

**JOINT REGIONAL PLANNING PANEL
(East)**

JRPP No	2015SYE033
DA Number	MOD2015/0011
Local Government Area	Hurstville City Council
Proposed Development	Section 96AA Modification - Alterations and additions to the approved mixed use development (12/DA-325) and internal reconfiguration to include a ground floor home office and increase unit yield from 54 to 57 units
Street Address	454-456 Forest Road, Hurstville
Applicant/Owner	Elieti Pty Ltd
Number of Submissions	1 submission
Regional Development Criteria (Schedule 4A of the Act)	Original value over \$20M and original application determined by the JRPP.
List of all Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 55 - Remediation of Land • State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Hurstville Local Environmental Plan 1994 • Draft Hurstville (City Centre) Local Environmental Plan 2014 • Hurstville Development Control Plan No. 2 – Hurstville City Centre
List all documents submitted with this report for the panels consideration	Plans and information as previously submitted. Amended plans with minor amendments to correct errors.
Recommendation	Approval
Report by	Teresa Gizzi – Senior Development Assessment Officer Hurstville City Council
Report date	22 June 2015

Zoning	3(b) City Centre Business Zone
Hurstville Local Environmental Plan 1994 Interpretation Of Use	Residential Flat Building Residential Office Shop
Existing Development	Two storey and one storey commercial development
Cost Of Development	\$19,860,000.00
File No	MOD2015/0011
Has A Disclosure Of Political Donations Or Gifts Been Made?	No

EXECUTIVE SUMMARY

1. Consent is sought to modify Development Application No. 12/DA-325 which was granted by the Land and Environment Court for the demolition of the existing buildings/structures and construction of two residential flat buildings with basement parking. The approved development comprised a twelve (12) storey building at the front of the site adjoining Forest Road and a four (4) storey building at the rear of the site.
2. The modification seeks to reconfigure and increase the size of the ground floor to include a home office; include new windows on the southern and western side of the front building for levels 1-8; and at Levels 9, 10 and 11 reconfigure the existing layout, modify the front setback and partially extend the floorplate to the north, west and south in order to convert the three bedroom unit to a three bedroom unit and a studio unit on each level.
3. The proposed development has been assessed against the requirements of the relevant environmental planning instruments and development control plan. The proposed modification would increase the approved variation to the floor space ratio control under DCP No.2 – Hurstville City Centre. The variation has been assessed and is considered acceptable.
4. The application was notified to 279 adjoining and adjacent owners and residents, and advertised for 14 days. One submission was received in reply objecting to the proposal.

RECOMMENDATION

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

BACKGROUND

11 April 2013 – Development Application No.12/DA-325 for the construction of a fifteen (15) storey mixed use development with basement parking was submitted to the Joint Regional Planning Panel with a recommendation for approval. The application was refused by the Joint Regional Planning Panel for the following reasons:

1. *'The Panel has carefully considered the recommendation of the planning assessment report to approve the application; however, it is unable to accept it. The Panel resolves unanimously to refuse the application.'*
2. *The reasons for the Panel's decision are:*
 - a. *The DCP and the draft Hurstville City Centre LEP 2012 set a height control for this site that allows a seven-storey building. The proposal is 15 storeys high.*
 - b. *The Panel notes that the height that the DCP and draft LEP set for this site is lower than that for nearby sites. The Panel assumes that the reason for this is that the site is very small and narrow. While the Panel believes that some latitude in applying the height control is appropriate, this does not mean that the height can be doubled.*
 - c. *The proposed building is built to the side boundaries. Combined with the 15-storey height, the lack of setback would be a constraint on the development potential of the site adjoining to the west. Alternatively, if an existing approval for the adjoining site is implemented, the amenity of the apartments facing the subject site would be compromised.*
 - d. *The Panel notes that the applicant justifies the height of the proposal on the tower building on the site adjoining to the east. While the proposed building is only a little higher than the adjoining tower, it is set closer to the street, so that its impact on the streetscape is much more dominant.*
3. *Given the context of the site and the difficulty of designing a building on such narrow site, the Panel would accept a building somewhat higher than seven storeys as long as:*
 - a. *the amenity of the apartments on adjoining sites is not threatened;*
 - b. *the tower part of the proposed building is set back further from Forest Road; and*
 - c. *reasonable solar access to the apartments is achieved.*
4. *If it proves impossible to achieve the above requirements at a FSR of 3:1, then this must be regarded as a constraint arising out of the narrowness of the site.*
5. *The Panel acknowledges that in designing the proposed building, the applicant has followed the advice of the council's Design Review Panel. However, this is not sufficient reason for the Panel to approve a development it believes would be out of scale in the street, adversely affect the adjoining site, provide poor amenity for its occupants and negatively impact on*

residents on the other side of Forest Road, who have a reasonable expectation, because of the height control, of a lower building.

The Panel suggests that the applicant consider submitting a planning proposal for a height control somewhat greater than seven storeys with any new application, after discussion with Council's planning officers.'

24 May 2013 – Class 1 appeal lodged with the NSW Land and Environment Court.

31 October 2013 – Following significant amendments, orders were issued by the NSW Land and Environment Court granting consent for the demolition of existing building/structures and construction of two residential flat buildings with basement parking subject to the following deferred commencement condition:

1. *Development consent is granted subject that this consent is not to operate until the applicant satisfied the Council, in accordance with the Regulations, as to all matters specified in this condition:*
 - a) *Documentary evidence is to be provided to Council that demonstrates that two (2) hours of solar access can be achieved to the living rooms of 70% of apartments in this development between 9am to 3pm on 22nd June.*
 - b) *Design amendment is required so as to ensure the side boundary walls of the building have additional articulation and design development so as to create an improved façade design to the satisfaction of the Director of Planning.*

26 November 2013 – Development Consent granted.

27 August 2014 – Section 96AA Modification Application MOD2014/0102 was lodged with Council comprising:

- Alterations and additions to the 12 storey building to partially increase the width and depth, and internal modifications to increase yield.
- Modifications to the rear of the 4 storey building to increase balcony sizes.
- The addition of 12 residential units.
- Construction of a 5th basement level to provide 21 additional parking spaces.

27 November 2014 – The modification application was refused by the Joint Regional Planning Panel for the following reasons:

'Scale

- *The Court-approved proposal already has a height in excess of that permitted by the Hurstville Local Environmental Plan 1994. The approved proposal responds to the taller buildings on adjoining sites but is visually subservient to them because it tapers at the top. The application seeks to infill the areas that tapered at the top of the tower, so that it no longer achieves a reduction in bulk. The proposed amendment would therefore increase the visual bulk of the development and undermine the intent of the setbacks and more slender form achieved by the approved proposal.*

- *To the side and rear of the site, the proposed amendment seeks to extend the building envelope. This reduces the areas of setback and landscape on the podium and locates more massing closer to the adjacent development and the proposed new laneway. The increased footprint to the west extends the building form along the proposed new laneway, as a continuous wall, from 10.8m to 20.5m. The approved proposal is already borrowing amenity across the laneway/setback provided by the adjacent site. Extending the wall on the boundary even further will locate mass in front of a side-facing apartment on the adjoining site, which was not the case for the approved proposal. The result would be to narrow the outlook for this apartment and for other secondary windows along that side boundary to an unacceptable degree.*
- *The northern building increases its footprint towards the rear boundary and along both side boundaries. Expansion to the north would further reduce what is already too close a proximity to the rear boundary and adjacent development and would also reduce the limited planting possible there. It would increase the bulk and perceived impact of the proposal for adjacent properties.*

Built-Form

- *The proposed amendment seeks to infill areas that contributed, in the approved proposal, to a reduction in bulk for both buildings to the street and to adjoining sites. Since the approved proposal already enjoyed considerable relaxation of the height standard, the Panel considers that no further relaxation is justified.*
- *The proposed amendment seeks to introduce smaller units within the development. This is achieved for the southern building by pushing a unit at each level into the middle of the proposal with frontage to the future laneway of the adjoining site. These units are of poor amenity with bedrooms relying for light and outlook on the balcony, which then has to be screened for privacy reasons.*

Density and Height

- *The permissible FSR is 3:1. The Court-approved proposal has a FSR slightly above this at FSR 3.04:1. The proposed amendment seeks to increase the FSR significantly to 4.27:1 (including additional parking) or 3.31:1 (excluding additional parking). The additional height granted to the proposal (37.5m as against the permissible 23m) was justified on the grounds that the applicant could not achieve the permissible density without greater height.*

The applicant has more than achieved the permissible FSR in the approved application and there is no justification for further FSR.

Landscape

- *The proposed amendment further reduces what is already limited amount of landscape area in the approved proposal.*

Amenity of Apartments

- *The increased bulk further reduces the separation distance between this site and the site to the west. This should not be further reduced as the approved proposal has already been given dispensation to locate some massing on the side boundary.*
- *The additional apartments that have been introduced have compromised amenity as they rely for their outlook for both living and bedroom on a narrow balcony with much of the apartment located away from the light source. These units will have restricted airflow.'*

DESCRIPTION OF THE PROPOSAL

Consent is sought to modify Development Application No. 12/DA-325, which was granted by the NSW Land and Environment Court for the demolition of the existing buildings/structures and construction of two residential flat buildings with basement parking. The approved development comprises a twelve (12) storey building at the front of the site adjoining Forest Road and a four (4) storey building at the rear of the site.

The proposed modifications are as follows:

- **Basement Level**
 - Reduce the size of the garbage storage room to provide storage for the commercial/retail unit above.
- **Ground Floor Level**
 - Modified layout of Unit 3 (previously unit 2) to increase the footprint to the west and the south to accommodate a 44sqm 'home office'.
- **Levels 1 – 8 (Front Building)**
 - Additional dining room window to the western elevation.
 - Additional living room to the southern (front) elevation.
- **Levels 9 – 11 (Front Building)**
 - Increase the overall setback from Forest Road to 3m from 2m.
 - Extend the floor plate in the south eastern corner by 1.8m towards the street (infilling a balcony area), 0.94m to the north, and 0.74m – 1m to the west
 - Reduce the area of the three bedroom unit on each floor to provide a smaller three bedroom unit and a studio unit at each level.
 - Extend the northern balcony by 1m.

The apartment mix will change as follows:

	12/DA-325	MOD2015/0011
Studio	4	7
1 bedroom	14	14
2 bedroom	32	32
3 bedroom	3	3

DESCRIPTION OF THE SITE AND LOCALITY

The subject site is known as 454-456 Forest Road, Hurstville. It is located on the northern side of Forest Road and is at the western end of the Hurstville Town Centre.

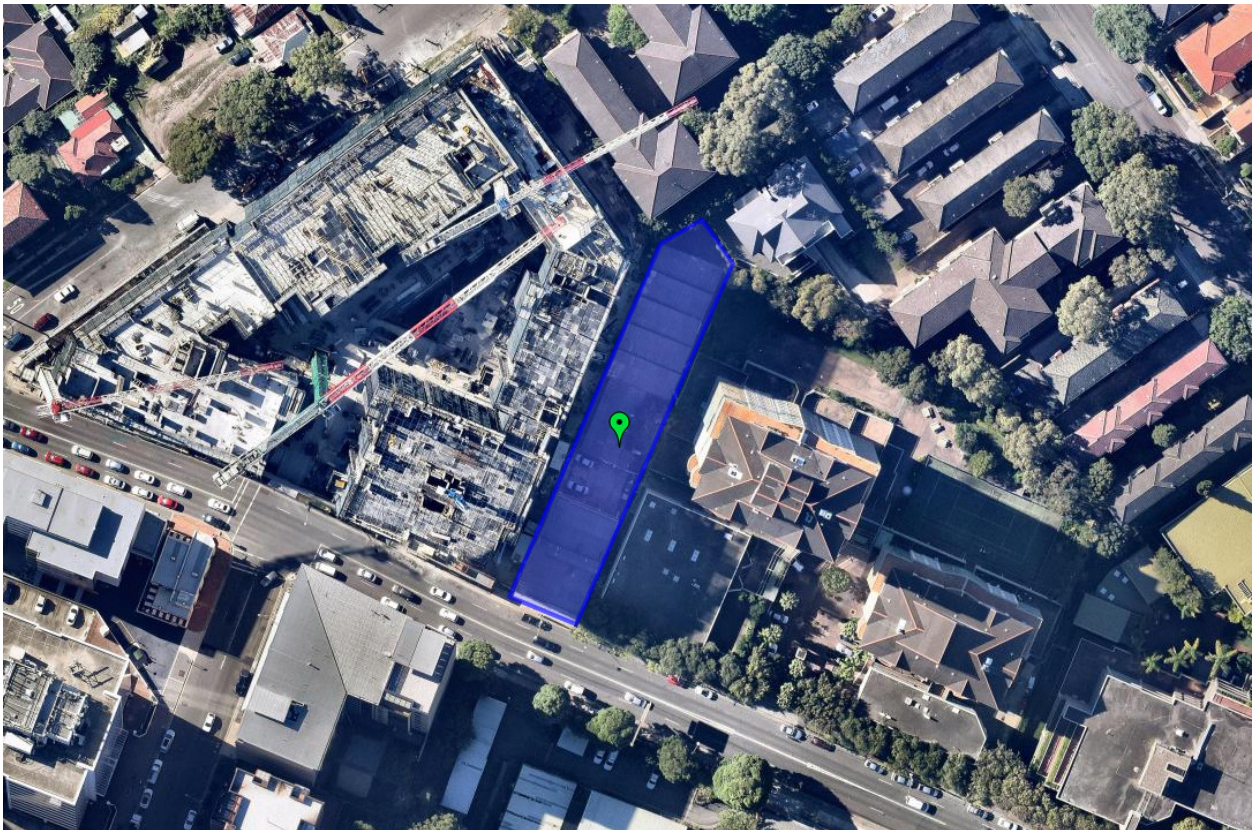
The site comprises of a single narrow allotment of land with an area of 1279.5 square metres. The site has a frontage of 14.51m to Forest Road, side boundaries of 81.262m and 82.217m, and an irregular, triangular shaped northern boundary with dimensions of 8.746m and 12.715m. The site is relatively flat with a slope of less than a metre from front to rear.

The site is currently occupied by a two storey building at the front of the site and single storey building at the rear. The very rear portion of the site is densely vegetated.

The surrounding area is characterised by a mix of commercial and residential development.

Immediately adjoining the site to the east is a two storey building at the street front and a 16 storey mixed use development towards the rear. Adjoining the site to the west is a construction site with approval to construct a mixed use development comprising three buildings ranging in height from 4 to 18 storeys. The 18 storey building has an approved height of 56.75m and is located in the south eastern corner adjoining the site subject of this application.

Located to the very rear of the site are four storey residential flat buildings. Opposite the site to the south is RailCorp land occupied by numerous demountable buildings, which adjoin the rail corridor. Further to the west is a mixed use building of nine (9) storeys at the corner of Bridge Street and Forest Road.



COMPLIANCE AND ASSESSMENT

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

Section 96AA of the Environmental Planning and Assessment Act, 1979

Under section 96AA of the Environmental Planning and Assessment Act an application to modify the development consent under section 96AA can be considered as follows:

(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

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

Comment: The proposed modification is considered substantially the same development.

(b) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, and

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and

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

Comment: The proposal was notified in accordance with DCP No.2 which included previous objectors. The application was also advertised for 14 days. One submission was received and is considered later in this report.

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

1. Environmental Planning Instruments

Hurstville Local Environmental Plan 1994

The site is zoned 3(b) – City Centre Business under the provisions of the Hurstville Local Environmental Plan (LEP) 1994. The construction of a mixed use development comprising retail and residential development is permissible with consent.

The addition of a home office at ground floor level is best defined as a 'residential office' under HELP 1994 which is as follows:

'residential office means a building or room or a number of rooms (forming part of, attached to, or within the curtilage of, a dwelling) in which a business or profession is carried on by a permanent resident of the dwelling and where:

- (a) not more than 2 persons practise or are employed on the premises at any one time, and*
- (b) no goods are sold or displayed on the premises.'*

A condition is recommended to ensure the home office operates in accordance with this definition and not as a separate entity.

The objectives of the zone are as follows:

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

The proposed modifications are consistent with the zone objectives.

Clause 15 – Services

No additional assessment required. Services to the site are available and drainage of the site remains as approved.

Clause 22 – Excavation, filling of land

No additional assessment required. Conditions are in place requiring the submission of a Geotechnical Report prior to the issue of the Construction Certificate.

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

A satisfactory BASIX certificate has been submitted with the application.

State Environmental Planning Policy No 55 – Remediation of Land

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

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

During the Court process, it was identified that the site is contaminated and conditions requiring the preparation and implementation of a Remedial Action Plan were imposed.

As no additional excavation is required, the application is consistent with SEPP 55.

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

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

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

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

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

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

Clause 50(1A) of the EPA Regulations 2000 requires the submission of a Design Verification Certificate from a qualified designer at lodgement of the development application. A Design Verification Certificate was provided with the original application

which identifies N.Lyenko (registration No. 3010) as the architect and this remains unchanged.

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

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.

Comment:

The additions to building are minor and the relationship of the building to its context remains consistent with the Court approved development.

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.

Comment:

Although a minor increase in floor area is proposed, the overall bulk and scale of the building remains consistent with the court approval and is acceptable.

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.

Comment:

The built form is similar to that approved by the Court. The additional floor space is comprised of multiple small additions to the front tower which will minimise their bulk. The infilling of the corner balcony area to Forest Road on levels 9, 10 and 11 is acceptable as these levels are recessed approximately 1m from the levels below and

maintain increased side setbacks which overall, would minimise the visual impact of the modification.

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.

Comment:

Satisfactory as the additional floorspace would have a negligible impact given the location of the increased floorplate and context of the site.

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.

Comment:

A BASIX certificate has been provided.

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.

Comment:

Unchanged.

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.

Comment:

All new or modified units are cross ventilated and receive sufficient solar access. Visual and acoustic privacy, layout, and private open space are also considered acceptable and satisfactory amenity is achieved.

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.

Comment:

The proposal does not impact the safety and security of the original DA.

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.

Comment:

Satisfactory.

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.

Comment:

Even with the infilling of the corner balcony fronting Forest Road from levels 9 – 11, these top three floors would continue to appear recessive due to the setback from the lower floors. The proposed additions are minor in nature and would not significantly increase visual bulk. Further, the additional windows within the side elevations would improve the appearance of the building. In this regard, the development is consistent with Principle 10.

Residential Flat Design Code

In addition to the above, 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 overall height of the building remains unchanged by the modified proposal.	N/A
Building Depth	Maximum 18m (glass line to glass line). Wider buildings must demonstrate how satisfactory daylight and natural ventilation are achieved	<p>The inclusion of the home office at ground floor level increases the building depth to 20m at this level, however ventilation and solar access remains satisfactory.</p> <p>The maximum depth of the upper floor levels remains unchanged.</p>	Satisfactory
Building Separation	<p><u>For buildings up to four storeys/12m:</u></p> <p>-12m between habitable rooms/balconies; -9.0m between habitable/balconies and non-habitable rooms; -6.0m between non-habitable rooms.</p> <p><u>5 to 8 storeys/25m:</u></p> <p>-18m between habitable rooms/balconies to habitable rooms/balconies -13m between habitable rooms/balconies to non-</p>	<p>The reduced separation at ground floor level is acceptable.</p> <p>At levels 9-11 the setback of the western elevation has been reduced by 0.5m from 2.2m to 1.7m for a distance of 4.8m.</p> <p>A total of 12m separation is achieved between the proposal and the building under construction to the west. As there are no</p>	Satisfactory

Clause	Standard	Proposal	Complies
	<p>habitable rooms</p> <p>-9m between non habitable rooms to non habitable rooms</p> <p><u>9 storeys and above</u></p> <p>-24m between habitable rooms/balconies to habitable rooms/balconies</p> <p>-18m between habitable rooms/balconies to non-habitable rooms</p> <p>-12m between non habitable rooms to non habitable rooms</p>	<p>windows within this section of wall and given its short length, separation is considered acceptable and would not result in any significant amenity impacts.</p>	
Street setbacks	<p>Use different setback controls to differentiate between urban and suburban character areas. 5m -9m range is typical in suburban areas</p>	<p>The Hurstville DCP requires a setback of 2m from Forest Road. The development was approved with a compliant setback of 2m to the wall of the building and 1.4m to the balconies. The approval also included a condition requiring the deletion of the balconies at levels 10 and 11 from the Forest Road frontage to ensure the top two floors appeared recessive.</p> <p>The amended design proposes to partially fill in this balcony space at levels 9 – 11 however a setback of approximately 3m is maintained from Forest Road and a 1m setback is provided from the lower floor areas. The street setback is satisfactory.</p>	Satisfactory
Side and rear setbacks	<p>Relate side setbacks to existing streetscape patterns.</p>	<p>The decrease in the side setback to the western boundary at ground floor level is acceptable.</p> <p>The minor reduction of 0.5m in the setback from the western boundary at levels 9-11 to 1.7m is acceptable as it comprises only a short section of wall with a length of</p>	Satisfactory

Clause	Standard	Proposal	Complies
		approximately 4.8m. No streetscape or amenity impacts are likely to arise as a result.	
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 additional 41sqm of floor area increases the FSR of the modified development increases from 3.04:1 to 3.08:1. Although it further exceeds the FSR control, given the context of the site and minor nature of the increase, the proposed development is still considered to be in keeping with the area.	Satisfactory
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone	No change	N/A
Fences and walls	Clearly delineate the public and private domain	No fence proposed.	N/A
Landscape design	Landscape design should optimise useability, privacy, social opportunity, equitable access and respect neighbour's amenity.	No change	N/A
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 4 metres	No change to communal open space. The extension of unit 3 at ground floor level to include a home office maintains a private open space area of approximately 30sqm. All other ground floor units are either unchanged or satisfactory.	N/A Satisfactory
Orientation	Position and orientate buildings to maximise solar access	The modified units would receive satisfactory solar access.	Satisfactory
Planting on structures	Design for optimum conditions for plant growth	Unchanged	N/A

Clause	Standard	Proposal	Complies
Stormwater Management	Reduce the volume impact of stormwater on infrastructure by retaining it on site.	Unchanged	N/A
Safety	Undertake a formal crime prevention assessment of the development	A formal crime prevention assessment was undertaken as part of the original application. The proposed modifications do not affect the safety and security of the development.	Satisfactory
Visual privacy	Provide reasonable levels of visual privacy.	Satisfactory visual amenity is maintained. The additional windows throughout the development would not result in any significant impacts on privacy.	Satisfactory
Building Entry	Create entrance which provides a desirable residential identity for development	Unchanged	N/A
Parking	Provide adequate car parking for the building and integrate parking with the design of the building	Unchanged	N/A
Pedestrian Access	Promote residential flat development that is well connected to street and contributes to accessibility.	Pedestrian Access unchanged	N/A
	Barrier free access to at least 20% of units	Barrier free access is available to all units.	Yes
Vehicle Access	Limit width of driveways to 6 metres. Integrate adequate car parking and servicing access without compromising character	Unchanged	N/A
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.	Satisfactory It is noted that the modified three bedroom units are under the size recommended in the RFDC, however their previous	Satisfactory

Clause	Standard	Proposal	Complies
	-Width of cross-over or cross-through apartments more than 15 metres deep should be a minimum of 4 metres	<p>layout as approved by the court achieved the minimum size through the provision of a long corridor. The decrease in living space and bedroom 1 size is minimal and the amenity of the proposal remains acceptable.</p> <p>The ground floor two bedroom unit is also undersized but the amenity of the unit remains acceptable.</p>	
Apartment Mix	To provide a diversity of apartment types, which cater for different household requirements now and in the future	Satisfactory	Satisfactory
Balconies	Primary balconies to be a minimum of 2 metres in depth	Satisfactory	Satisfactory
Ceiling Heights	Residential buildings/floors - minimum 3.3m for ground and first floor - minimum 2.7m for habitable rooms for all other residential floors - minimum 2.25m for non habitable rooms	Unchanged	N/A
Flexibility	Provide apartment layouts which can accommodate the changing use of rooms	The extended angular wall to the proposed new studio units limits the functionality and flexibility of the spaces. Even so, the amenity of these units remains acceptable and refusal cannot be justified on this basis.	Satisfactory
Ground floor apartments	Optimise the number of ground floor apartments with separate entries. Ensure ground floor apartments have access to private open space.	<p>Direct access to ground floor apartments is not provided but is acceptable.</p> <p>All ground floor units have access to private open space</p>	Satisfactory
Internal	Maximum of 8 units to be	Maximum of 4 units	Satisfactory

Clause	Standard	Proposal	Complies
Circulation	accessible from a double loaded corridor.	accessible from a corridor.	
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	Basement storage provided	Satisfactory
Acoustic Privacy	Protect acoustic privacy of residents in apartments and in private open spaces	Acceptable	Satisfactory
Daylight Access	-Min 70% of units receive min 3 hours of solar access For dense urban environments 2 hours may be acceptable	All three of the new studio units will receive a minimum of 3 hours of solar access. The modified 3 bedroom units at levels 9, 10 and 11 will also receive 3 hours of sunlight. Solar access to the ground floor unit remains unchanged.	Satisfactory
	-Max 10% units southerly aspect	Unchanged	Satisfactory
Natural Ventilation	-60% of residential units should be naturally cross ventilated. -25% of kitchens should have access to natural ventilation.	All new and modified units are naturally cross ventilated and their kitchens have access to natural ventilation.	Satisfactory
Facades	Facades must define and enhance the public domain and desired street character	Acceptable	Satisfactory
Roof design	Provide quality roof designs which contribute to the overall design	Satisfactory	Satisfactory
Energy efficiency	Reduce reliance on artificial heating and cooling	An acceptable BASIX certificate has been provided.	Satisfactory
Waste	Supply waste management	Council's Manager of	Satisfactory

Clause	Standard	Proposal	Complies
Management	plans as part of the development application	Environmental Services has reviewed the application and raised no objections subject to conditions of consent.	
Water conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	No change	N/A

As is demonstrated by the above assessment, the proposed modifications are found to be consistent with the provisions of SEPP 65.

2. Draft Environmental Planning Instruments

Draft Hurstville Local Environmental Plan (Hurstville City Centre) 2014

Following exhibition, at its meeting on the 17 September 2014, Council resolved to adopt the Draft Hurstville Local Environmental Plan (Hurstville City Centre) 2014. In accordance with the *Environmental Planning and Assessment Act 1979*, the draft was forwarded to the NSW Department of Planning Environment on 1 October 2014.

As the Local Environmental Plan has been exhibited, its provisions have to be considered in the assessment of this application. The proposed zone of the subject site is B4 Mixed Use and the proposed development is permitted in the zone with development consent.

A summary of the controls are provided below:

	Zone / Use	Maximum height	Maximum FSR
Hurstville LEP 1994	Zone 3 (b) – City Centre Business	-	-
Draft Hurstville LEP 2014	Zone B4 – Mixed Use	23m	3.0:1
Approved Development Application	Mixed Use	37.5m	3.04:1
Current Development Application	Mixed Use	No change	3.08:1 (41sqm additional floor space)

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

3. Development Control Plans

Hurstville Development Control Plan No.2 – Hurstville City Centre

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

Section 2.2 - Neighbour Notification and Advertising of Development Applications

The application was notified to 279 adjoining and adjacent owners and residents, and advertised for 14 days. One submission was received in reply. The submission is discussed in a separate section later in this report.

Section 4.2 - The Controls

Block 2 Site 2B	Proposed	Compliance
Use Ground: Commercial/ Retail Upper Levels: Residential/ Commercial	One retail shop and a home office are proposed at ground floor level and residential at ground floor level and above.	No change
Height 23m	No change 37.5m	No change
FSR 3.0:1	Approved: 3.04:1 Proposed: 3.08:1	No (1)
Street Setbacks 2m to Forest Road	Additions align with approved setbacks.	Yes
Balconies Minimum 1 per unit of 8sqm with 2m minimum	All modified and/or new units have balconies that comply. All other units are unchanged.	Yes
Vehicle Access Laneway or Forest Road	No change Access is maintained off Forest Road	No change
Car Parking Commercial: 1 per 50sqm = 1 space Retail: 1 per 25sqm = 2 spaces Residential: 1 per 100sqm = 40 spaces Visitor: 1 per 4 units = 14 spaces Total: 61 spaces required	67 spaces provided	Yes

(1) Floor Space Ratio

The FSR control for the site under DCP No.2 – Hurstville City Centre and also Draft HELP 2014 is 3:1. The development was approved by the NSW Land and Environment with an FSR of 3.04:1. The proposed modification results in a further increase above the control to 3.08:1.

The increased FSR is acceptable for the following reasons:

- The increase in FSR is a result of 41sqm of additional gross floor area (GFA) of which 32sqm is located at ground floor level. The remaining additional floor area is distributed across levels 9 – 11.
- The proposed additional floor space would have a minimal visual impact and the overall bulk and scale of the development is similar to that of the Court approval.
- The additional GFA would have no impact on the amenity of adjoining properties.

Given the above, the increase in FSR does not warrant refusal of this modification application.

Section 6.1 - Car Parking

The proposed parking is generally as approved. Parking is provided for 67 vehicles, six more than required.

The proposed home office at ground floor level appears to encroach on the driveway headroom and in the submitted cross section, is shown with an unrealistic sloped floor to maintain the minimum 2.3m headroom. To ensure 2.3m headroom is maintained, a condition is recommended requiring compliance with AS2890.1 which may require the home office to be reduced in size prior to the Construction Certificate being issued.

Overall, the application is found to satisfy Section 6.1 – Car Parking.

Section 6.3 - Access and Mobility

Adaptable dwellings

DCP 2 requires that 1 adaptable dwelling be provided for the first 8 units and then 1 for every 10 units after that, or part thereof. This equates to a total of 6 adaptable dwellings being required for the proposed development. The proposed development provides 8 adaptable dwellings, consistent with the control.

Accessible car parking spaces

Accessible car spaces are to be provided as follows:

Rate	Required	Provided
Where more than 50 car spaces are required, 2% of these spaces are to be accessible.	2 spaces required	Complies.

General Requirements

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

Section 6.4 - Crime Prevention through Environmental Design

The application results in no significant changes that would affect the safety and security of the development. In this regard, the proposed modification is considered to maintain compliance.

Section 6.5 - Energy Efficiency

A satisfactory BASIX certificate has been submitted with the application.

Section 6.5 also requires solar access be maintained to the principal private open space of adjoining dwellings for a minimum of 3 hours mid winter. Shadow diagrams have not been provided with the application to demonstrate the impacts of the development. However, the ground floor level modification would not overshadow the adjoining property due to the finished ground levels and, due to the orientation of the site, the additional floorspace to levels 9-11 would have a negligible shadow impact.

In this regard the proposal is consistent with the objectives and controls of Section 6.5 Energy Efficiency.

Section 6.7 - Drainage and On-Site Detention Requirements

No change proposed.

Section 6.9 – Waste Management

Council's Manager – Environmental Services has assessed the application and raised no objections to the modification.

4. Impacts

Natural Environment

No significant amendments are proposed to the provision of landscaping on site.

The proposed modifications do not result in any additional impacts on the natural environment.

Built Environment

As discussed throughout this report, the proposed modifications are found to be acceptable and would not have any significant negative impacts on the built environment.

Social and Economic Impacts

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

Suitability of the Site

The subject site is considered to be suitable for the mixed use development.

5. Referrals, Submissions and the Public Interest

Resident Submissions

The application was notified to 279 adjoining and adjacent owners and residents, and advertised for 14 days. One submission was received in reply.

The submission raised the following concerns:

1. The building is too high.

Comment: No changes to the height are proposed.

2. The land is too narrow.

Comment: The development has already been approved by the Court on this site. The proposed modifications are minor and found to be acceptable.

3. The building is too close to the surrounding buildings.

Comment: The proximity of the development to the objector's property to the east remains as approved by the Court. There are minor changes to western elevation that result in reduced separation however as discussed earlier in this report, the separation between buildings is considered acceptable.

Internal - Council Referrals

Manager – Environmental Services

Council's Manager, Environmental Services has assessed the development and raised no objections to the proposed modifications.

External Referrals

None required

Public Interest

The proposed modification is found to be in the public interest.

CONCLUSION

Consent is sought to modify Development Application No. 12/DA-325 which was granted for the demolition of the existing buildings/structures and construction of two residential flat buildings with basement parking.

The modification proposes to amend the ground floor of the building, and levels 9 – 11 to accommodate a home office and three additional studio units. Additional windows are also proposed to all floors of the front building. The modification includes additional gross floor area to the front building resulting in an increase in FSR further above the development control and the court approved development. However, an assessment of the application has found the variation to be acceptable.

The application was notified for 14 days and advertised in accordance with DCP No.2. One submission was received objecting to the development. The issues raised are discussed earlier in this report and are not considered to warrant refusal.

The application is recommended for approval.

RECOMMENDATION

Pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979, as amended, the Joint Regional Planning Panel approve the modification application MOD2015/0011 for alterations and additions to the approved mixed use development (12/DA-325) and internal reconfiguration to include a ground floor home office and increase unit yield from 54 to 57 units on Lot B DP 340454 and known as 454-456 Forest Road, Hurstville, subject to the following conditions:

(Note: Condition No's 1, 2, 2A, 32 and 59 are additional or have been modified)

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
E-DC/A01-E	15.04.15	Floor Plans 1	E	N. Lycenko
E-DC/A02-E	15.04.15	Floor Plans 2	E	N. Lycenko
E-DC/A03-E	15.04.15	Floor Plans 3	E	N. Lycenko
E-DC/A04-E	15.04.15	Elevations 1	E	N. Lycenko
E-DC/A05-E	15.04.15	Elevations 2	E	N. Lycenko
E-DC/A06-E	15.04.15	Elevations	E	N. Lycenko
E-DC/A07-E	15.04.15	Section	E	N. Lycenko
Not shown	Received 24.10.13	Schedule of external finishes and colour schedule	N/A	Not shown
13-2750 L01	23.3. 13	Landscape Plan		Zenith Landscape Designs
J562912/SWD Sheets 1-4	17.10.13	Drainage Plans		JAS Engineers

(This condition is modified as part of MOD2015/0011 (12/DA-325))

2. The following amendments to the plans, shall be made to the plans prior to the issue of a Construction Certificate:

(a) Deleted

(b) The roller door to garage on Forest Road is to be a timber stained panel lift door to the satisfaction of Council's Director of Planning.

(c) The driveway ramp must be designed to achieve the minimum headroom required by AS2890.1. If the floor/slab of the home office obstructs this headroom, the home office must be reduced in size so the ramp complies.

(This condition is modified as part of MOD2015/0011 (12/DA-325))

- 2A. GEN1017 – **Home Office** – The 'home office' is to operate in accordance with the following definition under Hurstville Local Environmental Plan 1994.

'Residential office means a building or room or a number of rooms (forming part of, attached to, or within the curtilage of, a dwelling) in which a business or profession is carried on by a permanent resident of the dwelling and where:

(a) not more than 2 persons practise or are employed on the premises at any one time, and

(b) no goods are sold or displayed on the premises.'

(This condition is added as part of MOD2015/0011 (12/DA-325))

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

(a) Fees to be paid to Council:

Schedule of fees, bonds and contributions

Fee Type	Paid	Fee Type	Amount	
Development Application Fee	X	DA1	\$16,240.00	Paid
Plan First Fee	X	AP35	\$14,272.00	Paid
Notification Fee	X	AP12	\$440.00	Paid
Builders Damage Deposit		BON2	\$3,750.00	
Inspection Fee for Refund of Damage Deposit		DA6	\$125.00	
S94 - Open Space and Community Recreation		CONT9	\$578,172.70	
S94 - Community Services & Facilities		CONT3	\$81,770.72	

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.

4. GEN1007 - **Section 94 - Open Space and Community Recreation** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for open space and community recreation facilities.

The contribution relates to Plan no. 2 and is based on the criteria that any development which results in a nett increase in the City's population will create extra demand on open space and community recreation facilities. Therefore the requirement for additional open space and embellishment of existing open space is a direct measurable consequence of the approved development.

The total open space and community recreation facilities contribution required and payable before release of the Construction Certificate is \$578,172.70.

5. GEN1008 - **Section 94 - Community Services and Facilities** - Pursuant to Section 94(1) of the Environmental Planning and Assessment Act, 1979, payment shall be made to Council of a monetary contribution for community services and facilities. The contribution relates to Plan no. 4 and is based on the criteria that any development which results in a nett gain of people living in the City or a change in the population structure will create extra demand on community services and facilities.

The total community services and facilities contribution required and payable before release of the Construction Certificate is \$81,770.72.

6. 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.**
7. 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: **\$3,750.00.**
 - (b) Payment to Council of a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$130.00.**
 - (c) At the completion of work Council will:
 - (i) review the dilapidation report prepared prior to the commencement works
 - (ii) review the dilapidation report prepared after the completion of works;
 - (iii) Review the Works –As-Executed Drawings (if applicable); and
 - (iv) inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

- (d) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.

SEPARATE APPROVALS UNDER OTHER LEGISLATION

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

8. APR600 - **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 & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land

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

The relevant Application Forms for these activities can be downloaded from Hurstville City Council's website www.hurstville.nsw.gov.au/I_want_to/Download_a_Council_Form. For further information, please contact Council's Customer Service Centre on (02)9330 6222.

9. 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:

Apply Option (b, c, e, j)

- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new full width (boundary to kerb) footpath in paving material approved and specified by Council's Engineer for the full frontage of the

site in Forest Road in accordance with Council's Specifications for footpaths.

- (e) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.
- (j) An application shall be made to Council's Engineer for the issue of appropriate footpath levels to eliminate the low level footpath and construct the new footpath area at a straight grade to the kerb. This shall allow the stormwater outlets from the site to be laid to the existing gutter levels.

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

To apply for approval:

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

10. **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 RMS, 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.

11. All buildings and structures (other than footpath pedestrian awnings) are to be clear of the Forest Road reserve (unlimited in height or depth).
12. The driveway on Forest Road shall have a minimum combined entry/exit driveway width of 6 metres and shall extend for the full length of the driveway from the property boundary to the basement car park. The driveway shall be splayed at the kerb line to allow the left-in and left-out manoeuvres of the 85th percentile car turning path plus clearances to be fully contained within the kerb side lane. The gradient of the access driveway shall be in accordance with AS2890.1-2004.
13. The existing power pole on Forest Road adjacent the existing driveway may need to be relocated at full cost to the developer as part of the widening of the existing driveway.
14. The design and construction of the vehicular crossing and kerb and gutter works on Forest Road shall be in accordance with RMS's Project Services Manager, Traffic Projects Section, Parramatta on 8849 24 96.
15. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works. A plan checking fee will be available and a performance bond may be required before the RMS approval is issued.
16. The developer is to comply with the requirements of the Technical Direction GTD 2012/001. This will require the developer to submit detailed drawings and geotechnical reports relating to the excavation of the site and support structures to the RMS for assessment. The developer is to meet the cost of the assessment by the RMS.

The report would need to address the following key issues:

- a. The impact of excavation /rock anchors on the stability of the Forest road and detailing the carriageway would be monitored for settlement,
 - b. The impact of the excavation on the structural stability of the Forest Road.
 - c. Any other issues that may need to be addressed.
17. The swept path of the longest vehicle entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a swept path plan shall be submitted to Council for approval, which illustrates that the proposed development complies with this requirement.

18. A construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to the Department prior to the issue of a construction certificate.
19. All vehicles to enter and exist in a forward direction.
20. All works associated with the propose development shall be at no cost to the RMS.
21. GOV1008 - **Sydney Water- Section 73 Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

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

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

22. GOV1009 - **Sydney Water – Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
23. GOV1010 - **Ausgrid – Substation or Kiosk** - Ausgrid shall be consulted to determine if an electricity distribution substation is required. If so, it will be necessary for the final film survey plan to be endorsed with an area, having the required dimensions as agreed with Ausgrid, indicating the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the Building Code of Australia. The substation site to be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. For details visit www.ausgrid.com.au or call 131525.
 - (a) written confirmation of Ausgrid's requirements is to be submitted **prior to the issue of the Construction Certificate**; and
 - (b) Ausgrid's requirements are to be met before the issue of the Occupation Certificate.
24. GOV1011 - **Ausgrid – Underground electrical conduits** - Ausgrid is to be consulted to determine if underground electricity conduits are to be installed in the footway. If so, the developer is to install the conduits within the footway

across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge.

The developer is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. For details visit www.ausgrid.com.au or call 131525.

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

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

25. GOV1012 - **Ausgrid – Clearances to electricity mains** - If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, Ausgrid is to be consulted to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. If so, arrangements are to be made, at your cost, with Ausgrid for any necessary modification to the electrical network in question. For details visit www.ausgrid.com.au or call 131525.

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

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

26. CC2004 - **Development Assessment - Design Changes** - The following design changes are required and are to be incorporated into the plans to be lodged **with the Construction Certificate application**.
- (a) The submitted concept hydraulic plan shall be amended to provide the required On Site Detention Facilities in the amended building layout. These design changes are to be incorporated into the Detailed Hydraulic Plans submitted for approval **with the Construction Certificate Application**.
 - (b) The submitted hydraulic plan does not take into consideration the low level profile of the existing concrete footpath outside the site. The proposed outlets from the site to the gutter will protrude above the existing footpath level. An application shall be made to Council's Engineer for the issue of appropriate footpath levels to eliminate the low level footpath and construct the new footpath area at a straight grade to the kerb. This shall allow the stormwater outlets from the site to be laid to the existing gutter levels. These design changes are to be incorporated into the Detailed Hydraulic Plans submitted for approval **with the Construction Certificate Application**.

27. **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.

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

- (a) Location of existing and proposed structures on the site including existing trees (if applicable);
- (b) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
- (c) Location, numbers and type of plant species;
- (d) Details of planting procedure and maintenance;
- (e) Details of drainage and watering systems.

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

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

- details of proposed sediment and erosion control measures;
- method used to provide construction noise and vibration management;
- construction traffic management details.

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

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

- (a) 458 - 460 Forest Road
- (b) 438 – 452 Forest Road

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.

31. **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](#).
32. **CC2011 - Development Assessment – BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 431602M_05 dated 27 January 2015, approved with the Development Consent No.12/DA-325 and modified by MOD2015/0011, must be implemented on the plans lodged with the application for the Construction Certificate.

(This condition is modified as part of MOD2015/0011 (12/DA-325))

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

Apply Option (j)

- (j) The basement shall pump to the Detention Tank and thence all stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).

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

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

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

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

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

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

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

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

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

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

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

36. 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.**
37. 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).
38. CC7002 - **Building – Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a Certifying Authority. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Certifying Authority will then issue a Fire Safety Schedule for the building.
39. CC7004 - **Building – Structural details** - Structural plans and specifications prepared and endorsed by a suitably qualified practising structural engineer who holds the applicable Certificate of Accreditation as required under the Building Professionals Act 2005 shall be submitted along with the Construction Certificate application to the Certifying Authority for any of the following, as required by the building design:
- (a) piers
 - (b) footings
 - (c) slabs
 - (d) columns
 - (e) structural steel
 - (f) reinforced building elements
 - (g) retaining walls
 - (h) stabilizing works
 - (i) structural framework
40. CC7010A - **Building – Slip Resistance- Commercial, Retail and Residential Developments** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.

41. CC7010B - **Building – Geotechnical report**

Geotechnical Reports - The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the *Building Professionals Act 2005* in relation to dilapidation reports, all site works and construction. This is to be submitted **before the issue of the Construction Certificate** and is to include:

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
458 - 460 Forest Road
438 – 452 Forest Road
- (b) Dilapidation Reports on the adjoining properties including, but not limited to 438-452 Forest Road and 458-460 Forest Road prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

42. CC8003 - **Waste – Waste Storage Containers -3 Storey Residential Flat Buildings** - The following waste and recycling facilities will be required:-

1. For the Residential portion of the building the following waste and recycling facilities will be required:-

Domestic Waste:- 14 x 240 litre Mobile Garbage Bins (MGB's);

Domestic Recycling:- 18 x 240 litre MGB's.

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

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

- c) Office – 0.01-0.03 cubic metres per 100 square metres of floor area per day.

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

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

43. CC8001 - **Waste – Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site, clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Principal Certifying Authority and copy provided to the Manager - Environmental Services, Hurstville City Council prior to the issue of any Construction Certificate.
44. The details of the acoustical treatment of the facades as recommended in the acoustic report no. T884130311 dated 31 October 2012 in order to meet the noise criterion imposed under the State Environmental Planning Policy (Infrastructure) 2007 is to be submitted to the Principal Certifying Authority and copy provided to the Manager - Environmental Services, Hurstville City Council prior to the issue of any Construction Certificate.
45. At completion of work, and prior to issue of an occupation certificate, a certificate from a practising acoustical consultant (who is a member of either the Australian Acoustical Society, or the Association of Australian Acoustical Consultants) must be submitted to the principal certifying authority appointed for the erection of the building certifying that the acoustical treatment of the facades as recommended in the acoustic report no. T884130311 dated 31 October 2012 has been implemented to meet the noise criterion imposed under the State Environmental Planning Policy (Infrastructure) 2007.

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.

46. **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.
47. **PREC2001 - Development Assessment – Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2011 – Demolition of Structures, *NSW Work Health & Safety Act 2011* and the *NSW Work Health & Safety Regulation 2011*. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifying Authority prior to the commencement of works.

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

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

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

48. **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.
49. **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, at 454 -456 Forest Road.

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.

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

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

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

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.

51. The site is to be remediated in accordance with the Remediation Action Plan and the Department of Environment and Climate Change's guidelines for Consultants Reporting on Contaminated Sites, 1997
52. A Remedial Action Plan, in accordance with the Department of Environment and Climate Change's guidelines for Consultants Reporting on Contaminated Sites, 1997, is to be prepared in connection with the contamination on the land, and the site is remediated in accordance with the Remediation Action Plan and the Department of Environment and Climate Change's guidelines for Consultants Reporting on Contaminated Sites, 1997 must then be prepared.
53. **CON2001 - Development Assessment - Hours of construction for demolition and building work** - Work in connection with the demolition of any existing buildings and the removal of spoil and materials from the site that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity shall be permitted to be performed on any Sunday, Good Friday, Christmas Day or any Public Holiday. A penalty infringement notice may be issued for any offence.

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

54. **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.
55. **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.

56. **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.

57. At completion of work, and prior to issue of an occupation certificate, a certificate from a practising acoustical consultant (who is a member of either the Australian Acoustical Society, or the Association of Australian Acoustical Consultants) must be submitted to the principal certifying authority appointed for the erection of the building certifying that the acoustical treatment of the facades as recommended in the acoustic report no. T884130311 dated 31 October 2012 has been implemented to meet the noise criterion imposed under the State Environmental Planning Policy (Infrastructure) 2007.
58. A Validation Report which certifies that the site has been remediated in accordance with the Remediation Action Plan and in accordance with Department of Environment and Climate Change's guidelines for Consultants Reporting on Contaminated Sites, 1997 must be prepared. Prior to the issue of an occupation certificate, a copy of the Remediation Action Plan together with a copy of the Validation Report, must be submitted to the principal certifying authority appointed for the erection of the building with a copy submitted to Council.
59. **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. 431602M_05 dated 27 January 2015, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.

(This condition is modified as part of MOD2015/0011 (12/DA-325))

60. **OCC2005 - Development Assessment – Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
61. **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) 438-452 Forest Road
- (b) 458-460 Forest Road

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

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

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

- (a) Residential dwellings: minimum of 39 spaces
- (b) Residential visitors: minimum of 14 spaces
- (c) Retail: minimum of 2 spaces
- (d) Commercial: minimum of 2 spaces
- (e) Loading/Services: minimum of 1 space

63. **OCC6008 - Engineering – Dilapidation Report on Public Land - Major Development Only** - Upon completion of works, a follow up dilapidation report must be prepared on Council infrastructure adjoining the development site, at 454 - 456 Forest Road:

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

64. 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:

Apply Option (b, c, e, j)

- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new full width (boundary to kerb) footpath in paving material approved and specified by Council's Engineer for the full frontage of the site in Forest Road in accordance with Council's Specifications for footpaths.
- (e) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.
- (j) An application shall be made to Council's Engineer for the issue of appropriate footpath levels to eliminate the low level footpath and construct the new footpath area at a straight grade to the kerb. This shall allow the stormwater outlets from the site to be laid to the existing gutter levels.

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**.

65. OCC7001 - **Building – Fire Safety Certificate before Occupation or Use** - Prior to the issue of an Occupation Certificate the owner of the building must issue a final fire safety certificate and must cause a copy of that final fire safety certificate to be given to the principle certifying authority issuing the occupation certificate. The final fire safety certificate must be issued to the effect that each essential fire safety measure specified in the fire safety schedule for the building to which the certificate relates:

- (a) has been assessed by a properly qualified person, and

- (b) was found, when it was assessed, to be capable of performing to at least a standard required by the current fire safety schedule for the building for which the certificate is issued.

Note: The owner of the building:

- (a) must cause a copy of the final fire safety certificate (together with a copy of the current fire safety schedule) to be given to the Fire Commissioner, and
- (b) must cause a further copy of the final fire safety certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

66. OCC7002 - **Building – Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Details of compliance must be submitted with the application for the Occupation Certificate.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

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

67. 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.

68. **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.

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.

69. The location of the proposed Waste Storage Area as shown on the submitted plan is on the Ground Floor of the building, but 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. This should be a Condition of any approval.

70. ONG2003 - **Development Assessment – Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained on an on-going basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turfed areas.
71. ONG3006 - **Development Engineering – On-going maintenance of the on-site detention system**

The Owner(s) must in accordance with this condition and any positive covenant:

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

72. ONG7002 - **Building – Annual Fire Safety Statement** - The owner of the building must issue an annual fire safety statement in respect of each essential fire safety measure in the building premises and cause a copy of that statement to be given to Council prior to or upon the due date for lodgement as required by Council.

The annual fire safety statement must be to the effect that:

- (a) in respect of each essential fire safety measure, such measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing:
 - (i) in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule, or
 - (ii) in the case of an essential fire safety measure applicable otherwise than by virtue of a fire safety schedule, to a standard no less than that to which the measure was originally designed and implemented, and
- (b) the building has been inspected by a properly qualified person and was found when it was inspected to be in a condition that did not disclose any grounds for a prosecution under Part 9, Division 7 of the Environmental Planning and Assessment Regulation, 2000.

The owner of the building must also cause a copy of the statement (together with a copy of the current fire safety schedule) to be given to the Fire Commissioner and as well cause a further copy of the statement (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

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.

73. 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.
74. PRES1002 - **Clause 98 – Building Code of Australia and Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the *Home Building Act 1989* relates, there is a requirement for a contract of insurance to be in force before any work commences.
75. 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.
76. 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*.
77. PRES1005 - **Clause 98C - Entertainment Venues** - Schedule 3A of the *Environmental Planning and Assessment Act 1979* outlines the prescribed conditions which apply to Entertainment Venues.
78. 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.
79. PRES1007 - **Clause 98E – Protection and support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule C – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning & Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au. It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

80. 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.

81. 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.

82. 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.

83. 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.

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

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

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

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

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

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

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

86. 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*.

87. 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.

88. 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.