

Panel Reference	2017SSH023
DA Number	DA2017/0138
LGA	Georges River Council
Proposed Development	This application seeks development consent for consolidation of the existing allotments, demolition of existing structures, site remediation and construction of a mixed use development. The proposal includes a supermarket and three (3) retail tenancies with shop top housing for 44 units and three (3) basement levels of car parking including loading facilities.
Street Address	160-178 Stoney Creek Road Beverly Hills
Applicant/Owner	Applicant: SJB Planning Owners: Cuzeno P/L
Date of DA lodgement	18 May 2017
Number of Submissions	Eight (8) submissions including sixty (60) signatures contained within a petition
Recommendation	Refusal
Regional Development Criteria (Schedule 7)	<p>Regional development is defined in Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011.</p> <p>Development with a capital investment value (CIV) over \$20Million</p> <p>The CIV of this application as outlined in the Registered Quantity Surveyors Detailed Cost Report is \$22,357,500.</p>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979. • Environmental Planning and Assessment Regulation 2000. • 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 and Sustainability Index: 2004) • State Environmental Planning Policy (Vegetation in non-rural areas) 2017 • State Environmental Planning Policy (Infrastructure) 2007. • State Regional Environmental Plan No 2 – Georges River Catchment. • Hurstville Local Environmental Plan 2012.

	<ul style="list-style-type: none"> • Hurstville Development Control Plan No 1. • Regional Environmental Plan No 2 – Georges River Catchment • Draft Environment State Environmental Planning Policy
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • 1. Statement of Environmental Effects • 2. Amended Statement of Environmental Effects • 3. Registered Survey • 4. Architectural Plans • 5. Amended Architectural Plans • 6. Landscape Plan • 7. Arborist Report • 8. Traffic Impact Report • 9. Geotechnical Report • 10. Contamination Report • 11. Site Decommissioning report • 12. Stormwater Plan and Details • 13. Feasibility Report • 14. Clause 4.6 Exception to Development Standard Height • 15. Clause 4.6 Exception to Development Standard – Floor Space Ratio • 16. Clause 4.6 Exception to Development Standard – Floor Space Ratio (car parking) • 17. SEPP 65 Design Verification Statement and 65 Assessment Criteria
Report prepared by	Mark Raymundo Senior Development Assessment Officer
Report date	20 September 2018.

Summary of S4.15 matters	
Have all recommendations in relation to relevant S4.15 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.
Clause 4.6 Exceptions to development standards	
	Yes, variation to Clause 4.3 –

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?	Height of Building, Clause 4.4 Floor Space Ratio to the Hurstville Local Environmental Plan 2012
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not Applicable.
Conditions Have draft conditions been provided to the applicant for comment? <i>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</i>	No, as the application is being recommended for refusal.

Executive Summary

Proposal

This application seeks development consent for consolidation of the existing allotments, demolition of existing structures, site remediation and construction of a mixed use development. The proposal includes a supermarket and three (3) retail tenancies with shop top housing for 44 units and three (3) basement levels of car parking including loading facilities.

Site and locality

The subject site is known as 160 - 178 Stoney Creek Road, Beverly Hills.

Zoning and HLEP (2012) Compliance - LEP

The site is zoned B2 Local Centre under the Hurstville Local Environmental Plan 2012. The proposal being shop top housing is permissible with consent. The proposal well exceeds the prescribed floor space and height of building controls. The application is accompanied by a Clause 4.6 Exception to Development Standard for Height and Floor Space for consideration as part of this assessment, the variations to these development standards are not supported for the reasons contained within this report.

State Environmental Planning Policy

The proposal has been considered to be satisfactory in regards to:

- 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 and Sustainability Index: 2004);
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; and
- State Regional Environmental Plan No 2 – Georges River Catchment.

Draft Environment SEPP

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposal is not inconsistent with the provisions of this Draft Instrument.

Hurstville Development Control Plan 2012 (HDCP No 1 – Amendment No 5)

The proposal fails to adequately satisfy the applicable provisions contained within the Hurstville Development Control Plan No 1 as detailed in full within this report.

Submissions

The application was notified to sixty-one (61) owners and occupiers in accordance with the provisions of the Hurstville Development Control Plan No 1. In response, eight (8) submissions with a submission containing sixty (60) signatures were received. The relevant concerns have been addressed in detail further within this report.

Level of Determination

The proposal seeks a cost of works of \$22,357,500. The development application is to be determined by the South Sydney Planning Panel due to the capital investment value exceeding \$20 million for a residential development pursuant to the definition of regional development contained within Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011.

Conclusion

Having regards to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act and following a detailed assessment of the proposed application, DA2017/0138 is recommended for refusal for the reasons contained within this report.

Full Report

Proposal

This application seeks development consent for consolidation of the existing allotments, demolition of existing structures, site remediation and construction of a mixed use development. The proposal includes a supermarket and three (3) retail tenancies with shop top housing for 44 units and three (3) basement levels of car parking including loading facilities on land known as 160-178 Stoney Creek Road, Beverly Hills.



Figure 1 - Streetscape montage viewed from Stoney Creek Road (Source: Candelapas Associates, 2017).



Figure 2 - Streetscape montage viewed from the intersection of King Georges Road and Stoney Creek Road (Source: Candelapas Associates, 2017).

The above montages were prepared and lodged with the original application. It is acknowledged there have been amended plans and accompanying consultant reports lodged throughout the assessment; however the elements of the development generally remain consistent with the montages above.

- Lot consolidation (160-178 Stoney Creek Road, Beverly Hills)
- Demolition of existing commercial buildings;
- Construction of a shop top housing development comprising of;
 - Level 3 Basement: residential parking, visitor parking, lift access, waste storage and plant rooms;
 - Level 2 Basement: retail parking, visitor parking, lift access, storage rooms and travelator access to the ground floor retail level;
 - Level 1 Basement: retail parking, lift access, loading area with turn table, goods lifts, waste storage, plant and travelator access to the ground floor retail;
 - Ground Floor: supermarket tenancy, 3 x retail tenancies, retail court, amenities, pedestrian access to the development, ramp access to the basement and the entry to the residential units above and supporting facilities;
 - First Floor: 7 x 1 bedroom units (6 with studies), 9 x 2 bedroom units, 1 x 3 bedroom units; communal open space to northern rear,
 - Second Floor: 4 x 1 bedroom unit, 12 x 2 bedroom units, 1 x 3 bedroom units;
 - Third Floor: 1 x 1 bedroom unit, 3 x 2 bedroom units, 1 x 3 bedroom units;
 - Fourth Floor: 1 x 1 bedroom unit, 3 x 2 bedroom units, 1 x 3 bedroom units;
- Associated landscaping works on the ground floor, level 1 and rooftop of level 2 (accessed via level 3) along the eastern side of the site;

- Driveway along northern rear boundary with access from Lee Avenue;
- Redesign of traffic calming measures on Lee Avenue.

Note - No development consent is sought uses associated with the retail and supermarket use as part of this application. The amended proposal was not renotified as the application was not considered supportable.

For the purposes of assessment, the proposed amended proposal is described as follows;

Commercial Breakdown (Ground level)	Floor area
(Supermarket)	1,046sqm plus additional (447sqm) back of house (Aldi is nominated on the plans)
Retail 1	131sqm
Retail 2	163sqm
Retail 3	193sqm
Centre Admin and Amenities	59sqm
Total	2,039sqm

Unit breakdown:

Residential Unit Breakdown (Levels 1-4)	No. proposed 44 units
1 bedroom (6 with studies)	13 Units
2 bedroom	27 Units
3 bedroom	4 Units
Total	44 Units

It is noted that the original application sought 5 x 1 bedroom units, 31 x 2 bedroom units and 8 x 3 bedroom units.

Car parking breakdown:

Car parking (Ground – Basement Level 3)	No. proposed
Retail /Supermarket	137 (levels 1 and 2)
Residential Spaces	57 (level 3)
Visitor spaces	9 (level 3)
Total	203
Loading bay with HRV turn table	1
Motorcycle spaces	15 (basement levels 1 – 3 = 5 on each level)

Surrounding area

The site is located at the southern end of the Beverly Hills shopping centre. To the west of the subject site are two commercial lots. To the north-west a laneway that connects to a Council car park and Beresford Avenue.

A pedestrian bridge located directly in front of the site (southern side) spans over Stoney Creek Road and connects to Beverly Hills Public School.

To the north of the site fronting Lee and Beresford Avenues are residential areas which are zoned R2 Low Density and comprises of single dwellings on individual allotments. The maximum building height in this area is 9m as per the HLEP2012. On the opposite side of Stoney Creek Road is Beverly Hills Public School. Immediately to the west of the site is 158 Stoney Creek Road which comprises a two storey building currently occupied by a vet and restaurant.



Figure 4 - Location plan of subject site and surrounding area (Source: Nearmap, 2018).

Background

The following relevant development chronology is detailed as per below;

12 August 2016	Pre-lodgement meeting (PRE2017/0023) lodged for demolition of existing and construction of part three storey and five storey mixed use development comprising of eight retail tenancies, supermarket and 2.5 basement levels.
18 May 2017	Development application (DA2017/0138) lodged for consolidation of the existing allotments, demolition of existing structures, remediation of the site, construction of a mixed use development including a supermarket and three (3) additional retail tenancies, shop top housing comprising 44 units and three (3) basement levels of car parking with loading facilities.
1 June 2017	Design Review Panel – Demolition of existing commercial development and construction of a shop top house development.
7 June – 5 July 2017	Notification period.
11 July 2017	South Sydney Planning Panel Briefing.
18 July 2017	Traffic committee.
15 December 2017	Amended Plans seeking design changes.
5 April 2018	Meeting with applicant.
24 May 2018	Amended Plans seeking internal and external changes and a reduction of floor space.

Section 4.15 Assessment

(1) *Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

(a) *the provisions of:*

(i) *any environmental planning instrument, and*

The proposal has been considered under the relevant statutory provisions as per below.

- Environmental Planning and Assessment Act 1979.
- Environmental Planning and Assessment Regulation 2000.
- 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 and Sustainability Index: 2004).
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- State Regional Environmental Plan No 2 – Georges River Catchment.
- Hurstville Local Environmental Plan 2012.

- Hurstville Development Control Plan No.1 - Amendment No. 5
- Hurstville Section 94 Contribution Plan.

Environmental Planning and Assessment Act 1979

The proposal has been considered in accordance with the relevant Statutory Provisions within the Act.

Environmental Planning and Assessment Regulation 2000

The application has been considered in accordance with the applicable consideration within the Regulation which is satisfactory.

Hurstville Local Environmental Plan 2012

The proposal has been considered in relation to the applicable clauses as per below.

Clause	Control	Proposed	Compliance
Clause 1.2 Aims of Plan	Objectives of the Plan to be satisfied	Proposal is not considered to reasonably satisfy the aims of the plans.	No (1)
Clause 2.1 Land Use Zones (Map tile: FSR_004)	Objectives to be satisfied	The proposal does not satisfy the zone objectives.	No (2)
Clause 2.3 Zone objectives and Land Use Table	Objectives of zone to be satisfied	The proposal being shop top housing is a permissible use in the zone and configuration wise meets the definition of "shop top housing".	Yes
Clause 4.3 Floor Space Ratio Map tile: FSR_004)	Objectives to be satisfied		
	Western element "T" = 2:1	Western element: 3.1:1 (including additional car parking below)	No (3) – Clause 4.6 variation submitted for consideration
	Eastern element "S" = 1.5:1	Amended Built form above ground level (1.96:1) Eastern element: 1.65:1 (including additional car parking below)	Yes No (3) - Clause 4.6 variation submitted for consideration

		Amended Built form above ground level: (1.47:1)	Yes
Clause 4.4 Height of Buildings (Map tile: HOB_004)	Objectives to be satisfied Western element "O" = 15m Eastern element "J" = 9m	Western element: 17.92m Eastern element: 9m	No (4) - Clause 4.6 variation submitted for consideration Yes
Clause 4.6 – Exception to Development Standard	Clause 4.6 Exception to Development Standard to be provided for consideration	Clause 4.6 Exception to a Development Standard provided to vary Clause 4.4 Height of Buildings.	Yes - Clause 4.6 Exception to Development Standard provided for consideration for Height of Building and Floor Space Ratio
Clause 6.2 Earthworks	Objectives to be satisfied in relation to clause	The proposal seeks excavation and earthworks to accommodate the lower retail level and three (3) levels of basement. The extent of earthworks is considered to be consistent with that of other approved mixed use buildings approved within the locality.	Yes
Clause 6.6 – Active Street Frontage (Map tile: ASF_004)	Objectives regarding active street frontages to be satisfied	The design incorporates active street frontages to Stoney Creek Road and King Georges Road (bend) by incorporating retail uses and a supermarket.	Yes (5)

(1) Aims of the plan

The proposal is considered not to satisfy aims of the plan;

(a) to encourage and co-ordinate the orderly and economic use and development of land that is compatible with local amenity,

Comment: The proposed development seeks to provide additional businesses and housing which is envisaged on this site, however the design of the development is considered to be an overdevelopment of the site given the non-compliance with the FSR and height controls. In this regard this design is inappropriate for this site based on the planning controls.

(2) Objectives of the zone

The proposal is not considered to satisfy the underlying objective of the zone as follows;

- ***To maintain a commercial and retail focus for larger scale commercial precincts.***

Comment: The proposal development is considered to significantly exceed the suitability of the site whereby a clause 4.6 Exception to Development Standards for Height of Building (+19.4%) and Floor Space Ratio (+8%-50%) seeks significant departures to the Hurstville Local Environmental Plan 2012.

(3) Clause 4.6 Exception to Development Standard to Clause 4.3 Height of Building

A Clause 4.6 Exception to Development Standard prepared seeks a variation to Clause 4.3 Height of Building of the Hurstville Local Environmental Plan 2012.

(1) Clause 4.6 Exception to Development Standard – Clause 4.3 Height of Building

(1) *The objectives of this clause 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.*
- (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.*

Officer Comment: A Clause 4.6 Exception to Development Standard for a breach in height is sought whereby the development exceeds the prescribed height of contained in the LEP, being a maximum of height of 17.92m (+19.4%). Clause 4.3 is not a clause excluded under Clause 5.4 Controls relating to miscellaneous uses under the HLEP 2012. The applicant has demonstrated the extent of the variation within the following architectural extracts below;

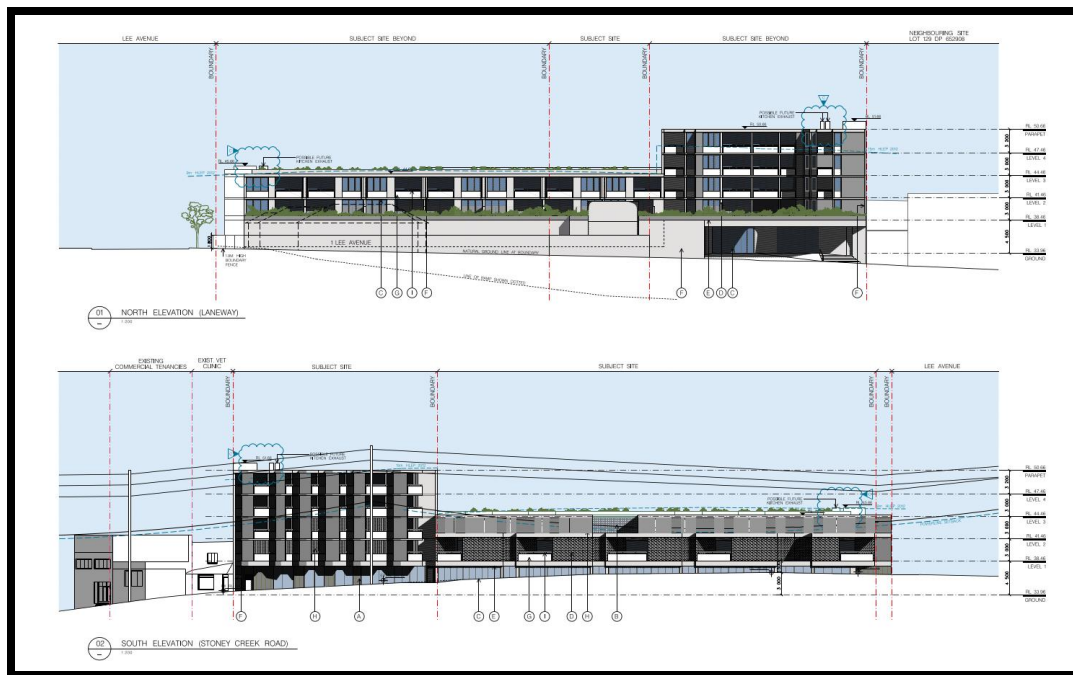


Figure 5 - Extract North and South elevation demonstrating the extent of the variation to height (Candelapas Associates, 2017).

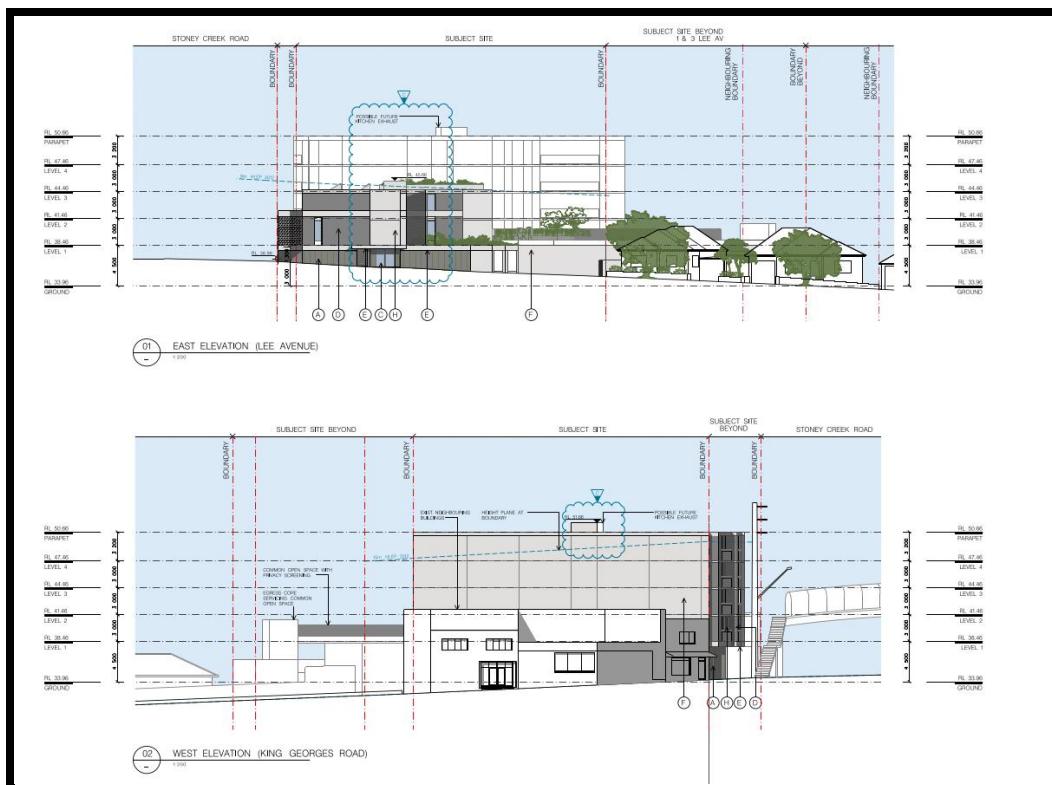


Figure 6 - Extract of east and west elevations demonstrating the extent of the variation to height (Candelapas Associates, 2017).

(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.

Officer Comment: The applicant has provided the following justification in support of the extent of the variation. The applicants Clause 4.6 Exception to a Development Standard, is an attachment to this report. An assessment has been undertaken; however the proposed variation is not supported for the following reasons.

- The proposal results in excessive massing which was not envisaged by the controls when developed, the application will result in a building form and massing that was not envisaged for this location and therefore it is inconsistent with the desired future character of the Beverly Hills Town Centre.
- The majority of the residential fourth floor exceeds the height of building which is out of character and results in an undesirable present.
- The proposed exceedance in height is considered to be an overdevelopment of the site and is unnecessary.

(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

(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

Officer Comment: The applicant has provided justification for the extent of the variation, in accordance with the above.

(b) the concurrence of the Secretary has been obtained

Comment: The applicant's Clause 4.6 Exception for Development Standard relating to Clause 4.3 - Height of Building is not supported as the extent of the variation is not in the public interest as it is inconsistent with the objectives of the relevant standard and objectives of the zone as it will create a development form that was not envisaged in this location due to the excessive bulk and massing.

- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*

(c) *clause 5.4*

Officer Comment: This development does not impact the requirements of clause 5.4.

The Clause 4.6 Exception to Development Standard Clause 4.3 Height of Building is not supported and is considered not to be well founded and is inconsistent with the intent of the Development Standard objectives and the objectives of the zone, resulting in adverse impacts due to the extent of massing and bulk. The proposed extent of the variation in height results in an undesirable precedent for the locality.

(4) Clause 4.6 Exception to Development Standard – Floor Space Ratio

A Clause 4.6 Exception to Development Standard seeks a variation to Clause 4.4 Floor Space Ratio of the Hurstville Local Environmental Plan 2012.

(2) Clause 4. 6 Exception to Development Standard – Clause 4.4 Floor Space Ratio

(1) *The objectives of this clause are as follows:*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

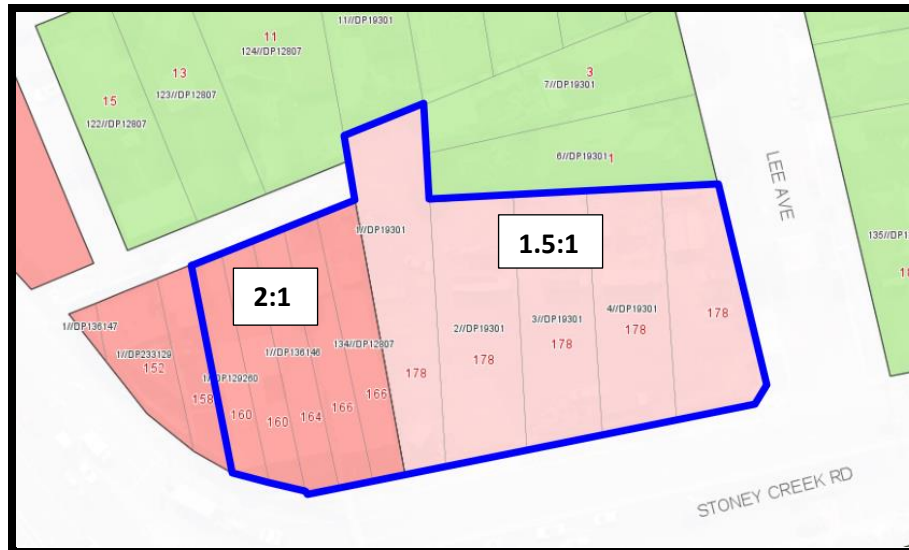
(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(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.*

Officer Comment: A Clause 4.6 Exception to Development Standard has been prepared in accordance with the above seeking the following;

Development Standard	Proposed
T1 = 2:0	3:1 (+50%)
S = 1.5:1	1.62:1 (+8%)

The additional floor space is a result of the allocation of the car parking within the basement which is located across the site to service both the retail/supermarket and residential components. The application seeks 61% of the car parking being located in the western portion of the site and 39% is located within the eastern portion. The proposal has been amended to comply with the FSR above the ground level the western portion previously proposed at 2.1:1 which now complies at 1.96:1.



(b) the concurrence of the Secretary has been obtained

Officer Comment: The applicant's Clause 4.6 Exception for Development Standard relating to Clause 4.4 Floor Space Ratio is not supported as the extent of the variation is not in the public interest as is inconsistent with the objectives of the floor space ratio development standard and objectives of the zone. The proposed variation is not supported for the following reasons;

- The proposed exceedance in floor space results in an FSR of 3:1 (+50%) and 1.62:1 (8%) which is a significant numerical departure of the LEP.
- The proposed use as a supermarket (retail) which is the nature of the variation to ensue when the first use is sought the development meets the carparking requirements, however this numeric non-compliance results in a built form not envisaged within the Beverly Hills Town Centre.

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(c) clause 5.4

Officer Comment: This development does not impact the requirements of clause 5.4.

The Clause 4.6 Exception to Development Standard Clause 4.4 Floor space ratio is not supported, is considered to be not well founded and is inconsistent with the intent of the Development Standard objective and zone objectives. For the above reasons, the proposed variation to floor space ratio is not supported.

(5) Clause 6.6 - Active Street Frontage

The southern frontage of the subject site facing King Georges Road (bend) and Stoney Creek Road are identified as active Street frontages. The proposal is considered to not satisfy the requirements of this subsection. Given the proposed supermarket use does not contain an direct entrance along Stoney Creek Road. In relation to this clause, the applicant has provided the following justification;

"The proposed development incorporates these active commercial uses on the ground level along the southern and northern elevations (i.e. retail tenancies) in a way that helps to connect the site and these uses with the broader public realm. This is particularly so to the north where there is a strong connection between the development and the Council car park to encourage access from shoppers off Kings Georges Road, although pedestrian access is also available directly off the Stoney Creek Road frontage.

Importantly, and notwithstanding the relatively 'hostile nature' of the frontage (due to impacts associated with the built form and the traffic), all development at ground level addressing the Stoney Creek Road frontage is retail in nature, with openings and pedestrian access facing the street. In that respect, the proposal satisfies the provisions of Clause 6.6".

Given the design and justification provided above. The intent of this clause has not been reasonably satisfied the intended use as envisaged within the Hurstville Development Control Plan uses within Beverly Hills. Clause PC3 – Building Use DS3.4 states that the maximum retail frontage for individual tenancies is 25 metres. The proposal seeks a maximum shopfront of 58m for the proposed supermarket. This is addressed further within this report under Section 6 – Controls for Specific Site and Localities.

State Environmental Planning Policy No 55 – Remediation of Land

Council's records indicate that the subject site has been historically used for commercial purposes. A site decommissioning and validation report prepared by CMPS&F P/L has accompanied the development application. A preliminary site investigation report prepared by Aargus dated 16th February 2017 concludes that;

“based on the information collected during the investigation an in reference to Clause 7 (DA development of SEPP 55, the site will be suitable subject to the completion of a detailed site inspection (and after remediation and validation, if required) for the proposed mixed commercial and residential apartments development”.

In this regard, Council has not received adequate information to facilitate a full and proper assessment of the contamination and the required remediation. As a result, Council cannot be satisfied the development site is fit for its intended use as require by SEPP 55.

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

A design verification statement prepared by Registered Architect Angelo Candalepas (Reg. NSW 5773). The proposal has been considered against the relevant considerations of the SEPP as per below;

Clause	Control	Proposed	Compliance
CL. 30	Standards that cannot be used as grounds to refuse development consent or modification of development consent	The application has been designed having regard to the applicable provisions.	Yes
CL. 30(1)	(a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,	Proposed car parking complies with the RMS requirements.	Yes
	(b) if the internal area for each apartment will be equal to, or greater than, the	The internal floor area complies with the minimum units sizes:	Yes

	recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide, (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.	1 bedroom exceed 50m ² 2 bedroom exceed 70m ² and 3 bedroom exceed 90m ² Ceiling heights comply with the minimum standards namely: Residential: 2.7m for habitable rooms Commercial: 4.3m	Yes
CL 30	(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to: <ul style="list-style-type: none"> ○ the design quality principles, and ○ (b) the objectives specified in the Apartment Design Guide for the relevant design criteria. 	The proposal has been considered against the design quality principles and objectives of the Apartment Design Guide, see detailed discussion below.	Yes

Schedule 1 Design Quality Principles

The proposal has been considered in relation to the design principles as follows;

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”

Urban Design Review comments:

“Given the site location directly opposite a public primary school, it would seem appropriate to provide some three (3) bedroom units”

Officer Comment: 4 three (3) bedroom units provided.

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”

Urban Design Review comments:

“Comply with BASIX. Ensure that stormwater collection volume is sufficient to adequately irrigate landscaped areas over a reasonable timeframe.”

Officer Comment: A BASIX certificate accompanies the application however has not been revised to reflect the current proposal.

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”.

Urban Design Review comments:

“Further to the comments in “Built Form” above, there is an opportunity to provide deep soil planting of large trees, which should be provided in this environment. This will contribute to the transition to residential landscape character on adjoining sites and provide a visual and environmental amenity.

Investigate the opportunity for street tree planting along Stoney Creek Road.

The landscape plan does not show the proposed stair access from the lane to the communal open space area”.

Officer Comment: The stair has been shown on the plans. The deep soil is limited on the site; therefore there is limited opportunity for planting of large trees.

Principle 4: Sustainability

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

Urban Design Review comments:

“The Panel understands the reasoning behind the brick screen walls to the south facing units. While the outlook to Stoney Creek Road is not attractive, it would improve amenity for people to be able to look out at the trees along the school site and the sky. It is particularly noted that some screen walls on the first floor block the outlook from living areas whereas it would be more logical to place these in front of bedrooms.

The Panel is concerned that the proposal does not achieve the minimum solar access requirements. This will need to be demonstrated in any amendments.

Additionally, more than 15% of the units would receive no direct sunlight. The Panel is not convinced that skylights are a solution to this.

The units also seem to fall short of the requirements for natural ventilation. Reliance on lightwells for cross ventilation is dubious”.

Officer Comment: The applicant has amended the plans to address the above.

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”.

Officer Comment: a landscape plan has been provided with the proposal which has incorporated additional communal open space following these comments.

Urban Design Review comments:

“Further to the comments in “Built Form” above, there is an opportunity to provide deep soil planting of large trees, which should be provided in this environment. This will contribute to the transition to residential landscape character on adjoining sites and provide a visual and environmental amenity.

Investigate the opportunity for street tree planting along Stoney Creek Road.

The landscape plan does not show the proposed stair access from the lane to the communal open space are”.

Officer Comment: The stair access has now been shown on the landscape plan.

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.”

Urban Design Review comments:

“The Panel understands the reasoning behind the brick screen walls to the south facing units. While the outlook to Stoney Creek Road is not attractive, it would improve amenity for people to be able to look out at the trees along the school site and the sky. It is particularly noted that some screen walls on the first floor block the outlook from living areas whereas it would be more logical to place these in front of bedrooms”.

The Panel is concerned that the proposal does not achieve the minimum solar access requirements. This will need to be demonstrated in any amendments.

Additionally, more than 15% of the units would receive no direct sunlight. The Panel is not convinced that skylights are a solution to this.

The units also seem to fall short of the requirements for natural ventilation. Reliance on lightwells for cross ventilation is dubious”.

Officer Comment: The applicant amended the plans in an attempt to address the above.

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”.

Urban Design Review comments:

“The laneway presents a safety and security concern in the hours when retail premises are not operating. There is the potential for entrapment at the end of the laneway behind the proposed garden bed. The protruding area (coffee shop area) should be designed as deep soil landscape and a secure entry to the premises provided in a location that is clearly visible from public areas”.

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”.

Urban Design Review comments:

“See above comments regarding inclusion of three (3) bedroom units”.

Officer Comment: Four (4) three (3) bedroom units provided.

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”.

Urban Design Review comments:

“The Panel appreciates the limited palette of materials which enables the modelling of the built form to create sufficient visual interest.

The aesthetic presentation of the building is satisfactory”.

“Recommendation

The Panel supports the application subject to the issues raised above being resolved. The application satisfies the design quality principles contained in SEPP 65”

Officer Comment: The applicant provided amended plans which sought the following design changes to address the above.

The amended plans have sought improvements to the original design, the proposed changes are as follows;

- Reconfiguration of units and light wells which have resulted in improved solar access and occupant amenity through;
- Creation of first floor break of residential component fronting Stoney Creek Road;

- Communal roof terrace above level 2;
- Internal and external changes;
- Reduction of floor space;
- Additional privacy measures for units in close proximity to the link bridge;

Assessment Officer Comment

Whilst the amended proposal has sought address the concerns of Council and the Design Review Panel in relation to occupant and neighbourhood amenity, the fundamental issues of excessive floor space and height remain as previously addressed earlier within this report. Furthermore, the proposed configuration for the residential units still results in poor cross ventilation for future occupants.

Apartment Design Guide (ADG)

The proposal has been considered in relation to the following applicable controls as follows;

Clause 28 – Consideration of Apartment Design Guide

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

Clause	Standard	Proposal	Complies
Objective 3D-1	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>-Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>-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:</p> <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 	25.1% (476sqm) communal open space provided on level 1 and on the roof top of level 2	Yes

	contributions to public open space		
	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)	100% direct sunlight achieved to communal open spaces which are orientated to the north.	Yes
Objective 3F-1	Separation between windows and balconies is provided to ensure visual privacy is achieved.	Appropriate spatial separation between balconies and windows provided given the outward orientation of units and privacy treatment which include glass blocks, offsets and screening.	Yes
	Front setback align with adjoining developments	The front setback seeks a nil boundary setback to Stoney Creek Road which is compatible with the character of the B2 Local Centre Zoning and built form context.	Yes
	Minimum required separation distances from buildings to the side and rear boundaries are as follows:	Setback: North (rear) East (side) West– Nil South - Nil	
	<i>*R2 Low density residential to the north and east of the site</i>		
	Additional 3m setback with landscaping treatment	Additional setback of 3m with sufficient landscaping on northern boundary interface	Yes
	Residential Units Up to 12m (4 storeys) Habitable rooms and balconies = 6m Non-habitable rooms = 3m	(Levels: 1 – 3) >9m (N, E) >4.5m (N, E)	Yes Yes

	Up to 25m (5-8 storeys) Habitable rooms and balconies = 9m Non-habitable rooms = 4.5m	(Level 4) >9m (N, E) >4.5m (N, E)	Yes Yes
Objective 3J-1	1. For development in the following locations: • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or The car parking needs for a development must be provided off street.	The site is located approximately 450m south of the Beverly Hills Railway Station entrance. Car parking provided off street and located within basement levels 1 – 3.	Yes Yes
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	31 of the 44 equating to 71%.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	10 of the 44 Units equating to 22%.	No (1)
Objective 4B-3	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	7 of the 44 Units equating to 15.9%.	No (2)
	2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	24m maximum.	No (3)
Objective 4C-1	1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m Commercial = 4m	 2.7m 2.7m 4.2m	 Yes Yes Yes
Objective 4D-1	1. Apartments are required to have the following		

	<p>minimum internal areas:</p> <p>1 bedroom = 50 m² 2 bedroom = 70 m² 3 bedroom = 90 m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p>	<p>63sqm 70 – 83sqm 100sqm</p> <p>Additional bathrooms provided.</p>	<p>Yes Yes Yes</p> <p>Yes</p>
	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	Each habitable room has an external window with a glass area of more than 10%. Daylight and air is not borrowed from other rooms.	Yes
Objective 4D-2	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Room depths less than 2.5 x ceiling height (2.7m).	Yes
	2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Layouts are less than 8m in depth.	Yes
Objective 4D-3	1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	10sqm	Yes
	2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	3m minimum dimension	Yes
	3. Living rooms or combined living/dining rooms have a minimum width of:		
	<p>- 3.6m for studio and 1 bedroom</p> <p>- 4m for 2 and 3 bedroom apartments</p>	<p>>3.6m</p> <p>4m</p>	<p>Yes</p> <p>Yes</p>
Objective 4E-1	1. All apartments are required to have primary balconies as follows:	>8sqm and 2m	Yes

	<p>1 bedroom = 8sqm and 2m depth</p> <p>2 bedroom = 10sqm and 2m depth</p> <p>3+ bedroom = 12sqm and 2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	<p>>10sqm and 2m</p> <p>>12sqm and 2.4m</p> <p>1m balcony depth included in calculation.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
	<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>Units 104-105, 1.11-1.17 greater than 15sqm and minimum depth of 3m.</p>	<p>Yes</p>
Objective 4F-1	<p>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)</p>	<p>12 units per core for the eastern wing on levels 1 and 2.</p>	<p>Yes</p>
Objective 4G-1	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following 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>	<p>6m³ 8m³ 10m³</p> <p>50% of storage is located within apartment cupboards.</p>	<p>Yes Yes Yes</p> <p>Yes</p>

(1) Solar Access

Clause 4B-1 prescribes that a maximum of 15% of units receive no direct solar access during the Winter Solstice. The proposal results in 22% (10 of 44 Units) receiving no solar access. This is considered to be unreasonable given the unit layout and design which results in poor levels of occupant amenity.

(2) Cross ventilation

Clause 4B-3.1 prescribes that 60% of units on the first nine levels should be naturally ventilated. Council's assessment indicates that 7 of the 44 units are appropriately cross ventilated which are located along the eastern and western ends of the development. The use of light wells to facilitate cross ventilation for level 1 units 1.12, 1.13, 1.14, 1.15, 1.16, 1.17 and level 2 units 2.12, 2.13, 2.14, 2.15, 2.16 and 2.17 is not considered to provide appropriate levels of amenity for residential occupants.

The above concern was raised by the design review panel which has not been appropriately amended and addressed by the revised plans. This results in an undesirable outcome for the new development and also results in adverse acoustic impacts for occupants of these units.

(3) Building depth

Clause 4B-3.2 prescribes a maximum building depth of 18m. The proposal seeks a variation to this being a maximum depth of 24m for both the western and elements of the proposal however the additional building depth is linked to the poor level of cross ventilation as mentioned above. This variation results in an undesirable outcome for a new development.

State Environmental Planning Policy (Building and Sustainability Index: 2004)

A valid BASIX Certificate (790894 dated 16 March 17 prepared by Building Sustainability Assessments) has been provided with the lodgement of the Development Application. An amended BASIX Certificate has not been provided to accompany the amended plans. In this regard, the requirements of the SEPP have not been reasonably satisfied.

State Environmental Planning Policy (Infrastructure) 2007

The proposal has been considered under the applicable provisions within the SEPP relation to infrastructure, concurrence and noise impacts. The proposal is considered to be satisfactory in relation to the provisions of the SEPP subject to conditions. Given the above, the proposal is considered to satisfy the applicable provisions of the SEPP.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The proposal seeks the removal of six (6) trees and off the site. An Arboricultural assessment report has been prepared by TALC dated 2 February 2017 supports the removal of these six (6) trees subject to replacement trees. As several trees are located on adjoining residential properties to the north. No owners consent has been provided from the neighbouring properties to remove/prune these trees and therefore are to be protected. In this regard, appropriate consideration has been applied to the SEPP.

State Regional Environmental Plan No 2 – Georges River Catchment

The proposal seeks to drain to Council's existing infrastructure subject to infrastructure improvements imposed as part of the conditions of consent. In this regard, appropriate

consideration has been given. The proposal is supported by Council's Development Engineer subject to conditions of consent.

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

The Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposal is not inconsistent with the provisions of this Draft Instrument.

(iii) any development control plan

Hurstville Development Control Plan No 1

The proposal has been considered in accordance with the provisions of the DCP as per below;

- Section 2 – Application process
- Section 3.0 – General Planning Considerations
- Section 3.3 – Access and mobility
- Section 3.4 – Crime Prevention Through Environmental Design
- Section 3.5 – Landscaping
- Section 3.7 – Stormwater
- Section 6 – Controls for Specific Sites and Localities
- Appendix 1
- Appendix 2

Section 3.1 – Vehicular Access Parking and Manoeuvring

The proposal has been considered in accordance with the key planning considerations within this subsection as per below;

Clause	Standard	Proposal	Complies
PC1 – General car parking, layout, circulation, ramps, transitions and driveways, underground/basement parking areas, parking for people with a disability	Proposal must comply with Australian Standards and requirements contained within these clauses.	The proposal complies with the Australian Standard.	Yes
DS1.19 – car washing	Required for residential developments with four or more dwellings	Car wash bay provided.	Yes
DS1.20 – car wash bay waste water	Appropriate drainage to wash bay water	If the application is to be supported a condition would be imposed requiring the water to drain to the sewer in accordance with Sydney Water requirements.	Yes
PC2 – Environmental Design	Environmental design objectives to be satisfied	Requirements satisfied.	Yes
DS2.5 Drainage	Drainage requirements to be satisfied	The proposal seeks to provide adequate drainage which is supported by Council's Development Engineer.	Yes
PC3 Safer by Design	Design principles to be satisfied	The proposal is considered to satisfy the safer by design principles on site and the surrounding area which allow for reasonable opportunities for passive natural surveillance.	Yes
Table 1: Car parking rate	Retail: 1 space per 50sqm = 137 car spaces	137 Car spaces	Yes

	Residential: 1 – 2 bedroom units = 1 car space Residential: 3 bedrooms = 2 car spaces = 48 car spaces	57 Car spaces (surplus of 9 residential car spaces)	Yes
	Residential visitor spaces = 11	9	Yes

Furthermore, it is noted that Council's Senior Traffic Engineer raised no concerns relating to car parking subject to the addressing the recommendations of the traffic committee detailed further within this report.

Section 3.3 – Access and mobility

The proposal is considered to provide appropriate access and mobility in accordance with the provisions of this subsection. The proposal seeks to provide multiple lifts to service the retail and residential uses. Furthermore, a centrally located travelator has been provided linking the ground floor retail/supermarket to basement levels and 1 and 2. The proposal provides five (5) adaptable dwellings, five (5) accessible car spaces, two (2) commercial accessible car spaces in accordance with the requirements of this subsection. In this regard, the requirements of this subsection have been reasonably satisfied.

Section 3.4 – Crime Prevention Through Environmental Design

The proposal is considered to result in an appropriate development in relation to the intent of this subsection. The proposal results in opportunities for passive natural surveillance to and from the street and surrounding area and within the site.

Section 3.5 – Landscaping

The proposal results in acceptable levels of landscaping between the northern elevation and northern boundary which includes a mixture of trees and shrubs to embellish this interface. Acceptable planting has been provided for the communal open space located on level 2 which provides adequate amenity for residential occupants. The trees on neighbouring properties are to be protected and retained. Two (2) small street trees are located along the Lee Avenue Council reserve are to be removed to facilitate the driveway.

Section 3.7 – Stormwater

The proposal seeks to drain to Council's infrastructure and is supported by Council's Development Engineer subject to condition of consent.

Section 6 – Controls for Specific Sites and Localities

The proposal has been considered in accordance with the provisions of this subsection as per below;

Clause	Standard	Proposal	Complies
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PC1 Building Envelope	DS1.1. New development takes the form of one of the options illustrated in the Development Control Drawings detailed in this Section.	The proposed built form generally aligns with indicative built form illustrated within the diagrams.	Yes
fPC3 – Building Use	<p>DS3.1. Design for a mix of uses within buildings.</p> <p>DS3.2. All ground floor levels in buildings are to incorporate retail and/or commercial uses to activate the street.</p> <p>DS3.3. Access to residential uses above ground floor is permitted on street level but must not occupy more than 20% of the frontage.</p> <p>DS3.4. The maximum retail frontage for individual tenancies is 25 metres.</p>	<p>The proposal forms shop top housing comprising of 44 residential units, 3 retail tenancies and 1 supermarket.</p> <p>The proposed supermarket use does not activate Stoney Creek Road</p> <p>Access to residential is less than 20%.</p> <p>Supermarket tenancy is 58m along the southern elevation fronting Stoney Creek Road</p>	<p>Yes</p> <p>No (1)</p> <p>Yes</p> <p>No (1)</p>
PC4 Height	– <p>DS4.1. Maximum Height of buildings is contained within Clause 4.3 and the associated Height of Buildings Maps of the Hurstville LEP 2012.</p> <p>DS4.2. Building Heights and Indicative Storeys in Appendix 1 of this DCP identifies the maximum number of storeys for development.</p> <p>DS4.4. Residential storeys are set at a maximum 3m and a minimum 2.7m floor to ceiling.</p>	<p>The proposal does not comply with height of building at 17.92m.</p> <p>The proposal complies with the maximum number of storeys.</p> <p>2.7m</p>	<p>No – previously discussed within this report under HLEP 2012 and the Clause 4.6 assessment.</p> <p>Yes</p> <p>Yes</p>
PC5 Corners	DS5.1. Buildings sited on the street frontages at a corner	The proposal has been designed to accentuate	Yes

	<p>are to create acute, obtuse, curved or other relevant corner forms.</p> <p>DS5.2. The street intersections are to be addressed with splays, curves, small towers, building entries and other special architectural elements.</p>	<p>the corner of King Georges Road and Stoney Creek Road.</p> <p>As above.</p>	<p>Yes</p>
PC6 Building Design	<p>DS6.1. A balance of horizontal and vertical façade elements is to be provided.</p> <p>DS6.2. Simple façade designs containing only horizontal or vertical elements are to be avoided.</p> <p>DS6.3. Large areas of flat façade should be articulated using panels, bay windows, balconies and steps in the façade.</p> <p>DS6.4. Changes in texture and colour should complement façade articulation.</p> <p>DS6.5. Building entrances – whether for commercial, retail or residential use – must be clearly identifiable from the street.</p> <p>DS6.6. Blank party walls are to be avoided.</p>	<p>The proposal adopts a mixture of horizontal and vertical elements.</p> <p>Varying articulation provided.</p> <p>Articulation provide along external elevations.</p> <p>Mixture of textures and colours utilised.</p> <p>Commercial/residential building entrances from Stoney Creek Road, the Laneway. Lee Avenue provides residential access for eastern portion only.</p> <p>No blank party walls provided. Ground floor windows incorporated within the design to front Stoney Creek Road and rear laneway.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
PC7 Balconies	<p>DS7.1. The main balcony types to use are:</p> <ul style="list-style-type: none"> recessed within wall 		<p>Yes</p>

	<ul style="list-style-type: none"> • recessed within roof • projecting without roof, walls or columns • partially recessed/projecting • Juliet • French windows <p>DS7.2. Balconies are to be designed so that they are recessed a minimum 300 mm into the wall or enclosed with walls, columns or roofs, in order to provide sufficient enclosure.</p> <p>DS7.3. All glass and all brick balconies are to be avoided.</p> <p>DS7.4. Juliet balconies and French windows should be used to articulate facades with architectural detail and vertically proportioned windows.</p> <p>DS7.5. Each residential apartment is to have at least one balcony with a minimum size 8m² and a minimum depth of 2m.</p>	<p>Balconies contain appropriate treatment.</p> <p>As above</p> <p>Balconies are brick however appropriately designed to minimise noise impacts from Stoney Creek Road.</p> <p>Secondary balconies proposed along Lee Avenue.</p> <p>Balconies compliant with ADG.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
PC8 Acoustic Privacy	<p>DS8.1. Windows fronting King Georges Road are required to be double glazed.</p> <p>DS8.2. For buildings within the Commercial Centre, noise within dwellings is not to exceed the following:</p> <ul style="list-style-type: none"> • Weekdays 7am – 7pm, 55 Dba, 7pm – 10pm, 45 dBA • Weekends 8am – 7pm, 50 dBA, 7pm – 10pm, 45 dBA • Night Time 10pm – 7am, 35 dBA 	<p>Appropriate treatment provided. An acoustic report has been provided which meets the standards.</p>	<p>Yes</p>

	<p>DS8.3. In order to assist acoustic control of airborne noise between units:</p> <ul style="list-style-type: none"> - A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates a sole occupancy unit, or a sole occupancy unit from a plant room, stairway, public corridor, hallway or the like. - A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit, is to have a FSTC of not less than 55. - A floor separating sole occupancy units must not have a FSTC less than 50. 	Can be conditioned.	Yes
		Can be conditioned.	Yes
		Can be conditioned.	Yes
	<p>DS8.4. Noise impact associated with goods delivery and garbage collection, particularly early morning, should be minimized.</p>	Garage and loading areas located on level 1 basement.	Yes
	<p>DS8.5. Restaurants and cafes should be designed to minimise the impact of noise associated with late night operation, on nearby residents.</p>	The retail uses contain an outward presentation to the street as well as internal presentation to the internal retail court.	Yes
PC9 - Lifts	<p>DS10.1. Each building is to provide an awning.</p>	The proposal provides adequate shading.	Yes
	<p>DS10.2. Locate awnings at least 3m, and no more than 4.2m, above footpath level.</p>	More than 3m at King Georges Road (Bend) corner.	Yes
	<p>DS10.3. Awnings are to be stepped in relation to street</p>	Stepped and integrated into building.	Yes

	<p>level changes and building entrances.</p> <p>DS10.4. Steeply pitched awnings are to be avoided which break the general alignment of awnings in the street.</p>	Flat roof.	Yes
PC11 – Through Block Connections	<p>DS11.1. Arcades should be located in mid-block locations and provide a clear sightline from one end to the other, for surveillance and accessibility: Arcades are to have a minimum width of 3m, clear of any obstruction, except for connections through shops</p> <ul style="list-style-type: none"> • Retail frontages are to be maximised along arcades • Natural lighting and ventilation of arcades is highly desirable • Pedestrian safety and the security of adjacent businesses, particularly at night, should be considered in the design of through block connections • Public use of through block connections is to be available at least between the hours of 6.00am and 10pm daily • Arcades must have a minimum floor to ceiling height of 4m <p>Note: Council may consider the relaxation of the above controls depending on the quality of public area provided and the merits of the particular application.</p>	Walk through arcade element provided within ground floor design which provides appropriate linkage.	Yes
PC12 Shop Fronts	DS12.1. Shop fronts must be glazed.	Can be glazed, however no development consent has been sought for the use of the supermarket.	Yes

	DS12.2. Solid roller shutter doors of any kind are not permitted on shop fronts.	Not proposed.	Yes
PC13 Outdoor Eating	DS13.1. The requirements for footpath restaurants and cafes are contained in Council's Public Spaces Local Approvals Policy (Appendix 2).	Can meet requirements.	Yes
PC15 – Landscaping and open space	DS15.1. Lower level rooftop areas and courtyards in the centre of blocks are to be landscaped.	Appropriate landscape provided.	Yes
	DS15.2. A minimum of 600 mm of soil is to be provided above basement structures for landscaping.	Adequate depth provided	Yes
	DS15.3. Courtyards should be integrated into the design of a building to allow solar access and ventilation, particularly for residential uses.	Integrated within design.	Yes
	DS15.4. Where direct access to ground level private open space is not available, provide at least one balcony, terrace, verandah, or deck for each dwelling.	Direct access provided.	Yes
	DS15.5. The primary above ground open space area should be accessible from a family room, lounge, dining room or kitchen, and be predominantly north, east or west facing, to ensure it is useable as an outdoor living space.	Adequate open space.	Yes
	DS15.6. Smaller secondary above ground open space area are also encouraged, such as balconies adjacent bedrooms, screened external clothes drying balconies	As above	Yes

	<p>adjacent laundries and bathrooms.</p> <p>DS15.7. Above ground open space should overlook the street or rear garden to protect the privacy of occupants and neighbours.</p> <p>DS15.8. Street footpaths are to be finished in accordance with Council's requirements.</p>	<p>As above</p> <p>In accordance with Council's requirements.</p>	<p>Yes</p> <p>Yes</p>
PC16 – Vehicular Access and Loading Dock	<p>DS16.1. King Georges Road can not to be used to provide vehicular access to a site.</p> <p>DS16.2. Car parking and loading dock provision is to comply with <i>section 3.1 - Car Parking</i>.</p> <p>DS16.3. Vehicular access is to be from existing crossings or from rear lanes/streets.</p> <p>DS16.4. Where provided, garage doors are to be recessed a minimum 300mm into the façade of the building.</p> <p>DS16.5. Driveways are to have a minimum width of 3m.</p> <p>DS16.6. Gutter crossings are to preserve existing trees.</p> <p>DS16.7. Concentrate underground parking areas under building footprints.</p> <p>DS16.8. Locate access ways to underground car parking away from doors or windows to habitable rooms wherever possible.</p>	<p>Vehicular access provided via Lee Avenue.</p> <p>Car parking complies with requirements of subsection.</p> <p>Street tree to be removed. Appropriate tree replacement can be provided.</p> <p>Driveways located away from windows and doors and habitable rooms.</p> <p>7.1m driveway to service ingress and egress</p> <p>Mechanical ventilation provided due to three levels of basement.</p> <p>Security doors provided.</p> <p>Provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>DS16.9. Maximise natural light and ventilation to parking areas where possible.</p> <p>DS16.10. Opportunities for natural ventilation to such car parking should be maximized.</p> <p>DS16.11. All underground car parks are to have security doors.</p> <p>DS16.12. Garage doors to car parking facilities are to be slatted (grill) or incorporate some form of opening, to facilitate natural ventilation and reduce the visual impact of garage doors.</p> <p>DS16.13. Streets should not be presented with car park walls. Parking areas should be unobtrusive.</p> <p>DS16.14. Parking must be located underground but in some situations due to the topography, the walls enclosing the parking may be partially visible. The length and height of the wall must not exceed 1 metre.</p> <p>DS16.15. Natural or mechanical ventilation from the car park cannot be achieved through the use of large metal grilles or large openings.</p> <p>DS16.16. Any visible roofs of parking areas are to be landscaped in order to provide for an outdoor space, as well as to create a pleasant view from the windows above.</p>	<p>Natural ventilation and light provided at basement entrance only</p> <p>Mechanical ventilation to be provided given that three (3) levels of basement are proposed.</p> <p>No car park walls present to the street.</p> <p>As above.</p> <p>Car parking is located underground.</p> <p>Car parking is located underground.</p> <p>Mechanical ventilation.</p> <p>Appropriate landscaping provided on site. Additional tree planting can be provided within the Council reserves.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	DS16.17. Driveways to underground car parks should be designed with minimal visual impact on the street, and maximum pedestrian safety.	Driveway is appropriately located.	Yes
	DS16.18. Pedestrian access to basement car parks is to be separated from vehicular access and clearly defined.	Separate pedestrian access and vehicular access provided.	Yes
	DS16.19. Access ways to underground car parking should not be located close to doors or windows of habitable rooms.	Appropriate location.	Yes
	DS16.20. All major developments are to have a loading dock for the delivery of goods.	Delivery area located within the level 1 basement.	Yes
	DS16.21. The loading dock is to be located so that the service vehicle stands fully within the site.	Appropriately located and designed loading dock.	Yes
	DS16.22. Doors to loading docks are to be recessed 300mm behind the face of the	Located within basement.	Yes
PC17 – Building Address and Articulation	DS17.1. The following elements are encouraged to provide building articulation: <ul style="list-style-type: none"> • entries, bay windows • balconies, terraces, garden walls, verandahs, pergolas, loggias, decks, porches, planters • external access stairs, external walkways, letterboxes, seats • screens, external louvered shutters, deep reveals, roof overhangs • noise attenuation design and appropriate internal planning are encouraged 	Appropriate articulation provided.	Yes

		along King Georges Road and the rail line		
		<i>Note: private open space elements such as balconies, should be predominantly north, east and west facing, and should be designed to ensure visual and acoustic privacy of occupants and neighbours.</i>		
PC18 Building Resolution	–	<p>DS18.1. A clear street address to each building is to be provided.</p> <p>DS18.2. Pedestrian entries to buildings should be clearly defined.</p> <p>DS18.3. Vehicular entries should minimise conflicts with pedestrians.</p> <p>DS18.4. Street corners are to be highlighted by building articulation.</p> <p>DS18.5. The design of window and balcony openings should take into account the streetscape, privacy, orientation and outlook.</p> <p>DS18.6. Facades are to be articulated to show the different levels of a building and/or its functions.</p>	<p>Can be provided.</p> <p>Pedestrian entries accessed through laneway and Stoney Creek Road and are appropriately defined.</p> <p>Vehicular entry is separated from pedestrian entries.</p> <p>Street corners are appropriately articulated along the vertical and horizontal planes with detailing and fenestration.</p> <p>Internal windows from units 1.12 – 1.17, units 2.12 – 2.17 front internal light wells which are considered to provide a poor outlook and amenity for occupants.</p> <p>Appropriate façade treatment in relation to function.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No – discussed earlier within this report under SEPP 65.</p> <p>Yes</p>
PC19 Visual and Acoustic Privacy	–	DS19.1. Visual privacy is to be protected by providing adequate distance between opposite windows of neighbouring dwellings where direct view is not restricted by screening or planting.	No adverse visual privacy impacts	Yes

	<p>DS19.2. Main living spaces are to be oriented to the front or rear of a property to avoid overlooking – where this is not possible, windows and balconies are to be offset from neighbour’s windows.</p>	Living spaces appropriately located.	Yes
	<p>DS19.3. First floor balconies located at the rear of residential dwellings may require fin walls or privacy screens to prevent overlooking.</p>	First floor balconies appropriately spatially separated from rear neighbouring properties.	Yes
	<p>DS19.4. First floor balconies located at the rear of a dwelling are to be no deeper than 2.5m.</p>	Less than 2.5m in depth.	Yes
	<p>DS19.5. Where privacy screens are used they must be no higher than 1.8 metres.</p>	No privacy screen proposed given appropriate spatial separation.	Yes
	<p>DS19.6. Council may require an applicant to provide a Noise Impact Assessment Report by a qualified acoustic engineer where external noise is identified as a likely problem, such as:</p> <ul style="list-style-type: none"> • adjoining a railway line • fronting arterial or state roads • under the airport flight path; or • near major industry or noise generating plant or equipment 	An acoustic report has been submitted with the application which makes appropriate recommendations in relation to noise minimisation measures.	Yes
	<p>DS19.7. Buildings must be sited to minimise the transmission of external noise to other buildings on the site and on adjacent land.</p>	Appropriate siting and design to minimise noise impacts.	Yes

	DS19.8. The internal layout of rooms, courtyards, terraces and balconies, the use of openings, screens and blade walls, and choice of materials, must be designed to minimise the transmission of noise externally.	Internal layout of voids result in adverse noise amenity impacts for units units 1.12 – 1.17, 2.12 – 2.17.	No – previously addressed earlier within this report under SEPP 65
PC20 Solar Access and Natural Daylight	<p>DS20.1. Shadow diagrams will need to be submitted with a development application showing the impact of the proposal on adjoining properties and their private open space. Such diagrams will need to be prepared by an architect or surveyor and be based on an accurate survey of the site and adjoining development.</p> <p>DS20.2. Where already existing, access to sunlight should be substantially maintained or achieved for a minimum period of 3 hours between 9.00 am and 3.00 pm on June 21st to windows of habitable rooms and to the private open space of adjoining properties.</p> <p>DS20.3. The overshadowing effect of new buildings on public domain areas are to be considered for the hours of 10am to 2 pm on March 21, June 21 and September 24.</p> <p>DS20.4. Subject to lot orientation and privacy considerations, locate main living spaces including lounge, dining, kitchen and family rooms towards the north where possible. Consideration should also be given to slope, views, existing</p>	<p>Shadow diagrams submitted with the original application. No unreasonable shadow impacts are generated to adjoining properties given the sitting and orientation of the site.</p> <p>Compliant levels of solar access.</p> <p>As above.</p> <p>Appropriate consideration.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>vegetation, overshadowing and streetscape.</p> <p>DS20.5. Skylights that provide the only source of daylight and ventilation to habitable rooms are not permitted in residential or commercial areas.</p> <p>DS20.6. Appropriate sun protection should be provided for glazed areas facing north, west and east. The use of extensive areas of unprotected glazing will not be permitted.</p> <p>DS20.7. Shading devices including eaves, awnings, colonnades, balconies, pergolas, external louvres and plantings are to be used to control the penetration of sun, to maximise solar access in winter, and minimise solar access in summer.</p> <p>DS20.8. New buildings and facades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers.</p> <p>DS20.9. Council may require a Reflectivity Report that analyses the potential glare from the proposed new development on pedestrians or motorists.</p>	<p>All habitable rooms have a window of which some units have skylights to increase solar access penetration.</p> <p>Appropriate shading devices provided.</p> <p>Appropriate shading devices provided.</p> <p>The proposal is generally of a concrete and masonry built form which is unlikely to result in any glare impacts.</p> <p>No reflective materials proposed</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
PC21 – Natural Ventilation	<p>DS21.1. Provide windows to all rooms including kitchens and bathrooms, to facilitate natural light and ventilation.</p> <p>DS21.2. Minimise the reliance on mechanical ventilation or air conditioning above ground level.</p>	<p>Proposal complies with BASIX. Some bathrooms are not naturally ventilated.</p> <p>Most units are not considered to be cross ventilated. Previously discussed within this</p>	<p>Yes</p> <p>Yes</p>

		<p>DS21.3. Facilitate cross ventilation by locating windows opposite each other where possible. The placement of small low windows on the windward side of a building, and larger higher windows on the leeward side, will encourage cross ventilation.</p>	<p>report under the ADG assessment.</p> <p>Minimal cross ventilation proposed.</p>	Yes
PC22 Building Materials	–	<p>DS22.1. Building materials that assist in providing comfortable thermal conditions are to be used wherever possible.</p> <p>DS22.2. The use of bulk and/or reflective insulation to walls ceilings and roofs is recommended.</p> <p>DS22.3. The use of building materials which are recycled or recyclable, come from renewable sources, or involve environmentally acceptable production methods, is recommended.</p> <p>DS22.4. The use of rainforest timbers and timbers from old growth forests should be minimized.</p> <p>DS22.5. The use of durable materials is encouraged.</p> <p>DS22.6. Non-polluting building materials must be used to protect public health and comfort.</p>	<p>Appropriate contemporary building materials.</p> <p>Can be provided.</p> <p>Can be provided.</p> <p>Can be provided.</p> <p>Durable contemporary materials such as concrete and bricks are proposed.</p> <p>Contemporary building materials proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
PC23 Water Conservation and	–	<p>DS23.1. Stormwater drainage must discharge to the roadway gutter or an</p>	<p>Appropriate stormwater disposal which is supported by Councils Development Engineer.</p>	Yes

Stormwater Management	<p>alternative stormwater system approved by Council.</p> <p>DS23.2. Minimise run-off into the existing stormwater system by implementing design measures to reduce, and where possible, reuse and recycle site stormwater.</p> <p>DS23.3. Depending on site requirements Council may require or allow the following alternative drainage arrangements:</p> <ul style="list-style-type: none"> • an easement over adjoining land for drainage • changed pipe system • an easement across the subject site to permit drainage from another lot • provision of an on-site storage basin or tanks • for the re-use of water for gardening <p>DS23.4. Drainage diagrams are to be submitted with the Development Application, showing how surface and roof waters are to be discharged to the street</p> <ul style="list-style-type: none"> • The size of all pipes is to be shown on development application plans • Proposed construction over easements must be approved by Sydney Water <p>DS23.5. The filling of land in order to discharge roof and surface water by gravity to the street is generally prohibited.</p> <p>DS23.6. It is recommended that wherever possible, business operators and/or residents choose appliances (efficient shower heads, dual</p>	<p>The proposal satisfies this requirement.</p> <p>The proposal drains into Council's existing system.</p> <p>Acceptable drainage provided.</p> <p>No filling proposed to redirect stormwater flows.</p> <p>Can be provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	flush toilets, plumbing hardware) that have a "AAA" Australian Standards Water Conservation Rating.		
PC24 – Energy Efficiency, Low Energy Services and Appliances	<p>DS24.1. Building design should maximise the amount of main internal operating and living area and private open space with a northerly aspect.</p> <p>DS24.2. Ceiling insulation is to be provided with a minimum rating of R2.0 and walls R1.10 for full brick and R1.5 for brick veneer walls.</p> <p>DS24.3. Wherever possible, roof top solar heating panels are to be installed so as not to be visible from the street.</p> <p>DS24.4. The installation of energy efficient lighting such as compact fluorescent light fittings, heating and cooling systems is also commended.</p> <p>DS24.5. Select appliances with a minimum 3-Star rating.</p> <p>DS24.6. Council supports the use of solar power as a positive approach to energy conservation.</p> <p>DS24.7. Council supports the installation of low energy and water conserving appliances.</p>	<p>Key habitable rooms orientated to the north.</p> <p>Can be provided.</p> <p>Can be provided.</p> <p>Can be provided.</p> <p>Can be provided.</p> <p>Can be provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
PC25 – Site Facilities	DS25.1. Adequate garbage and recycling areas must be provided. These areas are to be visually integrated with the development to minimise their visibility from the street. Such facilities must be located away from windows that open to habitable rooms to avoid amenity problems associated with smell. They must be located close to rear	Services provided within basement level 1 with no unreasonable amenity impact.	Yes

	<p>lanes where such access is available.</p> <p>The design, location and construction of utility services must meet the requirements of both the relevant servicing authority and Council.</p> <p>DS25.2. Electricity and telephone lines must be underground. Where there is the connection of electricity and telephone lines directly from the service pole to the fascia of the front dwelling, these lines may be above ground.</p> <p>DS25.3. Prior to the submission of the construction Certificate Application, the developer must present details of the development in writing to Energy Australia and obtain that authority's requirements.</p> <p>DS25.4. Lockable mail boxes should be provided close to the street, integrated with front fences or building entries, in accordance with relevant Australian Standards.</p> <p>DS25.5. Loading facilities must be provided via a rear lane or side street where such access is available.</p> <p>DS25.6. Vents should be provided to commercial kitchens to minimise the negative impact of smells on occupants on upper levels.</p> <p>DS25.7. All development, which includes a residential</p>	<p>Services can be provided.</p> <p>Can be conditioned.</p> <p>Can be provided. The location of the post boxes are showing located between retail tenancy 2 and 3.</p> <p>Loading facilities located within basement level 1.</p> <p>Vents located on upper levels as not to generate any adverse impacts.</p> <p>Storage provided in accordance with the ADG.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	<p>component, must provide space for the storage of recyclable goods within the curtilage of each dwelling. A space of 6 (six) cubic metres per dwelling must be set aside exclusively for storage. This space may be an extension of a carport or garage, or may be part of an attic or internal cupboard.</p> <p>DS25.8. Any development which includes a residential component must provide laundry facilities, and at least one external clothes drying area. The public visibility of this area should be minimised.</p>	<p>Can be provided. It is noted that each unit has a laundry capable of accommodating a clothes dryer and usable balcony dimensions which may serve a suitable purpose for drying of clothing.</p>	<p>Yes</p>
	<p>DS25.9. Development for land in any of the below locations complies with Figure 1 to Figure 10 – Control Drawings: King Georges Road East Side (2m setback from laneway, 24m building depth)</p>	<p>Proposal generally conforms with this control.</p>	<p>Yes</p>

(1) Retail Frontage

Clause PC3 – Building Use DS3.4 states that the maximum retail frontage for individual tenancies is 25 metres. The proposal seeks a maximum shopfront of 58m for the proposed supermarket. Given the nature of the control it is envisaged that the Beverly Hills Town Centre would be comprised of smaller retail tenancies. The proposed shop front is considered to be well in excess of this intended control and results in a poor planning outcome and dominance of the streetscape given there is no break for pedestrian entrances.

Appendix 1 – Section 7. Waste Management

A waste management plan has been submitted with the development application which details the disposal, reuse and recycling of materials relating to the proposal. Appropriate storage locations have been provided.

Appendix 8 – Section 8. Energy Efficiency

The proposal has not provided an amended BASIX certificate support the revised plans. In this regard, the requirement of this subsection has not been reasonably satisfied.

Appendix 1 - Section 10 Building Heights and Indicative Storeys

Clause	Standard	Proposal	Complies
B2 Local Centre	15m (Beverly Hills Local Centre South of Railway) = 5 storeys	17.92m = 5 storeys	No (1)
B2 Local Centre	9m = 2 storeys	9m = 2.5 storeys plus roof top communal open space	No (1)

(1) Number of storeys 15m B2 Local Centre.

The proposed western element forms five storeys however exceeds the height of building by 2.29m (+19.4%) and the eastern element reads as four (4) usable levels resulting in additional bulk and scale not envisaged within the planning controls.

Isolation

The applicant has provided valuation reports relating to the adjoining western property at 158 Stoney Creek Road, Beverly Hills. This currently consists of a vet and a restaurant. Vehicular access is granted via Laneway to the north. It is considered that No. 158 Stoney Creek Road Beverly Hills. It is considered that this adjoining site could be reasonably developed given that negotiations have not been accepted.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Natural Environment

The proposed development is not considered to result in any adverse material impacts to the natural environment.

Built Environment

The proposed built form is considered to be excessive. The proposed additional floor space and supermarket element does not form part of the desired future character envisaged for Beverly Hills and will be inconsistent with future development if supported.

Social Impact

The proposed development is not considered to result in any unreasonable adverse social impact.

Economic Impact

The proposed shop top housing is not considered to result in any adverse economic impacts.

(c) the suitability of the site for the development

Suitability of the Site

The proposal is considered not to be suitable for the subject site for the reasons contained within this report.

(d) any submissions made in accordance with this Act or the regulations,

SUBMISSIONS AND THE PUBLIC INTEREST

The application was notified to sixty-one (61) owners and occupiers in accordance with the provisions of the Hurstville Development Control Plan No 1 – LGA Wide. In response, eight (8) submissions with one submission containing sixty (60) signatures were received. The relevant concerns have been addressed as per below;

Loss of property value due to loss of privacy, privacy impacts on neighbouring properties rear yards, privacy issues from height.

It was suggested that there were to be no balconies along the northern rear elevation and that windows have a 1.8m – 2m high (highlight windows) above the respective floor level.

Comment: The proposal is not considered to result in any unreasonable privacy impacts to adjoining neighbouring properties given the appropriate spatial separation. It is not considered reasonable that there would be no northern rear balconies and imposition of 1.8m – 2m high (high light windows) given that the impact of the development in relation to privacy is not unreasonable given this site can be construction to 5 storeys and 9m to 15m. No unreasonable privacy issues arise from other elements of the building.

Cost of boundary walls

Comment: The boundary walls are located within the subject site and form part of the development proposal.

Pedestrian access impacts

Concerns were raised regarding privacy and safety impacts from the council carpark/lane link into the north-western entrance into the site.

Impact of the garage use of 11 and 13 Beresford Avenue who use this laneway to access their garages. It was suggested that there should be no pedestrian access from this laneway. Concerns were also raised in relation to traffic impacts during the building process and post completion of the development for access to these garages.

Comment: The proposal is unlikely to result in any adverse pedestrian access impacts. An appropriate traffic management plan would be imposed to ensure adequate access was maintained however the proposal is not supported for other reasons contained within this report.

Excessive building height, over development.

Concerns were raised in relation the additional height sought within the exception to development standard for height of building

Comment: The proposal results in an excessive built form which does not align with the envisaged character of this site. As earlier discussed within this report a Clause 4.6 Exception to Development Standard was submitted for Council's consideration. The proposed additional height is considered to be a significant departure from the intended planning controls and is not supported.

Not in the public interest

Comment: The proposal is not considered to be in the public interest given that the proposed development results in an overdevelopment of the site which results in a development which is not envisaged by the planning controls of the B2 Local Centre Zone.

Not suitable for the subject site

Comment: The proposal seeks an exceedance in floor space and height of building well above the LEP development standard. This in addition to the internal layout of units which incorporate light wells results in reduced amenity. Given the above, the proposal is not considered suitable for the subject site.

Rejection of application

Comment: Council cannot reject an application, given that adequate information was provided in accordance with the Regulations at the time of lodgement. An assessment of the application has been undertaken as detailed within this report which is recommending refusal.

Impact and damage to neighbouring properties

Comment: A geotechnical report prepared by Aargus dated 27 January 2017 provides recommendations support the extent of excavation. Standard conditions for a dilapidation report would likely be imposed to protect adjoining properties. However, the application is not supported for other reasons contained within this report.

Increased traffic would exacerbate the existing lack of car parking

Comment: The proposal complies with on-site car parking to service the commercial and residential uses proposed.

Increased adverse noise impacts from additional traffic and the site

Comment: The proposal is not considered to result in any unreasonable noise traffic impact given the B2 Local Centre zoning of the site. Given the zoning of the site and permissible uses, it is noted that commercial uses are envisaged within this zone.

Impact from increased traffic from delivery trucks, garbage trucks and customers

Comment: The proposed use complies with the requirements for onsite car parking and vehicle manoeuvrability. Council's Senior Traffic Engineer raises no concern with the proposal subject to amendments to the driveway profile to restrict trucks turning left into Lee Avenue. This has been sought to minimise traffic impacts to the surrounding neighbouring streets. Improvements such as traffic calming measures and RMS requirements would also need to be satisfied however the proposal is not supported for other reasons contained within this report.

(e) the public interest

The proposed development is considered to be excessive and does not form part of the envisaged built form character of the Hurstville Local Environmental Plan 2012.

Referrals

Internal

Building

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

Engineering

Council's Development Engineer supports the proposal subject to conditions of consent.

Health

Council's Environmental Health Officer has raised concerns with the proposal in relation to acoustic treatment. Whilst additional conditions can be imposed to address Council's concerns the application is not supported for other reasons.

Traffic

Council's Senior Traffic Engineer has raised concerns regarding traffic. These concerns can be addressed through design changes subject to Council's Traffic Section prior to the issue of the Construction Certificate, however this application is not recommended for approval.

Traffic Committee

Council's traffic committee endorsed the proposal subject to the following;

- (1) That the traffic calming device located on Lee Avenue north of Stoney Creek Road be redesigned and reconstructed at the cost of the developer, so as to accommodate a 12.5m Heavy Rigid Vehicle (HRV) accessing the proposed development at 160-178 Stoney Creek Road, Beverly Hills*
- (a) THAT the driveway alignment of the proposed development application along Lee Avenue be redesigned to eliminate the possibility of HRV's from turning left out of the development into Lee Avenue.*

- (b) *THAT all loading vehicles must enter Lee Avenue and exit via Stoney Creek Road to avoid heavy vehicles associated with the proposed development circulating through the surrounding roads.*
- (c) *Any other conditions imposed by Roads and Maritime Services (RMS) shall be met by the developers*

Waste

Council's Co-ordinator Environmental Sustainability raises no objection to the proposal subject to conditions of consent.

External

Roads and Maritime Services

The proposal is supported subject to conditions of consent should the proposal be supportable.

Water New South Wales

The proposal is supported subject to conditions of consent should the proposal be supportable.

Conclusion

The proposal is considered to result in an overdevelopment of the subject site. The proposal results in a significant departure from Clause 4.3 Height of Building and Clause 4.4 Floor Space Ratio to the Hurstville Local Environmental Plan 2012. The proposal results in poor levels of residential occupant amenity in relation to cross ventilation for occupants. The proposal is excessive and results in a planning outcome not intended for the site. This is considered to result in an undesirable planning precedent for the Beverly Hills Town Centre and greater locality.

Recommendation

Having regards to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act and following a detailed assessment of the proposed application DA2017/138 for consolidation of the existing allotments, demolition of existing structures, site remediation and construction of a mixed use development. The proposal includes a supermarket and three (3) retail tenancies with shop top housing for 44 units and three (3) basement levels of car parking including loading facilities be refused for the following reasons;

Environmental Planning Instrument - Pursuant to Section 4.15(1)(a)(i) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

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

- a) The proposal fails to satisfy Clause 4A.1 Solar Access of the Apartment Design

Guide which results in poor residential occupant amenity.

- b) The proposal fails to satisfy Clause 4B-3.1 Cross Ventilation of the Apartment in which results in poor residential occupant amenity.
- c) The proposal fails to satisfy 4B-3.2 Building Depth of the Apartment Design Guide which results in poor residential occupant amenity.

State Environmental Planning Policy – BASIX: 2004

- a) The proposal has not submitted a revised valid BASIX Certificate reflective of the amended proposal.

State Environmental Planning Policy No – 55 Remediation of Land

- a) The proposal has not provided a remediation action plan to undertake an informed assessment in relation to site contamination.

Hurstville Local Environmental Plan 2012

- a) The proposal fails to adequately satisfy the Clause 1.2 Aims of Plan Clause (2)(a) to encourage and co-ordinate the orderly and economic use and development of land that is compatible with local amenity.
- b) The proposal conflicts with B2 Local Centre objective to maintain a commercial and retail focus for larger scale commercial precincts
- c) The proposal results in a significant departure to Clause 4.3 – Height of Building which results in adverse bulk and scale impacts.
- d) The proposal results in a significant departure to Clause 4.4 – Floor Space Ratio which is considered to be excessive and unnecessary.
- e) The proposal has not satisfied the underlying intent of Clause 6.6 Active Street Frontages which results in disconnect to the street interface.

Hurstville Development Control Plan No 1 – LGA Wide - Pursuant to Section 4.15(1)(a)(iii) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the following sections of Hurstville Development Control Plan No.1 - LGA Wide

- a) Section 6.0 – Controls for Specific Sites and Localities – Retail Frontage
- b) Appendix 1 – Building Heights and Indicative number of storeys

Impacts on the Environment - Pursuant to Section 4.15(1)(b) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is likely to have an

adverse impact on the following aspects of the environment:

- a) The proposal results in an adverse bulk and scale not envisaged within the planning controls within Beverly Hills.

Suitability of Site - Pursuant to Section 4.15(1)(c) of the [Environmental Planning and Assessment Act 1979](#), the site is not considered suitable for the proposed development for the following reasons:

- a) The proposal results in a significant departure to the Hurstville Local Environmental Plan 2012 in relation to Height of Building and Floor Space Ratio.

Public interest - Pursuant to Section 4.15(1)(e) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent within the Beverly Hills Town Centre and within the greater locality.

Insufficient information

- a) The proposal has not provided a revised Clause 4.6 Exception to Development Standard for the variation in height on the eastern element of the proposal which includes the rooftop communal open space.
- b) The proposal has not provided a revised landscape plan.
- c) The proposal has not provided revised shadow diagrams/architectural plans.
- d) The proposal has not provided a revised BASIX Certificate.