

Panel Reference	2016SYE091
DA Number	DA2016/0218
LGA	Georges River Council
Proposed Development	Mixed use development comprising 556 units and 4345 square metres of retail space in two buildings of 9 and 21 storeys with basement and ground floor parking and associated landscaping works.
Street Address	93 Forest Road HURSTVILLE NSW 2220
Applicant/Owner	Hville FCP Pty Ltd (Applicant) East Quarter Hurstville Pty Ltd (Owner)
Date of DA lodgement	12 August 2016
Number of Submissions	16
Recommendation	Deferred commencement approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	General development over \$20 million (CIV \$193,030,900.00)
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 Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Hurstville Local Environmental Plan 2012 • Development Control Plan No. 2 – Hurstville City Centre
List all documents submitted with this report for the Panel's consideration	Amended Plans Request for a Variation under Clause 4.6
Report prepared by	Teresa Gizzi Senior Development Assessment Officer
Report date	5 May 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

1. Development consent is sought for the construction of a mixed use development at 93 Forest Road Hurstville. The development comprises two buildings, being nine and 21 storeys in height with associated basement, landscaping and road works. The development will accommodate 556 residential apartments and 4,345sqm of retail floor space. The application forms Stage 3 of the mixed use development known as East Quarter.
2. The proposed development has been assessed against the requirements of the relevant planning instruments and development control plans. The application proposes a minor variation to the maximum building height development standard (maximum 1.9m (4.7%) variation over less than 1% of the building footprint) under HLEP 2012, however it was found to be acceptable. Minor variations are also sought to SEPP 65, the associated Apartment Design Guide and DCP 2 – Hurstville City Centre, however as provided throughout this report the variations are supported.
3. The application was notified in accordance with DCP 2. Sixteen submissions were received objecting to the development. The issues raised are discussed throughout this report, and are not considered to warrant refusal of the application.
4. The proposed development is consistent with the objectives of the B4 Mixed Use Zone and the high quality design would be a positive contribution to the Hurstville City Centre.
5. Council has also received an offer to enter into a planning agreement in association with the Planning Proposal PP2014/0002 and Development Application 2016/0218 which is currently on public exhibition. The planning agreement includes upgrade of the intersection at Forest Road and Durham Street and also monetary contributions towards the upgrade of the adjoining public open space (Kempt Field).

RECOMMENDATION

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

1. DESCRIPTION OF THE PROPOSAL

Development consent is sought for the construction of a mixed use development at 93 Forest Road Hurstville. The development forms Stage 3 of an existing development known as 'East Quarter'.

It is noted that Stage 3 is to be developed independently of Stages 1 and 2 and will be known as 'Beyond' rather than 'East Quarter', however for the purposes of this report and due to the interrelationship with Stage 2, the site will be referred to as Stage 3 throughout this report.

Stage 3 comprises the construction of two buildings, each comprising a podium and two residential towers. The northern building, known as Building X has a height of nine storeys and the southern building, known as Building F has a height of twenty one storeys. The development will accommodate 556 residential apartments and 4,345sqm of retail floor space. The proposal also includes the provision of basement car parking, landscaping works, and works to the public domain.

The specifics of each building are as follows:

Building X

Building X is located on the northern (front) half of the site. It is proposed to be a total of nine storeys high comprising a single storey podium and two seven storey towers above. The northernmost tower is identified as building X1 and the southernmost tower is identified as building X2. A single basement level for car parking is also located below this building however it is included as a storey due to its projection of up to 3m above the existing ground level.

Building X is proposed to accommodate the following:

- 164 residential units comprising:
 - 82 x 1 bed
 - 82 x 2 bed
- 4,266sqm retail floor space comprising:
 - 3,455sqm of supermarket floor space (including liquor store) at ground floor level
 - 4 x stand alone retail pods located at the southern side of the building.

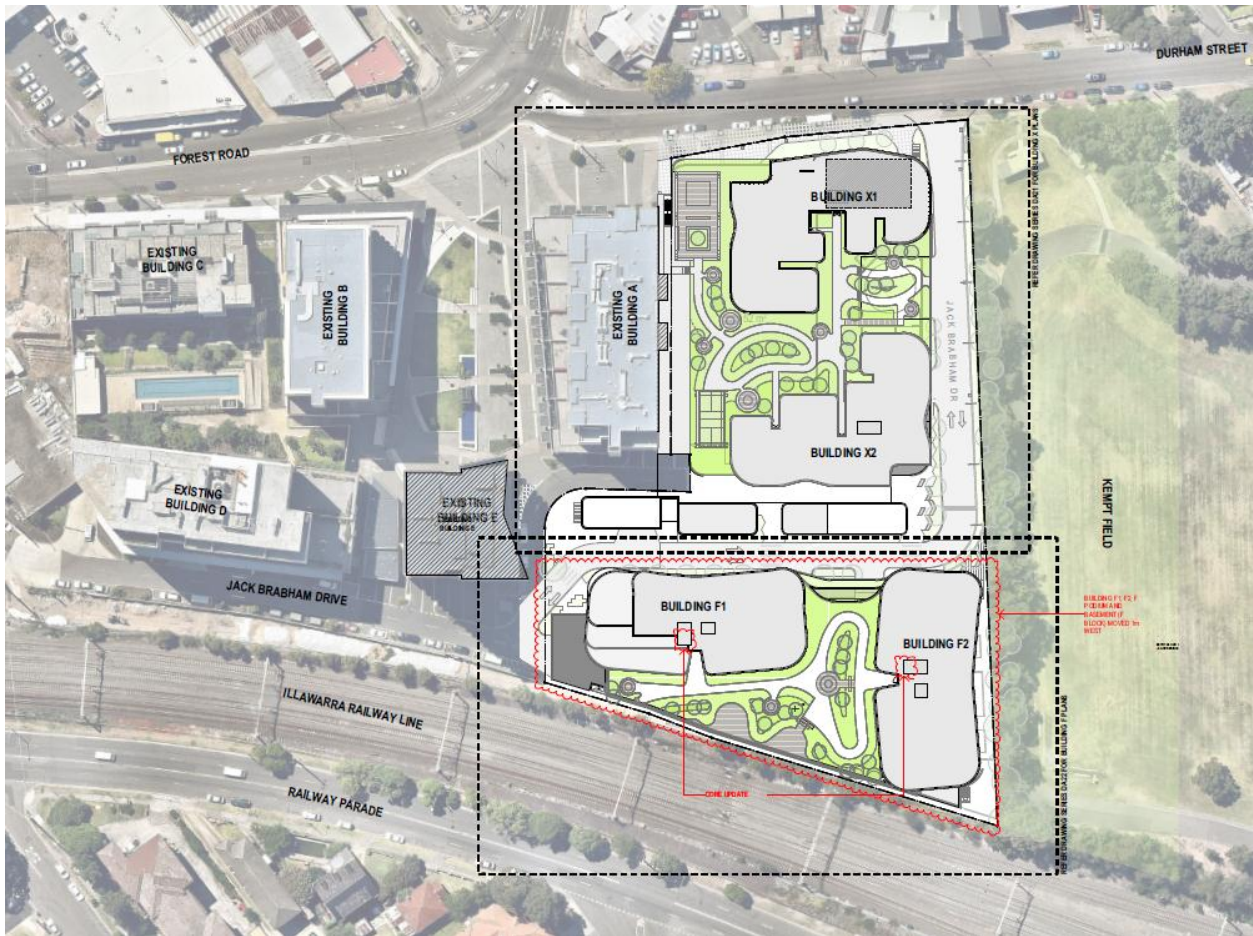
Building F

Building F is located on the southern half of the site. It is proposed to be a total of twenty one storeys high comprising a part one/part three storey podium and two towers being eighteen storeys and seventeen storeys high. The western tower is identified as building F1 and the eastern tower that adjoins Kempt Field and is identified as building F2. A part one, part four level basement is located below this building for car parking.

Building F is proposed to accommodate the following:

- 392 residential units comprising:
 - 166 x 1 bed

- 184 x 2 bed
- 42 x 3 bed
- 79sqm retail floor space.



2. BACKGROUND

- On the 17 June 2004, development consent no. 03/DA-1046 was granted for a mixed residential/retail/commercial development comprising seven buildings and basement parking including demolition of the existing factory building and remediation of the site at 95 Forest Road, Hurstville. The development consent was for the entire site known as “East Quarter” and incorporated Stages 1, 2 and 3. The development consent has been modified on sixteen occasions. The most recent modification to the development consent (2003/DA-1046REV16) approved the relocation of 76 car spaces from Stage 3 to Stage 2.
- The modified consent requires the overall provision of 237 on site car spaces for Stage 3 within Stage 2.
- On the 8 November 2011 the Joint Regional Planning Panel granted a deferred commencement development consent for development application no 11/DA-21 to remediate the site and construct a mixed retail/commercial/residential development comprising three buildings containing basement car parking area, ground floor retail, first floor commercial, and 258 residential units (known as Stage 2) at 93 Forest Road, Hurstville. The deferred commencement consent

was activated on 12 January 2012. This development consent replaces Stage 2 of development consent 03/DA-1046.

- This development consent has been modified on six occasions (the most recent being MOD2013/0004). The approved Stage 2 development now provides 303 residential units, retail and commercial floor space as well as basement car parking for both Stages 2 and 3. The most recent modification also relocated 76 visitor spaces from Stage 2 to Stage 3 on grade parking.
- On the 15 April 2014, DA2013/0385 for East Quarter Stage 3 - Construction of a mixed use retail/residential development comprising two buildings being 8 and 19 storeys high, basement car parking, landscaping and public domain works was presented to the Joint Regional Planning Panel with a recommendation for refusal. The application was withdrawn at that meeting.
- Planning proposal request No.PP2014/0002 for the 'East Quarter' site, 93 – 103 Forest Road Hurstville was endorsed by Council on the 5 December 2016 and gazetted on 5 May 2017. The planning proposal included amendments to the height and FSR of the site subject of this application as follows:
 - (a) increase the Floor Space Ratio for the entire East Quarter site from 2.5:1 to 3.5:1
 - (b) increase the height on Stage 3 of the East Quarter site from:
 - i. 23m to 30m for the north-eastern part of the site (Building X)
 - ii. 40m to 65m for the south –eastern part of the site (Building F).
- Council received an Offer to enter into a planning agreement in association with the Planning Proposal PP2014/0002 and Development Application 2016/0218 on 14 November 2016. The planning agreement has been signed and at the time of writing this report was on public exhibition.
- Development application no.DA2016/0218 for a mixed use development comprising 556 units and 4,345 square metres of retail space in two buildings of 9 and 21 storeys with basement and ground floor parking and associated landscaping works was lodged on the 12 August 2016.

3. DESCRIPTION OF THE SITE AND LOCALITY

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

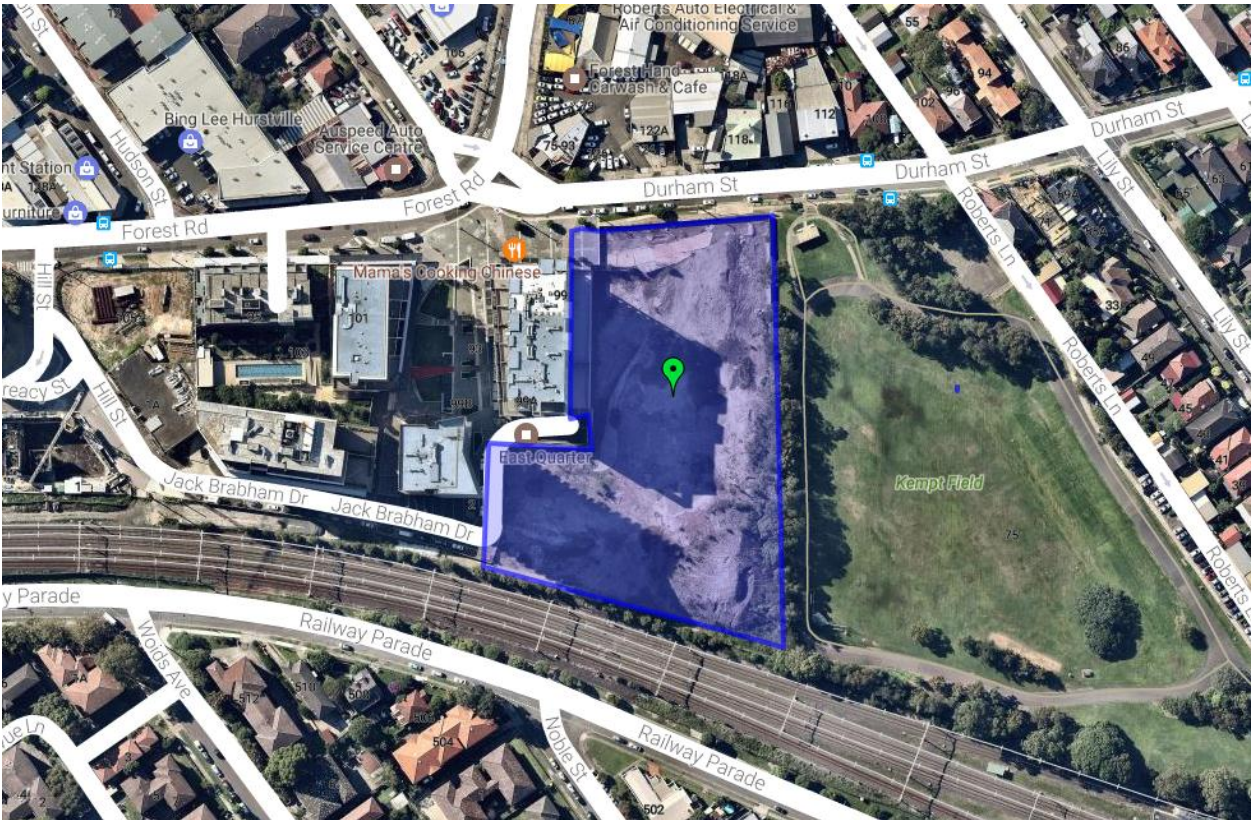
The site forms part of the 'East Quarter' development which has a total area of 2.844ha, however Stages 1 and 2 have now been completed and subdivision has taken place.

The lot associated with Stage 3 has a frontage of approximately 73.95m to Durham Street and a site area of 13,927sqm.

The northern boundary of the site adjoins Durham Street and the southern boundary adjoins the Illawarra Railway Line. Opposite the site on the northern side of Durham Street are a number of commercial uses accommodated in one and two storey buildings. Adjoining the site to the east is Kempt Field, an area of public open space

which is managed by Georges River Council. The western boundary of Stage 3 will adjoin the now completed buildings within Stage 2 which comprise Buildings A and E which are 13 and 19 storeys respectively.

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



4. COMPLIANCE AND ASSESSMENT

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

4.1 ENVIRONMENTAL PLANNING INSTRUMENTS

4.1.1 Hurstville Local Environmental Plan 2012

Hurstville Local Environmental Plan 2012 (HLEP 2012) Amendment No.7 was gazetted on the 5 May 2017. This amendment increased the height of buildings and floor space ratio development standards that applied to the site. The development has been assessed against the provisions HELP 2012 Amendment No.7 below.

Clause	Standard	Proposal	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	Consistent with the aims of the plan	Yes
1.4 - Definitions	Mixed Use Shop Top Housing	The development is defined as a mixed use development	Yes

	Residential Flat Building	comprising shop top housing and residential flat building.	
2.3 - Zone objectives and Land Use Table	Development must be permissible with consent Meets objectives of B4 Mixed Use Zone	The development is permissible with consent in the B4 Mixed Use Zone.	Yes
2.7 - Demolition	Demolition is permissible with consent	Demolition works are not required.	N/A
4.3 – Height of Buildings	Rear of Site (Building F): 65m Front of Site (Building X): 30m as identified on Height of Buildings Map	66.9m 31m	No, see discussion below
4.4 – Floor Space Ratio	3.5:1 as identified on Floor Space Ratio Map	3.5:1	Yes
4.6 – Exceptions to development standards	Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard (CI 4.6 variation)	The proposal seeks a variation to Clause 4.3 – Heights of Buildings under the HLEP 2012. A request for the variation has been provided and is discussed later in this report.	Yes
5.10 – Heritage Conservation	Must consider the effect of the proposed development on the heritage significant of the item concerned.	<p>The site is located in the vicinity of 118 Durham Street Hurstville. The item is a Scout Hall which is listed for its social and historical significance. The building is not listed for its architecture or aesthetic values.</p> <p>The proposed development would not affect the operations of the Scout Hall and therefore would not affect the significance of the heritage item.</p> <p>As such, a heritage impact statement is not required and the development is consistent with the objectives of this clause.</p>	Yes
6.7 –	The following services		

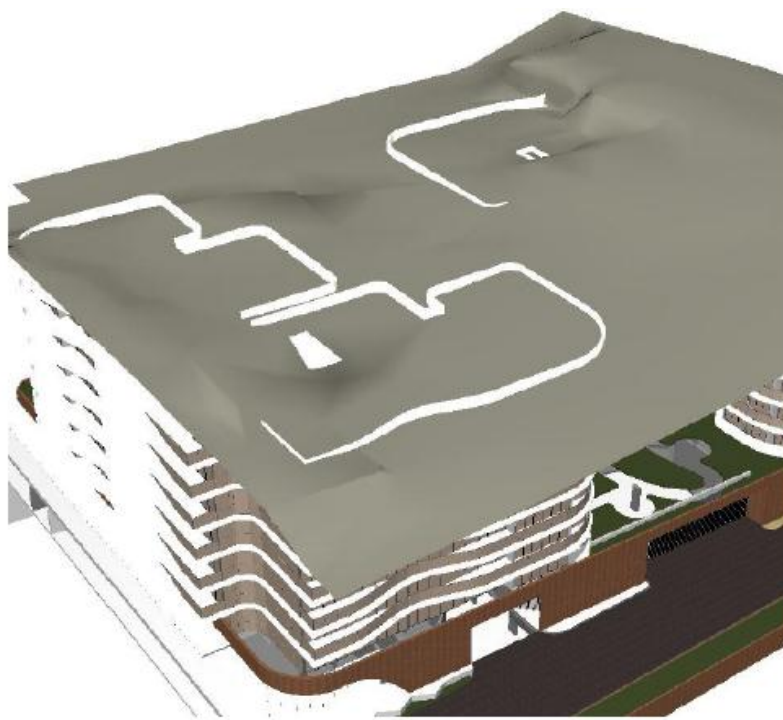
Essential Services	that are essential for the development shall be available or that adequate arrangements must be made available when required:		
	* Supply of water, electricity and disposal and management of sewerage.	Services are available to the site.	Yes
	* Stormwater drainage or on-site conservation	Stormwater drainage is satisfactory subject to conditions.	Yes
	* Suitable vehicular access	Suitable vehicular access is available from Durham Street and Jack Brabham Drive (via Hill Street).	Yes

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

Amendment No.7 of HLEP 2012, increased the maximum building height on the site to 30m for the front half of the site and 65m for the rear.

Due to previous construction works on stages 1 and 2, the ground levels have been modified over time, resulting in short steep drops and low points across the site. Consequently, the proposed development exceeds the height limit. Building X1 exceeds the height limit by up to 1.4m, however this is a parapet breach only. Building X2 exceeds the height limit by up to 0.9m due to the parapet and lift overrun. Building F2 at the rear of the site has a maximum height of 66.9m, comprising a parapet breach of 1.9m, roof slab breach of 0.6m and ceiling/habitable floor area breach of 0.1m.

The location and extent of the non-compliance is provided in the images below. The grey shading illustrates the existing topography of the site and the white (Building X1 and X2) and black (Building F2) highlights within this grey section indicates the location and nature of the height control breach.



BUILDING X1 HEIGHT

DEVELOPMENT RL
ROOF PARAPET RL 87.9

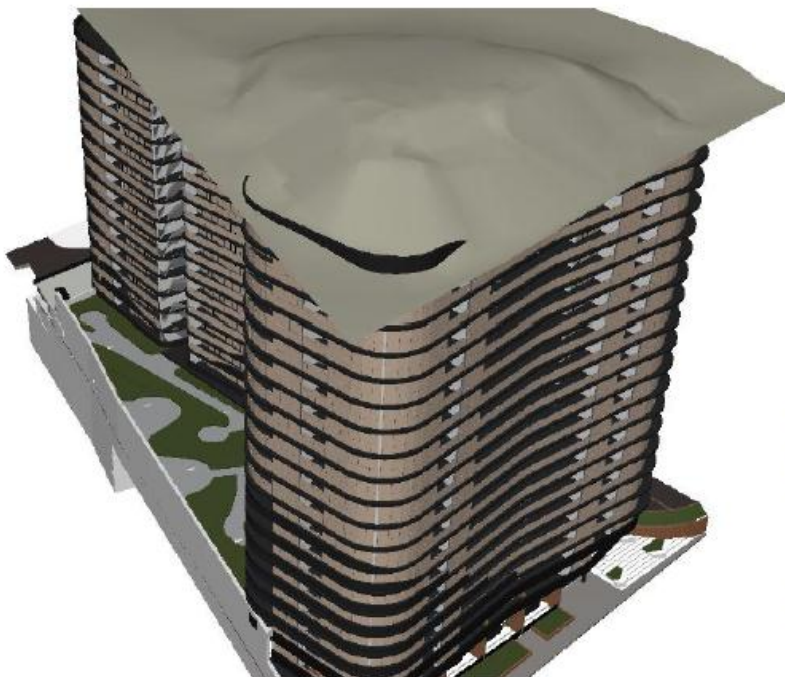
HEIGHT PLANE BREACH (max. height mm)
ROOF PARAPET 1400mm

BUILDING X2 HEIGHT

DEVELOPMENT RL
ROOF PARAPET RL 87.9
LIFT CORE RL 88.1

HEIGHT PLANE BREACH (max. height mm)
ROOF PARAPET 900mm
LIFT CORE 900mm

Figure 2: Building X1 and X2 Variations
Source: DKO



BUILDING F2 HEIGHT

DEVELOPMENT RL
ROOF PARAPET RL122.3
ROOF SLAB RL121.0
CEILING RL120.5

HEIGHT PLANE BREACH (max. height mm)
ROOF PARAPET 1900mm
ROOF SLAB 600mm
CEILING 100mm

Figure 3: Building F2 variations
Source: DKO

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

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the HLEP 2012. The assessment is detailed as follows:

Is the planning control in question a development standard?

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

What are the underlying objectives of the development standard?

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

- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes,*
- (c) *to minimise the adverse impact of development on heritage items,*
- (d) *to nominate heights that will provide a transition in built form and land use intensity.*
- (e) *to establish maximum building heights that achieve appropriate urban form consistent with the major centre status of the Hurstville City Centre,*
- (f) *to facilitate an appropriate transition between the existing character of areas or localities that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (g) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.*

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

- *‘The proposed variations are minor (up to 3% for the non-parapet variations and up to 4.7% for the parapet variations) and cover an extremely small area of the building footprint. As such, there will be no noticeable impacts on the development's overall bulk and scale, and the development will be compatible with the desired future character of the locality as expressed in the site-specific planning proposal (currently with the Department of Planning and Environment for implementation). An abrupt finish to the building (without the parapet) would result in a poor urban design outcome, and the proposed parapet compliments the overall design of the development.*
- *...there will be no disruption of views, loss of privacy or loss of solar access.*
- *As discussed, the proposed variations are minor and cover an extremely small area of the building footprint. As such, there will be no noticeable impacts on the desired transition in built form.*
- *The development does not adversely impact any heritage item.*

- *The development provides for a high quality and carefully considered built form that will contribute significantly to the major centre status of the Hurstville City Centre. The proposed variations to the limit do not impede the attainment of this objective.*
- *As discussed, the extremely minor nature of the variations will have no noticeable impact on any desired transition in built form.*
- *The proposed variations to the height limit will have no adverse environmental impacts in terms of visual impacts, privacy or overshadowing.'*

The development is considered to satisfy the objectives of the development standard and as such, the applicant's justification is supported for the following reasons:

- The development is consistent with the built form envisaged for the 'eastern bookend' of the Hurstville City Centre as described by Council's DCP.
- Despite the variation, the bulk and scale of the development is compatible with the existing buildings that comprise Stages 1 and 2 of the East Quarter development.
- When considered in the context of the development, the variation is minor and would not be readily discernible from street level.
- The bulk of the variation is a result of the proposed parapets which provide an important architectural detail which contributes positively to the overall appearance of the development.
- The height variation would not result in any adverse amenity impacts such as overshadowing on neighbouring properties or the public domain.
- The variation to the height would not result in an unreasonable visual impact on neighbouring properties or the streetscape and would not affect views in the locality.

What are the underlying objectives of the zone?

Comment: In assessing the development's non-compliance, consideration must be given to its consistency with the underlying objectives of the B4 Mixed Use Zone which are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level.*

The applicant's justification is as follows:

- *The development will provide for a compatible mix of residential and commercial uses, and the proposed variations will not impede the attainment of this objective.*
- *The development will provide for retail and residential uses in an accessible location, and the proposed variations will not impede the attainment of this objective.*
- *The development will provide for residential development plus active uses at street level, and the proposed variation will not impede the attainment of this objective.*

Again the applicant's submission is supported. The development is considered consistent with the objectives of the B4 Mixed Use Zone as it provides for both residential and retail uses consistent with the Hurstville City Centre in close proximity to transport hubs.

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

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

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

Comment: To manage the topography of the site, flexibility to allow a minor variation is justified. The variation allows for the inclusion of the parapets, which add to the design quality of the development, and a layout which provides good accessibility and amenity for future residents. In this regard, the development satisfies the objectives of Clause 4.6.

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

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

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

'Compliance with the height standard is unreasonable and unnecessary given the following circumstances of this case:

- *the proposed non-parapet variations exceed the 65m control by <1% and the 30m control by 3%, which are considered very minor variations;*
- *the proposed parapet variations exceed the 65m control by a maximum of 4.7% and the 30m control by a maximum of 3%, which are also considered minor variations;*

- the non-parapet variations are limited to an extremely small area (i.e. <1% of the total building footprint);
- the parapet variations are carefully designed architectural features and contribute to the aesthetics and overall design quality of the building;
- the lift overrun variation would be largely unseen from the public domain due to its location towards the middle of the building and the presence of the surrounding parapets;
- the existing ground level at the southeast corner of the site is highly irregular, constraining the development's ability to achieve a regular built form while strictly complying with the 65m control in this portion of the site;
- the proposed development, despite the non-compliance, is consistent with the objectives of the height standard and B4 Mixed Use zone (see further discussion below);
- the proposed development has overall environmental planning merit as demonstrated in the submitted SEE;
- the variation does not cause any other non-compliances in relation to density, built form or environmental impacts;
- the variation of the height standard does not raise any matter of State or regional planning significance; and
- there is no notable public benefit in maintaining the standard, while there is significant public benefit in exceeding the standard as explained below.

The Land and Environment Court in its recent decisions in *Four2Five vs Ashfield Council* has ruled that a clause 4.6 variation must do **more than** demonstrate that the development meets the objectives of the development standard and the zone. The clause 4.6 objection must **also** demonstrate some other environmental planning grounds that justify contravening the development standard, preferably some that are specific to the site, although that is not essential according to the Court of Appeal decision in *Four2Five vs Ashfield Council*.

In accordance with the above, sufficient environmental planning grounds for the variations to the height standard are provided below:

- the lift overrun variation would be largely unseen from the public domain due to its location towards the middle of the building and the presence of the surrounding parapets;
- the parapet variations are carefully designed architectural features and contribute to the aesthetics and overall design quality of the development, as opposed to a complying built form, which would result in a poorer visual outcome as the building would abruptly finish without a 'top' component;
- the variations would have negligible adverse impacts in terms of visual impacts, view impacts and overshadowing; and
- the existing ground level at the southeast corner of the site is highly irregular, constraining the development's ability to achieve a regular building form while strictly complying with the 65m height control in this portion of the site.

Given the above, there are sufficient environmental planning grounds to justify the variations to the development standard. The variations will contribute to the design quality of the building and will not result in negligible adverse impacts.'

As previously discussed, the variation is mainly limited to the parapets, which are a design feature of the proposed buildings and contribute to the high quality of the

design. The variation resulting from the lift overrun on Building X2 and the roof of Building F2 are caused by unusual depressions in the ground levels of the site. In this case, it is considered that there are sufficient planning grounds to justify the height variation and full compliance with the standard is unreasonable in this case. Therefore, the justification provided by the applicant is supported.

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

(a) *the consent authority is satisfied that:*

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

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

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

Comment: For the reasons detailed above, the proposal is considered to be consistent with the objectives of Clause 4.3 Height of Buildings and the objectives of the B4 Mixed Use Zone under HLEP 2012. Further the development is a high quality that aligns with Council's vision for the Hurstville City and is therefore in the public interest.

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

Comment: Comment: Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, if the variation is found to be consistent with the objectives of the zone, the concurrence of the Director-General for the variation to the building height Development Standard can be assumed.

4.1.2 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

An assessment of the application against the provisions of SEPP 65 and the Apartment Design Guide (ADG) is provided below.

A design verification statement has been provided by Nicholas Byrne (Registration No.7806) of DKO Architects in accordance with Clause 50 of the *Environmental Planning and Assessment Regulation 2000*.

Application of SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of "Residential Apartment Development"	Complies with definition	Yes
4 - Application of Policy	Development involves the erection of a new building	The development involves the construction of a new mixed used development.	Yes

Part 4 Application of Design Principles under the SEPP

The application was referred to the Design Review Panel (DRP) for comment. An assessment of the Design Quality Principles and the comments of the DRP are provided below.

Principle 1: Context and neighbourhood character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Design Review Panel Comment:

The Panel understands that the proposal is the third and last stage of the East Quarter. This means that it has a critical interface with Kempt Field. However the Panel does not believe that the site planning and location of the activities within the development have taken the opportunities that adjacency to Kempt Field presents. In particular the pedestrian access is indirect with stairs across the street and to the south concealed from direct lines of sight. The development must realise the potential to provide a strong visual interconnection from its linear central pedestrian/vehicle/retail precinct out to the open space of Kemp Field in which the means of access should be obvious. Conversely the spatial relationship should be handled in such a way that from Kempt Field an observer is clearly aware of the relationship of the open space back to the central pedestrian/vehicle/retail precinct of the development.

The Panel discussed options for site planning with the applicant and applicant's representatives that would provide a more activated interface with Kempt Field than is proposed with loading dock, vehicle car park entrance and blank walls. It is understood that Jack Brabham Drive is in its most suitable location on the east side of the site but there is a need to detail this area to create a much better visual interface with the park and introduce some more activation. The space needs to be

designed as a street and not a service lane so that it visually connects to the existing Jack Brabham Drive (this includes street trees, lighting, footpath, and road surface).

It is critical for Kempt Field and this development to work in unison. It is recommended that the applicant develop a VPA and work with Council for the delivery of the full length of the western boundary of Kempt Field opposite Building X and Building F. The Masterplan should be a high quality proposal that facilitates improved park amenity (furniture, lighting, etc), improved pedestrian connections through the development and to the wider neighbourhood (to the rail station).

Applicant's Response:

Firstly, it is important to note that the design process involved relooking at the scheme and providing multiple options for Council in an attempt to address this issue as directly and comprehensively as possible. Upon examining the pros and cons of each option, the conclusion was reached that the existing proposal provides the best outcome. Reasons for this include:

- Establishing a straight connection from the retail precinct to Kempt Field proved challenging due the physical constraints created by the road connection through the site involving the level difference between the podium and Kempt Field.*
- We note that the proposed arrangement is preferable from a safety perspective in that pedestrians exiting the retail precinct will have to turn before crossing Jack Brabham Drive, thus increasing their awareness of oncoming traffic. This also holds for pedestrians travelling from Kempt Field to the retail precinct.*
- We question the practical design advantage of providing a perfectly straight link between the retail precinct and the access steps to Kempt Field. The proposed arrangement does not hinder the retail precinct's visual connection to Kempt Field, nor does it "conceal" the stairs. The retail precinct will be open to the Field, free of built obstructions. In fact, a key advantage of the proposed arrangement is that it provides a light-filled "mini-plaza" at the end of the retail mall (adjacent to the park).*
- The primary practical difference between the proposed arrangement and the Panel's recommendation is that the former simply requires pedestrians to make a small turn before crossing the street, which, as described above, is preferable from a safety perspective.*
- An integrated/way-finding strategy will be submitted as a separate DA, which will further increase legibility between the pedestrian access to Kempt Field and the retail precinct.*
- A strong visual connection is provided from the retail precinct out to Kempt Field (refer to image in amended plans by DKO). The lack of a direct line to the stairs will not prevent pedestrians from enjoying the visual interface to the Field, nor will it cause any legibility issues. The access stairs will be easily identifiable from the edge to the retail strip, and vice versa.*
- The strong visual connection also applies to observers from Kempt Field. The retail area is wide, visually open to the Field and will feature spill-out activity at its edge around the pocket plaza. The slightly indirect path from the stairs to the retail precinct does not fundamentally detract from the relationship between the park and retail precinct.*
- We note that the amended plans feature a widened retail precinct (from 6m to 7m), which will increase openness to the Field and improve the integration with the adjoining light-filled mini-plaza.*

- *The park-facing pocket plaza located at the eastern edge of the retail precinct improves the relationship between the retail laneway and Kempt Field. This plaza invites use and occupation and provides a strong visual connection to the Field. The plaza offers quality public space with ornamental paving framed by planting and seating for passive use.*
- *The proposed civic stair includes planting and furniture that invite use and promote the characteristics of an open amphitheatre for viewing and accessing the fields.*
- *As noted, an integrated/way-finding strategy will be submitted as a separate DA, which will further increase legibility between the pedestrian access to Kempt Field and the retail precinct.*

A high quality visual interface to Kempt Field will be achieved through the following:

- *The loading dock and basement car park entry doors will incorporate intricate perforated metal artwork to visually animate Jack Brabham Drive. Refer to the indicative artwork in the Building X East Elevation drawing attached to this letter. It is proposed that Council impose a condition that allows the proponent to develop the artwork in conjunction with Council prior to installation.*
- *The proposed recycled brick podium walls serve to ground the building to its surroundings and to present fine grain brick detailing to the public domain, bringing the building down to human scale.*
- *The lobbies and retail spaces have been purposefully wrapped around the elevation (facing east) to provide increased activation.*
- *A number of new, semi-advanced trees will be incorporated into the streetscape design with a stepped recycled brick planter interface to Kempt Field.*
- *Street lighting, planted edges and a footpath along Jack Brabham Drive will provide the design qualities of a “street”.*
- *In the updated drawings, Jack Brabham Drive has been converted to a traditional road for its entire length through the deletion of pavers and the inclusion of asphalt and other traditional street markers.*

Development Assessment Officer Comment:

Connection into Kempt Field is difficult to achieve due to the difference in ground levels and also the location of Jack Brabham Drive.

However, satisfactory pedestrian access is proposed through the retail area to stairs that provide access to Kempt Field. A lift is also provided for disabled access. The proposed landscape plan demonstrates that a visual connection is provided from the retail uses to Kempt Field to encourage public access.

The eastern elevation of Buildings X1 and X2 has been amended to improve the presentation to Kempt Field. This includes decorative screening to the loading dock area which would improve its appearance when viewed from the public domain. Boundary planting is proposed along Jack Brabham Drive to minimise any visual impact and create the appearance of a traditional ‘street’ rather than a ‘service lane’.

The developer has also entered into a planning agreement to provide a financial contribution to Council for the upgrade of Kempt Field. It is noted that a masterplan for the site is currently in the early stages of development by Council.

The proposal adequately responds to the context of the site in accordance with Principle 1.

Principle 2: Built form and scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

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

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

Design Review Panel Comment:

Overall the building scale and configuration is generally acceptable. However the Panel is concerned with the limited solar access to the communal open spaces at podium level.

The ground level still requires further refinement including:

- *The proposed through-site link and access to the park*
- *The resolution of the dual rear lane between Buildings F. The southern-most lane appears as a service access. However there is building lobby access off this thoroughfare, a proposed share zone, driveway access with ground level car parking which in combination creates a confused space.*
- *The Building X frontage to Kempt Field*
- *The location of residential lobbies in relation to Jack Brabham Drive*
- *The configuration and activation of the Building X lobby/loading dock interface. This would facilitate on-grade access from Kempt Field across the proposed street into the development.*
- *The resolution of the level of the proposed street and the interface to the park (in some instances there is a level change of over 4m which would be detrimental to the park).*
- *The glazed roof to the retail link needs to be detailed in such a way that it is as unobtrusive as possible to create the feel of an open street space and not to be any longer than is functionally necessary for the retail frontages.*

On a site of this size it is expected that the required percentage of deep soil area should be provided. The Panel acknowledges the restriction on excavation posed by capped site contamination. However, the quantum of parking sought in the application is an outcome of the significant increases in FSR and height proposed by the current planning proposal. It is recommended that the limitations of the site in providing this amount of car parking be taken into account in addressing the implications of the planning proposal's FSR and height controls.

An additional and important consequence of the significant increase in FSR sought by the Planning Proposal is that the resulting building footprints and configuration are only achievable at the expense of the amenity of and solar access to the communal open spaces proposed at podium levels.

Applicant's Response:

- We note that the ADG requires direct solar access to 50% of the principal usable part of the communal open space for 2 hours at mid winter.
- The proposed podium-top communal open space features certain principal activity areas (e.g. the middle seating pod and overlook area on Building F and the Tai Chi deck and badminton court/putting green on Building X) that generally remain in the sun throughout mid winter. It is evident from the solar access diagrams (attached) that the majority these principal areas achieve the required 2 hours.
- As explained above, the through-site link and access to Kempt Field are considered appropriate for the development. The proposed arrangement achieves a strong visual connection between the retail precinct and Kempt Field, promotes pedestrian safety and features a pocket park plaza at the eastern edge of the retail precinct that improves the relationship between the development and the Field. We note that in the amended plans the retail precinct has been widened from 6m to 7m to enhance visual connection, increase the openness to the park and improve integration with the adjoining light-filled mini plaza.
- Jack Brabham Drive has been rationalised in the amended drawings so that it runs as a continuous vehicular link through the site. The proposed residential lobby, retail space and retail bicycle storage area at ground Level of Building F are clearly defined and separated from the at-grade car parking.
- The lobby area and loading dock of Building X are differentiated through the use of landscaping, layout and design details. The residential lobby is legible with a clearly defined entrance and provides for activation. It is considered that no further refinement is required. Refer to the image prepared by DKO in the attached amended plans.
- The level of the proposed street in relation to Kempt Field is in no instance over 4m. The greatest difference in levels is 1.55m (adjacent to the civic steps). The interface will be treated with a stepped recycled brick planter interface and new semi-mature trees. It is considered that no further refinement is required.
- The roof to the retail link will be semi-translucent, which will achieve an open street atmosphere while providing weather protection and maintaining the privacy of the residents above the link

Development Assessment Officer Comment:

Changes have been made to the development to address some of the concerns raised by the DRP relating to site layout, location of lobbies and presentation to Kempt Field. The level changes between the site and Kempt Field could not be addressed by this development due to the pre-defined location of Jack Brabham Drive along the eastern boundary. However, a monetary contribution has been made as part of the planning agreement to contribute towards the upgrade of Kempt Field which would be undertaken by Council.

There are significant limitations on the provision of deep soil across the site arising from the cap that is to be constructed to manage onsite contamination. This cap limits the possible depth of excavation which requires that basement parking levels to have a broader footprint. Landscaping has however been provided across the site along the boundaries and on the podium levels.

The proposed development demonstrates a design of high quality with a functional layout providing good amenity for future residents and the public. Further, the

provision of pedestrian access from Stage 2 of the East Quarter development through the subject site to Kempt Field contributes towards good built form outcomes. It is considered that this proposal would be a positive contribution to the site and overall, the built form of the development is of an appropriate bulk and scale for its location as the 'eastern bookend' of the Hurstville City Centre.

The issues raised by the DRP relating to the increase in FSR are not relevant to the development application as this issue was subject of a concurrent planning proposal that has now been finalised.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Design Review Panel Comment:

The Panel is aware that the application adopts the density and height controls of the Planning Proposal, which are considerably in excess of the Council's planning controls currently applicable. The resulting intensity of the development would appear to be a major contributing factor to:

- *the overshadowing of the communal open spaces provided in the development*
- *lack of deep soil given the size of the site*
- *extent of car parking to serve the intensity of the development*
- *the width of Jack Brabham Drive reserve, as noted above the Panel believes this should be treated as a street and not a driveway and would require more space to achieve that.*

Applicant's Response:

- *As the Panel notes, the proposed development is a response to the new height and FSR controls for the site proposed under the Planning Proposal, which has been endorsed by Council and has received a Gateway Determination. It is considered that the issues identified by the Panel relate more closely to site constraints than to the intensity of the development per se.*

Development Assessment Officer Comment:

The planning proposal which increases the height and FSR has since been supported by Council and gazetted. The development complies with the FSR development standard.

Although the communal open spaces of the development are overshadowed to some extent, they do achieve the minimum solar access requirements outlined in the ADG.

As discussed earlier in this report, the provision of deep soil zones is confined by the site constraints which require a larger basement footprint in order to achieve car parking. The comments raised by the DRP in relation to Jack Brabham Drive are acknowledged and it is agreed that a wider roadway would provide better site amenity. Even so, the design and layout of Jack Brabham Drive is acceptable in its proposed form and does not compromise the overall quality of the development.

The density of the development is consistent with Principle 3.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Design Review Panel Comment:
Subject to BASIX.

Applicant's Response:
Noted.

Development Assessment Officer Comment:
Satisfactory.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.

Design Review Panel Comment:
'Comprehensive and detailed landscape proposals have been provided for the podium landscapes within the development.

However as noted above, the proposed built form, density and ground floor uses has resulted in a proposal that does not adequately recognise or capture the benefits that could be achieved - improved address, ground floor activation and access to Kempt Field. As noted above, reconfiguring the built form including ground floor layouts to address this issue is critical to achieving an acceptable outcome (refer comments under 'Built Form and Scale')

As noted above consideration should be given to:

- *improving direct access to and from Kempt Field*

- *an integrated proposal for the Kempt Field interface and this site*
- *clear way finding and lighting to improve safety and legibility*

Deep soil should be provided at key locations such as within street/park setbacks.'

Applicant's Response:

- *As noted above, direct access from the retail precinct to Kempt Field proved difficult due to site constraints. Nonetheless, users of the retail precinct will benefit from a strong visual and spatial connection to the Field.*
- *In terms of an integrated proposal, the proponent will enter into a Voluntary Planning Agreement with Council in which it will make monetary contributions for the upgrade of Kempt Field. It is understood that Council will consult with the proponent to achieve an integrated design. This will ensure that the objective of an integrated proposal is achieved.*
- *An integrated signage strategy for the site will be developed and submitted as a separate development application, following confirmation of important information regarding specific tenants.*
- *While the full 7% under the ADG is not achieved, the development provides for a high level of landscaping, particularly given its location within the CBD of a Strategic Centre and its ground level retail spaces.*

Development Assessment Officer Comment:

Although there is limited opportunity for deep soil planting across the site, a detailed landscape strategy has been provided to define the boundaries and internal roads. Significant landscaping is also proposed for the communal open space located at podium level.

An integrated proposal for Kempt Field interface was not a possibility due to issues surrounding land ownership and the change in levels, however as previously mentioned the applicant has entered into a planning agreement to provide a monetary contribution for its upgrade.

In this regard, the development is considered to satisfy Principle 5.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

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

Design Review Panel Comment:

Generally acceptable

Applicant's Response:

Noted.

Development Assessment Officer Comment:

The development provides good amenity for residents, neighbours and visitors to the site, consistent with Principle 6.

Principle 7: Safety

Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Design Review Panel Comment:

The Panel raised the matter of isolation of the Building F townhouse type units facing Kempt Field in terms of poor ability to interact with other residents in the development and exposure to a remote part of the public open space. Greater visibility of the townhouses would be achieved by removing the trees along the boundary but within the public space. It is not considered acceptable that the trees should be sacrificed to improve (but no remedy) the security problem created by the decision to locate residential accommodation in this location.

Applicant's Response:

- *We consider the location of the townhouse units to be less isolated than suggested by the Panel. The townhouse units are not exposed to a "remote" part of Kempt Field but are located adjacent to the proposed public stairs and to the residential lobby to Building F. Residents of these units will have ample opportunity to interact with other residents at ground level on the way to their units as well as in the communal open space areas.*
- *Territorial markers have been applied, such as landscaping and footpaths, in accordance with the design principles of Crime Prevention Through Environmental Design. Refer to the relevant image in the amended plans prepared by DKO.*

Development Assessment Officer Comment:

The ground level townhouse style units located below building F2 that adjoin Kempt Field are setback a minimum of 5m from the side boundary. They have separate internal access from the lobby and corridor but can also be accessed externally.

These units are located close to the public stairs that provide access to Kempt Field and the lobby of Building F. This would provide pedestrian activation around this area which would in turn improve safety.

Separation between the public and private domain is clearly identified through the use of low height walls and landscaping which defines the private open space of these townhouses in accordance with the design principles of Crime Prevention through Environmental Design.

The development is considered to be consistent with Principle 7.

Principle 8: Housing diversity and social interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.

Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

Design Review Panel Comment:

Acceptable

Applicant's Response:

Noted.

Development Assessment Officer Comment:

The development provides a varied mix of unit layouts and sizes to cater for different needs. Adaptable units have been provided in accordance with the DCP.

The communal open spaces provide for specific activities which relate to the demographics of the locality and encourage social interaction among residents.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Design Review Panel Comment:

Generally acceptable, subject to the comments above, particularly with regard to improving the quality and performance of the spaces, circulation and interfaces at the ground planes.

Applicant's Response:

Noted.

Development Assessment Officer Comment:

The development is well designed, adopting curved elements and the use of extensive glazing, contemporary colours and materials. The proposal is very different from the existing buildings in Stages 1 and 2 of 'East Quarter' providing it with its own identity as a stand alone development. This is considered a positive as it provides diversity in building styles and improves the visual quality of the city centre overall.

The development is considered to be consistent with Principle 9.

Recommendation

Design Review Panel Recommendation:

The Panel recommends that the above changes be made and be referred to the Panel for further consideration.

Development Assessment Officer Comment:

Following receipt of amended plans, the application is considered to be consistent with the Design Quality Principles of SEPP 65 and therefore referral back to the DRP was not required in this instance.

Clause 28 – Consideration of Apartment Design Guide

The following table is an assessment against the design criteria of the 'Apartment Design Guide' as required by SEPP 65.

Clause	Standard	Proposal	Complies
Objective 3D-1	1. Communal open space has a minimum area equal to 25% of the site. -Where it cannot be provided on ground level it should be provided on a podium or roof -Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: <ul style="list-style-type: none">• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room• provide larger balconies or increased private open space for apartments• demonstrate good proximity to public open space and facilities and/or provide contributions to public open space	29%	Yes
	2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	2 hours of sunlight is achieved to 50% of the principal usable part of the communal open space.	Yes
Objective 3E-1	1. Deep soil zones are to meet the following minimum	2.6% deep soil zone is provided however it does	No, but acceptable

	<p>requirements:</p> <p>-Greater than 1500sqm = 6m minimum dimension</p> <p>Deep soil = 7% (974.89sqm)</p>	<p>not meet the minimum dimension of 6m.</p> <p>The inadequate provision of deep soil zone across the site is less than ideal. Even so, the provision of the deep soil zone is limited by the footprint of the basement parking which is expansive due to the restrictions on excavation depth resulting from site contamination/remediation.</p> <p>Landscaping is provided at street level which includes planting of trees and the communal open spaces at podium level also include generous planting. Overall the landscape solution provides good amenity for the site.</p>	
Objective 3F-1	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>-Up to 12m (4 storeys) Habitable rooms and balconies = 6m Non-habitable rooms = 3m</p> <p>-Up to 25m (5-8 storeys) Habitable rooms and balconies = 9m Non-habitable rooms = 4.5m</p> <p>-Over 25m (9+ storeys) Habitable rooms and balconies = 12m Non-habitable rooms = 6m</p> <p>Separation distances</p>	<p>Building X1 and X2: Setback 15m from the western side boundary which complies.</p> <p>Between building X1 and X2: Generally 18m which complies up until level 6 (<25m), however as levels 7 and 8 exceed 25m in height the separation is 4m short.</p> <p>Diagonally the buildings are as close as 12.5m corner to corner measured from balconies in Building X1 to bedrooms in Building X2. Although less than the required 18m (levels 1-6) and 24m (levels 7-8) between buildings, the separation in this location is acceptable as there is a significant offset and a</p>	No, but acceptable

	<p>between buildings on the same site should combine required building separations depending on the type of room</p>	<p>privacy screen is proposed to the outside edge of the balcony which mitigates any potential privacy impacts.</p> <p>Between buildings F1/F2 and building X2: 21.5m. Complies up to level 6. The separation between the remaining floors is 3.5m short.</p> <p>Between buildings F1 and F2: 18m. Complies up to level 6. The separation between the remaining floors is 6m short.</p> <p>Building F2 is setback 12m which complies.</p> <p>Although there are variations to the separation distances between buildings at the upper floor levels, at least 18m separation is achieved at all levels and to minimise privacy impacts between balconies, concrete upstand balustrades are proposed. Also, due to the offset between buildings provided by the site layout and spacing between towers, a maximum of three units per non-compliant floor are affected and on a number of floors it's even less. As such, reasonable levels of privacy are achieved and the separation is considered acceptable. The variation does not warrant refusal of the application.</p>	
Objective 3J-1	<p>1. For development in the following locations:</p> <ul style="list-style-type: none"> - On sites that are within 	<p>Complies. See discussion under DCP later in this report.</p>	Yes

	<p>800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p> <p>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>		
Objective 4A-1	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area	Complies	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	14.9% units receive no direct sunlight	Yes
Objective 4B-3	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p>	60%	Yes
	2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	N/A	N/A
Objective 4C-1	<p>1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p>	2.7m for all rooms	Yes

	<p>Non-habitable rooms = 2.4m</p> <p>In mixed use areas 3.3m for ground and first floor to promote future flexibility of use</p>	<p>Building X GF: 4m 1FL: 2.7m-2.8m</p> <p>Building F GF: 3.3m to retail 3.1m to remainder of floor 1FL: 2.7m-2.8m</p> <p>The proposal does not provide minimum floor to ceiling heights for the ground and first floor level. However in this instance, as the first floor level is primarily residential apartments and the ground floor level of Building F is occupied by car park, the flexibility of the spaces is limited by the already allocated uses rather than the floor to ceiling heights. As such, the variation is supported.</p>	No, but acceptable
Objective 4D-1	<p>1. Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p>	<p>Complies</p> <p>Building X1: Complies Building X2: Generally complies with the exception of 1x1 bedroom unit per floor which measures 49sqm. Due to the efficient layout of the units, the minor non-compliance does not compromise the amenity and functionality of the units and the size is considered satisfactory.</p> <p>Buildings F1 and F2: All one bedroom and two bedroom units comply. The three bedroom units at 96sqm are marginally below size as they contain three bathrooms which increases the minimum size requirement to 100sqm.</p>	No, but acceptable

		Even so, it is noted that the third bathroom in these units comprise a toilet and sink only and are very small in size. As such, the amenity of these units is not compromised.	
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Window provided for each habitable room with appropriate glass area provided.	Yes
Objective 4D-2	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Within range.	Yes
	2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Complies	Yes
Objective 4D-3	<p>1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <p>-3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments</p> <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>Generally complies.</p> <p>All spaces meet the minimum requirements of the ADG with the exception of the north eastern and south eastern corner units of building F2. Due to the curved design of the building and location of these particular units on the corner of the building, the width of the living space tapers from 4m to approximately 2m internally. Even so, there is sufficient floor area available within the wider section of these spaces to ensure the combined living rooms remain functional. In addition, these units benefit from an eastern wall of glazing with expansive views which would prevent the</p>	Yes

		reduced width from being oppressive for future residents. As such, the reduced width is acceptable.	
Objective 4E-1	<p>1. All apartments are required to have primary balconies as follows:</p> <p>-1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth -3+ bedroom = 12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	<p>All units have balconies that meet or exceed the minimum area requirement, however a number do not achieve the minimum depth.</p> <p>Most balconies have part of the area that achieves the minimum depth of 2m and all balconies have areas with a depth of at least 1m. Where the balconies do not achieve the 2m minimum depth, they generally exceed the minimum area requirement overall. The varying balcony depths are primarily a result of the curvature of the buildings.</p> <p>The balconies are well designed to maximise functionality, and when combined with the living spaces that have large expanses of glazing, a good level of amenity is achieved. As such, refusal is not justified on this basis and the alternative design solution is acceptable.</p>	No, but acceptable .
	<p>2. For apartments at ground level or on a podium or similar structure, a private open space area is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m.</p>	<p>The podium level apartments are provided with the same size balconies as the levels above. This is to maximise the communal open space which is a key feature of the development as it is designed to encourage social interaction between residents.</p>	No, but acceptable .

		The two storey ground floor units that front Kempt Field on the eastern elevation are provided with private open space measuring 16sqm, however the depth of these area is only 2.5m. Even so, these spaces are functional and these apartments also have direct access to Kempt Field. Therefore the outcome is supported.	
Objective 4F-1	1. The maximum number of apartments off a circulation core on a single level is eight (Where the design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level)	Most floors of the building are accessed via a core with two lifts and up to 12 units. Although this is a variation to the design criteria, it is consistent with the design guidance of the ADG and is acceptable.	Acceptable
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Does not comply Building F1: 179 units requires 5 lifts – 3 provided = 1 lift per 60 apartments Building F2: 231 units requires 6 lifts – 3 provided = 1 lift per 77 apartments Research of developments of a similar scale across the Sydney Metropolitan area has found that the proposed lift provision is not uncommon. The amenity of the development would not be unreasonably compromised by the variation and refusal of the application on this basis is not warranted.	No, but acceptable
Objective 4G-1	1. In addition to storage in kitchens, bathrooms and bedrooms, the following	Complies	Yes

	<p>storage is provided:</p> <p>-1 bedroom = 6m³ -2 bedroom – 8m³ 3 bedroom – 10m³</p> <p>At least 50% of the required storage is to be located in the apartments.</p>		
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In summary, the proposal is considered to be consistent with the principles of the ADG and SEPP 65 – Design Quality of Residential Flat Development.

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

A BASIX certificate has been submitted with the application (see Certificate No. 740015M dated 6 July 2016).

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

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	20	30

A condition is recommended requiring compliance with the commitments indicated in the BASIX Certificate.

4.1.4 State Environmental Planning Policy No 55 – Remediation of Land

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

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

Evidence of significant contamination has been found across the site as demonstrated in the various reports submitted with the previous applications for the property. It is known that the eastern portion of the site under Stage 3 is of particular risk due to landfill on and adjoining the site. Stages 1 and 2 have been previously remediated.

The applicant has submitted interim advice from Dr Ian Swane, EPA Site Auditor, dated 29 May 2016 and 7 April 2017. Subject to the preparation of revised remediation action plan and compliance with conditions in the previously issued Site Audit Statement No.201B, the site can be made suitable for the development.

4.1.5 State Environmental Planning Policy (Infrastructure) 2007

Clause 45

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

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

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

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

Clause 85 and 86

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

Clause 104 – Traffic Generating Development

Due to the site of the development, it constitutes 'Traffic Generating Development' under Clause 104 of SEPP (Infrastructure).

The application was referred to RMS and TfNSW in accordance with Clause 104. Comments have been received raising no objections to the application subject to conditions.

The accessibility of the site has also been considered in accordance with Clause 104(3)(b). The site is in close proximity to both Hurstville and Allawah train stations and in walking distance of the Hurstville Town Centre which minimises the need to travel by car. The development has been designed for efficient movement of people to, from and through the site, including provision for public access between the buildings to provide access to Kempt Field from Durham Street and Forest Road.

Council's Senior Traffic Engineer has also assessed the application, and is satisfied that there are no traffic safety, congestion or parking implications arising from the development, subject to the upgrade of the intersection at Durham Street and Forest Road, and the installation of roundabout at the Durham Street driveway entrance.

The development is consistent with the provisions of Clause 104.

4.2 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

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

Any other matters prescribed by the Regulations

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

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

4.3 DEVELOPMENT CONTROL PLANS

Hurstville Development Control Plan No 2 (DCP 2) applies to the proposed development. The relevant sections of the DCP are:

4.3.1 Development Control Plan No 2 – Hurstville City Centre - Section 4.7 Eastern Bookend

The proposed development is consistent with the objectives and principles for development in the Eastern Bookend Precinct and defines the entrance to the city centre.

4.3.2 Development Control Plan No 2 – Hurstville City Centre - Section 5.3 Built Form Controls

The proposed development is consistent with the objectives and principles of Section 5.3 as detailed below.

Section 5.3.1 Site Amalgamation

The site achieves the minimum site frontage and building floorplate requirements of this clause. Site amalgamation is not required.

Section 5.3.2 Housing Choice, Affordability and Mix

The DCP requires the unit mix to meet the following criteria:

- *One bedroom apartments must not be greater than 25% and not less than 10% of the total mix*
- *of apartments within each development.*
- *Two bedroom apartments are not to be more than 75% of the total mix of apartments within each development.*
- *Three bedroom apartments are not to be less than 10% of the total mix of apartments within each development*

The proposed unit mix is as follows:

- One bedroom units = 44.7% (248 units)
- Two bedrooms units = 47.8% (266 units)
- Three bedroom units = 8% (42 units)

To support the variation, the applicant has submitted documentation from CBRE which advises that the demand for one bedroom units in the Hurstville CBD currently outstrips supply and interest in three bedroom apartments is very limited.

Although there is a variation to the unit mix requirements, the units are varied in layout and size providing a mix of dwelling types and catering to wide range of households. As such, the variation is acceptable.

The DCP requires that 1 in 10 dwellings or part thereof be adaptable units. The development includes 56 adaptable units in accordance with this clause. An access report prepared by BCA logic has also been submitted demonstrating compliance with access to premises standards.

The development is consistent with all other controls within Section 5.3.2 of the DCP.

Section 5.3.3 Floor Space Ratio

The development complies with the floor space ratio requirements of HLEP 2012 and therefore complies with the DCP also.

Section 5.3.4 Building Height

The development seeks a variation to the building height development standard contrary to this control. This is discussed earlier in this report under HLEP 2012 and is supported.

The development complies with the floor to ceiling height requirements of the DCP with 4.7m floor to floor height for the retail use and 3.1m floor to floor height for all residential levels.

The DCP provides indicative conversion of building heights to a maximum number of storeys.

Building X is subject to a height limit of 30m, which the DCP translates to nine storeys comprising one retail and eight residential levels. Building X complies with this control.

Building F is subject to a height limit of 65m. The DCP does not provide indicative storeys for 65m as the control is capped at 60m. The DCP translates 60m to 19 storeys comprising one retail and 18 residential levels. It is noted that for every 5m height increment, the number of storeys increases by two, therefore it is likely for a 65m height limit, the indicative number of storeys would be 21, comprising one retail and 20 residential storeys. Building F is proposed to comprise one mixed use level and 20 residential levels which complies with this clause.

Section 5.3.5 Street Setbacks

The subject site is not identified on the street setback maps and is therefore not subject of this section.

Section 5.3.6 Building Separation

DCP 2 requires building separation to comply with the provisions of SEPP 65. This is discussed earlier in this report and is found to be acceptable.

Section 5.3.7 Solar Access

The development complies with this section.

Section 5.3.8 Natural Ventilation

The development complies with this section.

Section 5.3.9 Visual Privacy, Acoustic and Vibration Amenity

Building separation and associated privacy impacts are discussed earlier in this report. The development does not result in unreasonable privacy or acoustic amenity impacts for future residents or adjoining properties.

An Acoustic Report prepared by Acoustic Logic, dated 23 June 2016 was also submitted with the application. The acoustic report concludes that all dwellings within the development will meet acoustic criteria subject to appropriate glazing being used. The report also found that the measured train vibration levels were below day and night criteria, therefore no vibration treatment is required.

The development is consistent with the objectives of this section.

Section 5.3.10 Building Entrances and Lobbies

The development provides building entrances that are high quality, safe and easily identifiable. The lobbies form architectural features of the buildings which ensures they are visibly accessible from the public domain and there are good opportunities for casual surveillance. The design of the entrances and lobbies is consistent with DCP 2.

Section 5.3.11 Building Facades and Articulation

The development adopts a curved façade comprising both horizontal and vertical elements resulting in buildings of satisfactory built form. Extensive bronze glazing is used, however relief is provided through the inclusion of metal cladding and grey render features.

Being sited at the edge of the city centre, there is no established pattern of development at street level. Even so, the ground floor retail uses are of an appropriate pedestrian scale which would activate the streetscape and encourage use of the through site links to Kempt Field.

Section 5.3.12 Awnings and Balconies

The development is setback from the street and does not form part of a designated active street frontage; as such awnings are not required. Notwithstanding, awnings and overhangs are provided in around the retail entrances and residential lobbies for weather protection consistent with the objectives of this clause

DCP 2 imposes requirements for balconies which are superseded by the requirements of SEPP 65. The appropriateness of the proposed private open space is discussed earlier in this report under that section and the balconies are found to be acceptable.

Section 5.3.13 Active Street Frontages

Not Applicable

Section 5.3.14 Permeability and Accessibility

The site is not required to provide a through site link under DCP 2. However as part of the planning agreement, the developer has agreed to provide a public right of way through the site which connects from Forest Road and Durham Street to Stage 2 and through the subject site to Kempt Field.

The site link has the added benefit of funnelling pedestrians through the retail uses in both stages, providing ground level activation and increasing potential patronage of

these businesses. The link is well defined by the site layout of retail uses, and appropriate weather protection is provided via the installation of a clear roof and building overhang

The development achieves the objectives of this section.

Section 5.3.15 Crime Prevention through Environmental Design

The proposed development has been assessed against crime prevention principles and is considered to be acceptable. The proposed development does not create any additional opportunities for crime. The entrances to the commercial component and residential lobbies are clearly defined and visible from the public domain. The placement of windows allows casual surveillance of the street, adjoining public open space and through the site increasing safety and security.

Concerns were identified by the Design Review Panel regarding the safety of the ground level units located directly opposite the south western corner of Kempt Field. This concern is noted, however it is considered that the proposed development would improve the safety of Kempt Field through increased use brought about by the proposed site link and establishment of retail uses. Further, Building F2 overlooks Kempt Field providing additional surveillance.

The proposed development is consistent with the objectives of this section.

Section 5.3.16 Landscaping

The proposed landscape design is appropriate given the constraints of the site and is consistent with the objectives of this section.

Section 5.3.17 Planting on Structures

The proposed landscape design for the podium level communal open space adopts appropriate soil depths, plant structures and species consistent with the section of DCP 2.

Section 5.3.18 Site Servicing

The development provides for site services consistent with the objectives of DCP 2.

4.3.3 Development Control Plan No 2 – Hurstville City Centre - Section 5.4 Transport, Traffic, Parking and Access

A Traffic and Parking Impact Assessment Report has been submitted with the application prepared by The Transport Planning Partnership Pty Ltd. The report concludes that the parking provision is satisfactory and that the intersection of Forest Road and Durham Street will require upgrading to manage the increased traffic. The intersection upgrade forms part of the planning agreement that was undertaken as part of the planning proposal for the site.

Council's Traffic Engineers have assessed the application and raised no objection subject to the completion of the intersection upgrade, and also the installation of a roundabout at the Durham Street vehicular entrance.

An assessment of the application against the parking requirements of the DCP is provided below.

Control	Requirement	Proposed	Complies
Residential car spaces: 1-2 bedroom units: 1 per dwelling 3+ bedroom units: 2 per dwelling	Building X: 164 Building F: 434 Total: 598	683 spaces provided A condition will be recommended requiring that 80 of these spaces be allocated for residential visitors.	Yes
Visitor Parking: 1 per 7 dwellings or part thereof It is noted that the DCP controls for visitor parking is 1 per 4 dwellings, however, SEPP 65 and the ADG allows for reduced visitor parking allocation where the site is within 800m of a railway station. This overrides Council's DCP controls. The applicant has sought to apply a reduced rate of 1 per 7 spaces consistent with the Guide to Traffic Generating Developments.	80 (139 under the DCP)		
Supermarkets: 1 car space/50sqm	67	148 spaces provided	Yes
Retail: 1 car space/50sqm	18	The development provides additional parking above what is required by the DCP. However, the submitted Traffic Report and Council's Traffic Engineers have identified that the addition parking is a requirement due to the scale of the supermarket use.	
At grade parking to be provided for Stage 2	76 spaces for visitor parking	76 spaces provided	Yes
Total car spaces for development:	839 spaces	907 spaces (including 237 parking spaces already constructed in Stage 2 which are allocated to Stage 3)	Yes

Car washing bay for residential component (can also be a visitor space)	1 car washing bay	Provided	Yes
Bicycle Parking 1 space per 300sqm of retail 1 space per 3 residential units	15 for retail 186 for residential	15 retail 248 residential	Yes

As is demonstrated in the above table, the development provides sufficient car and bicycle parking for the development.

Council's Traffic Engineers have raised no objections to the parking layout, road design or loading facilities. Conditions will be recommended to ensure the design and layout of the car parking areas comply with the relevant Australian Standards.

The approved development is required to provide appropriate access and facilities for people with a disability in accordance with the relevant legislation. Access and facilities can be provided to the development including the provision of adaptable dwellings.

The development is consistent with the provisions of Section 5.4.

4.3.4 Development Control Plan No 2 – Hurstville City Centre - Section 6 Site Planning Considerations

Section 6.1 Public Domain

Other than the intersection upgrades, the only public domain works are paving and street tree planting. The proposed paving along the Durham Street frontage is to be a continuation of what is already located in front of the 'East Quarter' development. Tree planting is in accordance with Section 6.1.

Section 6.2 Environmental Management

The proposed development is consistent with the objectives of section 6.2 in terms of energy efficiency and conservation, stormwater management, and waste minimisation and management.

Section 6.3 Development of Heritage Item or in the Vicinity of a Heritage Item

The subject site is located in the vicinity of 116 Durham Street which is identified as a heritage item under HLEP 2012. The item comprises the Hurstville Scout Hall and is located diagonally across from the site on the northern side of Durham Street.

The hall is listed for its historical and social significance as it was constructed for the 1st Hurstville Scout Troop. The building has no aesthetic significance.

The proposed development would not affect the heritage significance of the item at 118 Durham Street as it does not prevent its continued use as community hall. As such, a heritage impact assessment is not required and the proposal is found to be consistent with this section.

Section 6.4 Preservation of Trees and Vegetation

There are no trees on the subject site. The proposed development however will introduce planting to the communal open space areas on the podium and street trees

at the front of the site. This will provide some soft landscaping to the site and the street which will improve the current site conditions.

4.4 PLANNING AGREEMENT

Council's Executive Strategic Planner has provided the following comments in relation the Planning Agreement for the site:

Planning Agreement

Council received an Offer to enter into a planning agreement in association with the Planning Proposal PP2014/0002 and Development Application 2016/0218 on 14 November 2016.

The Offer to enter into the planning agreement was accepted by Council at the Council Meeting on 5 December 2016 (CCL114-16). Subsequent to that date, Council, the Developer (Hville FCP Pty Ltd) and the current Landowner (East Quarter Hurstville Pty Ltd) have negotiated the terms of the planning agreement.

The draft planning agreement applies to East Quarter Stage 3 (part Lot 10, DP 270611) and was signed by both the developer and the current landowner and delivered to Council on 12 April 2017.

In summary, the draft planning agreement provides that if Development Consent is granted to the Development Application, the Developer will make Development Contributions in connection with the Development Application in accordance with the planning agreement.

The draft planning agreement provides for the following public benefits and contributions

- carrying out of road works at the intersection of Forest Road and Durham Street (\$1.76 million).
- payment of a monetary contribution to be applied towards public domain works on Kempt Field (\$1million).
- carrying out of landscaping works to the Forest Road frontage to the Land that are additional to any landscaping works required under a Development Consent (\$46,000),
- payment of a monetary contribution to Hurstville Public School (\$131,000),
- payment of monetary contributions to be applied towards Kempt Field works (\$96,000),
- registration of an easement in gross favour of Council allowing for public access to and from and across the Land to and from Kempt Field and Lot 11 DP270611 (Stage 2 of East Quarter).

The draft planning agreement is intended to replace the existing obligations under the existing executed planning agreement that was entered into between the Council and East Quarter Hurstville Pty Limited on 7 September 2011, in so far as they relate to Stage 3 of the East Quarter Development.

The draft planning agreement is currently on public notification from 19 April to 24 May 2017. Under Section 93F of the *Environmental Planning and Assessment Act 1979*, a planning agreement cannot be entered into, unless public notice has been

given. Following public notification Council will review any submissions received and take account of comments that may be made prior to executing the planning agreement.

With regard to the Development Consent, Section 93I(3) of the *Environmental Planning and Assessment Act 1979* provides:

(3) However, a consent authority can require a planning agreement to be entered into as a condition of a development consent, but only if it requires a planning agreement that is in the terms of an offer made by the developer in connection with:

- (a) the development application, or*
- (b) a change to an environmental planning instrument sought by the developer for the purposes of making the development application, or that is in the terms of a commitment made by the proponent in a statement of commitments made under Part 3A.*

The 'offer' is constituted by the signed draft planning agreement that is currently on public exhibition.

It is recommended that if development consent is granted before the public exhibition period is finished for the draft planning agreement, it should only be granted if a condition under s93I(3) is included as a deferred commencement condition in the following terms:

'The consent is not to operate until such time as a planning agreement satisfactory to Council and in terms consistent with the terms of the document signed by the developer and landowner and delivered to Council on 12 April 2017 has been executed by the developer, landowner and Council.'

Comment: The planning agreement is integral to the development in order to manage its impacts. As such, a deferred commencement is recommended as per the comments above.

4.5 IMPACTS

4.5.1 Natural Environment

As discussed throughout this report, the application does not affect any existing vegetation. Planting is proposed at street and podium levels to improve the current site conditions. Further, as part of the signed planning agreement, the application is providing a monetary contribution to Council for the upgrade of Kempt Field which will have a positive impact on the natural environment.

4.5.2 Built Environment

As detailed throughout this report, the development is a high quality design and its bulk and scale is consistent with what is anticipated for the eastern bookend of the Hurstville City Centre.

The development would also not result in any significant detrimental impacts on the amenity of adjoining properties.

The development would enhance the character and appearance of the streetscape and would be a positive contribution to the locality.

4.5.3 Social Impact

A Social Impact Assessment prepared by Cred Consulting, dated 24 June 2016 was submitted with the application. The conclusion of the report is summarised below.

- The additional dwellings and commercial floorspace is within Council's projected population growth and commercial space provisions for the city centre.
- There will be minimal impact on local community facilities including child care and schools which have capacity for the additional children in the area.
- Section 94 contributions will contribute to the already identified need for a new community hub, library facilities and open space in the area.
- *'Overall, the proposed Stage 3 development of DAWN Hurstville is expected to support the development of a vibrant and diverse community in this accessible location near Hurstville Town Centre. No major adverse social impacts of the proposed dwellings have been identified.'*

Based on the submitted report and the assessment of this application, the development would not cause any significant detrimental social impacts.

4.5.4 Economic Impact

An Economic Impact Assessment prepared by HillPDA, dated June 2016 was submitted with the application. The report concludes that:

'The proposed development would impact positively on Hurstville Centre because it would:

- *Respond to growth in demand and would not be reliant upon redirecting existing trade away from existing retailers;*
- *Provide a localised retail offer which would complement rather than detract from the higher order retail offer provided in Westfield Hurstville and adjacent retail facilities; and*
- *Deliver greater economic use out of land within a centre and support a higher number of jobs within the centre.'*

In addition to the above, it is also anticipated that the inclusion of the supermarket will provide an anchor tenant which will stimulate the existing retail that remains vacant in Stage 2. In this regard, the proposed development will have a positive economic impact.

4.5.5 Suitability of the Site

For the reasons provided throughout this report, and also as established in the planning proposal, the site is suitable for the proposed development.

5. REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

5.1 RESIDENT

Adjoining residents were notified and the application was advertised concurrently with the planning proposal to increase the FSR and Maximum Building Height of the Site. Residents were given 28 days to respond. Sixteen submissions were received.

It is noted that some of the issues raised overlap with the planning proposal which has now been finalised. The issues raised are summarised and discussed below.

Overdevelopment

The significant increase in floor space ratio and height of buildings is an overdevelopment of the site.

Comment: The increase in height and FSR was subject of a planning proposal, which has since been finalised. The FSR of the development complies with the increased FSR controls that now apply to the site.

The height of the development does exceed the new building height development standard for this site, however as discussed earlier in this report, the breach primarily relates to the parapet design, lift overruns and only a small portion of habitable space along the eastern side of Building F2. For the reasons provided earlier, the variation is considered acceptable.

The increased height and FSR has been considered at length as part of the planning proposal and was found to be acceptable. The consequent design of the subject development is considered suitable for the site and complementary to the existing buildings that make up Stages 1 and 2 of East Quarter. The built form is considered to encompass the objectives for the 'Eastern Bookend' of the Hurstville City Centre as envisaged by the DCP and is not an overdevelopment of the site.

Traffic and parking impact

A number of issues have been raised in relation to traffic and parking impacts as summarised below:

- Reduction in visitor parking is unjustified and based on data from 2013
- Durham street parking should be reduced to one hour as residents are currently parking on Durham Street rather than in the basement car park
- Underground parking should be free for retail customers
- Traffic management during construction
- No stopping zone on either side of east quarter entry point during construction to allow for viewing by trucks etc.

Comment: Council's Traffic Engineer has assessed the application and raised no objections subject to the intersection upgrade that forms part of the planning agreement and also the installation of a roundabout on Durham Street at the driveway entrance.

The reduced provision of visitor parking is consistent with SEPP 65 and the ADG, for sites in close proximity to public transport hubs. On this basis, the visitor parking provision is acceptable.

As sufficient parking is provided for the residential and retail uses, it is not considered necessary to impose on street parking restrictions. Council's Traffic Engineer has not raised any concerns in this regard.

No proposal for the implementation of a payment system or time restrictions for the retail parking has been made as part of this development application.

In relation to construction traffic and safety, the submission of a Construction Traffic Management Plan and a works zone application will be required as conditions of consent.

Pressure on education and schools

The increased residential will put more pressure on local schools.

Comment: Provision of schooling is a State Government issue that is not managed at a local level. Even so, the housing targets established by the State Government for the Hurstville area is likely to have taken this into consideration.

Further, the submitted Social Impact Assessment prepared by Cred Consulting concludes that:

'Based on planning benchmarks and current supply of social infrastructure, there will be minimal impact on local community facilities including childcare centres and schools, which have capacity for the additional children who will live in the area.'

Bulk and Scale and relationship to Kempt Field

- The bulk and scale of the development is excessive
- 2 Jack Brabham Drive (Building E in Stage 2) was supposed to be the tallest building
- The design of the buildings are not in harmony with the existing East Quarter buildings.
- The development is unattractive

Comment: As discussed throughout this report, although there is a minor variation to the height control, the bulk and scale of the development is acceptable.

Although 2 Jack Brabham Drive was originally identified as the tallest building across the combined 'East Quarter' site, the recent amendment to HLEP 2012 allowed for the same height to be applied to 93 Forest Road in the location of Building F.

It is acknowledged that the proposed development is different to Stages 1 and 2 of East Quarter, however as the site is being independently developed and is subject of this separate development application, there is no requirement for the buildings to match. The proposal adopts a contemporary, curved form dominated by bronze glazing whilst different, would not appear unsympathetic or 'clash' with the first two stages of East Quarter. The alternative design would add diversity and contribute positively to the character of the Hurstville City Centre.

Amenity Impacts

- Loss of privacy to existing buildings
- Loss of ventilation to existing buildings.

Comment: The development complies with the boundary setback requirements for building separation as provided by the ADG. The difficulty arises as the buildings in Stage 2 were built in close proximity to the property boundary reducing total

separation. As 93 Forest Road is being developed independently, it is unreasonable to require that the entire separation distance be accommodated on the subject site.

To minimise privacy impacts between buildings, the residential components of Building X are provided with a generous side boundary setback of 15m resulting in 18m of separation. Further, Building F has been offset, so that it sits to the south of the nearest building to the west (Building E in Stage 2), so that habitable rooms and balconies are not located opposite each other. The proposed design is considered to adequately minimise privacy impacts between buildings.

In response to concerns relating to ventilation, sufficient separation is provided to allow for adequate ventilation to all existing residential apartments

Solar Access

Loss of sunlight to existing buildings.

Comment: The adjoining dwellings will receive at least 2 hours sunlight mid-winter in accordance with SEPP 65 and the ADG.

Views

View loss from East Quarter stages 1 and 2

Comment: Specific units have not been identified in relation to view loss; therefore a full view loss assessment to any identified units in accordance with the planning principle cannot be undertaken.

It is acknowledged that the increase in height that arose from the amendment to HLEP 2012 affected east facing, upper level residents in Building E who when they purchased their properties were of the understanding that their views would not be built out. Notwithstanding, the concerns of residents were considered in the assessment of the planning proposal which increased the height limit, and as the amendment has now been finalised, the height limit cannot be changed. It is important to note that the height variation, particularly to Building F, does not affect view impacts. Even so, the development has been designed so that the new buildings are offset from Building E to maintain view corridors to east.

Currently, the east facing upper level units in Building E benefit from views of the city to the north east, Botany Bay to the east, and district views to the south east. To minimise the view impacts, Building F has been offset so that it is located to the south of Building E. As such, units will maintain views to Botany Bay to the east and the ten upper levels will also maintain their views towards the city over the roof of Building X.

The design of the development is considered to adequately manage view impacts and is generally consistent with view sharing principles, as only partial views would be affected.

Public Transport

The development will result in increased crowds on public transport.

Comment: The development is consistent with the principles for development as established by the State Government in that high density residential development is

focused around public transport hubs. The development is not considered to place unreasonable pressure on public transport services.

Property Value

The development will result in a decrease in property value.

Comment: Property value is not a material planning consideration.

Retail Uses

More retail space is not needed. The existing retail spaces are currently empty.

Comment: It is acknowledged that a number of the existing retail spaces located in Stage 2 are currently vacant. However as discussed above, it is anticipated that the supermarket would provide an anchor tenant that would stimulate business and result in the success of the retail uses. This is supported by the submitted Economic Impact Assessment prepared by HillPDA.

Public Open Space

There should be further allocation of green space to support development as Kempt Field is well used by schools.

Comment: As part of any development consent, the developer is required to pay Section 94 contributions to Council which are used for public benefits. This includes allocation of funding to public open space.

Hours of Operation

The extended business hours of the supermarket and liquor store will cause loitering and vandalism

Comment: The fit out and use of the supermarket and liquor store will be subject to separate development applications which will give consideration to the hours of operation.

Construction Disturbance

Construction will result in dust and airborne asbestos

Comment: It is acknowledged that construction can result in temporary disturbances on surrounding properties. To mitigate impacts, the hours of construction will be restricted to between 7am and 5pm, Monday to Saturday. Recommended conditions of consent will also require the submission of a Construction Management Plan which must include measures for management of dust and sediment control. Further, the use of Durham Street is subject to a separate work zone application.

5.2 COUNCIL REFERRALS

Team Leader, Subdivision and Development

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

Senior Health and Building Surveyor

Council's Senior Health and Building Surveyor has raised no objections to the development subject to conditions.

Senior Traffic Engineer and Co-ordinator Civil Projects

Council's Senior Traffic Engineer and Co-ordinator Civil Projects have assessed the application and raised no objections subject to the installation of a roundabout at the Durham Street driveway entrance, and upgrade of the intersection at Durham Street and Forest Road.

Executive Strategic Planner

Council's Executive Strategic Planner provided comments in relation to the planning agreement which are discussed earlier in this report.

Tree Management Officer

Council's Tree Management Officer has advised that the proposed street trees are to be 5 x 200 litre Pyrus calleryana 'Chanticleer' (Callery Pear). The trees are to be planted in tree pits using 'strata cells' or equivalent.

5.3 EXTERNAL REFERRALS

Design Review Panel

See comments under SEPP 65 earlier in this report.

Transport for NSW and Roads and Maritime Services

Following extensive consultation, TFNSW and RMS raise no objections to the application subject to conditions requiring that the applicant enter into a Works Authorisation Deed for the intersection upgrade, and the submission of a Construction Traffic Management Plan.

Sydney Trains

Sydney Trains has raised no objections to the application subject to conditions including detailed deferred commencement conditions.

Ausgrid

Ausgrid raised no objections subject to conditions.

Department of Primary Industries – Water

The application was referred to the Department of Primary Industries – Water for comment. The following response was received:

'DPI Water has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary.'

Sydney Airport Corporation Limited

Sydney Airport raises no objections to the development to a maximum height of 123.5m AHD. The development is below this height.

6. CONCLUSION

Development consent is sought for the construction of a mixed use development at 93 Forest Road Hurstville. The development comprises two buildings, being nine and 21 storeys in height with associated basement, landscaping and road works. The development will accommodate 556 residential apartments and 4,345sqm of retail

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

The proposed development has been assessed against the requirements of the relevant planning instruments and development control plans. Variations are proposed to the relevant controls, however for the reasons provided throughout this report the variations are found to be satisfactory and the application is supported.

The application was notified in accordance with DCP 2 and 16 submissions were received objecting to the development. The issues identified in the submissions are addressed above and do not warrant refusal of the application.

The proposed development is consistent with the objectives of the B4 Mixed Use Zone and the high quality design would be a positive contribution to the Hurstville City Centre. The application is therefore recommended for approval subject to deferred commencement conditions.

7. RECOMMENDATION

THAT pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants a deferred commencement consent to Development Application DA2016/0218 for mixed use development comprising 556 units and 4345 square metres of retail space in two buildings of 9 and 21 storeys with basement and ground floor parking and associated landscaping works on Lot 10, DP270611 and known as 93 Forest Road Hurstville, subject to the attached draft conditions.