on-going use of the development.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - SECTION 3.11 PRESERVATION OF TREES AND MANAGEMENT

The application has been amended to ensure the Crepe Myrtle at the front of the site can be retained. Council's Tree Management Officer has assessed the application and raised no objections to the proposed development subject to standard conditions of consent.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 4.3 MULTIPLE DWELLINGS AND RESIDENTIAL FLAT BUILDINGS

The extent to which the proposed development complies with Section 4.3 Multiple Dwellings and Residential Flat Buildings is detailed and discussed in the table below.

Section 4.3	Standard	Proposal	Complies
Minimum Street Frontage	24m	51.51m	Satisfactory

Residential density (Floor Space Ratio)	As per Hurstville LEP 2012	1.34:1 An FSR bonus is sought under SEPP (Affordable Rental Housing) 2009 and therefore the floor space ratio control within the HLEP 2012 is superseded.	N/A
Landscaped Area	20% (245.4sqm)	19% (384sqm)	Satisfactory (see discussion below)
Maximum Building Height	As per Hurstville LEP 2012 (12 metres)	12.8m	Satisfactory (see discussion earlier in this report)
Number of habitable storeys	3 storeys	4 storeys	Satisfactory (see discussion below)
Minimum Private Open Space Area	<u>Ground floor level</u> <3bedrooms – 50sqm Min dimension – 3m	Complies Note: Unit 202 has been considered as an upper level unit as the primary living space is elevated above ground level. As such, the balcony provisions apply to this unit and the open space provided off the kitchen and bedroom is considered additional.	Satisfactory
Minimum Principal Private Open Space Area	<u>Ground floor level</u> Must not be located forward of the building line < 3 bedrooms – 4m x 4m 1:20 (max)	Compliant principal private open space has been provided to each ground floor unit and is located behind the building line.	Satisfactory
	<u>Upper levels</u> 12sqm Min dimension – 2.5m	All balconies comply.	Satisfactory
Landscape Plan	Landscape Plan to be submitted with the DA	A landscape plan prepared by Site Design and Studios was submitted with the application	Satisfactory
Front Boundary Setbacks	Minimum 6m, balconies can project 1m	6m to wall 5m to balconies	Satisfactory
Secondary Frontage Setback	Minimum 6m balconies can project 1m	6m to wall 5m to balconies	Satisfactory
Rear Boundary Setbacks	Minimum 6m, balconies can project 1m.	N/A	N/A

Minimum Side Boundary Setbacks	Building Envelope 1.5m/45 degrees	<p>The eastern elevation projects into the building envelope towards the front of the maximum site to a maximum height of 5.5m.</p> <p>The western elevation meets the building envelope requirements.</p>	Satisfactory (see discussion below)
Balcony Projection	Must not project beyond the outer face of the building to any side boundaries	Complies	Satisfactory
Maximum excavation of natural ground level	500mm	<p>2m</p> <p>Excavation of up 2m is proposed however this area is located in the centre of the building footprint and would not be visible from the street. The excavation is required to manage an embankment through the site and would not result in any visual impact or amenity impacts on adjoining properties. In this regard, the excavation is considered acceptable.</p>	Satisfactory
Driveways, access lanes and car parking	<p>If street frontage is 20m or less – Must not occupy more than 40% of the frontage</p> <p>>20m – Must not occupy more than 33%</p>	11.6%	Satisfactory
Garages and car ports	Garages must not visually dominate the street facade	As the car parking is located within a basement garage it is not readily visible from the street and the driveway entrance does not appear visually dominant.	Satisfactory
Basement parking	Basement cannot extend more than 1m above natural ground level	Max. 2.5m	Satisfactory (see discussion below)
Visual Privacy	Habitable windows within 9m to be offset 1m or screened	See comments earlier in this report under SEPP 65.	Satisfactory
Solar Design & Energy Efficiency	3hrs of sunlight upon the open space areas of adjacent dwellings between 9am-3pm on 21 June	Adjoining dwellings receive a minimum of 3 hour sunlight mid-winter to private open space areas.	Satisfactory

Fences at the front boundary	<p>Fences facing the street – Max 1m in height</p> <p>If Private Open Space has a common boundary to public space, height may be increased to 1.8m (must be 50% of fence to be open)</p>	<p>The proposed fencing to Lawrence Street and Jacques Avenue varies in height from 1m – 1.8m. The fencing comprises a retaining wall and open style aluminium balusters above. Along Lawrence Street the fencing will be screened by landscaping to be located in front. Along Jacques Avenue, planter boxes will be located behind the fence and densely planted to provide privacy for each dwelling and also to integrate with the streetscape and the reserve.</p> <p>The proposed fencing is found to be acceptable.</p>	Satisfactory
Site Services	Site must be serviced by standard utilities	Standard utilities are available to the site	Satisfactory
Storage	6 cubic metres per dwelling	Each dwelling has at least 6 cubic metres of storage split between the basement level and inside each unit.	Satisfactory
Stormwater Drainage	Management of stormwater in accordance with the DCP	See table below in relation to stormwater drainage	Satisfactory

Stormwater Assessment	
Existing Stormwater System	Gravity to Street
Proposed Stormwater System	Gravity to Street
Stormwater objectives for development type met?	Consistent
Slope to rear (measured centreline of site)	No
Gravity to street (from property boundary to street kerb)?	Yes
Discharge into same catchment?	Yes
Easement required?	No

Landscape

DCP No.1 – LGA Wide requires that 20% (402.92sqm) of the site be provided as landscaped open space. When calculated in accordance with the definition, the site falls short of this requirement with only 19% (384sqm) being provided.

Notwithstanding the variation, it is noted that most of the eastern boundary and the entire southern boundary is bordered by large planter boxes with a width of 2m and a total area exceeding 100sqm. As the planter boxes are located over the basement level, they cannot

be strictly included in the calculation. However, overall, the landscaped area when combined with the extensive planter boxes provides a defined edge to the site and creates a setting that is consistent with the landscape character of the locality. As such, the landscape variation is of minimal impact and is supported in this instance.

Storeys and Building Envelope

The proposed development is four storeys in height and the eastern elevation of the building breaches the building envelope by a maximum of 5.5m at the front of the site tapering to full compliance two thirds of the way down the length of the building. The variations are considered acceptable for the following reasons:

- Even though the development is four storeys in height, with the exception of a small section at the north western corner of the building where the land dips away, the development complies with the building height development standard.
- The bulk and scale of the development is sympathetic to other approved residential flat development in the vicinity of the site and would not appear visually dominant within its context.
- The additional storey and building envelope non-compliance does not result in any significant amenity impacts on adjoining properties when compared to the impacts that would be generated if the building was compliant with these controls.
- SEPP (ARH) 2009 permits additional floor space for the provision of affordable rental housing. Unfortunately the development controls are not designed to accommodate a maximum FSR of 1:1 therefore some flexibility in the application of the controls is required. In this instance, the building is well designed to respect the character and appearance of the locality and the proposed variations result in significant public benefit through the provision of additional affordable rental housing in the locality. For these reasons, the variations are supported.

Basement Projection

The basement car park projects up to 2.5m above natural ground level at the south western corner of the site. The car park projection is located adjacent to the private open space of U101 but due to the size and length of the outdoor space would have no impact on the amenity of this unit as a result of overshadowing or visual impact.

At the actual boundary with the reserve which fronts Jacques Avenue, the basement will project a maximum of 1m and present as a solid retaining wall with fencing and landscaping above. As Jacques Avenue is significantly elevated above the site, the visual impact of the car park will be minimal and the character and appearance of the streetscape will be successfully maintained.

4. IMPACTS

Natural Environment

As discussed throughout this report, the proposed landscaping would provide a landscape setting that is consistent with the character of the locality. In addition, the retention of the established crepe myrtle at the front of the site is commended.

Council's Team Leader, Subdivision and Development and Consultant Drainage Engineer have assessed the application and are satisfied that drainage, stormwater and overland flow can be appropriately managed subject to conditions.

As such, the development would not result in any significant impacts on the natural environment.

Built Environment

As detailed throughout this report, the number of variations to the relevant planning controls are sought in order to accommodate the additional floor space permitted by SEPP(ARH) 2009. Even so, subject to conditions of consent, the proposed development is found to be consistent with the desired future character of the locality and would not result in any unreasonable impacts on the amenity of adjoining properties.

As such, the development would not be of significant detriment to the built environment.

Social Impact

The proposal would result in a positive social impact as it would provide affordable rental housing.

Economic Impact

The proposal is for residential purposes and no adverse economic impact is envisaged.

Suitability of the Site

For the reasons provided throughout this report, the site is found to be suitable for the proposed development.

5. REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

Resident

The application was advertised and eighteen (18) residents were notified for a period of fourteen (14) days. Five (5) submissions were received. The concerns raised in the submissions are summarised as follows.

Design

Design is out of character with the area and is of poor quality.

Over development

Excessive bulk and scale

Too many dwellings

Comment: The application was referred to the Design Review Panel for comment which comprises two architects and a landscape architect. As discussed earlier in this report, the Design Review Panel were complementary of the design describing it as 'elegant and refined'. Further, residential flat buildings are permitted in the zone and as discussed throughout this report the design is consistent with the desired future character of the locality and the bulk and scale is found to be acceptable.

Non-Compliance with Planning Controls

Comment: As detailed earlier in this report, a number of variations to the planning controls are proposed to facilitate the provision of the additional floor space permitted by SEPP (ARH) 2009. However, for the reasons provided in the assessment above, subject to conditions the variations are found to be of limited impact and are acceptable.

Site is in a Flood Prone Area

Comment: The subject site is affected by Overland Flow and as such, an overland flow study was submitted with the application. Council's consultant drainage engineer is satisfied that the finished floor levels of the development will protect the building from inundation and that the driveway location is satisfactory. Further, the development would not result in any overland flow impacts on adjoining properties.

Location of Basement Car Park

The basement car park is too close to the eastern boundary providing no setback for waterproofing and undermining neighbouring foundations.

Comment: The construction of the basement will be subject to the Building Code of Australia, relevant Australian Standards and Engineering details to be provided at construction certificate stage. Conditions will also be imposed requiring dilapidation reports to be undertaken.

Excessive Excavation

Comment: As detailed earlier in this report the level of excavation is acceptable.

Anti-Social Behaviour

Comment: There is no evidence that development of this type and design would result in anti-social behaviour. Additionally, the development is to be managed by a Registered Community Housing Provider which will reduce any impacts.

Insufficient infrastructure for drainage and sewerage

Comment: Council's Team Leader - Subdivision and Development has assessed the application and is satisfied that stormwater and drainage can be adequately managed through the provision of onsite detention.

Sewerage is managed through Sydney Water and standard conditions of consent require the developer to acquire a Section 73 Certificate through them.

Insufficient Public Transport Options

Comment: As provided earlier, there is a bus stop located within 400m of the site that is regularly serviced by the 944 bus route. This bus service will provide residents with access to local centres, shops and services.

Traffic and Parking

Comment: Parking in excess of what is required by SEPP (ARH) 2009 has been provided on site which will minimise on street parking impacts.

A Traffic Report prepared by Colston Budd Hunt & Kafes Pty Ltd. was submitted with the application. The report found that the surrounding road network can accommodate the minor increase in traffic with no noticeable effects.

Noise

Comment: Although the development will result in additional dwellings on the site, it is not anticipated that the increase in density will result in unreasonable noise impacts. The development will maintain the residential use of the site and it is considered such noise associated with the use is consistent with that to be expected in an R3 zone. The development would not result in a significant increase in vehicular movements that would result in adverse noise impacts on adjoining properties. It is considered the development is appropriately designed to ensure noise impacts are minimised.

Construction

Noise impacts and disturbance
Poor air quality
Asbestos risk

Comment: Conditions are recommended requiring the provision of a construction management plan prior to the issue of the Construction Certificate to minimise noise and disturbance to ensure air quality is protected in accordance with the relevant legislation and to manage traffic associated with the works. Hours of construction are also limited by conditions of consent.

All asbestos is required to be removed in accordance with the relevant Australian Standards.

Privacy and Overshadowing Impact

Comment: As discussed throughout this report, subject to conditions, the privacy impacts of the development are found to be acceptable. Solar access to adjoining properties is also found to be satisfactory.

Rezoning to R2- Low Density Residential

Comment: The recent planning proposal by Council for the rezoning of the area back to R2 Low Density Residential was not granted gateway approval by the Department of Planning and Infrastructure, therefore the area remains zoned R3 – Medium Density Residential under HELP 2012 and residential flat buildings are permissible in the zone.

Loss of significant trees or vegetation

Comment: The application proposes to retain the established Crepe Myrtle on the site and extensive landscaping is proposed. One street tree is requiring to be removed which has been assessed by Council's Tree Management Officer and no objections have been raised.

Council Referrals

Team Leader Subdivision and Development

Council's Team Leader, Subdivision and Development has assessed the proposal and raised no objections subject to conditions.

Tree Management Officer

Council's Tree Management Officer has raised no objections to the application or the removal of the street tree subject to conditions of consent.

Consultant Development Engineer

Council's Consultant Development Engineer has assessed the application in combination with the submitted overland flow study and raised no objection to the proposal.

External Referrals

Design Review Panel

The comments of the Design Review Panel have been discussed in the report above under the section entitled "State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development".

Public Interest

For the reasons provided throughout this report, the proposed development is found to be compatible with the desired future character of the locality and amenity impacts can be managed subject to conditions of consent. Further, the proposed development is of significant public benefit as it would provide 39 dwellings to the locality for the purposes of affordable rental housing. As such, the development is considered to be in the public interest.

6. SECTION 94 CONTRIBUTIONS

Hurstville Section 94 Development Contributions Plan 2012

Section 2.7.1 – Development exempted from contributions under this plan

Section 2.7.1 states the following:

'Development for the purposes of Affordable Housing as defined by, and approved in accordance with, State Environmental Planning Policy (Affordable Rental Housing) 2009. With respect to 'In-fill Affordable Housing' this exemption only applies to that part of the building that is managed by a registered community housing provider.'

All units within the development are proposed as 'in-fill affordable housing' under SEPP (ARH) 2009 and are to be managed by St George Community Housing Limited which is a registered community housing provider under the NSW Housing Act 2001. As such, the development is exempt from Section 94 contributions.

7. CONCLUSION

Development consent is sought for the construction of a part three, part four storey residential flat building to comprise 39 units to be used as affordable rental housing and managed by a registered community housing provider.

The proposed development has been assessed against the requirements of the relevant planning instruments and development control plans. In order to accommodate the additional floor space permissible under SEPP (ARH) 2009, a number of variations are proposed. The variations have been considered throughout this report and found to be acceptable. The bulk and scale of the development is compatible with the desired future character of the locality and subject to conditions, there are no significant amenity impacts.

Five submissions were received objecting to the application, however their concerns are addressed in the body of this report and the issues are not considered to warrant refusal of the application.

The provision of 39 units for the purposes of affordable rental housing would be of significant public benefit to the locality. Notwithstanding the variations proposed to the planning requirements, on balance, the application is recommended for approval.

DETERMINATION

THAT pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Joint Regional Planning Panel grant development consent to Development Application DA2014/1132 for the demolition of existing structures and construction of 3-4 storey residential flat building with 39 dwellings and basement parking for use as affordable housing under State Environmental Planning Policy (Affordable Rental Housing) 2009 on Lots 241, 242 and 243 DP 36317 and known as 47, 49 and 51 Lawrence Street, Peakhurst, subject to the attached conditions:

Schedule A – Site Specific Conditions

GENERAL CONDITIONS

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

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

Reference No.	Date	Description	Revision	Prepared by
DA1002	19/11/14	Site Plans	F	dKo Architecture
DA2000	17/02/15	Ground Floor Plan	G	dKo Architecture
DA2001	17/02/15	Level 1 Floor Plan	G	dKo Architecture
DA2002	17/02/15	Level 2 Floor Plan	G	dKo Architecture
DA2003	17/02/15	Level 3 Floor Plan	G	dKo Architecture
DA2004	17/02/15	Roof Plan	G	dKo Architecture
DA3000	17/02/15	Sections	G	dKo Architecture
DA4001	17/02/15	Elevations	G	dKo Architecture
DA4002	17/02/15	Elevations	G	dKo Architecture
DA5001	19/11/14	Materials Palette	F	dKo Architecture
DA5002	16/02/15	Balustrade Details	A	dKo Architecture
DA5003	17/02/15	Fence Details	A	dKo Architecture
DA7001	19/11/14	Adaptable Unit Layout	F	dKo Architecture
DA7002	19/11/14	Adaptable Unit Layout	F	dKo Architecture
DA8001	19/11/14	Deep Soil Zone	F	dKo Architecture

-	22/02/14	Flood Study Report	-	Kozarovski and Partners
	November 2014	Traffic Report	-	Colston Budd Hunt & Kafes Pty Ltd
LP01	12/11/14	Landscape Plan Ground Floor Plan	A	Site Design & Studios
LP02	12/11/14	Landscape Plan Level 1 Plan	A	Site Design & Studios

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	\$8,917.40	13/11/14	2023916
Plan First Fee	X	\$6,193.57	13/11/14	2023916
Notification Fee	X	\$320.00	13/11/14	2023916
Advertisement Fee	X	\$1,105.00	13/11/14	2023916
Design Review Panel Fee	X	\$1,273.00	13/11/14	2023916
Long Service Levy		\$33,871.00		
Builders Damage Deposit		\$1,500.00		
Inspection Fee for Refund of Damage Deposit		\$135.00		

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		\$6,078.23		
Construction Certificate Application Fee		\$6,078.23		
Construction Certificate Imaging Fee		\$229.00		

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. **GEN1014 - Long Service Levy** - Submit evidence of payment of the Building

and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to www.lspc.nsw.gov.au or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**

4. **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.

5. **APR7001 - Building - Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class (overhead type) hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footways/roadway where the building is within 3.0 metres of the street boundary.

An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and

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.

6. **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) 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.

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

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 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Lawrence Street in accordance with Council's Specifications for footpaths.
 - (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.
 - (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*.

The work shall be carried out by a private contractor, subject to Council approval.

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

To apply for approval:

- (a) Complete the *Driveway Crossing on Council Road Reserve Application Form* which can be downloaded from Hurstville Council's Website at: www.hurstville.nsw.gov.au
- (b) In the Application Form, quote the Development Consent No. (e.g. 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**.

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.

- 10. **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

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.

11. 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.

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.

12. CC2006 - **Development Assessment - Window Privacy** – The study windows to Unit No's. U206, U207, U305, U306 and U405 are to be fixed or outward opening at the bottom only; and are to be finished with translucent, obscured, frosted or sandblasted glazing.
13. CC2007 - **Development Assessment - Privacy Screen** - A privacy screen shall be provided to the following balconies:
 - U202 and U302 along the western edge for the full length of the balcony;
 - U310 and U409 along the eastern edge for the full length of the balcony;
 - U402 along the western edge for a distance of 7m measured from the south western corner; and
 - U309 and U408 along the eastern edge for 2m measured from the south eastern corner.

The privacy screen is to be a minimum of 1.6m high from the finished floor level of the balcony and comprise of 45degree angle vertical louvres and fixed in a position so that the outward opening faces north to maintain solar access to the balconies.

14. CC3009 - **Development Engineering - Submitted Flood Study** - The development shall be designed to conform to the recommendations and conclusions of the submitted flood study prepared by Kozarovski and Partners dated 22 February 2014.

This shall include, but not be limited to, any recommendations for the following:

- (a) Minimum floor levels
- (b) Fencing
- (c) Site regrading
- (d) Overland flow path construction
- (e) Any other < give details>

- (f) Protection of basement from inundation of surface waters

Evidence from an appropriately qualified person that all design requirements have been adhered to shall be submitted **with the Construction Certificate application.**

15. **CC3010 - Development Engineering - Support for Easement Pipes -**

- (a) All footings within 2.0 metres of the drainage easement shall be designed in such a manner that they are supported by foundations set at a minimum of 300mm below pipe invert levels or founded on sound rock.
- (b) Alternatively the footings of the building or any structure shall be designed not to affect the zone of influence taken from the invert of any pipe.
- (c) The walls of any dwelling, pool or structure adjoining the easement shall be designed to withstand all forces should the easement be excavated to existing pipe invert levels.
- (d) No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

Evidence from an appropriately qualified person that this design requirement has been met shall accompany the application for the Construction Certificate.

16. **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.**

17. **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.

18. **CC3019 - Development Engineering – Position of Existing Council Stormwater Pipeline**

- a. The Council pipeline on the site shall be exposed to determine its exact position and level in relation to the proposed building by a Registered Surveyor prior to the issue of any Construction Certificate. No structure shall be built upon the pipeline or the drainage easement.
- b. If the pipeline requires to be relocated these works shall be done entirely at the developer's expense.
- c. If the pipeline requires to be relocated the necessary applications for such drainage works under Section 68 of the Local Government Act and/or Section 138 of the Roads Act shall be approved by Council Prior to the Issue of any Construction Certificate

19. **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 all properties with a common boundary to the subject site

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

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

20. **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 <http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3DDepr%20AND%20Year%3D2002%20AND%20No%3D530&nohits=y>.

21. **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.

22. **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.

23. **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.

24. **CC2008 - Development Assessment - Landscape Plan** – The approved landscape plan must be amended to match the approved floorplans, be prepared by a qualified landscape architect or landscape designer, and 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.

25. **CC6003 - Engineering - Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a qualified and practising structural engineer must detail how Council's property shall be supported at all times.

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of shoring and the method of removal, shall be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will

be cut to 150mm below footpath level and the gap between the shoring and any building shall be filled with a 5Mpa lean concrete mix.

26. **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.

27. **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.

28. **CC2011 - Development Assessment - BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No.613378M dated 4 March 2015, approved with the Development Consent DA2014/1132, must be implemented on the plans lodged with the application for the Construction Certificate.

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

Reference No.	Date	Description	Revision	Prepared by
H901	10/11/14	Hydraulic Services	02	IGS
H902	7/11/14	Hydraulic Services	01	IGS
H903	7/11/14	Hydraulic Services	01	IGS
H904	7/11/14	Hydraulic Services	01	IGS

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

(a) All stormwater shall drain by gravity to the upper level of Council's kerb inlet pit, located in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).

The design of this proposed drainage system must be prepared by a qualified practising hydraulics engineer (with details of qualifications being provided) and be submitted for approval **with the Construction Certificate application**.

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

Reference No.	Date	Description	Revision	Prepared by
H901	10/11/14	Hydraulic Services	02	IGS
H902	7/11/14	Hydraulic Services	01	IGS
H903	7/11/14	Hydraulic Services	01	IGS
H904	7/11/14	Hydraulic Services	01	IGS
H905	7/11/14	Hydraulic Services	01	IGS

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
H901	10/11/14	Hydraulic Services	02	IGS
H902	7/11/14	Hydraulic Services	01	IGS
H903	7/11/14	Hydraulic Services	01	IGS

H904	7/11/14	Hydraulic Services	01	IGS
H905	7/11/14	Hydraulic Services	01	IGS

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. **CC5002 - Trees - Tree Protection and Retention** - The following trees shall be retained and protected:

- (a) one (1) Crepe Myrtle located in the north western corner of the site.

All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site. The tree protection measures must be in undertaken in accordance *AS4970-2009 Protection of trees on development sites*. Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 4 or above in Arboriculture) and must be retained thorough all stages of construction.

- 33. **CC5003 - Trees - Tree Removal and Replacement - Private Land** - Permission is granted for the removal of the following trees:

- (a) one (1) Cupressus species (Cypress)
- (b) one (1)Plumeria sp. (Frangipani)

Six (6) trees selected from the list of suitable species in the Hurstville City Council's *Tree Removal and Pruning Guidelines* must be replanted within the front/rear yard of the subject site. Trees are to be replanted a minimum of 3m away from any driveway, building or structure.

The selected trees shall have a minimum pot size of 145mm. A copy of Hurstville Council's *Tree Removal and Pruning Guidelines*, can be downloaded from Council's website [www.hurstville.nsw/Residents/Tree Management](http://www.hurstville.nsw/Residents/Tree%20Management).

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

- (a) One (1) *Lophostemon confertus* (brush box) located on Lawrence Street in front of 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	\$140.00
Replacement Tree Fee (per Tree)	RC83	\$116.00
Cost of tree removal	RC83	\$1080.00
Cost of Stump Grinding	RC83	\$250.00

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.

35. **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).

36. **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
 - (g) swimming pool design
 - (h) retaining walls
 - (i) stabilizing works
 - (j) structural framework
37. **CC8002 - Waste - Waste Storage Containers - Home Units (Residential Flat Development)**
1. The following waste and recycling facilities will be required:-
 - Domestic Waste:- 10 x 240 litre Mobile Garbage Bins (MGB's);
 - Domestic Recycling:- 14 x 240 litre MGB's.
 2. 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.
 3. The location of the proposed Waste Storage Area as shown on the submitted plan is not easily accessible for Council's Waste Contractor to service the bins. Accordingly, it will be the responsibility of the Owners Corporation to present the MGB's for collection and return them to the storage area after they have been emptied.

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.

38. **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.
39. **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

40. **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.
41. **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.

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

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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.

43. **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.

- 44. **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.
- 45. **PREC7004 - Building - Structural Engineers Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting Council's roadways/footways must be submitted to the satisfaction of Council's Building Control Department.

DURING WORK

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

- 46. **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.

47. **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.
48. **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).
49. **CON6002 - Engineering - Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act and/or under Section 68 of the Local Government Act 1993. Penalty Infringement Notices may be issued for any offences and severe penalties apply.
50. **CON8001 - Waste - Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifying Authority and a copy provided to the Manager Environmental Services, Hurstville City Council.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

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

51. OCC2002 - Development Assessment - Restriction on use of land - SEPP (Affordable Rental Housing) 2009

(a) For ten (10) years from the date of the issue of the Occupation Certificate:

- (i) All dwellings are to be used for the purposes of affordable housing, and
- (ii) All accommodation that is used for affordable housing will be managed by a registered community housing provider, and

(b) A Restriction of Use of the Land is to be created by Section 88E or 88B of the Conveyancing Act 1919 over the subject property on which this development is to be carried out. This Restriction shall ensure that the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009 are met and shall be worded as follows:

"For a continuous period of ten (10) years from the date of issue of any occupation certificate (being an Interim or Final Occupation Certificate) the following Restrictions on the Use of the Land will apply:

- (a) *All accommodation to which the development application relates will be used for the purpose of affordable rental housing. The dwellings identified on the approved plans, for Development Application DA2014/1132 shall not be used for any other purpose other than for the purposes of affordable housing, as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009, and*
- (b) *All dwellings identified on the approved plans, for Development Application DA2014/1132 shall not be occupied unless managed by a registered community housing provider."*

This Restriction shall benefit Hurstville City Council and Hurstville City Council is to be nominated as the Authority to release, vary or modify this Restriction.

This Restriction on Use of Land shall be registered on the title of the land, prior to the issue of any Occupation Certificate for the development (Interim or Final Occupation Certificate).

Documentary evidence of the registration of this Restriction on title is to be supplied to the Principal Certifying Authority with the application for any Occupation Certificate.

52. **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 Department of Lands prior to the issue of any occupation certificate (interim or final occupation certificate).
53. **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.613378M dated 4 March 2015, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.
54. **OCC2005 - Development Assessment - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
55. **OCC2007 - Development Assessment - Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
 - (a) Residential dwellings: minimum 19 spaces
 - (b) Car wash bay: 1 space (this may also be used as a visitor space)
56. **OCC6002 - Engineering - Vehicular crossing and Frontage work - Major development** - The following road frontage works shall be constructed in accordance with Council's, Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's

Engineering Services Division:

- (a) Construct a 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Lawrence Street in accordance with Council's Specifications for footpaths.
- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.
- (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.

A private contractor shall carry out the above work, at the expense of the beneficiary of this consent and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

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

- 57. **OCC2008 - Development Assessment - SEPP 65 Design Verification Statement** - A certifying authority must not issue an occupation certificate to authorise a person to commence occupation or use of 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 residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, 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
- 58. **OCC2006 - Development Assessment - Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

- (a) All properties with a common boundary to the subject site.

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

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

59. **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.

60. **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.

61. 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.

62. 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.
63. ONG3002 - **Development Engineering - Notification of Unit Numbers** - On the issue of any Strata Certificate the Accredited Strata Certifier shall submit to Council a list of the unit numbers and their corresponding lot numbers.
64. 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.

65. **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.

66. **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.

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.

67. **ADV2002 - Development Assessment - Site Safety Fencing** - Site fencing must be erected in accordance with WorkCover Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

For more information visit www.workcover.nsw.gov.au

Schedule B – Prescribed Conditions

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

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

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

68. **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.
69. **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.
70. **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.
71. **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.
72. **PRES1005 Clause 98C- Entertainment Venues**
Schedule 3A of the *Environmental Planning and Assessment Act 1979* outlines the prescribed conditions which apply to Entertainment Venues.
73. **PRES1006 Clause 98D – Erection of sign for maximum number of persons**
This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.
74. **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.

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

75. OPER1001 Requirement for a Construction Certificate

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

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

76. OPER1002 Appointment of a Principal Certifying Authority

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

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

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

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

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

77. OPER1003 Notification of Critical Stage Inspections

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

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

78. **OPER1004 Notice of Commencement**

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

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

79. **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*.

80. **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.

81. **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.

APPENDIX A
Applicant's Clause 4.6 Submission



SHANAHAN
PLANNING

Town Planning Consultants
PO Box 4128
BALGOWLAH HEIGHTS NSW 2093
T 0414 875 076
E mark@shanaplan.com.au
W www.shanaplan.com.au
16 February 2015

Mr Greg Bachmayer
Assistant Development Manager
Development & Portfolio Services
St George Community Housing
PO Box 348
HURSTVILLE BC NSW 1481

Dear Mr Bachmayer

**DA2014/1132 - Affordable infill housing, 47-51 Lawrence St, Peakhurst
Clause 4.6 Objection re Height**

Hurstville Council's assessment of the above DA has identified a potential non-compliance with the building height development standard of Hurstville LEP 2012. This letter provides a formal objection under Clause 4.6 of Hurstville LEP 2012 to the height standard.

Identification of standard

Clause 4.3(2) of Hurstville LEP 2012 (HLEP2012) provides that building height is not to exceed the amount shown on the building height map. The site is within an area subject to a 12m building height.

Proposed variation

Building height is defined in HLEP2012 as:

building height (or *height of building*) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The building has a flat concrete slab roof generally at 46.2m AHD which is mostly 7.2m – 12.0m above existing ground level, as shown in the submitted Sections DA3000-D. A lift overrun is 750mm above the finished level of the roof. The lift overrun is the "highest point of the building". The vertical distance between the existing ground level and the top of the lift overrun is 11.2m.

On this basis, it is considered that the building height of the development is 11.2m which complies with the 12m standard and a variation under Clause 4.6 is not required.

The suggestion that the proposed building height in the north-western corner does not comply with the 12m height standard appears to be based on an interpretation of building height which reflects a former definition that referred to the height of the building *at any point*. However as noted in Department of Planning Practice Note PN11-003:

building height (or *height of building*) has been amended to be consistent with the Codes SEPP, removing the words 'at any point'. The definition of ground level (existing) which building height references means the existing level of a site at any point;

However, should Council not concur with our view that the proposed building height complies and maintains that the building height should be measured at any point, then there would be one location in the north-western corner where

there is a localised dip in the existing ground level, resulting in the building roof in this location being up to 12.375m above existing ground level. This would represent a 3.1% variation of the building height standard. The section of the building concerned is shaded on the attached plan and 3D views (extract below).



Justification of variation

The following justification is submitted without prejudice to the view that the building height complies with the development standard and no variation is proposed.

Compliance with the standard is considered unreasonable and unnecessary and it is considered that there are sufficient environmental planning grounds to justify contravening the development standard because:

- the non-compliance is essentially 'technical' and very minor, arising from a dip in the general level of the existing ground level. The building has a uniformly flat roof and the height breach does not result from a section of non-compliant roof elevated above the rest of the roof level. The eastern part of the site (No47) occupies the floor of a natural valley formation, with the landform rising to the east and west. There is a localised depression towards the front of No47. The development involves 'regularising' this landform to produce a level front yard and a ground floor level similar to that of the neighbouring property No45A/45 Lawrence St. The existing dip will therefore cease to be evident and the development will appear as if sitting on flat, natural ground. In this context, there will be no visual cues to suggest that this part of the building is any higher than any other part of the front facade and it would be unnecessary to reduce height to achieve technical compliance.
- The non-compliance could be rectified by cutting back the roof overhang and the floorplans of Units U403 and U404, resulting in loss of accommodation. However it is considered that this would result in an inferior design outcome because the development would have a curious indentation in built form, thus destroying the lateral form and unity of the front facade for no apparent reason; control of sunlight into the front rooms of U403 and U404 would be compromised, and the public benefit of providing much-needed affordable housing for low and middle income households would be diminished without any offsetting public benefit gain.

- The height 'breach' does not result in additional impacts to neighbouring properties (specifically, the adjacent property No45A) such as overshadowing, overlooking or adverse visual impact.

The proposal is considered to be consistent with the public interest because it complies with the objectives of the standard and the objectives of the zone.

The relevant objectives of the building height standard in Clause 4.3(1) are:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes,

The proposal achieves objective (a) because it will have a height, bulk and scale compatible with the emerging character of the locality. Strict compliance with the standard would not improve its compatibility and may diminish it by compromising the design integrity of the building.

The proposal also achieves objective (b). The proposed variation does not adversely affect visual impact, views, privacy or solar access to existing development or to public areas.

The objectives of the R3 Medium Density zone in which the site is located are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that a high level of residential amenity is achieved and maintained.
- To provide for a range of home business activities, where such activities are not likely to adversely affect the surrounding residential amenity.

As noted at page 7 of the Statement of Environmental Effects, the development is consistent with the relevant objectives in that it:

- Provides for the housing needs of the community within a medium density residential environment, particularly those who are not able to meet their needs in the private rental market;
- Expands the variety of housing in the area;
- Achieves a high level of amenity with good natural ventilation, solar access and private open space for residents of the development and no significant adverse amenity impacts on residents of neighbouring properties.

The proposed contravention of the standard does not raise any matters of significance for State or regional environmental planning.

The public benefit of providing additional affordable housing is in this case considered to outweigh the public benefit in achieving strict technical compliance with the standard.

In summary, it is our view that the development complies with the building height standard and does not involve a variation that would require an objection under Clause 4.6. However, it is accepted that Council may have an alternative interpretation of 'building height' which could result in a small section of the building being non-compliant. If that were the case, it is considered that the proposed 'variation' would be justified under the criteria of Clause 4.6 of HLEP2012 for the reasons outlined above.

Yours sincerely



Mark Shanahan BTP (Hons) Dip Law (LPAB) MPIA
Director