ASSESSMENT REPORT

SYDNEY SOUTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSSH-110 [DA 2022/0061]
PROPOSAL	Demolition of existing structures, remediation and construction of an 8 to 18 storey mixed use development comprising 5 buildings consisting of retail and commercial uses and 349 residential apartments over 3 basement levels
ADDRESS	Lot 30 DP 785238 - 9 Gloucester Road Hurstville
APPLICANT	GTB Hurstville Pty Ltd (c/o Sutherland Planning)
OWNER	GTB Hurstville Pty Ltd
DA LODGEMENT DATE	24 February 2022
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 & Cl 2.19(1) of *State Environmental Planning Policy (Planning Systems) 2021*: Development that has a capital investment value of more than $30 million
CIV	$164,644,165 (excluding GST)
CLAUSE 4.6 REQUESTS	Building Height – Cl 4.3(2) of the Georges River LEP 2021
KEY SEPP/LEP	SEPP 65 and Georges River LEP 2021
SUBMISSIONS – NUMBER (TOTAL & UNIQUE) & KEY ISSUES	Five (5) unique submissions raising concerns including traffic Impacts and parking, privacy and overlooking, loss of natural light, impact on view, construction management and impacts (including asbestos), building height, air quality and noise pollution, overdevelopment of the site, reduction in property value, visual impact, tree removal.
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural plans (March 2023), Statement of Environment Effects, Clause 4.6 for Height, SEPP 65 Design Report, Landscape Plans, Civil plans, Arborist's Report, Survey
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Refusal
DRAFT CONDITIONS	N/A
SCHEDULED MEETING DATE	18 September 2023
PLAN VERSION	March 2023
PREPARED BY	Kim Johnston (Consultant Planner)
DATE OF REPORT	5 September 2023

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EXECUTIVE SUMMARY

The proposal seeks consent for the demolition of existing structures, remediation of land and construction of an 8 to 18 storey mixed use development comprising 5 buildings consisting of retail and commercial uses and 349 residential apartments over 3 basement levels. The proposal involves a gross floor area of 36,761m² with a mix of residential and commerical floor space.

The proposed buildings range in height from 25.75 metres (Building E) to 63.75 metres (Building A), with Clause 4.6 request provided for exceedances to the maximum height limit, which varies across the site, for all of the proposed building the site. The basement levels contain 455 car parking spaces as well as bicycle, motorcycle and car share spaces. The proposal also includes publicly accessible open space, as well as communal open space for the residential apartments and pedestrian linkages.

The main components of the proposal include:

- Five (5) buildings, with three comprising mixed uses along the Forest Road frontage and the southern end of the Gloucester Road frontage and two residential flat buildings in the northern portion of the site along the northern end of Gloucester Road
- A central communal open space
- A through-site link connecting Forest and Gloucester Roads
- Retention of significant trees along Gloucester Road
- Active street frontages with ground floor commercial and retail uses along both street frontages with a minimum commercial FSR of 0.5:1 consistent with the LEP

The site is located on the corner of Gloucester and Forest Roads on the edge of the Hurstville City Centre, where there are a mix of uses which support the city centre. The site is located in close proximity to Hurstville railway station and has good access to a wide range of retail, commerical and medical services in Hurstville. The intersection of Forest and Gloucester Roads is characterised by dense street tree planting that is unique to the precinct, with an important part of the proposal being the retention of the majority of these trees along Gloucester Road.

Amendments to the development standards under the previous and current local environmental plan have been undertaken for the site spanning several years as well as a site-specific section in the DCP. The proposal is generally consistent with the concept plan arising from this strategic process, however, there are some inconsistencies which are discussed in this report.

The application has been notified in accordance with Council's Community Participation Plan and five (5) submissions were received, which are considered in this report. The application has also been referred to relevant external agencies as well as within Council to specialist officers, where various issues have been raised as oultined in this report.

A number of key issues have been identified in this assessment comprising:

- Building Height
- Architectural detailing and Facades
- Building Bulk and Scale
- Pedestrian Access and Street Activation
- Building Form - Setbacks and Street Wall Heights
- Building Separation

- Tree Removal and Retention and Landscaping
- Crime Prevention
- Communal Open Space and Deep Soil
- Waste Management
- Public Spaces
- Wind Impact
- Commercial Development
- Traffic, Access and Car Parking

The building height exceedances have been assessed in this report and it is considered that the height breaches cannot be supported. The urban design issues of building separation, building form and massing, setbacks and facades as well as pedestrian lobby areas and street activation have also not been adequately resolved by the amendments lodged in March 2023.

Concerns with the proposed landscaping including the lack of adequate deep soil areas given the site exceeds 1500 square metres as well as some safer by design issues are further issues which are considered to be unresolved. It is also considered that the proposal does not adequately consider sustainability measures for a development of this size.

Arising from a thorough consideration of the key issues, the following jurisdictional prerequisites to the grant of consent imposed by the following controls have not been satisfied by the proposal and therefore consent cannot be granted, including:

- Clause 30(2) of SEPP 65 where it has not been demonstrated that adequate regard has been given to the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria;
- Clause 6.10(2) of the GRLEP 2021 in that it is considered that the development does not exhibit design excellence; and
- Clause 6.11(3) of the GRLEP 2021 in that it is considered that the design of the development has not given adequate consideration to matters of environmental sustainability.

Following assessment of the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), the provisions of the relevant State environmental planning policies, in particular SEPP 65, the ADG, GRLEP 2021 and the *Hurstville Development Control Plan No 2* ('HDCP No 2'), it is considered that the proposal cannot be supported. The jurisdictional preconditions are fundamental issues which do not allow consent to be granted, while the key design elements of building separation, form, facades and setbacks result in the proposal being unable to be supported.

The application is recommended for refusal subject to the reasons contained at **Attachment A** of this report.

1. BACKGROUND

The site is located within the Hurstville City Centre, which is identified as a strategic centre within the *South District Plan*, prepared by the Greater Sydney Commission in March 2018. As the gateway to southern Sydney, it is a centre which has grown around a major transport interchange and contains retail, civic and medical land uses.

The site has been the subject of two (2) separate Planning Proposal's since 2015, which is considered further below. An urban design strategy for the Hurstville Centre was also prepared at the same time as the assessment of the Planning Proposal for the site, which is also outlined below as it provides context to the current controls for the site.

Hurstville City Centre Urban Design Strategy 2018 ('the City Centre Strategy')

Following the amalgamation of Hurstville and Kogarah Councils in May 2016, the Council engaged consultants SJB to prepare the *Hurstville City Centre Urban Design Strategy 2018* ('the City Centre Strategy') to review and update the existing urban design principles and development standards for the Hurstville City Centre. The City Centre Strategy was prepared in a separate process, but at a similar time, as the preparation and assessment of the Planning Proposal for this site. This Strategy was endorsed by Council at its meeting on 25 June 2018.

The site is located in the City West Transition Area (Precinct 7), known as Block 2D, in the City Centre Strategy, which provides a transition from the edge of the City Centre to the Western Bookend residential precinct. The Strategy states that there is currently no predominant character to this area which comprises a business park, due to the inconsistent setbacks, car parking and access to the rail line. The Strategy indicates that the site is able to step along the topography between the 60 metres height at Block 2C (to the west) and the lower height at Blocks 4 and 5 (to the east towards the centre).

The Strategy also notes that the area is well planted with mature street trees and creates a green gateway to the Centre when entering from King Georges Road. This also creates a visual barrier to the raised rail line along the southern edge of Forest Road.

The Strategy identifies that there are a number of current height controls that do not follow Built Form Principle 4 to transition in height in the City West transition zone from 60 metres at the Western Bookend to 23 metres at the Hospital site within the Civic Centre Precinct. Currently, the built form also does not provide a transition to surrounding residential areas to the north. The built form strategy proposes to retain the high density residential precincts at the Western Bookend, with density located to encourage high levels of public transport patronage to and from the Centre and building height in the residential bookends to accentuate the topography of the Centre. **Figure 1** illustrates the building height principles for the site.

The City Centre Strategy recommended amending the LEP to increase the height of sub-block 2D from 23 metres to 60 metres at the western end of the site, stepping down to 40 metres at the eastern end (**Figure 2**). The Strategy noted that the diagram in Figure 2 represented the recommended LEP height of building control as an extrusion of the amalgamated lot boundary and not a reflection of the compliant building envelope. The Strategy did not recommend any changes to the FSR from 3:1 in the then LEP controls.

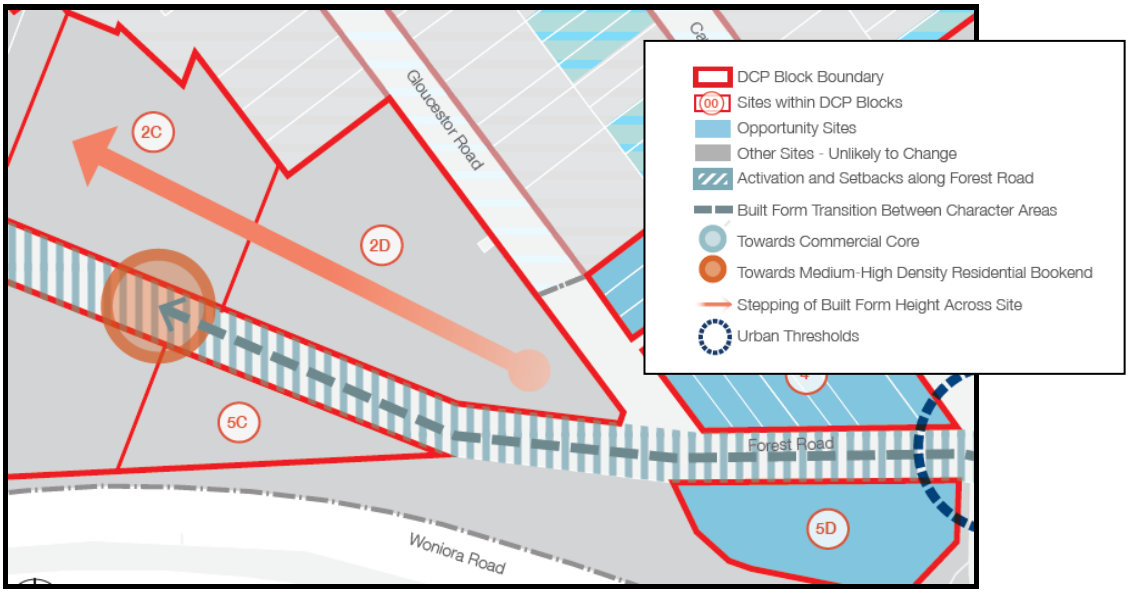

Figure 1: Built Form Strategy - Block 2 (*Source: Figure 5.33.1 of the City Centre Strategy*)

Figure 2: Proposed Controls under the Strategy (*Source: Figure 5.33.4 of the City Centre strategy)*

Planning Proposal (PP 2015/0005)

The first Planning Proposal (PP2015/0005) was initially lodged with Council on 9 October 2015, which sought to amend the *Hurstville Local Environmental Plan 2012* ('HLEP 2012') by increasing the relevant development standards. The original proposal and concept plan sought the following:

- 23 to 60 metre height (5-18 storeys)
- 4.5:1 FSR
- 450-475 residential apartments
- 1,700sqm commercial/retail floor space

- 300sqm community facility (subject to a future VPA offer)
- 1,000sqm publicly accessible park (subject to future VPA offer)
- Public through-site link (subject to a future VPA offer)

This original proposal was not supported by the St George Design Review Panel (DRP). In January 2016, revision 1 was submitted which sought to increase the commerical FSR, reduce the number of residential apartments to 347 and retain the other aspects. The DRP supported this proposal subject to the provision of sufficient deep soil and landscaping and the preparation of a site-specific DCP to regulate future development.

An amended planning proposal was lodged in May 2017 which increased the residential apartments to 400, retained the proposed height at 23 to 60 metres, the proposed FSR at 4.5:1, commerical floor space of 9,250sqm and the public open space and through site link. Public domain improvements were proposed through a VPA. Council raised some concerns about these amendments and in August 2017 Council advised the applicant it supported in principle a minimum 0.3:1 commercial/retail FSR. A further amended planning proposal was lodged in September 2017, however, was not supported by the DRP.

The 4th version of the planning proposal was lodged in February 2018 which included an extensive reconfiguration of the building envelope and footprint and the introduction of a 4 storey podium to Forest Road. The Planning Proposal was subsequently amended a number of times with variations to the requested floor space ratio and in particular the quantum of retail/commerical and residential gross floor area.

The February 2018 Planning Proposal sought the following changes to the development standards:

1. Increasing the maximum FSR from 3:1 to 4:1 (including a minimum non-residential FSR of 0.3:1); and
2. Increasing the maximum height from 23 metres to a range of heights between 23 metres, 30 metres, 40 metres, 50 metres and 60 metres.

A report was prepared to the Environment and Planning Committee meeting of Council on 13 August 2018, recommending endorsement of the Planning Proposal. This report stated that the site is located in a critical location which requires the proposed built form to perform a transition between medium and high density development. **Figure 3** illustrates the formal rhythm of the general adjoining built form as viewed from Gloucester Road. The darker red shading illustrates the heights required on the site to achieve an appropriate transition to the R3 zoned land on Gloucester Road, while the lighter pink shading represents the transitional form that responds to the higher density development on Forest Road to the rear.

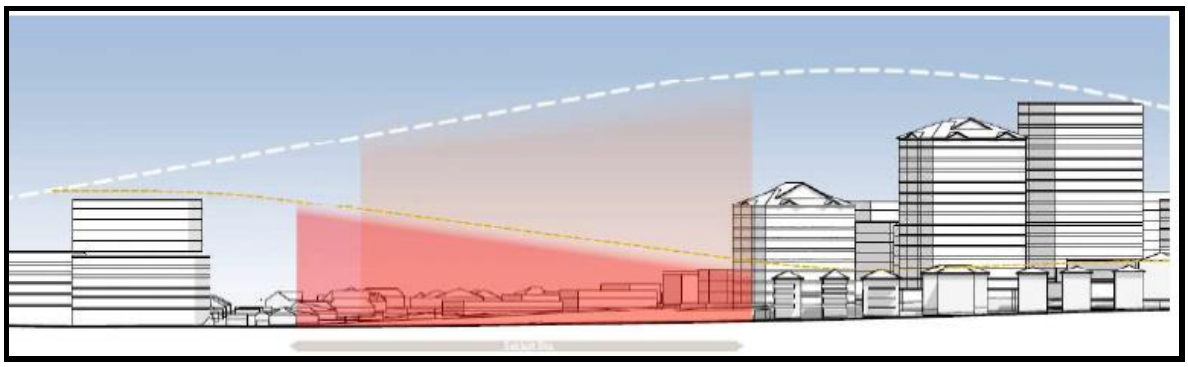

Figure 3: Gloucester Road Elevation showing Transition to Surrounding Context *(Source: Figure 29 of Council report, 13 August 2018)*

On 27 August 2018, the Council endorsed the Planning Proposal, however, increased the non-residential FSR from 0.3:1 to 0.5:1. Council's resolution contained a numerical error relating to the proposed height, referencing a height of 50m in the proposed height range instead of 55m. A Gateway Determination was received on 26 February 2019.

In May 2019, an amended planning proposal was lodged with a draft DCP amendment for the site, which sought the following proposed changes to the development standards:

1. Increasing the maximum FSR from 3:1 to 4:1; and
2. Increasing the maximum height from 23 metres to a range of heights between 23 metres, 30 metres, 40 metres, 55 metres and 60 metres; and
3. Minimum non-residential FSR of 0.5:1

The approximate yield for the site arising from the Planning Proposal consisted of:

- 400 residential dwellings
- 4,620m² of commercial premises primarily as street level retail and offices
- Ground level open space (2,500m²) supplemented by roof top communal areas
- Public domain improvements comprising adjoining footpath upgrades, additional setbacks, tree plantings and undergrounding of electricity

At its meeting on 24 June 2019, Council resolved to endorse an amended Planning Proposal and supporting documentation and also resolved to endorse proposed amendments to Amendment No. 11 to DCP No. 2 – Hurstville City Centre for the site for public exhibition. The amended documentation was forwarded to DPE on 12 July 2019, which was endorsed for public exhibition on 8 November 2019. Council subsequently sought an alteration to the Gateway Determination seeking an extension of 6 months to complete the proposal, which was granted by DPE on 28 November 2019. This Planning Proposal and draft DCP were publicly exhibited in January and February 2020.

Following the community consultation, a report was prepared to the 11 May 2020 meeting of the Environment and Planning Committee of Council, recommending that Council forward the planning proposal for gazettal to the Department of Planning and Environment. The concept plan for the site for endorsement is at **Figure 4**.

The Planning Proposal was recommended for endorsement due to:

- It is consistent with the overall maximum building height identified by the City Centre Strategy and retains the existing landscaped character of the City West Transition Area character precinct;
- It will provide approximately 400 new apartment dwellings, which is suitable for the site as it is located within the Hurstville Strategic Centre, close to jobs and public transport
- It will facilitate the provision of a publicly accessible pocket park towards the centre of the site on Gloucester Road, as well as a public pedestrian underpass through-site link which connects Forest and Gloucester Roads. The communal open space will be activated by retail uses at ground level. The proposal intends to transform the existing underutilised office park into an attractive new community meeting space.
- It will allow for the feasible redevelopment of redundant office facilities on a highly accessible, but underutilised, site for the purpose of a mixed use development given there is an approximate vacancy rate on the site of 77% and is located outside of the commerical core of the city centre. The proposal provides the opportunity to renew commercial activity with more suitable contemporary facilities that support the viability of Hurstville as a Strategic Centre.

- It aims to retain the distinctive landscaped character of the site through the retention of the Gloucester Road street trees and the existing clusters of mature trees on the Forest Road frontage.
- It will provide increased employment opportunities within the proposed commercial and retail floor space (approximately 4,620sqm) and improvements to housing choice and availability in close proximity to public transport and the Hurstville City Centre which offers retail and essential services.

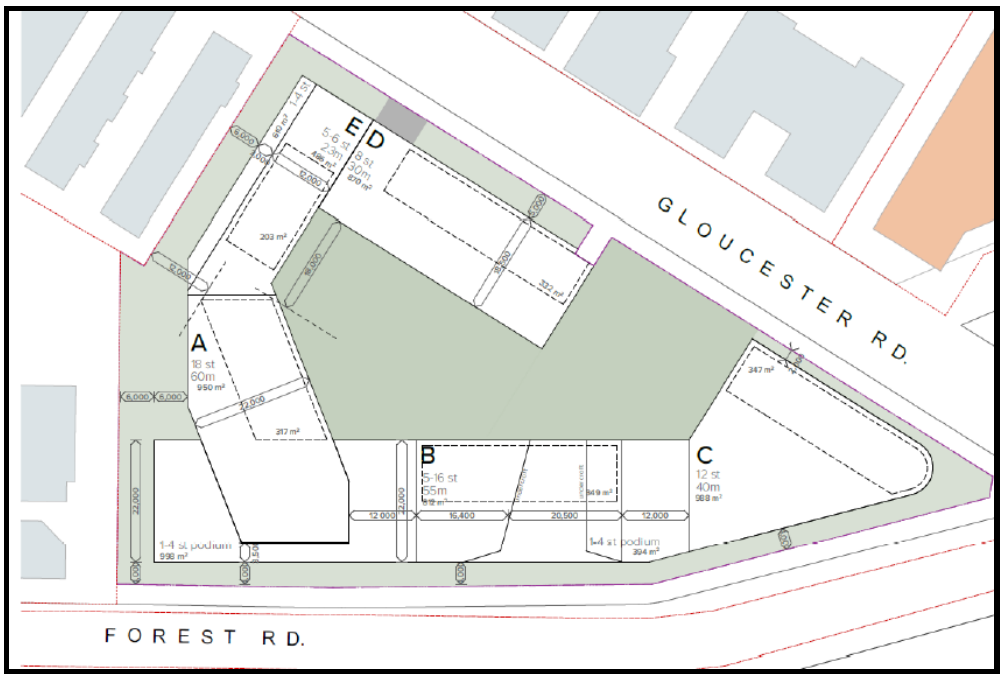

Figure 4: Concept Master Plan *(Source: Council report, 11 May 2020)*

On 12 February 2021, the HLEP 2012 was amended via Amendment 18 to replace the maximum FSR and height of buildings map for the site to reflect these proposed changes and Clause 4.4A(1B) which requires that the non-residential FSR is to be at least 0.5:1 for the site. A site specific section (Section 8.3) of the *Hurstville Development Control Plan No. 2* ('HDCP No 2') also became effective from 12 February 2021 (Amendment 11) upon gazettal of the LEP amendment, which remains relevant to this application. The relevant planning controls are considered in Section 4 of this Report.

Voluntary Planning Agreement

The Planning Proposal was also supported by a Voluntary Planning Agreement ('VPA') in which the developer offered to enter into the VPA to pay a monetary contribution of $3,619,308 to Council. This contribution is for the provision of public facilities, including public infrastructure, amenities and services, public domain and public road infrastructure, and key traffic and road infrastructure in the Hurstville City Centre.

The VPA offer was reported to the Environment and Planning Committee Meeting on 11 June 2019 and Council accepted the VPA Offer at its Meeting on 24 June 2019. The contribution was to be paid within 28 days after the LEP Amendment took effect and is in addition to any development contributions under section 7.11, section 7.12 or section 7.24 of the EP&A Act to the development. The VPA was executed on 25 September 2020 and it is understood that the contribution has been paid to Council.

Planning Proposal (PP 2021/7338)

On 8 October 2021, the HLEP 2012 was repealed and replaced by the *Georges River Local Environmental Plan 2021* ('the GRLEP 2021'). Upon gazettal of the GRLEP 2021, *residential flat development* was a prohibited use on the site, which made the proposed residential flat buildings in the northern section of the site (Buildings D and E) prohibited. Furthermore, Clause 6.13(3) of the GRLEP 2021 prohibited the use of the ground floor for residential or tourist accommodation.

Consequently, a second Planning Proposal (PP2021/7338) was lodged in December 2021 seeking to amend Schedule 1 of the GRLEP 2021 to provide RFBs as an additional permitted use and also excluding the application of Clause 6.13 to part of the subject site which prevents ground floor residential apartments in the MU1 mixed use zone (B4 at the time of lodgement). Therefore, this Development Application initially relied on the second planning proposal for permissibility, which was placed on public exhibition from 31 August 2022 to 28 September 2022.

On 25 November 2022, the GRLEP 2021 was amended via Amendment 5, to include Clause 14 in Schedule 1 (additional permitted uses for particular land) pursuant to Clause 2.5 of the LEP, allowing use of the northern portion of the subject site for the purposes of a *residential flat building* with development consent. This LEP amendment also inserted Clause 6.13(5A) of the GRLEP 2021 which provides that the restriction on the use of the ground floor of a building that faces a street to be used for the purposes of residential or tourist and visitor accommodation does not apply to the northern section of the subject site (in accordance with the mapping in Schedule 1 - additional permitted uses map).

Further amendments to the GRLEP 2021 were made on 26 April 2023 when the employment zones reforms were gazetted, with the site being included in the MU1 Mixed Use zone. This has not impacted on the permissibility of the application. Accordingly, the proposed development is now wholly permissible on the site.

A Pre-Lodgement Meeting was held in 2015 (PRE2015/0027), however, there were no formal pre-lodgement notes issued and the plans showed only towers, with no specific detailing.

2. THE SITE AND LOCALITY

2.1 The Site

The site is legally described as Lot 30 in DP 785238 and is known as No 9 Gloucester Road, Hurstville ('the site'). The site is located on the corner of Gloucester and Forest Roads on the western edge of the Hurstville City Centre. Hurstville railway station is approximately 470 metres to the east of the site and King Georges Road, the main arterial road in the area, is located approximately 400 metres to the west of the site. The location of the site is illustrated in **Figure 5**.

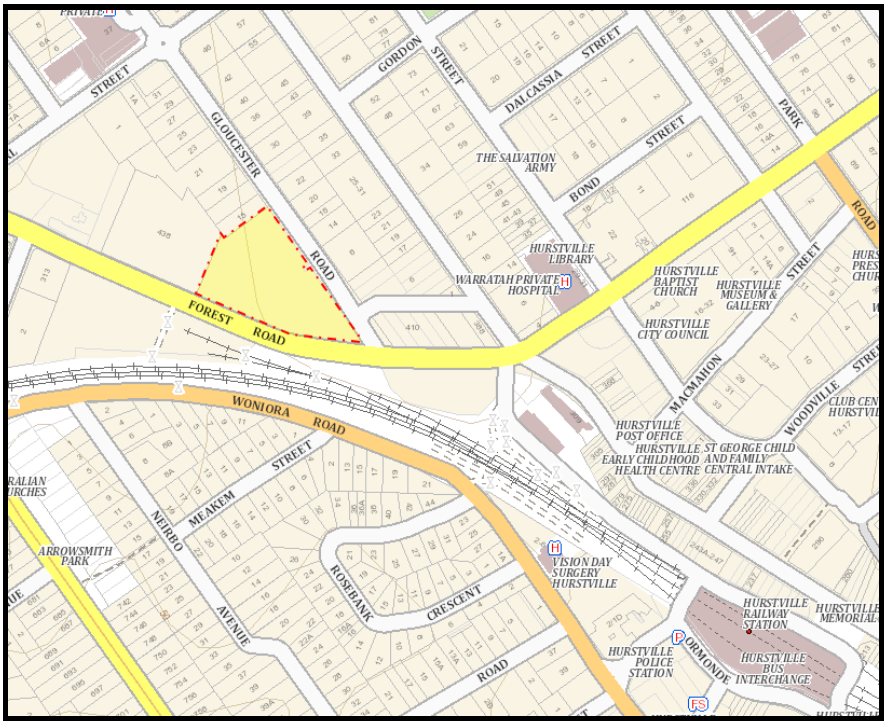

Figure 5: Site Location (*Source: SIX Maps)*

The site currently contains three (3) large commercial buildings in a business park style as well as a small building used as squash courts. One level of basement car parking is provided under the existing commercial buildings and perimeter garden beds occupy landscaped areas in between and around the buildings. The site has one vehicle entry point with boom gates from Gloucester Road which provides entry to two basement car parks. The existing development on the site is illustrated in **Figures 6** to **11**.

The site is a triangular shape formed by the angle of the intersecting adjoining roads comprising Forest and Gloucester Roads. These roads exhibit different street characters, with Forest Road comprising higher density residential development and carries significantly more traffic being a classified road. Forest Road also contains retail and commercial uses at ground level. Gloucester Road is lower in scale, comprising 3 to 4 storey walk up apartment buildings with less traffic and is predominantly residential.

Figure 6: Configuration of the existing buildings on the site (Source: SIX Maps)

Figure 7: The site from the corner of Gloucester and Forest Roads (*Source: Google Maps)*

Figure 8: The existing vehicle access to the site (*Source: Google Maps*)

Figure 9: Existing development on the site along Gloucester Road (*Source: KJ Planning*)

Figure 10: Existing development on the site along Forest Road (*Source: KJ Planning*)

Figure 11: Existing development on the site at the corner of Forest & Gloucester Road (*Source: KJ Planning*)

The site is located on the edge of the city centre between the medium to high density residential development and the high street precinct of the city centre. The railway line is located to the south of the site, with Hurstville railway station located approximately 480 metres to the east of the site. There is an established footpath network in the vicinity of the site allowing good access to the Hurstville city centre.

The site slopes toward the eastern corner of the site at the intersection of Forest Road and Gloucester Road which occurs at a low point in the immediate area. The highest point of the site is at the western end of the Forest Road frontage at RL of 65.4m AHD, with a fall of approximately 4.9m to the south-eastern corner of the site (corner of Forest and Gloucester roads, at RL 60.5m AHD). The site has a cross fall from Forest Road to Gloucester Road at the north-western end of the site of approximately 4 metres. Gloucester Road generally slopes down from west to the east with an approximately fall of 1.81 metres.

The site is characterised by large trees to both street frontages which are distinctive in the area. The Gloucester Road frontage comprises London Plane trees which provide a tunnel-like streetscape of trees, where there are also large trees along the Forest Road frontage. There are also areas of existing landscaping within the site, within planter boxes as well as edge planting on the basement podium.

There are a number of easements on the site for electricity (to the substation on the site), support and a right of way from Gloucester Road. There is also a sewer main along the northern boundary adjoining No 15 Gloucester Road as well as traversing the site in the southern corner of the site (from Forest to Gloucester Road).

2.2 The Locality

The site is located in an area of mixed uses, arising from its location within the edge area to the Hurstville City Centre. Development along Gloucester Road in the vicinity of the site generally comprises medium density residential development consisting of 3 to 4 storey walk up residential apartment buildings. Further along Gloucester Road is a private hospital.

Forest Road is generally comprised of commerical uses along the southern side adjoining the railway land and high density residential development along the northern side of the road adjoining the site. There are also large open spaces located close to the site with Hurstville Oval located approximately 300 metres to the north and Peakhurst Park, 700 metres to the north west.

Hurstville City Centre to the northeast of the site comprises a mix of uses and building styles and heights, including high rise mixed use developments, civic uses and medical uses, as illustrated in **Figure 12**.

The adjoining development to the north comprises a three storey residential apartment building known as No 15 Gloucester Road (**Figure 13**). Development adjoining the site to the east at the intersection of Gloucester Road and Forest Road, comprises a service station (**Figure 14**).

The railway corridor, Forest road and commercial uses exist to the south of the site (**Figure 15**). The adjoining development to the west comprises a multi-storey mixed-use building including ground-floor retail and café, known as No 436 Forest Road (**Figure 16**). Development beyond this adjoining site comprises a high rise residential tower development illustrated in **Figure 17**. This variety of adjoining and surrounding uses highlights the site's location in a transition area between the city centre and the residential areas.

Figure 12: Hurstville City Centre *(Source: KJ Planning)*

Figure 13: Adjoining development to the north (*Source: KJ Planning)*

Figure 14: Existing development to the east (*Source: Google Maps*)

Figure 15: Development to the south on the opposite side of Forest Road *(Source: KJ Planning)*

Figure 16: Adjoining development to the northwest at No 436 Forest Road (*Source: KJ Planning)*

Figure 17: Development beyond No 436 Forest Road (*Source: KJ Planning)*

3. THE PROPOSAL

3.1 The Proposal

The proposal involves the demolition of all of the existing structures on the site, remediation of the land and the construction of an 8 to 18 storey mixed use development comprising five (5) buildings consisting of retail and office space and 349 residential apartments over 3 basement levels.

The main components of the proposal include:

- Demolition of the existing structures on the site is proposed which comprises a total of three (3) buildings consisting of two (2) and four (4) storey commerical buildings and a detached single storey building.

- Construction of a mixed use development consisting of five (5) buildings comprising Buildings A, B, C and Building D and E over a common, three level basement. Three of the buildings have a retail/commercial component on the ground or lower levels resulting in active street frontages along the Forest Road frontage as well as the corner of Forest and Gloucester Roads which warps around the public and communal open space areas on the site.

  The proposed development comprises the following components:

  - Basement levels – Three (3) levels of basement comprising car parking, plant equipment areas and storage for the development. The basement entry and egress is provided from Gloucester Road between buildings D and E, with basement level 1 providing a loading dock.

  - Building A - is located along the Forest Road frontage at the western end of the site and comprises a 4 storey street wall, and a tower above with total height of 18 storeys. The ground level contains a retail tenancy facing Forest Road (L1), with apartments located above with a roof top common open space. The building has a lower portion to the west which adjoins No 436 Forest Road.

  - Building B – is centrally located along the Forest Road frontage of the site and has a 4 storey street wall including a through-site link with tower above to a total height of 16 storeys. The ground level contains a retail tenancy facing Forest Road (L1), with apartments located above and a roof top common open space.

  - Building C - located on the corner of Forest and Gloucester Roads (southern corner) with a 4 storey street wall and mid-rise building above with a total height of 11 storeys. The ground level contains five (5) retail tenancies, the first and second floors contain commercial floor space, with apartments located on the levels above. A roof top common open space is also provided for this building.

  - Building D – Building D is located centrally along the Gloucester Road frontage of the site and is an 8 storey residential flat building with a roof top common open space.

- Building E is located along the north-western side of the site and is a 6 storey residential flat building which is attached to Building D above Level 1. It also has a roof top common open space.

The proposed buildings are provided with residential lobby areas that are accessed directly from the surrounding streets with the exception of Building C, which is accessed from the urban common area. Building D also has pedestrian access to the central landscaped podium areas. Direct pedestrian access is provided to all ground floor units in Buildings D and E.

Buildings A, B and C are proposed to contain retail and commerical tenancies on the ground and first level which are likely to comprise convenience goods, food, beverage, cafes and eating out, retail services, and other non-retail shopfronts which serve the local demand of residents and workers. Consent is not sought within this application for the specific use and fit out of each tenancy, as this will be the subject of future fit out and use applications. No formal consent is sought for signage within this application which will be addressed in a subsequent development application.

- Public domain and communal open space – three areas of open space are proposed on the site including the deep soil area along the western boundary of the site, the 'urban common' area in the north east corner of the site adjoining the retail and commercial areas within Building C and the central communal open space area known as the 'Community Green' within the space enclosed by Buildings A, B and D/E. The Urban Common area is to be publicly accessible, while the Community Green is for the use of the residential apartments only. Roof top communal areas are also provide for each building for the exclusive use of residents.

- Through site link connecting Forest and Gloucester Roads is proposed between Buildings B and C and Building C and D.

- Removal of trees and compensatory planting, with the retention of significant street trees along Gloucester Street.

- Excavation - The finished floor level (FFL) of the lowest basement level is at RL 54.3m AHD, with excavation proposed to extend to approximately 10 metres below the existing ground level. The proposed basement is to be set-back approximately 2m to 6m from the site boundaries, with these areas being deep soil zones. Deep planting landscaped areas are proposed along parts of the western and north-eastern site boundaries within the soil retention zones.

The proposal is illustrated in **Figures 18, 19 and 20** and a summary of the key development data is oultined in **Table 1**.

Table 1: Development Data

CONTROL	PROPOSAL
Site area	9,240m²
GFA	• Residential - 32,141m² • Commercial/Retail - 4,620 m² • Total - 36,761m²
FSR	• Residential – 3.47:1 • Commercial/Retail – 0.5:1 • Total – 3.978:1
Apartment mix	• 74 x 1 bedroom apartments (21.2%) • 217 x 2 bedroom apartments (62.2%) • 58 x 3 bedroom apartments (16.6%) • Includes 36 adaptable apartments (10.3%)
Clause 4.6 Requests	Cl 4.3(2) - Height for Buildings: • Building A: 63.75m – exceedance - 3.75 metres (6.25%) • Building B: 59.05m – exceedance - 4.05 metres (7.3%) • Building C: 44.8m – exceedance – 4.8 metres (12%) • Building D: 32.97m – exceedance – 2.97 metres (9.9%) • Building E: 25.75m – exceedance – 2.75 metres (11.95%)
No of apartments	**349 residential apartments** comprising: Building A: 131 (32 x 1 bed, 82 x 2 bed, 17 x 3 bed) Building B: 81 (15 x 1 bed, 54 x 2 bed, 12 x 3 bed) Building C: 58 (12 x 1 bed, 29 x 2 bed, 17 x 3 bed) Building D: 50 (12 x 1 bed, 32 x 2 bed, 6 x 3 bed) Building E: 29 (3 x 1 bed, 20 x 2 bed, 6 x 3 bed)
Max Height	Building A: 18 Storeys - 63.75m - Retail (L1), Residential (L2-L18) & L9 roof garden Building B: 16 Storeys - 59.05m - Retail (L1), Residential (L2-L16) & L7 roof garden Building C: 11 Storeys - 44.8m **-** Commercial (L1-L2), Residential (L3 - L10) & L11 roof garden Building D: 8 Storeys – 32.97m - Residential (L8 roof garden) Building E: 6 Storeys – 25.75m - Residential (L6 roof garden)
Deep Soil area	687m² (7.4% of site area)

Communal open space	4,187m² (45.3% of site area) (2,843m² - 67.9% achieves 2 hrs solar access)
Car Parking spaces	• 455 spaces comprising: – 320 residential spaces (including 36 adaptable) – 66 residential visitors – 65 retail & commercial – Car share – 3 – 1 Car wash bay • 118 bicycle (residential) spaces • 20 bicycle (commercial/retail) spaces • 15 motorbike spaces

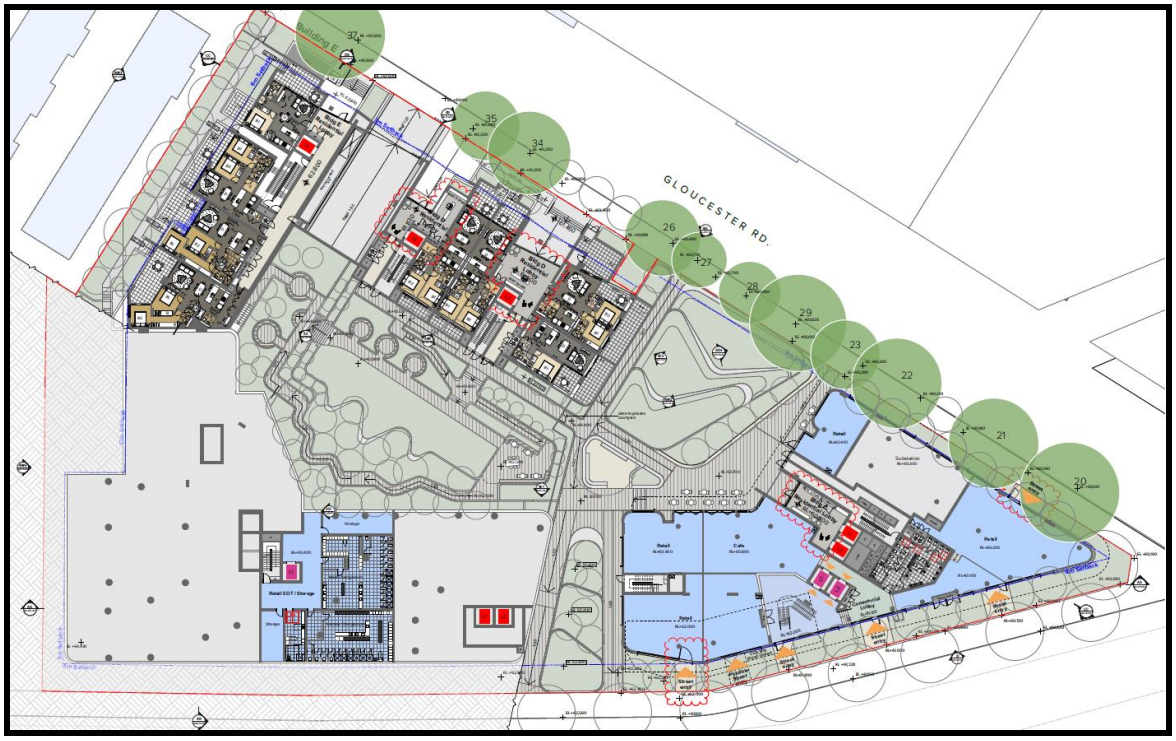

Figure 18: Proposed Development - Ground level *(Source: Turner, Dwg No DA110-008 Rev W)*

Figure 19: Proposed Development (montage) - from Forest Road looking north *(Source: Turner, Dwg DA910-001 Rev B)*

Figure 20: Proposed development (montage) from Gloucester Road looking southwest *(Source: Turner, Dwg DA910-003 Rev B)*

3.2 Progress of the Application

The development application was lodged on 24 February 2022. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application (**Table 2**).

Table 2: Chronology of the DA

DATE	EVENT	COMMENTS
2022		
24 February	DA lodged	DA 2022/0061
17 – 31 March	Notification of DA	5 submissions received
9 March	Referral to external agencies	TfNSW, Ausgrid, Sydney Trains (via TfNSW) & Sydney Airport Corporation
22 March	Panel Kick of briefing	Key issues identified included: • SEPP 65/ADG compliance to be verified • Land use permissibility and status of the planning proposal • Bulk and scale and tree retention • Waste management (Council requirements)
28 March	TfNSW referral received	Raised concerns with the Traffic Impact Assessment and requested an amended report.
23 August	Panel Briefing	Council's briefing report stated that additional/amended information was required. Key issues discussed included: • PP received DPE gateway determination on 5 August 2022 • Access and parking - parking numbers, dimensions and compliance with AS2890 • TfNSW requires additional SIDRA modelling • Contamination – DSI is required • Waste management to Council requirements • Height breach – explore reduction in lift overruns and other height exceedances • Need for WCs associated with communal open space • ADG compliance – more detail required to clarify setbacks, separation, deep soil, dimensions etc • Location of substation is an issue and should be integrated into the development and minimise impact on street frontage. Determination date to be confirmed following gazettal of the LEP amendment.
31 August	**Request for Information (RFI) from Council**	This correspondence required certain matters to be addressed by the applicant, which is considered further below.
2 September	**Amended/additional information lodged**	Public Art Strategy lodged on portal
31 October	**Amended/additional information lodged**	DSI and RAP received

19 November	Referral to TfNSW	Amended/additional information provided to TfNSW by applicant.
21 December	**Amended/additional information lodged**	• Updated level changes in ground floor to relate to street levels • Lobbies relocated/made more visible • Dimensions and setbacks added in plans as requested • Elevations updated in response to bulk, scale and architectural expression concerns • Carpark reviewed and minor design refinements • Additional information added as requested including sections through ramp, loading dock and relationship between apartments and public walkways • Accessible toilets added to all rooftops • Waste management strategy clarified • Traffic strategy clarified • GFA updated and justified by surveyor • Various amendments to the landscape package to address Council feedback. Amended architectural and landscape plans provided as well as a response to urban design concerns, GFA verification, traffic and parking response, amended Waste management plan, Arborist's report and Landscape architect letter.
2023		
23 March	**Amended plans lodged**	Amended architectural and landscape plans, amended waste management plan and a response to urban design issues provided.
6 June	Panel briefing	Key issues discussed: • Council still resolving Cl 4.6 and urban design issues to reconcile with DCP and LEP controls • Council's urban designer raised concerns with original DA including setbacks, building height, substation location and site access points - amended plans not fully addressed • Traffic and parking issues considered resolved, onsite waste collection requires further consideration • Applicant further addressing impact on trees and deep soil. • Part of development elevated to address localised flooding • Council has no current PP or master plan for the area around the site • Updated plans submitted on 23 March 2023; still pending internal referrals (including urban designer – comments in briefing note based on earlier plans and PP) The Panel noted: • Council does not have a DRP; could engage urban designer for peer review

		• Concerns with exceeding height (all buildings rely on Cl 4.6) given recent PP, site-specific DCP, surrounding context, urban design comments • A full ADG assessment is required • Agency referrals have been completed • Internal referrals - 3 wks; re-notification not required • Assessment report to be based on March 2023 plans, any further amendments to address issues should not delay determination (without further consulting the Panel). Determination date – end July/August 2023
14 June	LEC appeal lodged	Class 1 application lodged (No 2023/189809) – *GTB Hurstville Pty Ltd v Georges River Council.*

The request for information letter dated 31 August 2022 from Council required a number of significant matters to be addressed by the applicant. These matters are considered in **Table 3**.

Table 3: Consideration of RFI Matters

MATTER	COMMENT	RESOLVED
1. Permissibility	The proposal initially did not comply with Cl 6.13 of the GRLEP 2021, however, this has been resolved via the LEP amendment permitting RFBs of Buildings D & E along Gloucester Road.	Yes
2. Urban design	There were a number of significant urban design issues raised by Council's Urban Design Officer. These issues are fundamental to the application and are considered in further detail in the key issues section of this report.	**No**
3. Building Height	The height exceedance should be minimised as much as possible.	Refer to Cl 4.6
4. Additional details & clarification of information	Various details and dimensions were initially not provided • Insufficient dimensions - boundary setbacks, balconies, basement setbacks required • Car parking spaces to be numbered, dimensioned and specific use identified • Storage spaces - compliance with ADG assigned to each use/unit for confirm. • Clearly identify waste storage area and bulky waste allocated to each building. • Bicycle parking for office, retail and residential (Cl 5.4.3.3 of GRDCP 2021 - 138 bicycle spaces required, only 130 provided. • Provide breakdown and nominate all storage areas in basement for residential units. • Accessible toilets provided for all roof top communal areas per building and included in GFA and BBQ areas and any shading/awning areas shown.	Yes

	• Amended GFA calculations are to be provided confirming compliance achieved with Cl 4.4 of GRLEP 2021. • Details of mechanical ventilation plant and equipment and associated ducting up and through building provided (especially exhausts required to be integrated into design).	
5. Public Art	The requirement for public art to be provided pursuant to Cl 6.1.4(e) of the HDCP No 2. Public art is now proposed in three (3) locations as oultined in the HDCP No 2 assessment.	Yes
6. Waste Management	Insufficient area for waste storage has been provided.	**No**
7. Traffic & Access	The following concerns were raised: • Concerns with Basement levels including small car spaces for resident only parking is unacceptable as such spaces are only acceptable where there is a choice a significant number of small and standard sized parking spaces (such as shopping centres). A lack of aisle and parking space dimensions and iinconsistencies in stated and drawn car parking spaces on the plans for some residential and residential tandem car spaces further concerns. • Resident visitor spaces proposed on Basement 2 to be relocated to Basement 1 (highest level) and 27 retail/commercial spaces be relocated to basement 2. • Concerns with Basement 1 including parking space behind the loading dock, the vehicular access ramp is an unsuitable design and inconsistency between the civil and architectural plans. The loading dock head clearance is unclear and is required to be 4.5m for HRV access. • Comments by TfNSW **–** concerns raised by TfNSW are required to be addressed. These concerns have been addressed and are further discussed in the key issues section.	Yes
8. TfNSW	TfNSW raised several concerns regarding road safety, SIDRA Network Modelling and freight and servicing. These concerns have been addressed and are further discussed in the key issues section.	Yes
9. Access driveway to Development	The applicant is to submit a profile (longitudinal section) demonstrating access clearance by the B85 Design Vehicle (85% percentile vehicle in accordance with AS2890.1 2004)" for the entry. This section has been provided and Council's Public Domain Engineer raises no objections to the proposal subject to recommended consent conditions.	Yes
10. Landscaping requirements	Additional information including tree root mapping, a tree protection plan and amended landscape plan	**No**

	with adequate podium soil depths are required. These concerns have been addressed and are further discussed in the key issues section.	
11. Land Contamination	A Detailed Site Investigation report must be prepared and if required a Remedial Action Plan also to be provided. These have been provided and are satisfactory subject to relevant consent conditions.	Yes
12. Submissions & Concerns	The community submissions are considered in Section 5.3 of this report.	Refer to Section 5.3
13. Surveyor's Certificate	A surveyor's certificate that outlines the residential and non-residential floor area for the purpose of calculating the gross floor area is required. This survey has now been provided.	Yes
14. External & Internal Referrals	Various internal and external referrals remain outstanding. The majority of these have now been addressed with the exception of the waste, landscaping and urban design issues. These concerns have been addressed and are further discussed in the key issues section.	**No**

4. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. These matters as are of relevance to the development application include the following:

(a) the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations
(i) any environmental planning instrument, and
(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
(iii) any development control plan, and
(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),
that apply to the land to which the development application relates,
(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,
(c) the suitability of the site for the development,
(d) any submissions made in accordance with this Act or the regulations,
(e) the public interest.

These matters are further considered below.

It is noted that the proposal is not Integrated Development pursuant to Section 4.46 of the EP&A Act.

4.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Georges River Local Environmental Plan 2021*
- *Draft Remediation of Land SEPP*
- *Hurstville Development Control Plan No 2 – Amendment 12 ('HDCP No 2')*

It is noted that *State Environmental Planning Policy (Industry and Employment) 2021* does not apply to the application as the applicant has advised that signage does not form part of the proposal. Accordingly, a condition on any consent granted will require a further application for any signage that is not exempt or complying development.

A summary of the key matters for consideration arising from these Environmental Planning Instruments and Development Control Plans are outlined in **Table 4** and considered in more detail below. The jurisdictional preconditions to the grant of consent are in bold and have been satisfied.

Table 4: Summary of Applicable Environmental Planning Instruments

EPI	MATTERS FOR CONSIDERATION	COMPLY
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises development with a CIV of more than $30 million.	Yes
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas • Section 2.7 – clearing that does not require permit or approval Chapter 6: Water Catchment (Georges River Catchment) • Section 6.1 – land to which chapter applies • Section 6.6 – Water quality and quantity • Section 6.7 – aquatic ecology • Section 6.8 – flooding	Yes Yes Yes Yes Yes Yes

	• Section 6.9 – Recreation and public access • Section 6.10 – Total catchment management	Yes Yes
BASIX SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Yes
SEPP 65	• **Clause 30(2)** - Design Quality Principles - The proposal is contrary to several of the design quality principles and the proposal is contrary to the ADG requirements for public domain interface, deep soil zone, visual privacy, pedestrian access and entries, apartment size and layout, private open space and balconies acoustic privacy, facades, planting on structures and waste management.	**No**
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land • **Section 4.6 -** Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure • Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. • Section 2.98 – Development adjacent to rail corridors • Section 2.99 – Excavation in, above, below or adjacent to rail corridors • Section 2.100 – Impact of rail noise or vibration on non-rail development • **Section 2.119** – Development with frontage to classified road • Section 2.120 – Impact of road noise or vibration on non-road development • Section 2.122 - Traffic-generating development	Yes
Proposed Instruments	No compliance issues identified.	Yes
Georges River LEP 2021	• Clause 1.2 – Aims of plan • Clause 2.3 – Permissibility and zone objectives • Clause 2.5 – Additional Permitted uses (Buildings D & E) • Clause 2.7 – Demolition permissible • Clause 4.3(2) – Maximum building height • Clause 4.4(2) – Maximum FSR • Clause 4.4B(4)(a) – Minimum non-residential FSR • Clause 5.21 – Flood planning • Clause 6.2 – Excavation • Clause 6.3 – Stormwater Management • **Clause 6.7** – Airspace Operations • **Clause 6.9** – Essential Services • **Clause 6.10** – Design Excellence • **Clause 6.11** – Environmental Sustainability • **Clause 6.13 –** Development in Zones E1 and MU1	**No** Yes Yes Yes **No** Yes Yes Yes Yes Yes Yes Yes **No** **No** Yes

Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Planning Systems) 2021

The proposal is *regionally significant development* pursuant to Section 2.19(1) of Chapter 2 (State and Regional Development) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development that has a capital investment value of more than $30 million. Accordingly, the Sydney South Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 ('Biodiversity & Conservation SEPP') provides controls for various environmental issues, with Chapters 2 and 6 the relevant chapters for the current application.

Chapter 2: Vegetation in non-rural areas

The aims of this Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. Pursuant to Section 2.7, a permit or approval to clear vegetation is not required under this Chapter if it is clearing of a kind that is authorised under the Local Land Services Act 2013, section 60O or Part 5B.

Any tree clearing proposed in this application is covered by this exemption as it will be authorised by a development consent under Part 4 of the EP&A Act pursuant to Section 60O(a)(i) of the *Local Land Services Act 2013*. There are elven (11) trees proposed to be removed in this application, which are supported by an Arborists report, and which is considered further in the key issues section of this report. The proposal is consistent with Chapter 2 of this Policy.

Chapter 6: Water catchments

This Chapter applies to land in various catchments, including the Gerges River Catchment (s6.1(c)), with the site located within this catchment. Part 6.2 (development in regulated catchments) is relevant to the proposal, which is considered below. The remaining Parts of the Chapter do not apply to the site. The relevant sections of the SEPP to the proposal include the following:

(a) *Section 6.6: Water quality and quantity* – In deciding whether to grant development consent to development, the consent authority must consider the following—

a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
b) whether the development will have an adverse impact on water flow in a natural waterbody,
c) whether the development will increase the amount of stormwater run-off from a site,
d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,
e) the impact of the development on the level and quality of the water table,
f) the cumulative environmental impact of the development on the regulated catchment,
g) whether the development makes adequate provision to protect the quality and quantity of ground water.

It is considered that the proposed works will have a neutral impact on the water quality entering the Georges River given the stormwater and construction management arrangements proposed. There will be no significant increase in stormwater runoff from the site arising from the proposed works given the proposed stormwater management on the site and the proposal will allow for some stormwater infiltration on the site. It is also considered that the proposal will not adversely impact on groundwater.

Section 6.6(2) requires that development consent **must not be granted** unless the consent authority is satisfied the development ensures the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial and the impact on water flow in a natural waterbody will be minimised. The proposal will result in a neutral impact on the water quality entering the Georges River and there will be no impact on the water flow into a natural waterbody. Accordingly, this precondition has been satisfied.

(b) *Section 6.7: Aquatic ecology* - In deciding whether to grant development consent to development, the consent authority must consider the following—

a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,
b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—
(i) a controlled activity approval under the Water Management Act 2000, or
(ii) a permit under the Fisheries Management Act 1994,
c) whether the development will minimise or avoid—
(i) the erosion of land abutting a natural waterbody, or
(ii) the sedimentation of a natural waterbody,
d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,
(i) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,
(ii) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.

It is considered that there will be no impacts arising from the proposal on any terrestrial, aquatic or migratory animals or vegetation given the works are located within an established urban lot. There is also no clearing of riparian vegetation proposed and no permits under other legislation is required. The proposal will not result in the erosion of land adjoining the Georges River or result in any additional sedimentation given the stormwater will be appropriately managed on the site.

There will be no impacts to wetlands given there are none located on or near the site and there will be no impacts to aquatic ecology arising from the proposal. The site does not adjoin a natural waterbody and therefore no additional measures are required.

Section 6.7(2) requires that consent **must not be granted** to development unless the consent authority is satisfied of the following—

a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,

b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,
c) if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,
d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,
e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.

In this case, there will be no adverse impacts arising from the proposal on terrestrial, aquatic or migratory animals or vegetation, there will be no impacts to aquatic reserves and no approvals are required. The site does not adjoin a natural waterbody and therefore there will be no impacts arising from the proposal and there will be no impacts to wetlands. Accordingly, this precondition has been satisfied.

(c) *Section 6.8: Flooding* – In deciding whether to grant development consent to development, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems. The site is affected by flooding, however, there are no wetlands or other riverine ecosystems in close proximity to the site.

Development consent **must not be granted** to development on flood liable land unless the consent authority is satisfied the development will not—

a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or
b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.

There will be no adverse impacts to natural waterbodies or wetlands arising from the site being inundated by floodwater. Accordingly, this precondition has been satisfied.

(d) *Section 6.9: Recreation and public access* – In deciding whether to grant development consent to development, the consent authority must consider the likely impact of the development on recreational land uses in the regulated catchment, and whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.

In this case, there will be no adverse impacts to recreational land uses arising from the proposal and there will no impact on existing public access to and around the foreshore resulting from the proposal.

Development consent **must not be granted** to development unless the consent authority is satisfied of the following—

a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,
b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,

c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.

There will be no adverse impacts to public access to and around the foreshore resulting from the proposal. Accordingly, this precondition has been satisfied.

(e) *Section 6.10: Total catchment management* - In deciding whether to grant development consent to development, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact. In this case, it is considered that there will not be any adverse environmental impacts and therefore consultation is unnecessary.

Therefore, the proposal is considered to be consistent with Chapter 6 of the Policy. The proposal is consistent with the Biodiversity and Conservation SEPP.

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

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No 1252504M prepared by Greenview Consulting Pty Ltd dated 2 December 2021 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to relevant conditions of consent where required.

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

State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development ('SEPP 65') aims to improve the design quality of residential apartment development. SEPP 65 applies to the proposal as it involves a new building comprising at least 3 storeys and 4 or more dwellings (Cl 4(1)).

Clause 6A of the Policy states that there are certain matters in which any controls in a DCP have no effect, including visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage. This has been noted in the assessment of the DCP below.

Clause 28(2) of SEPP 65 requires the consent authority is to take into consideration the following matters in determining a development application for consent to carry out development to which this Policy applies:

(a) the advice (if any) obtained from the design review panel, and
(b) the design quality of the development when evaluated in accordance with the design quality principles, and
(c) the Apartment Design Guide.

In this case, while there is no design review panel for Georges River, the urban design issues were considered by the Design Review Panel at the Planning Proposal stage and the Council's Specialist Planner (Urban Design) has reviewed the proposal. The relevant matters raised by

Council's Urban Desing Officer are considered in the key issues section and consultation sections of this report.

Clause 30(1) of SEPP 65 states that a development application cannot be refused if it complies with the prescribed criteria for these matters as specified in the Apartment Design Guide for reasons relating to the following:

- Car parking – the proposal complies with the car parking requirements of the ADG;
- Minimum internal area for apartments – the proposal complies with the minimum internal apartment area requirements of the ADG; and
- Ceiling heights - the proposal complies with the minimum ceiling height requirements of the ADG;

The proposal generally satisfies these controls, as outlined in the ADG assessment below.

Pursuant to Clause 30(2) consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to:

(a) the design quality principles, and
(b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

As outlined below and in the key issues section of this report, the proposal has **not** adequately addressed these requirements and therefore consent cannot be granted as this is a jurisdictional precondition to the grant of consent which has not been satisfied.

Pursuant to Section 29(1) of the Regulations, a design verification is required to be submitted which explain how the development addresses the design quality principles, and the objectives in Parts 3 and 4 of the Apartment Design Guide. This statement has been provided on page 22 of the SEPP 65 Desing Report. .

Design Quality Principles

The design quality principles are contained in Schedule 1 of SEPP 65 and are considered in **Table 5**. The proposal is considered to be inconsistent with Principles 1 (Context and neighbourhood character), 2 (built form and scale), 5 (landscape), 7 (safety) and 9 (aesthetics), which are considered further in the key issues section of this report.

Table 5: SEPP 65 Design Quality Principles

DESIGN QUALITY PRINCIPLE	REQUIREMENT	PROPOSAL	COMPLY
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	The proposed development does not respond to its connect given the inconsistencies with the building separation and side setback controls. These building alignment controls assist in providing the character of the area since landscaping and open space can be provided	**No**

	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.	throughout the site when appropriate building separation and side setbacks are provided. The proposed facades of the building are also unsatisfactory and reduce the compatibility of the proposal with surrounding development given the bulk and scale of the proposed building forms is not sufficiently mitigated.	
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.	There are a number of concerns with the built form given the inconsistencies with setbacks, street frontage heights and building separation within the site. The lack of legibility of the residential entry lobbies is also unsatisfactory. It is also considered that the lack of articulation and manipulation of the building elements, particularly for the 'C shaped' area of Building A, B, D and E as well as the street façade of Building D, to reduce bulk and scale has not been provided. The proposed 8 storey wall height of Building D along Gloucester Road predominantly maintains the building edge and does not provide any substantial articulation which will dominate the surrounding residential context. Similarly, Building E also maintains the building edge and does not provide any substantial articulation. The building design including the bulk and massing are not acceptable in the context of the Site.	**No**

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.	The proposed density is considered satisfactory in that it complies with the controls.	Yes
Principle 4: Sustainability	Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	The proposal is satisfactory.	Yes
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.	The proposed landscape design is considered to be unsatisfactory. The lack of adequate podium planting depths reduces the available landscaping opportunities on the site given the large extent of podiums across the site. Furthermore, the proposed deep soil zone has not been provided in accordance with the DCP controls.	**No**
Principle 6: Amenity	Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive	The proposal provides for appropriate communal open space aeras and the proposed apartments achieve the ADG	Yes

	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.	requirements in relation to access to solar access and natural ventilation.	
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.	There are a number of concerns with the interface of the proposal with the public domain in relation to the deeply recessed entry areas and the lack of surveillance of the street entry points. The lifts also face away from the street which reduces overlooking of these areas from the site. There are also a number of concerns in the basement in relation to potential entrapment sites and concealment opportunities which are required to be resolved by design and not by security measures.	**No**
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.	The housing diversity provision is considered to be satisfactory and there are several areas of communal open space provided.	Yes
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	The architectural expression of the proposed development is considered to be unsatisfactory in that the proposed built form does not have good proportions or a balanced composition of elements.	**No**

	responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The proposal also does not provide a variety of materials, colours and the visual appearance of the proposal does not respond to the existing or future local context. Visual interest in the façades has not been provided by the development, with the proposed façades not contributing to the aesthetic appeal of the building or the character of the area. The repetition of the face brick exacerbates the bulk of the buildings to the street, with the proposed corbelling not having a high degree of legibility from the street.	

Apartment Design Guide

The *Apartment Design Guide* ('the ADG') aims to achieve better design and planning for residential apartment development, by providing benchmarks for designing and assessing these developments. The relevant controls and principles of the ADG are considered in the context of the proposal in **Attachment B.**

There are several inconsistencies of the proposal with the ADG controls which are outlined below and considered in the key issues section of this report. These inconsistencies are not supported and include:

Part 3: Siting the Development

- ***Part 3C: Public Domain Interface*** - There are limited opportunities for casual surveillance of the street from the lobbies due to the long, recessed nature of the corridors from the street and awkwardly shaped entries into the proposed buildings. Therefore, the proposal is considered to be contrary to Objective 3C-1 in that the transition between private and public domain is not achieved without compromising safety and security. The proposal is also inconsistent with the design guidance in that opportunities have not been provided for casual interaction between residents and the public domain on these areas given the small and narrow areas provided.

  The proposal is also considered to be contrary to Objective 3C-2 in that the amenity of the public domain is not enhanced since the substation and other service requirements are located along the street frontages and often adjoining entry areas.

- ***Part 3E: Deep Soil Zones*** - The site is larger than 1,500m² and therefore 15% of the site area should be provided as deep soil zone as oultined in the design guidance. This would require 1,386m² on the site which has not been provided. The proposal has also not provided the deep soil zone required by the DCP which is unsatisfactory.

- ***Part 3F: Visual Privacy -*** The proposed development does not provide the required building separation to both side boundaries for adjoining properties as well as within the site. In particular, Buildings A and E are not adequately setback from side boundaries while Buildings A (from Level 5) to B and Buildings B to C (from Level 2) are also inadequately separated within the site, resulting in non-compliance with the design criteria of Part 3F-1 of the ADG. The proposal is also inconsistent with the design guidance in that the proposal has minimal steps proposed in the buildings, in particular Building D which has no step in the building form. The design guidance that apartment buildings should have an increased separation distance of 3m when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping has not been provided for Building E to the side boundary.

- ***Part 3G: Pedestrian access and entries*** – the proposed residential entry lobbies are unsatisfactory in that they are not clearly visible or distinguishable as these areas are narrow and/or inset from the building edge and are often obstructed by building services. The proposal is considered to be contrary to Objective 3G-1 and the design guidance in that the proposed building entries and pedestrian access do not adequately connect to and address the public domain as the building entries are not clearly identifiable.

  The lift lobbies are not clearly visible from the street given they are recessed into the building and are awkward shaped areas with no surveillance of this area from the street and therefore the proposal is contrary to Objective 3G-2 in that the access, entries and pathways are not easy to identify. The design guidance that building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces has not been satisfied.

<u>Part 4: Designing the building</u>

- ***Part 4D: Apartment size and layout*** – The application does not provide sufficient information to assess whether the proposal satisfies the design criteria and design guidance for Part 4D. There are no room dimensions provided. In this way, the proposal is unsatisfactory.

- ***Part 4E: Private Open Space and balconies*** - The application does not provide sufficient information to assess whether the proposal satisfies the design criteria and design guidance for Part 4E. Dimensions for all balconies have not been provided. In this way, the proposal is unsatisfactory. Furthermore, the proposed wind measures outlined in the Wind Report have not been fully integrated into the proposal and in this way the proposal is inconsistent with the design guidance in that operable screens and similar measures used to control wind have not been provided.

- ***Part 4H: Acoustic Privacy*** – The design of Building D results in the main access stairs adjoining bedrooms which is contrary to Objective 4H-1 which requires that noise transfer is minimised through building layout.

- ***Part 4M: Facades*** - The proposed facades of the buildings are unsatisfactory and is inconsistent with Objective 4M-1 in that the proposed building facades do not provide visual interest along the street. The proposal is also contrary to the design guidance as the design solutions for front building facades such as a composition of varied building elements, a defined base, middle and top of buildings and clearly defined entries have not been provided. The proposal building facades are not well resolved

with an appropriate scale and proportion to the streetscape and lacks well composed horizontal and vertical elements.

- ***Part 4P: Planting on Structures*** - The proposal provides inadequate soil depths for the proposed podium planting and therefore plant growth will not optimised, which is contrary to Objectives 4P-1, 4P-2 and 4P-3 of the ADG. The proposed planting on structures will be unable to contribute to the quality and amenity of communal and public open spaces

- ***Part 4W: Waste Management*** - The proposed waste management arrangements are unsatisfactory arising from the insufficient area for the required number of bins in the basement and the lack of information demonstrating that a garbage collection vehicle can enter, stand and leave the loading dock. Therefore, the proposal is contrary to Objectives 4W-1 and 4W-2 of the ADG in that waste storage facilities have not been designed to minimise impacts on the amenity of residents and waste is not minimised given there is insufficient area for waste source separation and recycling.

Accordingly, the proposal involves numerous inconsistencies with the design quality principles of SEPP 65 as well as various non-compliances with the ADG. These matters are further considered in the key issues section of this report. The proposal is considered to be unsatisfactory having regard to the SEPP 65 and ADG matters.

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 ('Resilience and Hazards SEPP') commenced on 1 March 2022 and provides controls relating to resilience and hazards matters, with Chapter 2 (Coastal Management) and Chapter 4 (remediation of land), are relevant to the proposal, which are considered below.

Chapter 4: Remediation of Land

Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Section 4.6 requires contamination and remediation to be considered in determining a development application.

*(1) A consent authority **must not consent to** the carrying out of any development on land unless—*
(a) it has considered whether the land is contaminated, and
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Comment: It is considered that the site is contaminated arising from fill material in the northern section of the site and which requires remediation. This is considered further below.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

Comment: A change of use is proposed for the land as the proposal is for residential and commerical development (the existing use is just commercial). The site is considered to be 'land specified' in subclause (4)(c) as it is proposed to be used for residential purposes and there is incomplete knowledge as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out and the site has been zoned mixed use where various commerical uses have been permissible which may be listed in Table 1. A Preliminary Site Investigation ('PSI') has been prepared for the site, which is considered further below.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

Comment: The PSI prepared for the site identified potential sources of contamination and recommended that a Detailed Site Investigation ('DSI') be prepared as well as a Hazardous Buildings Materials survey should be undertaken to quantify and confirm the potential risk to receptors. These investigations are considered further below.

(4) The land concerned is—
- *(a) land that is within an investigation area,*
- *(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- *(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*
  - *(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
  - *(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Comment: The site is not within an investigation area, however, the site is to be used for residential purposes and it is unknown if a land use listed in Table 1 has been known to occur on the site (subclause 4(c)). Therefore, a PSI, a DSI and a Remedial Acton Plan have been prepared for the proposal which is considered further below.

A *Preliminary Site Contamination Assessment* prepared by Douglas Partners dated October 2014 ('PSI') has been undertaken on the site, which included a desktop review of the site history. The search indicates that land was primarily used for residential purposes with commercial operations dominating onwards from the 1970s. Between the 1900s and 1970s, low impact retail activities may have taken place at the south east and west corners of the site with the remaining north and eastern portions of the site likely be used primarily as residences. Past retail activities may have included a bakery, butchers shop and newsagent. From the 1970s, commercial land use was dominant as reflected in the aerial photographs.

The PSI concluded that having regard to the site's historical use of both residential and commercial uses, it is considered that the site has a low to medium risk of contamination. However, potential sources of contamination have been identified including imported filling, an adjacent service station, adjacent railway tracks and associated railway operations, current buildings and a substation. Therefore, an intrusive investigation and a Hazardous Buildings

Materials ('HBM') survey should be undertaken to quantify and confirm the potential risk to receptors. The PSI envisaged that the site could be made suitable for the proposed mixed-used development.

Arising from the PSI, a Detailed Site Investigation ('DSI') was undertaken by Douglas Partners dated 7 October 2022 to make an assessment of site contamination, which included a review of a PSI, soil sampling from 21 boreholes and groundwater sampling from two groundwater monitoring wells. The DSI also identified that there was an historical motor garage and service station businesses conducted on and near the site, which were considered to represent potential sources of contamination not identified in the PSI.

The DSI identified that the fill on the site is contaminated with asbestos and polycyclic aromatic hydrocarbons within the northern section of the site, which exceeds the human health and/or ecological site assessment criteria ('SAC') as illustrated in **Figure 21**. The DSI also stated that potential human health risks exist with asbestos and carcinogenic PAHs in soil. While the risks were assessed to be acceptable in the current site configurations where the pavements remain intact, however, exposure could occur during excavation/construction which could result in unacceptable risks if the works are not appropriately managed and the site remediated.

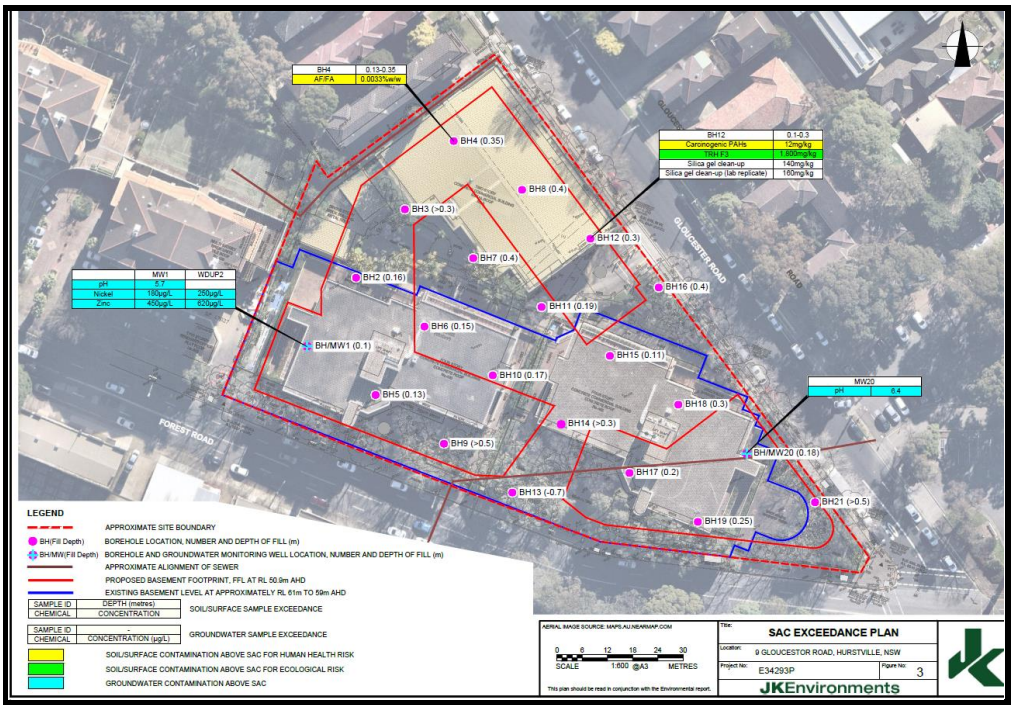

Figure 21: SAC Exceedance Plan *(Source: DSI, JK Environments, October 2022)*

Accordingly, the DSI concluded that remediation will be required to mitigate risks associated with the contaminated fill and to render the site suitable for the proposed development. The DSI considered that the remediation is expected to be straight forward as it is anticipated that this will involve the excavation and off-site disposal of the contaminated fill.

The DSI considered that the site can be made suitable for the proposed development following remediation and made the following recommendations:

- A Remediation Action Plan (RAP) must be prepared to outline measures to outline the procedures to remediate and validate the site;
- An Asbestos Management Plan (AMP) must be prepared to manage the asbestos risk during construction;

- A hazardous materials (HAZMAT) survey must be undertaken on the existing buildings prior to demolition; and
- The site is to be remediated and validated in accordance with the RAP.

A Remedial Action Plan ('RAP') has also been prepared by JK Environments dated 25 October 2022 for the proposal which provides a framework for remediating and validating the site so that the site is rendered suitable for the proposed development. The primary aim of the remediation at the site is to reduce the human health and environmental risks posed by site contamination to an acceptable level.

The proposed remediation strategy includes excavation and off-site disposal of the contaminated fill to a licensed landfill facility, which the RAP considers is likely to have a low potential for failure and was considered to align closely with the proposed development works given the substantial excavation works proposed to construct the proposed basement. The RAP estimates that approximately 2,200 tonnes of fill is to be remediated and concluded that the site will be rendered suitable for the proposed development subject to the appropriate implementation of the RAP.

Following consideration of the contamination reports, it is considered that the land is contaminated, however, it is considered that the consent authority can be satisfied that the land will be suitable, after remediation for the proposed development subject to consent conditions implementing the recommendations of the DSI and the RAP. Furthermore, the consent authority can also be satisfied that the remediation required to be make the site suitable for the proposed development, will be undertaken before the land is used for that purpose subject to consent conditions implementing the recommendations of the DSI and the RAP.

The preconditions to the grant of consent pursuant to Section 4.6(1) of the the Resilience and Hazards SEPP have been satisfied.

The proposal is considered to be consistent with Chapter 4 of the Resilience and Hazards SEPP subject to relevant consent conditions where appropriate.

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 ('Transport & Infrastructure SEPP') commenced on 1 March 2022 and outlines the controls for the provision of infrastructure, among other matters. Chapter 2 (Infrastructure) is relevant to the development application, which is considered below.

(a) *Section 2.48 – Determination of development applications – other development* - This section applies to a development application involving development carried out:

(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
(ii) immediately adjacent to an electricity substation, or
(iii) within 5m of an exposed overhead electricity power line,

In this case, the site achieves all of this criteria given there is an electricity easement and substation on the site and the Forest Road frontage contains an exposed overhead electricity power line pursuant to Section 2.48(1)(b)(i), (ii) and (iii). Pursuant to Section 2.48(2), the Council consulted with Ausgrid, the electricity supply authority, where no objections were raised subject to recommended standard conditions of consent. The proposal is consistent with this clause.

(b) *Section 2.98 - Development adjacent to rail corridors* - This section applies to development on land that is in or adjacent to a rail corridor, if the development is likely to have an adverse effect on rail safety, involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, involves the use of a crane in air space above any rail corridor, or is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.

The site is located in close proximity to the Sydney trains rail corridor and it is considered that given the size of the proposal that the proposal has the potential to adversely impact on the rail corridor. Pursuant to Section 2.98(2), before determining a development application for development to which this section applies, the consent authority must give written notice of the application to the rail authority for the rail corridor, and take into consideration any response to the notice and any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.

Council referred the application to Transport for NSW ('TfNSW') (Sydney Trains), which is the delegated rail authority for the Eastern Suburbs and Illawarra heavy rail corridor. No objections were raised by TfNSW (Sydney Trains) subject to the imposition of the recommended consent conditions, which included matters within the Guidelines. The proposal is considered to be consistent with Section 2.98 of the SEPP.

(c) *Section 2.99 – Excavation in, above, below or adjacent to rail corridors* – The site is located in close proximity to a rail corridor (refer above), however does not directly adjoin the rail corridor, which is defined in Section 2.91 of the SEPP as:

> ***rail corridor*** *means land—*
> *(a) that is owned, leased, managed or controlled by a public authority for the purpose of a railway or rail infrastructure facilities, or*
> *(b) that is zoned under an environmental planning instrument predominantly or solely for development for the purpose of a railway or rail infrastructure facilities, or*
> *(c) in respect of which the Minister has granted approval under Part 3A or Division 5.2 or (before its repeal) Division 4 of Part 5 of the Act, or consent under Part 4 of the Act, for the carrying out of development (or for a concept plan for a project comprising or including development) for the purpose of a railway or rail infrastructure facilities.*

In this case, the land adjoining the subject site is zoned SP2 Classified Road and not for railway Infrastructure Services, with land located between these two (2) SP2 zones comprising MU1 mixed use zoning. Therefore, this clause does not apply to the proposal, however, geotechnical matters have been covered in the recommended conditions from TfNSW (Sydney Trains) in their response to Section 2.98. Accordingly, it is considered that the proposal is generally consistent with this section of the SEPP.

(d) Section 2.100 - Impact of rail noise or vibration on non-rail development – This section applies to development for residential accommodation (among other uses) that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration. While the site is not located directly adjoining the rail corridor, it is considered that there is potential for the proposal to be adversely impacted by rail noise and therefore this Section is considered in this assessment.

Pursuant to Section 2.100(2), before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette. Subclause (3) requires that for residential development, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure compliance with specific noise standards for bedrooms and other areas within the residential accommodation.

The NSW Department of Planning and Environment's '*Developments near Rail Corridors or Busy Roads – Interim Guideline (2008)*' provides a guide as to the level of acoustic assessment required which indicates that the site, being approximately 70 metres from the rail corridor, does not require a noise assessment as the line is generally used for passenger trains and freight services under 80km/hr and the site is more than 60 metres from the operational track (not corridor). Similar for vibration assessments, which is not required, given the site is more than 60 metres from an operational track.

Notwithstanding this, a *DA Acoustic Assessment* prepared by Acoustic Logic dated 22 July 2021 ('Acoustic Report') accompanies the application which has considered the potential acoustic impacts for the proposal arising from the proximity to the rail corridor. This Acoustic Report concluded that the treatments proposed to mitigate traffic noise from the adjoining classified road are also sufficient to also mitigate any potential impacts from railway noise and therefore the measures required to be met in Section 2.100(3) have been satisfied. Therefore the proposal is consistent with this Section of the SEPP.

(e) *Section 2.119 - Development with frontage to classified road* –The consent authority **must not grant consent** to land with a frontage to a classified road unless certain matters have been considered. This Clause is relevant to the development application as Forest Road is a classified road. Pursuant to Section 2.119(2), the consent authority must not grant consent this application unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road,

Comment: The proposed vehicle access is from Gloucester Road, with no vehicle access from Forest Road proposed and therefore the proposal satisfies this matter;

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
(i) the design of the vehicular access to the land, or
(ii) the emission of smoke or dust from the development, or
(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land,

Comment: The proposed vehicle access is from Gloucester Road, with no vehicle access from Forest Road and the proposed use of the site will not result in the emission of smoke or dust which would adversely affect Forest Road. The type, frequency and volume of vehicles using Forest Road to access the site is unlikely to affect the safety, efficiency or ongoing operation of the classified road given the likely vehicles using the site will be cars and light vans;

(c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road*

Comment: The proposed development is sensitive to traffic noise and vehicle emissions given it is for a residential use. Subject to the recommendations of the Acoustic Report, the proposal will not be adversely impacted by road noise from Forest Road.

The proposal is consistent with Section 2.119 of the SEPP.

(f) *Section 2.120 – Impact of road noise or vibration on non-road development* – this Section requires that development for certain land uses must consider the impact of road noise or vibration on non-road development. In this case, Forest Road is included in the "mandatory" category for this assessment (being land adjacent to a road corridor with >40,000 vehicles per day or between 20,000 and 40,000 vehicles per day respectively) and residential accommodation is proposed. Accordingly, this control is relevant to this proposal.

Pursuant to Subclause (2), before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette. Subclause (3) requires that if the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that specific noise levels will be achieved in bedrooms another areas of the residential accommodation.

As oultined in the consideration of Section 2.100 of the SEPP outlined above, the Acoustic Report which accompanies the application has considered the potential acoustic impacts for the proposal arising from the proximity to the road corridor. The Acoustic Report concluded that relevant building treatments are recommended in the development to mitigate traffic noise from the adjoining classified road therefore the measures required to be met in Section 2.120(3) can been satisfied. Therefore the proposal is consistent with this Section of the SEPP.

(g) *Section 2.122 – Traffic-generating development* - This section requires consideration of certain matters relating to development which is deemed to be traffic-generating. In this case, the proposal involves more than 2,500m² of commerical floor space (proposed 4,620 m²) with access to a road which connects within 90 metres to a classified road as well as a car parking area with more than 200 car spaces and more than 300 residential dwellings connecting to any road. Therefore, the proposal achieves the criteria contained in Subclause (2) as listed in Columns 2 and 3. Accordingly, a referral to TfNSW is required under this Section.

Pursuant to Section 2.122(4), before determining a development application to which Section applies, the consent authority must:

(a) *give written notice of the application to TfNSW within 7 days after the application is made, and*

Comment: The application was referred to TfNSW.

(b) *take into consideration—*

(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and

Comment: TfNSW provided an initial response with some concerns dated 28 March 2022, however, following additional information being provided, stated in correspondence dated 13 December 2022 stating it did not raise any objections to the proposal subject to recommended standard conditions of consent. These matters are considered in the key issues section of this report.

(ii) the accessibility of the site concerned, including—
(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

Comment: The site is well located on a classified road which is capable of absorbing the traffic generated by the proposal. The site is located in the Hurstville local centre where trips may be multi-purpose. Car travel to the site is minimised given its proximity to train and bus services.

(iii) any potential traffic safety, road congestion or parking implications of the development.

Comment: The proposal is accompanied by a Traffic Report and is considered satisfactory, with Council's traffic engineer raising no objections subject to relevant conditions where relevant.

The proposal is considered to be consistent with the Section of the SEPP.

Accordingly, the proposal is considered to be consistent with the Transport & Infrastructure SEPP.

Georges River Local Environmental Plan 2021

The relevant local environmental plan applying to the site is the *Georges River Local Environmental Plan 2021* ('the GRLEP 2021'), which commenced on 8 October 2021 prior to the lodgement of this application. The particular aims of the GRLEP 2021 pursuant to Clause 1.2(2) include (emphasis added):

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
(a) to provide for housing choices to cater for changing demographics and population needs,
(b) ***to provide for a range of business uses which promote employment and economic growth and contribute to the viability and vibrancy of centres****,*
(c) to promote and facilitate an ecologically and economically sustainable and vegetated urban environment in which the needs and aspirations of the community are realised,
(d) to provide for a range of recreational, social, cultural and community service opportunities to meet the needs of the Georges River community,
(e) to protect and preserve the natural, built, cultural and Aboriginal heritage of Georges River and to build upon and enhance the character of local areas,

(f) to promote a high standard of urban design and built form,
(g) to protect, preserve and enhance the natural landform, vegetation and open space, especially foreshores or bushland, in order to maintain landscape amenity and public access and use,
(h) to protect, maintain and improve waterway health to achieve the environmental values of the community and uses for waterways,
(i) to facilitate infrastructure to support new development,
(j) ***to promote and facilitate transit-oriented development that encourages the use of public transport, cycling and walking****.*

The proposal is consistent with several of these aims of the GRLEP 2021 including the provision of housing choice to cater for a variety of households, it provides for range of business uses and it promotes an ecologically and economically sustainable urban environment. The proposal also promotes and facilitates transit-oriented development that encourages the use of public transport, cycling and walking given its proximity to the Hurstville city centre and railway station.

However, the proposal does not promote a high standard of urban design or built form arising from the concerns with the proposed facades of the building and the lack of consistency with the required building separation, setbacks and built form controls as outlined in this report.

Zoning and Permissibility (Part 2)

The site is located within the MU1 Mixed Use Zone pursuant to Clause 2.2 of the LEP, illustrated in **Figure 22**. The Land Use Table pursuant to Cause 2.3 provides that *Commercial premises*, *Shop top housing* and *Any other development not specified in item 2 or 4* are permissible with consent (among other uses). Relevant uses which are prohibited include *Residential flat buildings*.

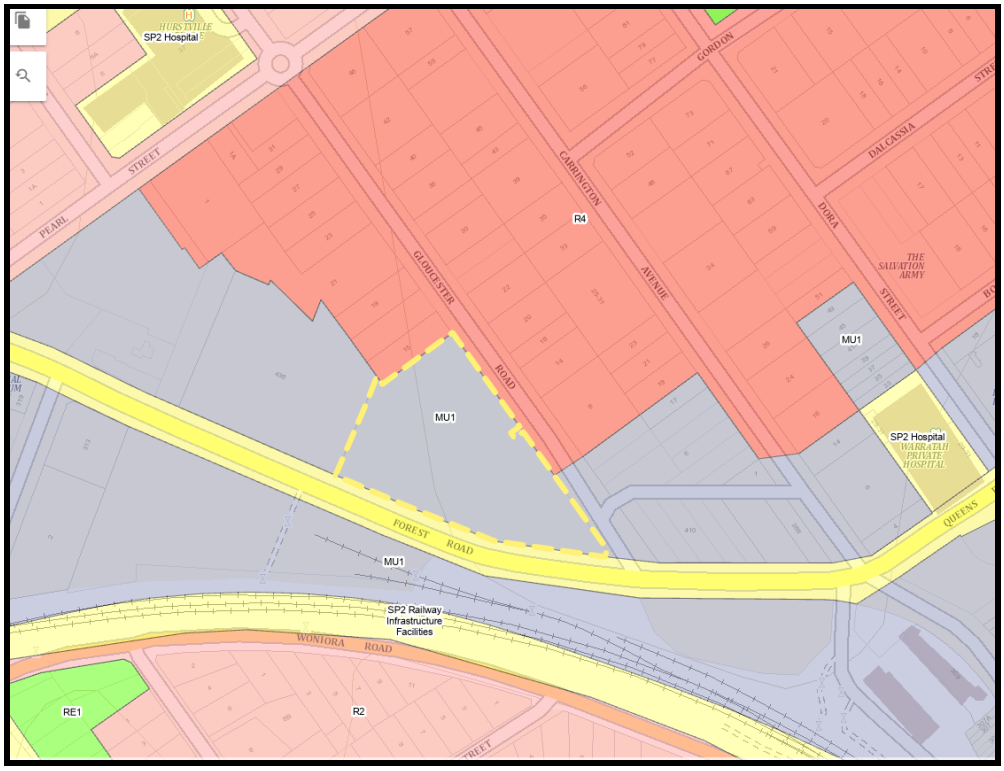

Figure 22: Zoning Map (*Source: NSW Planning Portal)*

The relevant definitions obtained from the Dictionary to the LEP include:

> ***commercial premises*** *means any of the following—*
> *(a) business premises,*
> *(b) office premises,*
> *(c) retail premises.*
>
> ***residential flat building*** *means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing. Note— Residential flat buildings are a type of residential accommodation—see the definition of that term in this Dictionary.*
>
> ***shop top housing*** *means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities. Note— Shop top housing is a type of residential accommodation—see the definition of that term in this Dictionary*.

Proposed Buildings A, B and C are considered to satisfy the definitions of *shop top housing* as the ground floor of these buildings are proposed to comprise commerical premises (being retail and commercial tenancies) with the upper levels proposed to be residential. Proposed Buildings D and E satisfy the definition of a *residential flat building*, however, as outlined in this report, Clause 2.5 and Clause 14 of Schedule 1 provides permissibility. Clause 14 of Schedule 1 states:

> ***14 Use of certain land at 9 Gloucester Road, Hurstville***
> *(1) This clause applies to part of Lot 30, DP 785238, 9 Gloucester Road, Hurstville, identified as "Area A" on the Additional Permitted Uses Map.*
> (2) *Development for the purposes of residential flat buildings is permitted with development consent.*

The Additional Permitted Uses map is illustrated in **Figure 23**.

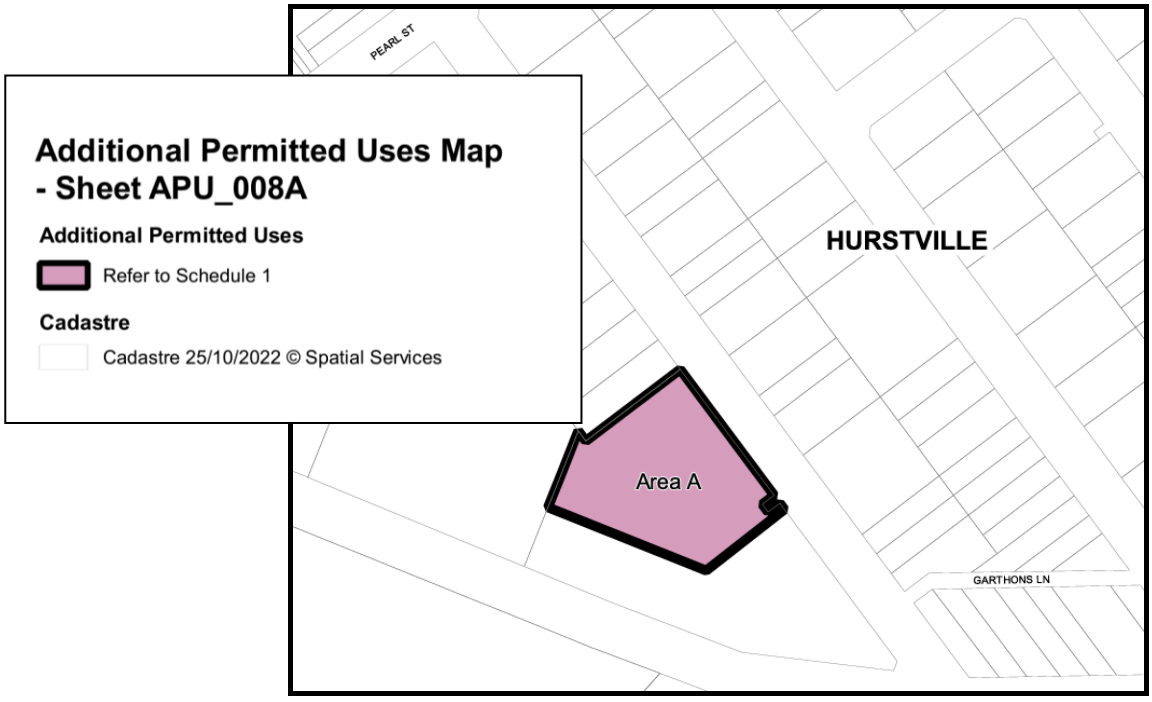

Figure 23: Additional Permitted Use Map *(Source: GRLEP 2021)*

Demolition is permissible with consent pursuant to Clause 2.7 of the LEP. Therefore, the proposed development is permissible on the site.

Pursuant to Clause 2.3(1) of the GRLEP 2021, the MU1 zone objectives state:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.*
- *To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.*
- *To encourage the provision of community facilities and public infrastructure so that all residents have reasonable access to a range of facilities and services.*

The proposal is considered to be generally consistent with these zone objectives for the following reasons:

- The proposal encourages a diversity of business, retail and office land uses that generate employment opportunities.
- The proposal provides active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- The proposal does not conflict with uses within adjoining zones given the mixed uses proposed on the site.
- The proposal provides business, retail and commercial land uses on the ground floor of buildings.
- The proposal involves business, office, residential and retail development in an accessible location which maximises public transport patronage and encourages walking and cycling.
- The proposal, which includes residential development, contributes to the vitality of the centre and provides housing that meets the needs of the community.

Development Standards, Miscellaneous Provisions and Local Provisions (Parts 4, 5 and 6)

The LEP contains controls relating to development standards (Part 4), miscellaneous provisions (Part 5) and additional local provisions (Part 6). The controls relevant to the proposal are considered in **Table 6** below, with the preconditions to the grant of consent in bold and discussed in more detail below. The maximum height of building and floor space ratio development standards for the site are illustrated in **Figures 24** and 25. The proposal exceeds the maximum building height and accordingly, a Clause 4.6 has been submitted and is considered below.

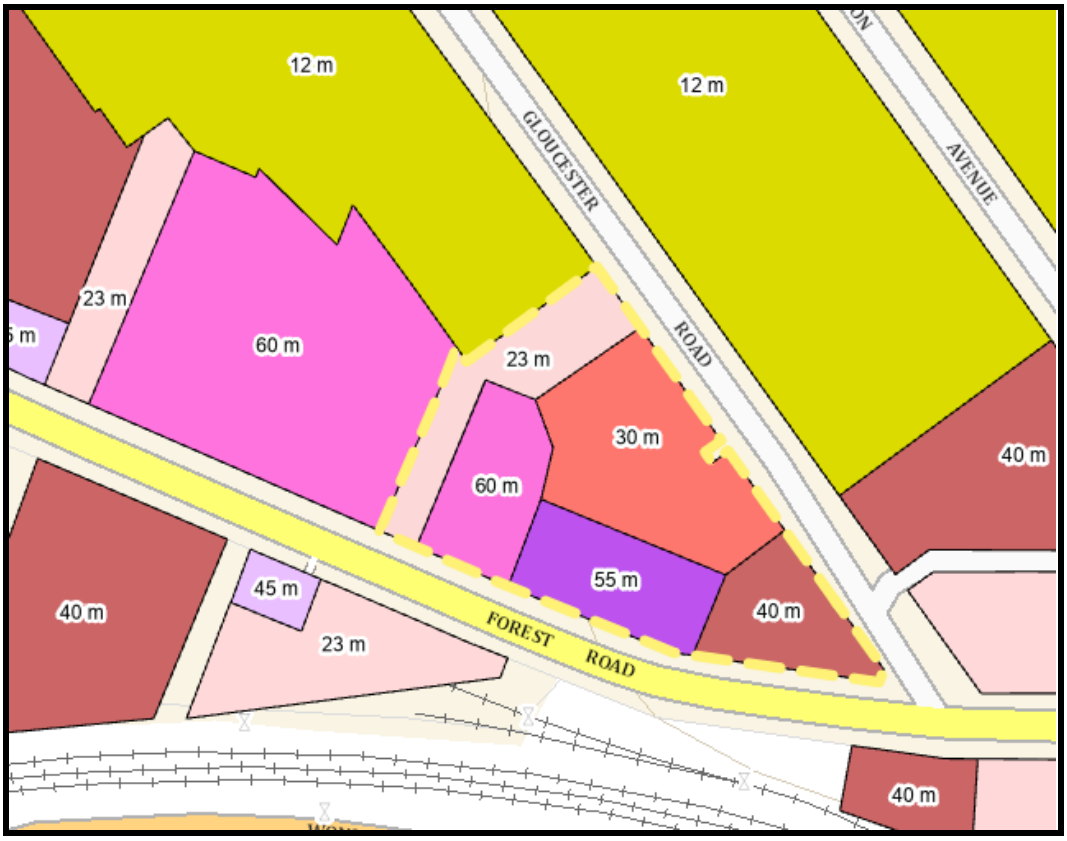

Figure 24: Height of Buildings Map (*Source: NSW Planning Portal)*

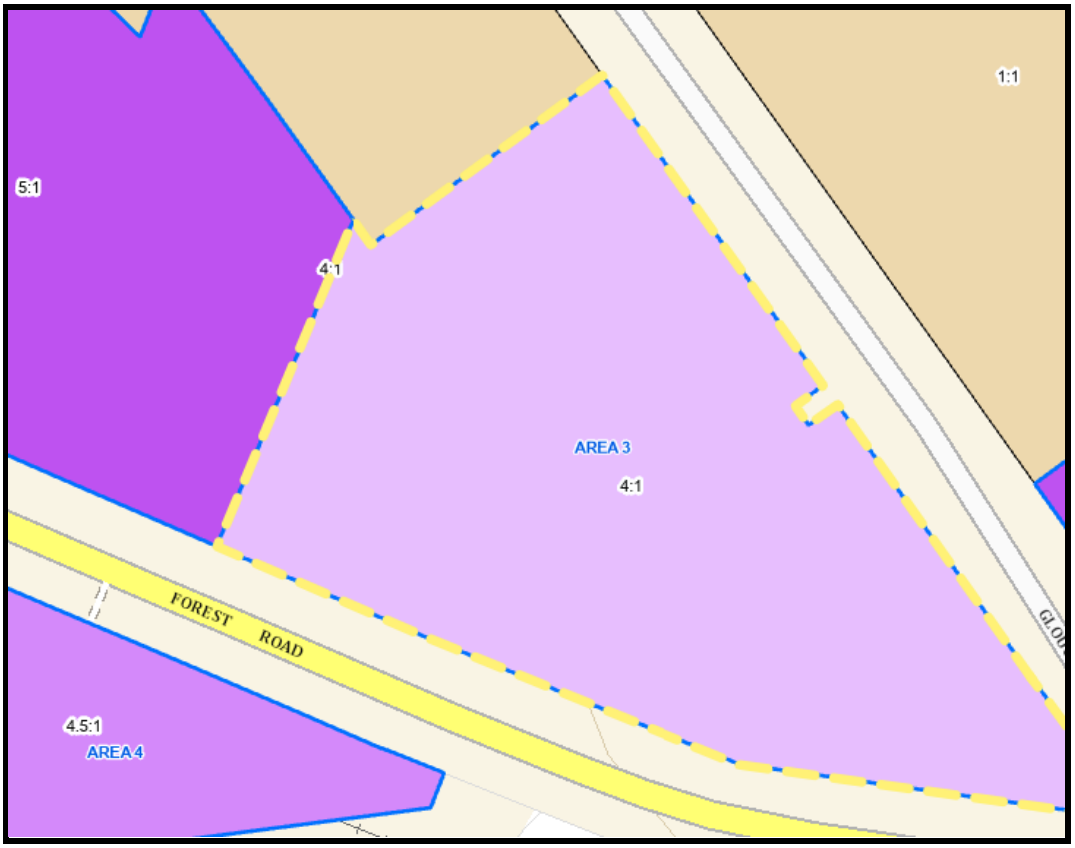

Figure 25: FSR Map *(Source: NSW Planning Portal)*

Table 6: Consideration of the LEP Controls

CONTROL	REQUIREMENT	PROPOSAL	COMPLY
Height of buildings (Cl 4.3(2))	23 metres 60 metres 30 metres 55 metres 40 metres	• 15.8m (23m max - Bldg A) • 63.75m (60m max- Bldg A) • 59.05m (55m max Bldg B) • 44.8m (40m max Bldg C) • 32.97m (30m max Bldg D) • 25.75m (23m max Bldg E)	**No**
FSR (Cl 4.4(2))	4:1 (36,960m²) – Area 3	• Residential - 32,141m² • Commercial/Retail - 4,620 m² • Total - 36,761m² • FSR – 3.978:1	Yes
FSR – Non-Residential (Cl 4.4B(4)(a))	Non-residential FSR (Area 3) Min 0.5:1 (4,620m²)	• Commercial/Retail - 4,620m² • FSR (non-res) – 0.5:1	Yes
Land acquisition (Cl 5.1/5.1A)	Land to be acquired	The land is not shown on the map.	N/A
Heritage (Cl 5.10)	Consideration of heritage items and areas	The land does not contain any heritage items.	N/A
Flood Planning (Cl 5.21)	Certain matters to be satisfied	The site is not within the flood planning area and therefore this clause does not strictly apply, however the matters are satisfied by the proposal.	Yes Refer below
Acid sulphate soils (Cl 6.1)	Acid sulphate soil map and need for consent.	The land is not affected by acid sulphate soils, confirmed in the PSI.	N/A
Earthworks (Cl 6.2)	Matters for consideration	The proposal is satisfactory subject to relevant conditions for further geotechnical reporting.	Yes Refer below
Stormwater Management (Cl 6.3)	Matters for consideration	The proposal is satisfactory having regard to the relevant matters for consideration.	Yes Refer below
Airspace Operations (Cl 6.7)	Matters to be satisfied prior to granting consent	The proposal was referred to SACL and no objections were raised.	Yes Refer below
Development in areas subject to aircraft noise (Cl 6.8)	Applies to land that within the ANEF contour of 20 or greater.	The site is located outside the 20 ANEF contour (confirmed in aeronautical assessment).	N/A
Essential Services (Cl 6.9)	Matters to be satisfied prior to granting consent	The proposal is satisfactory having regard to the relevant matters for satisfaction.	Yes Refer below
Design excellence (Cl 6.10)	Matters to be satisfied prior to granting consent	The proposal does not exhibit design excellence as oultined below.	**No** Refer below

Environmental sustainability (Cl 6.11)	Matters to be satisfied prior to granting consent	The proposal has not adequately considered these matters.	**No** Refer below
Development in Zones E1 & MU1 (Cl 6.13)	Matters to be satisfied prior to granting consent – ground floor not used for residential.	Retail and commerical are provided on the ground floor for Buildings A, B & C, while residential is permitted for Building D/E (Cl 2.5).	Yes Refer below

Flood Planning (Cl 5.21)

Pursuant to Clause 5.21(2), consent must be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development addresses certain matters. The site is not included in the flood planning area (**Figure 26**) and accordingly, this clause does not strictly apply.

A Flood Statement prepared by BG&E dated 20 December 2021 has been provided, which provided the following conclusions:

- Flooding has been assessed as part of the Overland flow flood study for the Hurstville, Mortdale and Peakhurst Wards (June 2016);

- The site is near to the top of the catchment, with any stormwater runoff exceeding the capacity of the drainage network will flow eastwards down Forest Road. The flood mapping indicates that depths would not exceed 150 mm and therefore runoff would be likely contained in the kerb and gutter;

- Stormwater runoff ponds at a sag point at the intersection of Forest Road, Queens Road and Gloucester Road and overland flows are predicted to travel northwards through the lots on the east side of Gloucester Road from the sag.

- In the 1% AEP event, the mapping shows there is negligible flooding at the eastern corner of the site with depths of not more than 300 mm. In the PMF, the extent of flooding increases marginally but depths are predicted to remain below 300 mm (**Figure 27**). The PMF level is predicted to be about 60.5m AHD.

The final architectural plans have street access to the buildings in this area of the site at a minimum level of RL 61.1m and the basement entry at RL 61.44m both of which are above the PMF. The proposed retail space on the ground floor of Building C in the vicinity of the sag point has a floor level of RL 60.3m which is marginally below the PMF. Council's engineer has reviewed the proposal and raises no objections subject to conditions. Accordingly, while this Clause does not strictly apply to the proposal, the matters in the precondition to the grant of consent have been satisfied and consent can be granted having regard to this Clause.

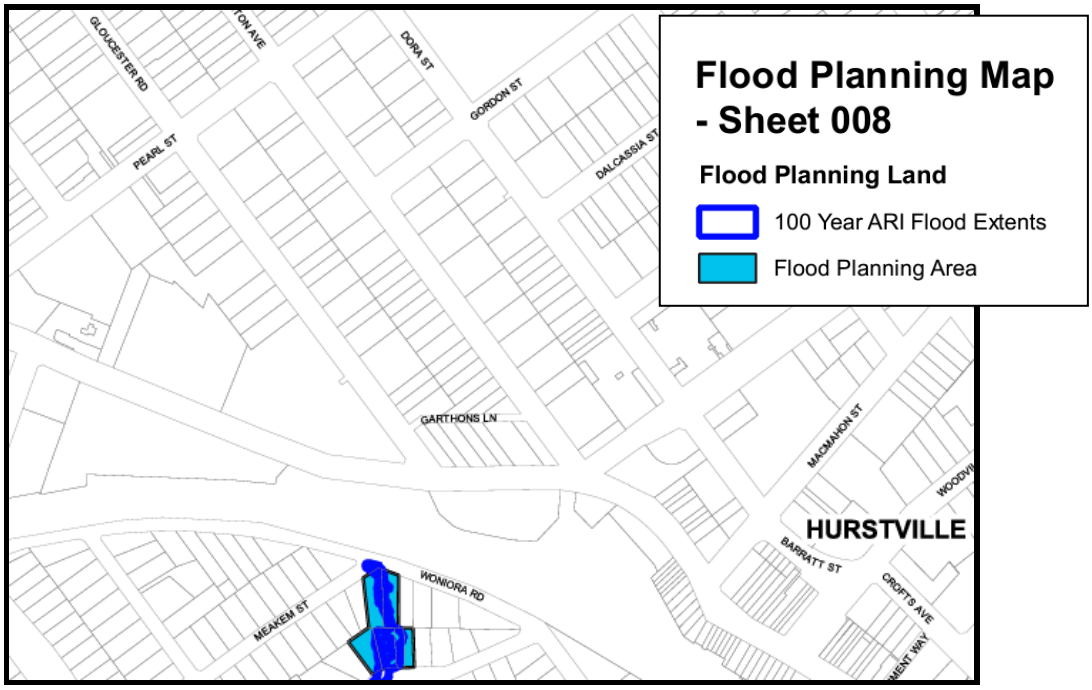

Figure 26: Flood Planning Map *(Source: Council's website)*

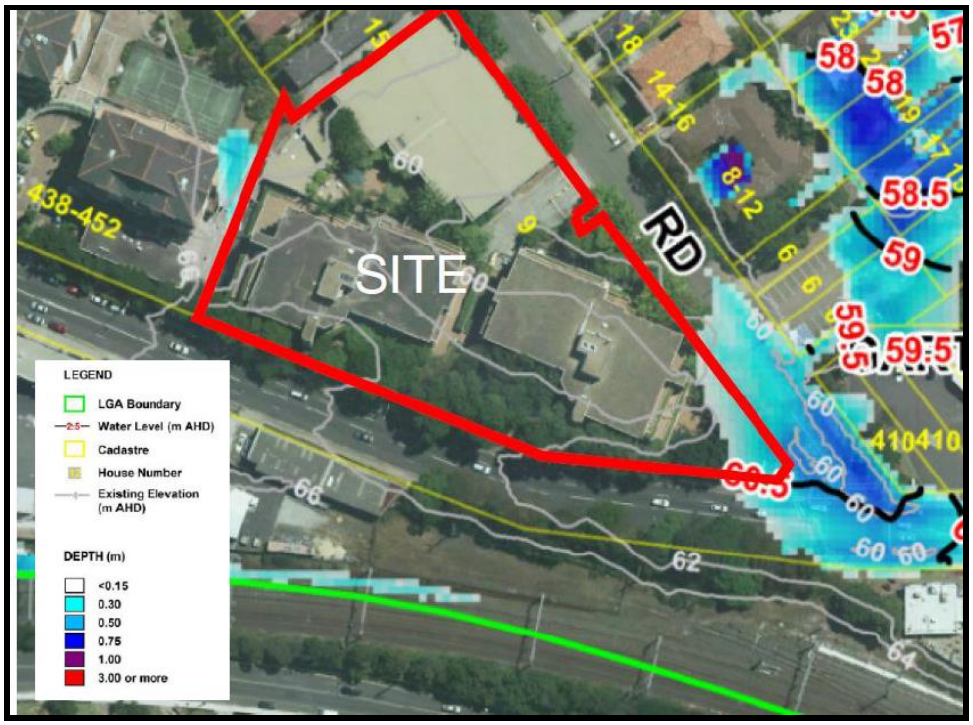

Figure 27: PMF Depths and Levels outlined in the Overland flow flood study for the Hurstville, Mortdale and Peakhurst Wards (Source: Flood Report, BG&E December 2021)

Earthworks (Cl 6.2)

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Consent is required for earthworks unless the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or the earthworks are ancillary to

development that is permitted without consent under this Plan or to development for which development consent has been given. In this regard, the earthworks required for the proposed basement require consent under this clause.

Pursuant to Clause 6.2(3), in deciding whether to grant development consent, the consent authority must consider the following matters—

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
(b) the effect of the development on the likely future use or redevelopment of the land,
(c) the quality of the fill or the soil to be excavated, or both,
(d) the effect of the development on the existing and likely amenity of adjoining properties,
(e) measures to minimise the need for cut and fill, particularly on sites with a slope of 15% or greater, by stepping the development to accommodate the fall in the land,
(f) the source of any fill material and the destination of any excavated material,
(g) the likelihood of disturbing relics,
(h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

A Preliminary Geotechnical Investigation prepared by Douglas Partners dated November 2014 ('the Geotechnical Report') has been provided for the proposal. The level of the lowest basement is RL 50.90, resulting in a likely depth of excavation of approximately 10 to 15 metres since the site levels range from RL 59.5 to RL 65. This report concluded that based on the results of the preliminary investigation, it is considered that the site is suitable for the proposed development from a geotechnical viewpoint.

Relevant conditions on any consent granted requiring further geotechnical reports at future stages of construction will be required to ensure that the proposal is constructed in accordance with the requirements of the Australian Standards and the NCC. The proposal is considered to be consistent with this Clause.

Stormwater Management (Cl 6.3)

The objective of this clause is to minimise the impacts of urban stormwater on land to which this Plan applies and on adjoining properties, native bushland and receiving waters. Clause 6.3(2) requires that the consent authority, in deciding whether to grant consent for development, must be satisfied that the development:

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and
(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and
(d) is designed to minimise the impact on public drainage systems.

The proposed stormwater drainage involves gravity drainage to the front street system at the corner of Forest and Gloucester Roads, which reflects the current arrangements at the site. On site stormwater detention ('OSD') is required and has been provided as a 249.5m3 underground tank located under the southern (Forest Road) frontage under Building C. Water Sensitive Urban Design is also required as part of the proposal which has been achieved

through the use of proprietary products comprising StormFilters and OceanGuard from Ocean Protect or equivalent products as well as a 25kL rainwater tank (adjoining the OSD tank) for landscaping irrigation to achieve the WSUD requirements of the Council DCP (**Figure 28**).

Council's engineer considers that the stormwater objectives for the development type have been satisfied and that there is no easement required or extension to Council's infrastructure. Therefore, it is considered that the proposal satisfies the matters requiring consideration under this Clause.

Figure 28: Proposed Stormwater Arrangements for the site (*Source: Engineering plans, BG&E Rev B dated 9 December 2021*)

Airspace Operations (Cl 6.7)

This Clause applies to the site with the objectives including to provide for the effective and ongoing operation of the Sydney (Kingsford Smith) Airport by ensuring that its operation is not compromised by development that penetrates the Limitations or Operations Surface for that airport, and to protect the community from undue risk from that operation. Clause 6.7(2) states that development consent must not be granted to development to which this clause applies unless:

(a) the consent authority has consulted the relevant Commonwealth body, and
(b) the relevant Commonwealth body advises the consent authority that—
(i) the development will penetrate the Limitations or Operations Surface but it does not object to the development, or
(ii) the development will not penetrate the Limitations or Operations Surface.

The Council referred the application to the Sydney Airport Corporation Limited ('SACL') with no objections raised to the erection of the proposed development to a maximum height of 128 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc. Accordingly, the matters in the precondition to the grant of consent have been satisfied and consent can be granted having regard to this Clause.

Subclause (3) states that development consent must not be granted to development to which this clause applies if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be carried out. SACL did not raise objection to the proposal and accordingly, this subclause is not relevant to the proposal.

The proposal is consistent with this Clause.

Essential Services (Cl 6.9)

Consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

(a) the supply of water,
(b) the supply of electricity,
(c) the supply of telecommunications facilities,
(d) the disposal and management of sewage,
(e) stormwater drainage or on-site conservation,
(f) suitable vehicular access.

Council's engineer raises no objections to the proposal subject to relevant conditions of consent requiring certain matters in relation to servicing to be addressed as construction progresses. Accordingly, the matters in the precondition to the grant of consent have been satisfied and consent can be granted having regard to this Clause.

Design excellence (Cl 6.10)

The objective of this clause is to deliver the highest standard of sustainable architecture and urban design. This Clause applies to the application as it proposes the erection of a new building (Cl 6.10(2)(a)) on land within the MU1 zone comprising three (3) or more storeys and a height of 12 metres or greater above ground level (existing) (Cl 6.10(3)(b)).

Pursuant to Clause 6.10(4), development consent **must not be granted** for development to which this clause applies unless the consent authority considers that the development exhibits design excellence. The matters to be considered in relation to whether the proposal exhibits design excellence are provided in Clause 6.10(5) and are considered in **Table 7** below in the context of the proposed development.

Table 7: Consideration of Design Excellence

DESIGN EXCELLENCE PROVISION	PROPOSAL	COMPLY
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	The proposed facades of all five buildings are dominated by the repetition of materials and architectural detailing. The proposed design does not incorporate an adequate composition of lightweight materials or detailing to minimise the perceived bulk and scale. The proposed buildings largely appear as monolithic blocks without any recessing or projecting elements or any massing variation with the exception of the repetitive balconies and glazed door and windows, which emphasises horizontality	**No**

	and increases the perceived building bulk and scale of the proposal. There is limited visual interest in the façades, which do not contribute to the aesthetic appeal of the building or the character of the area. The architectural expression of the elevations and overall built form is unsatisfactory and does not enhance the streetscape. There is also a lack of integration between the ground floor and the upper floors in that some of the architectural detailing or materials should either be extended beyond the podium or vice versa to present and integrated design. These facades do not contribute to the amenity and attractiveness of the area. In particular, Building D proposes an 8 storey wall height and combined with the extensive use of the "Brick Reclaimed Original Mix" and the lack of any articulation in the building form, results in an unsatisfactory streetscape appearance. Similarly, Building C comprises an 11 storey wall height, with little to no articulation and no variation in massing which will dominate the streetscape along Gloucester Street.	
(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,	Arising from the lack of adequate detailing and articulation, it is considered that the bulk and scale of the proposal is exacerbated and that the appearance of the proposal does not improve the quality or amenity of the public domain.	**No**
(c) whether the development detrimentally impacts on view corridors,	This is considered satisfactory having regard to the proposal.	Yes
(d) how the development addresses the following matters	Refer below	-
(i) the suitability of the land for development	This is considered satisfactory having regard to the proposal.	Yes
(ii) existing and proposed uses and use mix	This is considered satisfactory having regard to the proposal.	Yes
(iii) heritage issues and streetscape constraint	This is considered satisfactory having regard to the proposal.	Yes
(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation,	The proposal is considered to be unsatisfactory having regard to the relationship of the development with other development on the same site and on neighbouring sites due to:	**No**

setbacks, amenity and urban form,	• The lack of adequate building separation between Building A to Building B (from Level 5) and between Building B to Building C in that there are significant departures from the required building separation distances under the ADG. This results in some direct overlooking opportunities, but also that the proposal is contrary to the character of the area since there is inadequate separation between the buildings which is provided in the locality. The proposed building separation distances between proposed Buildings A to B and Buildings B to C are also not proportionate to the proposed building heights, resulting in a development with significant bulk and scale that will dominate the streetscape. There is also no sense of openness and there is reduced access to sky views, which reduces the amenity to the proposed apartments in that access to ventilation and solar access is reduced and results in an adverse impact on visual amenity issues arising from the building bulk and scale which is exacerbated. • The lack of adequate side setbacks for Buildings A and E having regard to the ADG and the DCP. There are also encroachments into the front setback for Building D which reduces the opportunities for landscaping along the street frontage of the Site. • There is also an inadequate street wall height and upper level setback provided in relation to the upper level setback for Building E above 4 storeys and Building D should be setback by an additional minimum 3 metres above 4 storeys to address the surrounding residential context, enhance the streetscape and be consistent with the objectives for built form and setbacks.	
(v) bulk, massing and modulation of buildings	Buildings A, B, E and D combine to create a "C" shaped built form with around 200 metres perimeter length over 5 storeys, which is a significant bulk of building mass which will be imposing on surrounding development and will overshadow the communal open space on the Site. It is considered that the lack of articulation and	**No**

	manipulation of the building elements, particularly for the 'C shaped' area of Building A, B, D and E as well as the street façade of Building D, to reduce bulk and scale has not been provided and results in the proposal having an excessive bulk to the street. The proposed 8 storey wall height of Building D along Gloucester Road does not provide any substantial articulation which is unsatisfactory given the building is proposed to be approximately 58 metres wide and 30 metres high. This design will dominate the surrounding residential context with only a minor in-setting of the southern portion of the proposed building for an 8 metre wide portion of the building, which is insignificant. Similarly, although balconies are proposed on the western façade of Building E, they maintain the building edge and do not provide any substantial articulation. The building design including the bulk and massing are not acceptable in the context of the Site.	
(vi) street frontage heights	The street frontage heights of the proposed buildings are generally in accordance with the requirements of the concept plan and are satisfactory with the exception of Building D. Building D has a wall height of 8 storeys, with the built form northwest of the site along both sides of Gloucester Road within the R4 Zone predominantly comprising 3 to 4 storey walk up apartments. However, the 8 storey wall height for Building D is inconsistent with the objectives of built form and setbacks given the predominant 4 storey building height of the surrounding residential context and not considered an appropriate transition in height or streetscape character. The 8 storey wall height has created a poor and uncomfortable relationship with the characteristic medium rise streetscape.	**No**
(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity	This is considered satisfactory having regard to the proposal.	Yes
(viii) pedestrian, cycle, vehicular and service access and circulation requirements,	This is considered satisfactory having regard to the proposal. This issue is considered	Yes

	including the permeability of pedestrian networks	further in the key issues section of this report.	
(ix)	*the impact on, and proposed improvements to, the public domain*	This is considered satisfactory having regard to the proposal, particularly with the provision of the through-site link and public open space proposed on the site.	Yes
(x)	*achieving appropriate interfaces at ground level between the building and the public domain*	There are a number of concerns with the proposed interfaces with the public domain, including the proposed pedestrian entry points and the street activation. The proposed building entry and lobby areas are considered to be unsatisfactory in that these areas are recessed from the building edge and are awkwardly shaped which reduces areas for social interactions in these areas. These entry areas are also not clearly identifiable or distinguishable and do not enhance the presence of the building in the streetscape resulting in poor wayfinding. The lifts face away from the street and therefore there is inadequate surveillance of this area from the street. there is also a lack of natural light and ventilation to these areas and are often areas for building services which can result in safety concerns. There are a number of concerns in relation to street activation for Building C, comprising the location of the proposed substation in a prominent location along the Gloucester Road frontage which results in a 14 metre blank wall to the street at this prominent corner (around 35% of the street frontage of this portion of the building). This results in a lack of street activation along this frontage and is unsatisfactory. A further concern is that the majority of the street entry / pedestrian access to the Commercial Lobby for Building C will be blocked by the existing bus stop located almost at the site boundary.	**No**
(xi)	*excellence and integration of landscape design*	The proposal does not provide sufficient planting depths for podium planting which detracts from the integration of landscaping in the proposal.	**No**
(xii)	*the provision of communal spaces and meeting places*	This is considered satisfactory having regard to the proposal.	Yes
(xiii)	*the provision of public art in the public domain*	The proposed through-site link and the public open space areas on the site are considered to be satisfactory.	Yes

(xiv) the provision of on-site integrated waste and recycling infrastructure	There are several fundamental concerns raised with the proposed waste management arrangements for the site, which remain unresolved. These issues are considered further in this report. Accordingly, the proposal is unsatisfactory having regard to this provision.	**No**
(xv) the promotion of safety through the application of the principles of crime prevention through environmental design	There are a number of blind corners identified in the basement levels and the ground floor levels which the CPTED Report considers require effective lighting and video surveillance as natural surveillance cannot be achieved in these locations. These areas include: • Storage and garbage areas in basement levels 1-3 • Around some areas of the ground floor façade adjoining Building B and the vehicle entry ramp on the ground floor and between the residential and retail components of Building A on level 1 • Rooftop garden areas However, it is considered that these areas should be redesigned to provide for more casual surveillance from other areas of the basement and not rely on lighting and cameras for safety.	**No**

Accordingly, the matters in the precondition to the grant of consent have not been satisfied and therefore consent cannot be granted having regard to this Clause.

Environmental Sustainability (Cl 6.11)

This clause applies to the proposed development as it is located within the MU1 zone and involves the erection of a new building (Cl 6.11(2)a)(v) and (b)(i). The objective of this clause is to ensure that development to which this clause applies is consistent with principles of best practice environmentally sensitive design.

Pursuant to Cause 6.11(3), development consent **must not be granted** to development on land to which this clause applies if the building is 1,500 square metres in gross floor area or greater unless adequate consideration has been given to a number of matters, which are considered below in the context of the design of the proposed development:

(a) water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,

(b) energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power;

(c) indoor environmental quality, including daylight provision, glare control, cross

ventilation and thermal comfort,

(d) the minimisation of surfaces that absorb and retain heat and the use of surfaces that reflect heat where possible,

(e) a reduction in new materials consumption and use of sustainable materials, including recycled content in concrete, sustainable timber and PVC minimisation,

(f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces.

While the application provides certification that the proposal is consistent with the BASIX requirements, a development of this significant scale is expected to demonstrate best practice sustainability measures not merely complying with BASIX standards. This has not been adequately demonstrated by the proposal as it solely relies on the BASIX certification for compliance, which is unsatisfactory.

Development in Zones E1 & MU1 (Cl 6.13)

This Clause applies to development in the MU1 zone, with the objectives including to promote uses that attract pedestrian traffic along ground floor street frontages, to maintain existing, and encourage additional, non-residential uses along ground floor street frontages. To strengthen the viability of existing established centres, and to maintain opportunities for business and retail development that is suited to high exposure locations are further objectives of the Clause.

Pursuant to Clause 6.13(3), development consent **must not be granted** for development on land to which this clause applies unless the consent authority is satisfied the development will not cause a part of the ground floor of a building that is facing a street to be used for the purposes of residential accommodation or tourist and visitor accommodation. This does not include a part of a building that is used for entrances and lobbies, including as part of a mixed use development, access for fire services and essential services.

Clause 6.13(5A) provides that this clause does not apply to the part of site as identified as "Area A" on the *Additional Permitted Uses Map*. Therefore the proposed residential flat buildings comprising Buildings D and E are permissible notwithstanding that residential uses are proposed on the ground floor.

In relation to the remaining components of the proposal, Buildings A, B and C comprise retail and commerical uses at the ground level as well as access and services and are therefore consistent with this clause. The proposal is consistent with this clause and the precondition to the grant of consent has been satisfied.

The proposal is inconsistent with a number of the provisions of the GRLEP 2021.

Clause 4.6 Request

The Development Standard to be varied and extent of the variation

Clause 4.3(2) of the GRLEP 2021 contains the development standard for the maximum height of buildings as shown for the land on the Height of Buildings Map. This map provides five height zones for the site comprising 23, 30, 40, 55 and 60 metres across the site, illustrated in **Figure 29**. Building height is defined in the Dictionary of the GRLEP 2021 as:

***Building height (or height of building)** means—*

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

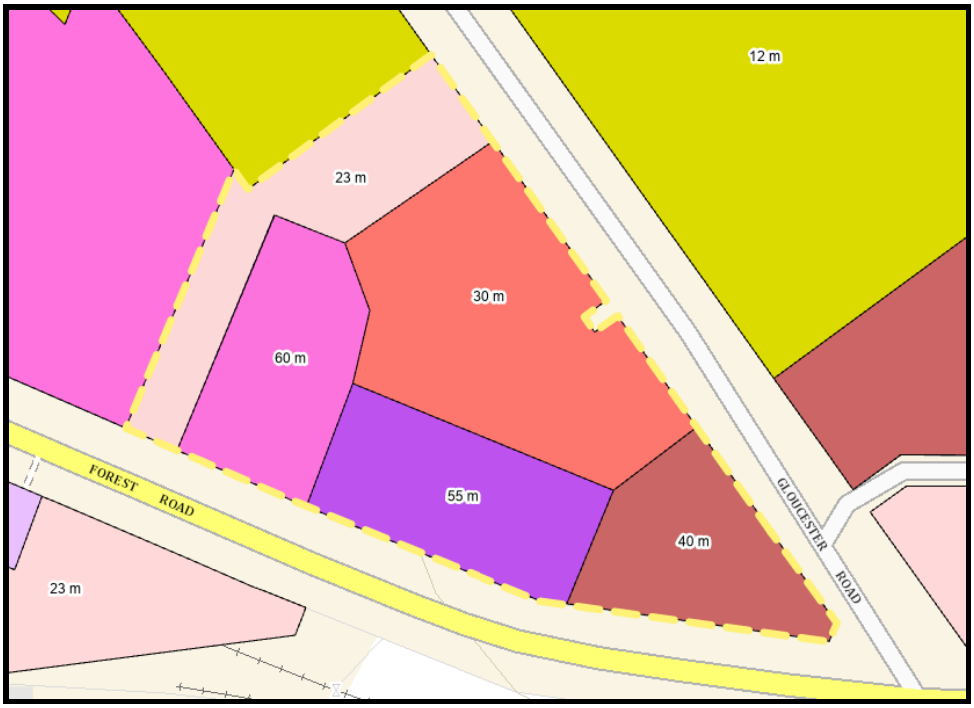

Figure 29: Height of Building Development Standard *(Source: NSW Planning Portal)*

The proposal provides a number of different heights for the different buildings across the site as outlined in **Table 8**, with the proposed height exceedances from the maximum building height development standard also outlined. The height blanket for the whole site (**Figure 30**) as well as one for each of the proposed buildings provided below (**Figures 31, 32** and **33)**.

The height exceedances comprise lift overruns, rooftop plant, shade structures for the proposed rooftop communal open space areas and roof parapets/detailing. The height exceedance applies to all of the proposed buildings on the site with the exception of the lower portion of Building A within the 23 metre height limit, which complies with the maximum height of buildings development standard.

Table 8: Proposed Building Heights

BUILDING	MAX PERMISSIBLE HEIGHT	MAX PROPOSED HEIGHT	EXCEEDANCE (LIFT OVERRUN)	STOREYS
A	23m	15.8m (roof parapet – 8-.3m))	-	4
	60m	60.45m (screening) 61.45m (shade structure) 63.75m (lift overrun)	3.75 metres (6.25%)	18
B	55m	56.2m (screening) 56.25m (parapet) 57.2m (shade structure) 59.05m (lift overrun)	4.05 metres (7.3%)	16
C	40m	41.55m (screening) 41.38m (parapet) 42.4m (shade structure) 44.8m (lift overrun)	4.8 metres (12%)	11
D	30m	31.3m (parapet) 31.08m (shade structure) 32.28m (arch roof feature) 32.97m (lift overrun)	2.97 metres (9.9%)	8
E	23m	24.45m (parapet) 24.68m (arch roof feature) 25.75m (lift overrun)	2.75 metres (11.95%)	6

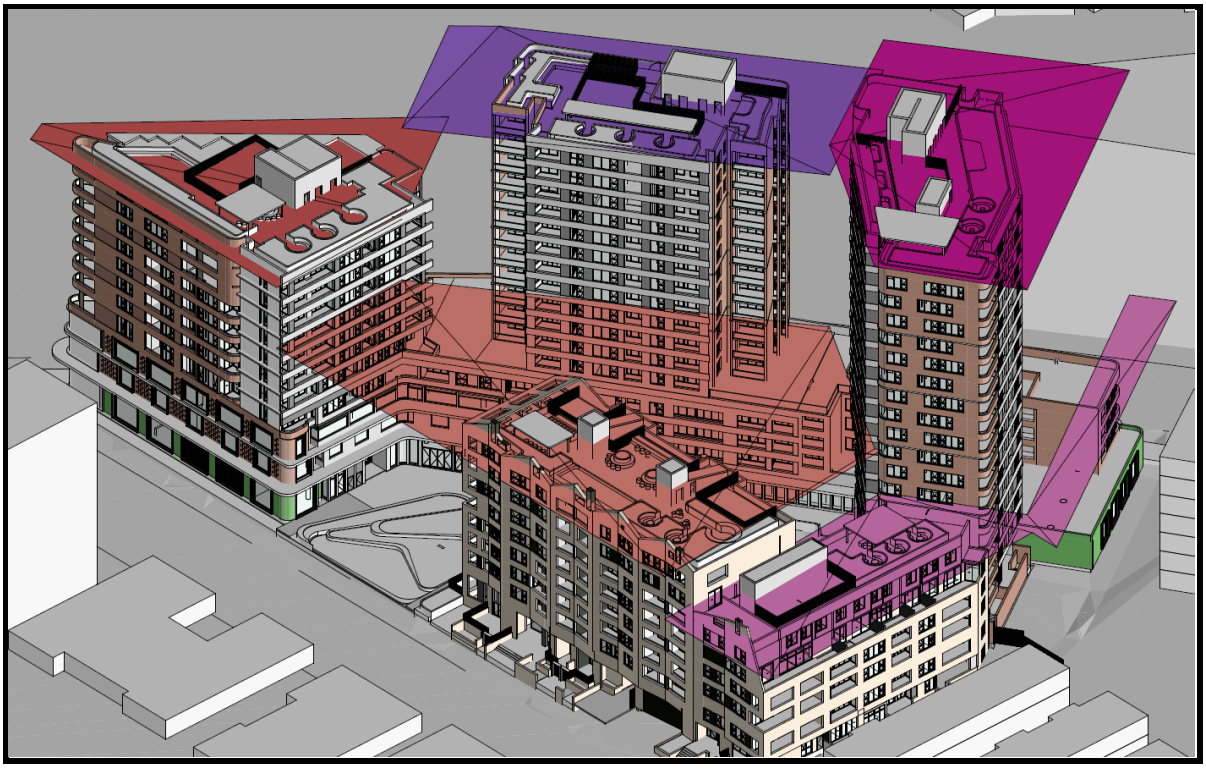

Figure 30: Height Blanket Diagram – All Buildings (*Source: Turner, December 2021*)

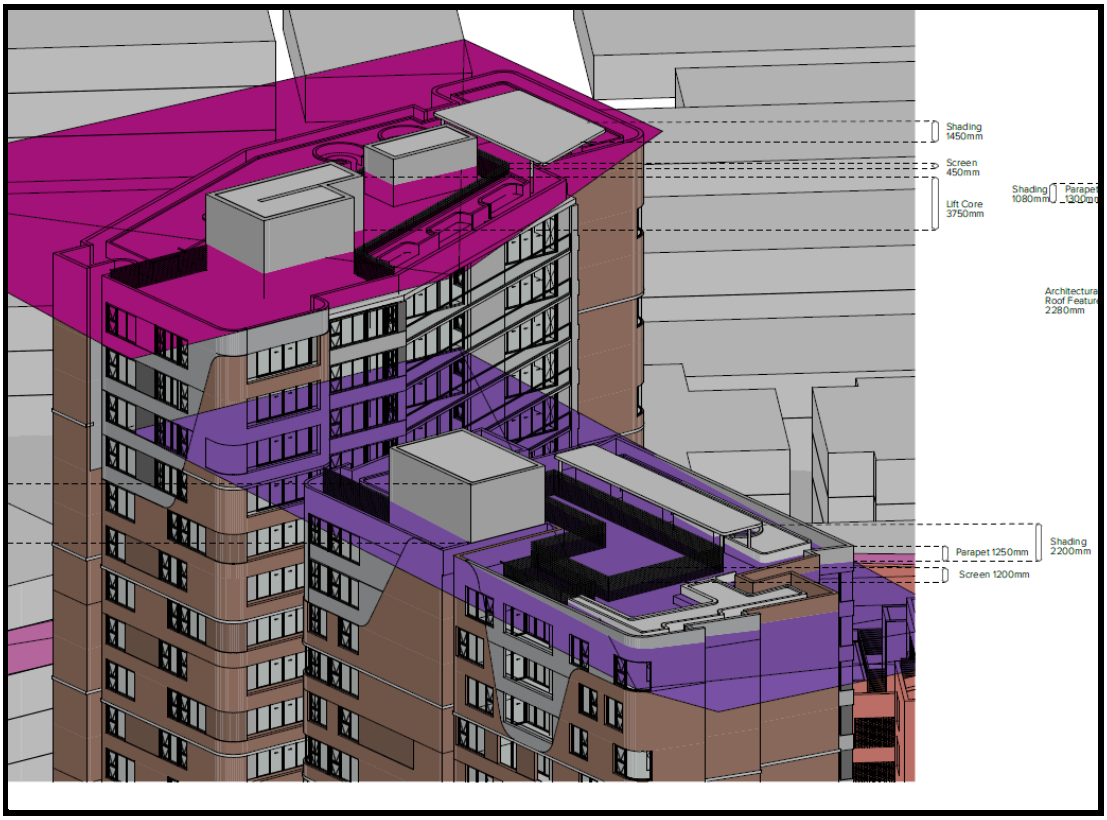

Figure 31: Height blanket for Buildings A and B (*Source: Turner, December 2021*)

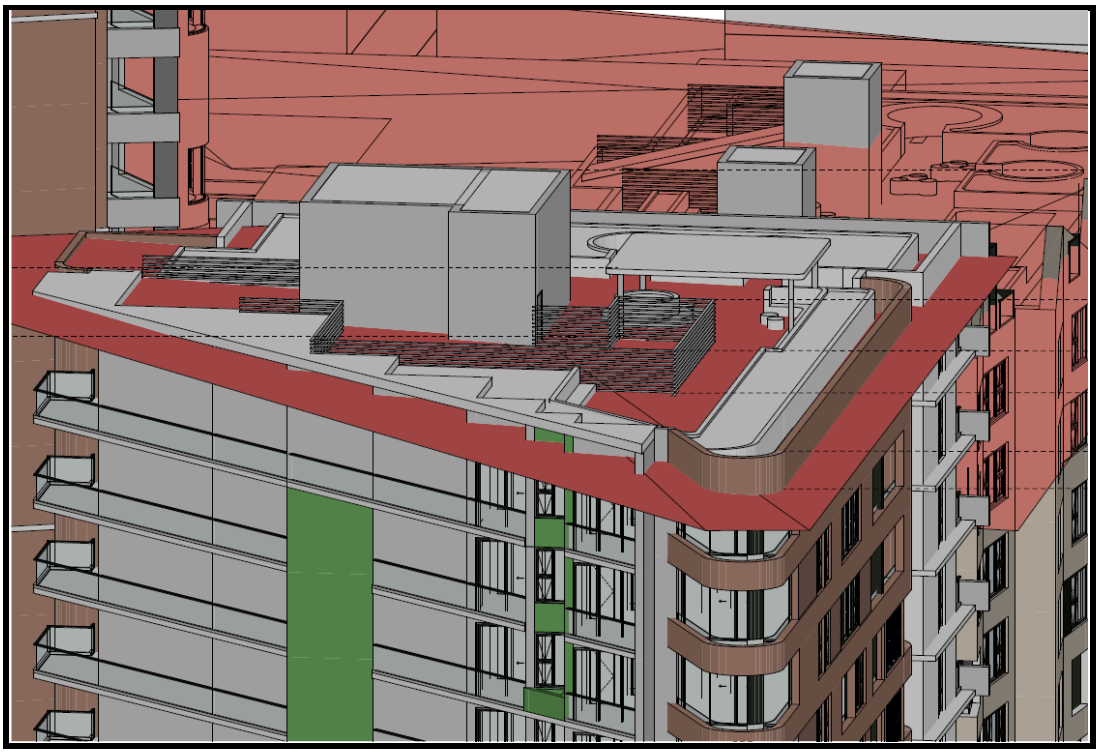

Figure 32: Height blanket for Building C (*Source: Turner, December 2021*)

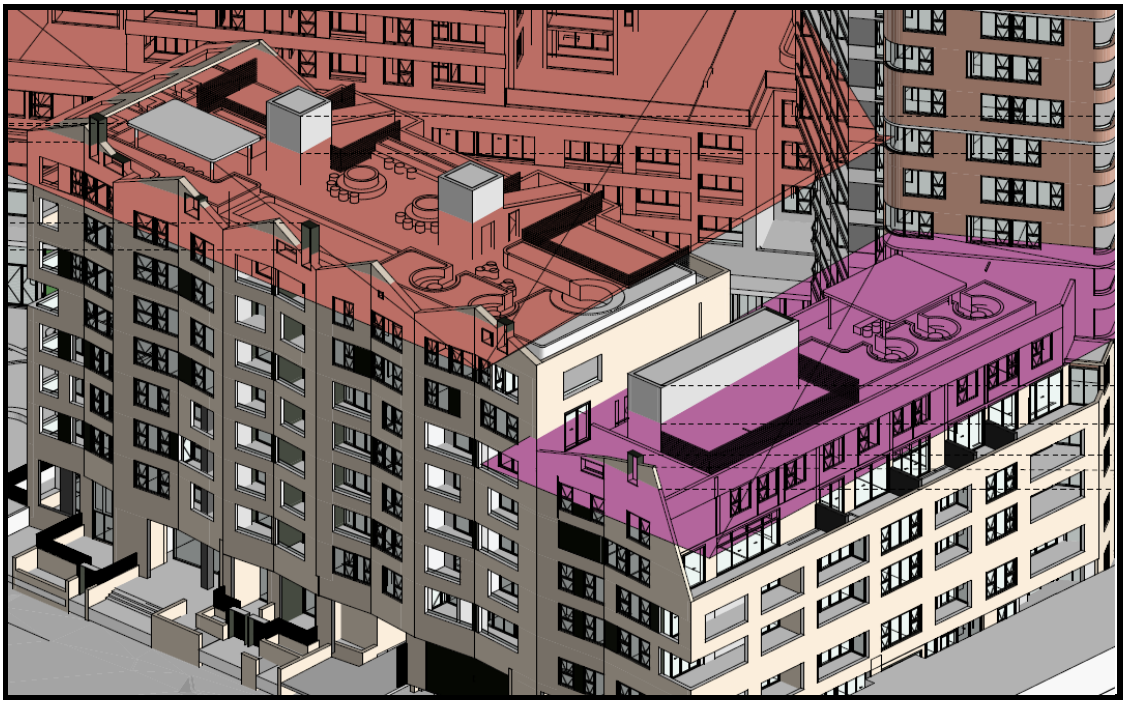

Figure 33: Height blanket for Buildings D and E (*Source: Turner, December 2021*)

Preconditions to be satisfied

Clause 4.6(4) of the GRLEP 2021 establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(4)(a) – this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)); and

2. Tests to be satisfied pursuant to Cl 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed height exceedance having regard to the applicant's Clause 4.6 request.

First Precondition

The first precondition requires the satisfaction of two (2) tests pursuant to Cl 4.6(4)(a) which includes:

- Clause 4.6(4)(a)(i) – whether the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), which requires the applicant to seek to justify the contravention by demonstrating:

- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Cl 4.6(3)(a)), and

- that there are sufficient environmental planning grounds to justify contravening the development standard (Cl 4.6(3)(b)); and

- Clause 4.6(4)(a)(ii) – whether 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.

These tests for the first precondition are considered below.

Compliance with the development standard is unreasonable or unnecessary in the circumstance of this case - Clause 4.6(3)(a)

Preston CJ, in *Initial Action*, reconfirmed the five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary as outlined in *Wehbe v Pittwater Council (2007) NSWLEC 827* ('Wehbe'). The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The applicant considers that the proposed development satisfies the first Wehbe test, in that the objectives of the standard are achieved notwithstanding noncompliance with the standards.

The objectives of the Height of Buildings development standard pursuant to Clause 4.3(1) of the GRLEP 2021 include the following:

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
(b) to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,
(c) to ensure an appropriate height transition between new buildings and—
(i) adjoining land uses, or
(ii) heritage items, heritage conservation areas or Aboriginal places of heritage significance.

The applicant's justification in relation to the first Wehbe test is considered below in relation to the height of buildings development standard.

- Objective (a)

  Applicant's justification:

  Careful consideration has been given to the location, size and design of the proposed development to ensure that a high quality outcome will be achieved which will sit comfortably within the forthcoming streetscape.

  The proposed departure from the height control on the site occurs only as a result of the fall across the site and the need to provide sufficient floor to ceiling heights and lift overruns and associated plant, with some minor protrusion of parapets, lift overruns and plant. There is no habitable floor space above the height control. The proposal presents with the number of storeys as anticipated by the new planning controls for the

site and has a scale as anticipated by the DCP and therefore achieves an appropriate contextual fit which is compatible with the future adjoining development and the future streetscape, notwithstanding the height non-compliance.

Assessment Comment:

There are a number of matters in this justification which are not agreed, including:

- That the proposed departure from the height control on the site occurs only as a result of the fall across the site since there is minimum fall on the site in the north-eastern corner of the site where Building D and E are proposed. While there is a fall on the land in the vicinity of Buildings A and B, this change in level is approximately 2.5 metres, however, the height exceedances are 3.75 metres and 4.05 metres respectively for these buildings. Similarly, in the vicinity of Building C, the fall in land levels is around 2 metres yet the height exceedance for this Building is 4.8 metres.
- The need to provide lift overruns and associated plant, with some minor protrusion of parapets, lift overruns and plant is agreed, however, the extent of the proposed height of the lift overruns is not supported. These lift overruns are a reasonably large size ranging from 8m² (Building D) to 50m² (Building A) and are up to 4.8 metres above the height limit (Building C). There has been no attempt made to reduce these non-compliances.
- The planning controls prescribe height limits in metres and not storeys and therefore, the proposal is not as *'anticipated by the new planning controls'* since a more skilful design is likely capable of providing a more compliant proposal (in terms of overall height).

It is agreed that there is no habitable floor space above the height control.

The proposed height exceedance is considered to be contrary to this objective of the development standard since the additional height adds unnecessary bulk and scale to the proposal and the justification for consistency with this objective is not supported.

- Objective (b)

Applicant's justification:

Overshadowing - The areas of additional height for the parapets are particularly minor, whilst the lift overruns are centrally located on the roof of the development, such that the variation does not result in any meaningful difference in shadow to the adjacent properties to the south beyond a compliant scheme.

Visual Impact and Disruption of Views - The visual impact of the proposed height variation is considered to be acceptable as discussed above in relation to Objective (a) as the area of increased height is especially minor and the increase in height for the lift overruns and plant is located centrally on the roof such that they will not be readily perceptible from the public domain, nor will they result in any meaningful impact to views The proposal fits appropriately within the future desired character of the area.

Privacy - The proposed development provides ADG compliant separation from the adjacent properties (or sufficient privacy measures), such that the proposed variation in height does not result in any adverse privacy impacts to adjacent properties.

Assessment Comment:

It is agreed that the proposed height exceedance does not result in any additional significant overshadowing or privacy loss, however, the visual impact of the proposed height variation is considered to be unacceptable as the increased height of some of the lift overruns and plant equipment is not located centrally on the roof, particularly for Buildings B and C, which can be readily perceptible from the public domain and the height exceedance excessive for lift overruns. The proposed height exceedance is considered to be contrary to this objective of the development standard and the justification for consistency with this objective is not supported.

- Objective (c)

  Applicant's Justification:

  The proposed height encroachments are minor such that they do not compromise the overall transition in scale across the site as recently established under the Planning Proposal.

  Assessment Comment:

  Given the area and height of some of these height exceedances, it is considered that these lift overruns add to the bulk and scale of the development from the public domain and therefore an appropriate height transition between the proposed new buildings and adjoining land uses is not provided. The proposed height exceedance is considered to be contrary to this objective of the development standard and the justification for consistency with this objective is not supported.

Further justification (not included above) provided by the applicant as to why strict compliance with the maximum height of buildings development standard is considered to be unnecessary and unreasonable in the circumstance of this site included:

- *The locality is undergoing a transition in its character and other similar developments are occurring within the vicinity of the site. The proposed variations to the height controls are minor and will not result in a development which is inconsistent with the emerging character of development in the zone and locality generally.*
- *The proposed variation allows for the most efficient and economic use of the land.*
- *Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.*
- *Requiring strict compliance would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and instead would impact on the capacity to provide appropriate*

Assessment Comment:

These reasons are generally describing the merits of the overall development and not the departure from the development standard, with the exception that the breach is minor. The justification for consistency with this objective is not supported

<u>There are sufficient environmental planning grounds to justify contravening the standard - Clause 4.6(3)(b)</u>

<u>Applicant's justification</u>:

- *The proposed development provides for a scale for each building as anticipated by the DCP and therefore the proposal provides for a compatible outcome with the forthcoming context of the site notwithstanding the height non-compliance.*
- *The height non-compliance is as a result of the significant fall across the site and is balanced by other areas of the development which are equally below the height control.*
- *The proposed areas of height non-compliance do not result in any meaningful difference in shadow impact both to adjacent properties and also within the development itself when compared to a compliant height.*
- *Part of the reason for the height non-compliances is the provision of roof top communal open space above each building and the resulting demand for a higher lift overrun.. The roof top common open space provides for a very high level of outdoor amenity for future residents, above and beyond the minimum common open space requirement, and strict compliance with the height control in this instance would discourage the provision of this amenity.*
- *The proposed development demonstrates a high quality outcome for the site which will result in the delivery of an integrated community of buildings with appropriate apartment size and mix, significant separation around a central courtyard, as well as significant open space opportunity and amenities which will contribute significantly to the amenity afforded to future occupants. This approach is only possible with a variation to the height control as proposed.*
- *The proposed development is consistent with the aims of the Policy and the objects of the EP&A Act in that:*
  - *Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.*
  - *Strict compliance would prevent the attainment of the necessary floor to ceiling heights within the development, or require manipulation of the ground floor plane levels with less than optimal outcomes to squeeze the development below the height plane, notwithstanding that the proposal has the same number of storeys as anticipated for the site.*
  - *The proposed variation allows for the most efficient and economic use of the land, enabling an appropriate built form without impacting on amenity of surrounding properties.*

<u>Assessment Comment</u>:

This justification suggest that the proposal can only be carried out on the site with the height exceedance, which is not supported at the current proposed height of the lift overruns.

The objects of the EP&A Act pursuant to Section 1.3 include several matters, however, for the purposes of this request, Object (g) is considered to be relevant which states:

> *Object (g) to promote good design and amenity of the built environment,*

The proposed height exceedance is considered to be contrary to this object as the proposed height breach does not promote good design arising from the large, bulky structures on the roof which contains the lift overruns. Lift overruns which were smaller and of a height closer to the development standard would allow for a design which was more consistent with the prevailing scale and design of development in the area.

The written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

Applicant's Justification:

These matters are comprehensively addressed above in this written request with reference to the five part test described in Wehbe v Pittwater Council [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

Assessment Comment:

These matters have been outlined in the Clause 4.6 variation statement, however, it is considered that the tests have not been satisfied.

The proposal is in the public interest as it is consistent with the objectives of the standard and the zone objectives – Clause 4.6(4)(a)(ii)

The second opinion of satisfaction in the first precondition in cl 4.6(4)(a)(ii) is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.

Applicant's Justification*:*

> *The Objective of the Development Standard - The proposal's consistency with the objectives of the development standard have been addressed in detail in this clause 4.6 request.*
>
> *Objectives of the Zone - Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the B4 Mixed Use zone.*
>
> *The proposal provides a mixture of compatible uses comprising retail, commercial premises, and residential apartments and will contribute to the vibrancy of the area. The site is also particularly well located in relation to public transport being only 500 metres from Hurstville train station and town centre and therefore provides a transit-oriented development that intensifies and diversifies activity around public transport infrastructure allowing for multiple activities and services, local employment and diverse housing options. The proposal is also in very close proximity to a range of recreational opportunities and services and facilities.*
>
> *The architecture of the development with buildings addressing the street frontages and the internal common landscaped open space, combined with a high quality public domain outcome will result in activated and vibrant places that are used both during the day and evening, increasing safety.*
>
> *For the reasons given the proposal is considered to be consistent with the objectives of the B4 Mixed Use zone.*

Assessment comment:

This matter requires demonstration that the proposal is in the public interest as it is consistent with the objectives of both the development standard and the zone objectives.

Consistency with the objectives of the height development standard has already been considered above and so only the zone objectives need consideration. The proposal is considered to be generally consistent with the objectives of the MU1 zone, despite the height breaches, as oultined in the GRLEP 2021 assessment in this report.

Therefore, it is agreed that the proposal is consistent with the objectives of the zone, however, it is not agreed that the proposed exceedance is consistent with the development standard objectives as outlined above. The applicant's justification is not supported and it is considered that the proposal is not in the public interest in its current form arising from the inconsistencies with the objectives of the height development standard.

Therefore, it is considered that the written request has not adequately demonstrated both of the tests required to satisfy the first precondition.

Second Precondition

Clauses 4.6(4)(b) and (5) – Concurrence of the Secretary

The second precondition that must be satisfied before the consent authority can grant consent for development that contravenes a development standard is that the concurrence of the Secretary has been obtained pursuant to Clause 4.6(4)(b) of GRLEP 2021.

Pursuant to Clause 55 of the *Environmental Planning and Assessment Regulation 2021,* the Secretary has granted assumed concurrence to various proposals as outlined in Planning Circular PS 20-002 issued on 5 May 2020 subject to conditions. The conditions relevant in this case are that the proposal is for *regionally significant development* and accordingly the Panel can assume the Secretary's concurrence for this application. Accordingly, this second precondition has been satisfied by the proposal.

However, in *Initial Action*, Preston CJ, considered that the Court should still consider the matters in Cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard.

The matters for which the Secretary is to take into consideration in deciding whether to grant of concurrence include:

> *(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
> *(b) the public benefit of maintaining the development standard, and*
> *(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

These matters are considered below in the context of the applicant's written request.

Applicant's Justification:

> *The contravention of the standard does not raise any matters of significance for state or regional environmental planning. The development does not impact upon or have implications for any state policies in the locality or impacts which would be considered to be of state or regional significance.*

This Clause 4.6 request has demonstrated there are environmental planning benefits associated with the contravention of the standard. There is no material impact or benefit associated with strict adherence to the development standard and in my view, there is no compelling reason or public benefit derived from maintenance of the standard.

Assessment comment:

It is agreed that there is no matter of state or regional significance which arises out of the proposed height exceedance. In relation to whether there is a public benefit of maintaining the development standard, there is generally a public benefit arising from such compliance and it is considered that the proposed lift overruns are excessive in area and height and that there has been no attempt to reduce them. There is a public benefit in redeveloping the site given the additional housing opportunities that can be provided in close proximity to the transport and services as well as the proposed through-site link and public open space areas on the site, however, these benefits can be provided in a compliant development.

It is considered that the written request has not adequately demonstrated the matters required for the second precondition.

Conclusion

Council has been consistent in supporting a height breach containing non habitable space such as lift over runs, fire stairs and communal roof top open spaces, where it can be demonstrated that there will not be an adverse visual impact or impact upon the amenity of neighbouring properties. However, Council has also requested that the proposal limit the height breach and that the overall heights of lift over runs and fire stairs are to be reduced where possible. It is also noted that the Panel has also raised concerns with exceeding the height controls since all of the buildings rely on Cl.4.6 variations, having regard to the recent planning proposal, site specific DCP, surrounding context and comments from Council's Urban Designer in the briefing in June 2023.

Accordingly, since the proposed Clause 4.6 request has not adequately demonstrated compliance with either preconditions, the Clause 4.6 is not recommended to be supported for the exceedance of the maximum height limit for the proposed development.

It is also acknowledged that there is a need to keep the proposed ground floor level as close as possible to the natural ground level to ensure connectivity with the street and that building services such as lifts and plant equipment are required on the roof on a site which slopes down along its length. However, a more skillful design which reduces the height of the lift overruns, could resolve these matters such that a compliant building height could be provided.

Therefore, the Clause 4.6 is not supported.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

The *Draft Remediation of Land SEPP* has been the subject of public consultation 31 January 2018 to 13 April 2018 under the EP&A Act, and is relevant to the proposal. The Draft Remediation of Land SEPP will:

- *Provide a state-wide planning framework for the remediation of land;*
- *Maintain the objectives and reinforce those aspects of the existing framework that have worked well;*

- *Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;*
- *Clearly list the remediation works that require development consent;*
- *Introduce certification and operational requirements for remediation works that can be undertaken without development consent.*

The proposal is consistent with the provisions of this Draft Instrument and there are no draft LEPs relevant to the site.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Hurstville Development Control Plan No.2 – Hurstville City Centre (Amendment 12)

The *Hurstville Development Control Plan No.2 – Hurstville City Centre (Amendment 12)* ('HDCP No 2') applies to the proposed development as the site is located within Hurstville City Centre. Pursuant to Clause 1.6 of the *Georges River Development Control Plan 2021 ('GRDCP 2021')*, the HDCP 2 continues to apply to the site, notwithstanding the commencement of the GRLEP 2021 and the GRDCP 2021. Pursuant to Section 2.4 of HDCP No 2, the notification of the application is to be undertaken in accordance with Council's *Community Engagement Strategy 2018-2028*.

The sections of DCP 2 relevant to the proposal include the following:

- *Section 4 - Hurstville City Centre Precincts (4.3 City Centre West Precinct)*
- *Section 5 - Controls for Residential, Commercial and Mixed Use Development*
- *Section 6 - Site Planning Considerations*
- *Section 7 - Controls for Other Development Types (trading hours)*
- *Section 8 - Controls For Specific Sites And Localities* (*8.3 - 9 Gloucester Rd, Hurstville)*

These matters are considered below for the proposal, with non-compliance considered in the key issues section of this report.

(i) Section 4. Hurstville City Centre Precincts (4.3 City Centre West Precinct)

The subject site is located in the City Centre West Precinct as outlined in **Figure 34** below from the HDCP 2.

Pursuant to Section *4.3.2, the desired future character for this precinct is to:*

> *"provide a transition between the Western Bookend and the City Centre North / Retail Core precincts on the eastern sides. This will be achieved through medium to high rise predominantly commercial buildings and feature public domain treatment. Buildings and basements must be setback to protect and retain existing trees on the northern and southern sides of Forest Road and along Gloucester Road".*

The proposal is generally consistent with this in that the trees along the Gloucester Road frontage are largely retained, there are large publicly accessible spaces with public art and the proposal is a high rise building with some commerical and retail uses at ground level. The provision of residential development above street level is consistent with the GRLEP 2021.

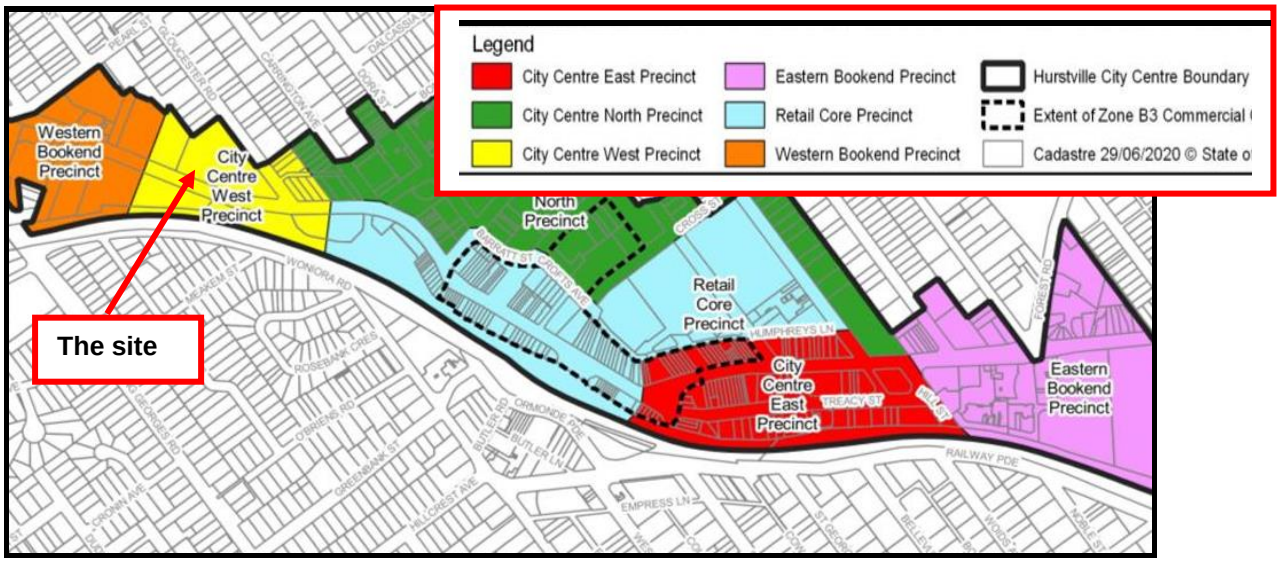

Figure 34: Hurstville City Centre Precinct Map *(Source: HDCP No 2)*

The Key Land Use Principles pursuant to Section 4.3.3 of the HDCP 2 include:

1. *Transitioning between high intensity residential and predominantly retail/commercial mixed use - Development will be characterised by a medium to high intensity built form. Buildings and public domain will delineate entry to the City through innovative design. All new development is to respond to the public realm, requiring building scale and form to retain a pedestrian scale at street level.*

2. Comment: The proposal provides for a pedestrian scale at street level with the provision of active uses comprising the retail uses as well as the provision of an awning and planting along the street frontage. However, the proposal does not provide for an innovative design, with a lack of articulation and variety of materials combining to exacerbate the bulk and scale of the proposed building.

3. *Mixed use development - The City Centre West precinct will be characterised by a development form that is a mix of commercial and residential use. Located near the border of the City Centre, this Precinct is to provide a transition between the Western Bookend precinct and the precincts on the eastern sides.*

   Comment: The proposal provides for a mixed use development, comprising ground level retail and commerical uses with residential development on the upper levels.

(ii) Section 5. Controls for Residential, Commercial and Mixed Use Development

Section 5 provides controls for residential, commercial and mixed use development, comprising built form controls and transport, traffic, parking and Access. These controls are considered in **Table 9** below.

Table 9: Consideration of the Controls in Section 5 of the HDCP No 2

Requirement	Proposal	Comply
5.3 Built Form Controls		
5.3.1 Site Amalgamation		
• Floor plate 900-1000sqm • Street frontage 30m min	The proposed floor plate exceeds 1000sqm and the street frontages both	Yes

	exceed 30 metres. No further site amalgamation on the site is required.	
5.4.1: Housing Choice, Affordability and Mix		
(a) Developments comprising residential uses must provide a variety of residential units mix, sizes, and layouts within each development. The following criteria must be satisfied: • Bed-sitter & 1 Beds – not >25% and not < 10% of total • 2 beds – not >75% of total • 3 Beds – not <10% of total mix • Smaller developments (<6 dwellings) to achieve appropriate mix for locality.	• 1 Bed – 74 (21.2%) • 2 beds – 217 (62.2%) • 3 beds – 58 (16.6%)	Yes
(b) Units designed especially those in the perimeter buildings open to the podium to be to support a change in their use in the future.	There are a variety of uses in Buildings A, B and C.	Yes
(c) Appropriate unit sizes considered from the NSW Residential Flat Design Code (2002).	Refer to ADG	N/A
(d) Development comprising residential uses to encourage enclosed roof top 'communal space/ room' for communal interaction.	Provided	Yes
(e) >5 dwellings, adaptable - 1 per 10 dwellings	The Access report and plans indicate that there are 36 adaptable units (10.2%) and 36 adaptable car spaces.	Yes
(f) Dwellings located above ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.	Lift access is provided as well as a chair lift to access the ground floor of Building E.	Yes
(g) The DA must be accompanied by certification from an accredited Access Consultant confirming adaptable dwellings are capable of being modified, when required by occupant, to comply with AS 4299-1995 AS 1428 Parts 1, 2 and 4.	Access report supports the proposed adaptable units.	Yes
(h) Car parking and garages allocated to adaptable dwellings must comply with relevant Australian Standard for disabled parking spaces.	Complies	Yes
5.3.2: Floor Space Ratio		
Refer to LEP	Complies with LEP	Yes
5.3.3: Building Height		
(a) Refer to LEP – Building heights. (b) Only achieved where matters demonstrated.	Refer to GRLEP 2021 Refer to GRLEP 2021	N/A

Street wall / Podiums – Forest Road Retail Strip (c) Buildings along Forest Road shall incorporate a street wall/podium of 4 storeys in certain locations as nominated in the Height of Buildings Map of Hurstville LEP 2012. (d) Where there is no street wall /podium nominated as required in the Height of Buildings Map of Hurstville LEP 2012, the buildings on those sites shall incorporate design elements on the building façade to express the street wall/podium design.	Refer to concept plan – requires 4 storey podium which has been provided. Refer to Section 8.3 of the DCP. Refer to concept plan	Yes Yes
Floor to Ceiling Heights (e) Indicative floor to ceiling heights (f) Services zone for structural services and air-conditioning must be sufficient	Refer to ADG (Cl 6A of SEPP 65)	N/A
Height in Metres vs Number of Storeys	Refer to GRLEP 2021	N/A
5.3.4: Street Setbacks		
	Refer to Section 8.3 of the DCP.	N/A
5.3.5: Building Separation		
	Refer to ADG (Cl 6A of SEPP 65)	N/A
5.3.6: Solar Access		
	Refer to ADG (Cl 6A of SEPP 65)	N/A
5.3.7: Natural Ventilation		
	Refer to ADG (Cl 6A of SEPP 65)	N/A
5.3.8: Visual Privacy, Acoustic and Vibration Amenity		
	Refer to ADG (Cl 6A of SEPP 65) acoustic amenity addressed in the Transport & Infrastructure SEPP and the GRLEP 2021 assessment.	N/A Yes
5.3.9: Building Entrances and Lobbies		
(a) All entrances must be clearly visible and identifiable from the street and public areas through the use of colour, materials and articulation in the building design to assist in entrance visibility.	There are concerns with the legibility of the proposed residential lobbies as well as the safety and amenity of these areas. This is further considered in the key issues section of this report.	**No**
(b) All letter boxes, lifts and signage must be located and accessed from within the lobby area.	Provided.	Yes
(c) The lobby area must have a generous street frontage, with the lift located to maximise visual casual surveillance.	The lifts are not orientated to the street and there is poor surveillance into these areas as they are generally inset form the building edge and have recessed corridors.	**No**
(c) All entrances and lobbies must provide suitable and appropriate lighting.	Can be provided via conditions where required.	Yes
(d) This section of the DCP must comply with the CPTED principles (Section 5.3.12).	Refer below.	-

(e) Lobbies to residential units to be designed to provide opportunities for residents to interact.	The residential lobbies do not provide adequate area for casual interaction as outlined in the key issues section of this report.	**No**
5.3.10 Building Facades and Articulation		
(a) A balance of horizontal and vertical facade elements that relate to the scale of the building and adjacent facades in terms of cornices, balconies, balustrades, roofs, eaves lines, door/window heads to reinforce the street rhythm must be provided.	The proposed facades are unsatisfactory as oultined in the key issues.	**No**
(b) The existing fine grained character of Forest Road must be conserved / interpreted.	There are individual shopfronts proposed and a number of pedestrian entry areas to the site along with a through site link. There are concerns with the facades of the development as outlined in the key issues.	**No**
(c) Building frontages with long facades must be articulated using shop front separations, attached columns steps in the façade, vertical windows, lighting, changes of texture and colour, and the like.	Refer above	**No**
(d) Large expanses of glass curtain walling and blank walls must be avoided.	These are not proposed.	N/A
(e) Building facades must be designed to clearly define its address to either the street, public open space or corner.	There are concerns with the pedestrian entry points as outlined in the key issues.	**No**
(f) Vertical and horizontal lines must be used to align shopfronts and signage	Achieved	Yes
Roller Shutters (g) Any security device must have minimal impact upon the architectural features and appearance of a building or the character of the street.	None proposed	N/A
(h) Any security grill or shutter must be located behind the glazing of the shopfront.	None proposed	N/A
(i) Any security grill or shutter must be 50% transparent.	None proposed	N/A
5.3.11 Awnings and Balconies		
Balconies	Refer to ADG (Cl 6A of SEPP 65)	N/A
Awnings (a) Awnings must be provided along all public streets.	An awning is provided along the Forest road and corner of Forest and Gloucester road frontages.	Yes
(b) Awnings must be continuous along the entire building elevation and to wrap around corners where a building is sited on a street corner, to ensure sufficient weather protection.	Complies – refer above	Yes
(c) Awnings must be complementary to other awnings within and adjoining the development site, where appropriate.	The proposed awning is considered to be satisfactory having regard to the existing awnings along Forest road (see below).	Yes

		
(d) Awnings must step in response to changes in street level, and may highlight building entrances. Otherwise, awnings should be relatively level and should continue the alignment of adjacent awnings.	The proposed awnings step with the level changes along Forest Road.	Yes
(e) All awnings must be cantilevered from buildings, with a minimum height from the footpath to its underside of 3.2 metres.	Satisfactory	Yes
(f) Awnings must cover as much of the footpath as possible. For footpaths of more than 4.5 metres in width, the awning must be setback 1.5 metres from the kerb to provide suitable space to accommodate street furniture, street trees and other public amenities. For smaller footpaths widths, awnings must be setback 600mm from the kerb to accommodate street furniture, low level landscaping and other public amenities. In cases where traffic signal poles are located, further setbacks may be required to the satisfaction of the Roads and Maritime Services (RMS).	Satisfactory	Yes
(g) All awnings must provide under awning lighting to enhance public safety and to facilitate night use of the City Centre.	To be a consent condition	Yes (condition)
(h) Awning fascia's should match those of the adjoining awnings and contain, where appropriate, motifs, patterns or detailed joints to enrich the streetscape.	To be a consent condition	Yes (condition)
5.3.12 - Active Street Frontages		
Relevant cl in LEP repealed	Active street frontages are achieved along Forest Road	Yes
5.3.13 Permeability and Accessibility		
(a) Consideration should be given to the through site links in accordance with the Pedestrian Access Map in Figure 5.3.1.	The site is not marked on the map, however, the Concept plan requires a through site link which has been provided.	Yes
(b) Through site links must: ▪ Create active ground floor frontages; ▪ Provide design	This has been provided in the through site link.	Yes

	details that create visual interest such as landscaping, awnings, paved finishes and interesting lighting; ▪ Be clearly defined, legible and direct throughways for pedestrians.		
(c)	Through site linkages within the residential, commercial or mixed use development (such as arcades) must provide public access at all business trading times or as otherwise stipulated by Council's conditions of approval;	Provided	Yes
(d)	Through site links in the public domain must maintain public access 24 hours a day 7 days a week.	Provided – include in conditions	Yes
(e)	Through site links must have a minimum width of 3 metres non leasable space, clear of all obstructions (including columns, stairs and escalators).	The width of the proposed through-site link is approximately 8-9 metres at its narrowest point.	Yes
(f)	It is preferred that all pedestrian access ways have access to natural light. For internal access ways it is preferred that there is natural light for at least 30% of their length, where practicable.	The through site link has access to natural light.	Yes
(g)	All through site links must provide safe access with adequate lighting and shelter.	Provided	Yes
(h)	Where air conditioned, pedestrian access ways and linkages must have clear glazed entry doors comprising at least 50% of the entrance.	Open air.	N/A
(i)	All through site links must have strong visual cues and be clearly signposted in way finding signage, like identify the street to which the through site link connects.	Provided	Yes
(j)	The design, finish and elements of any new through site links and access ways must be in accordance with the Hurstville City Centre Public Domain Plan (2007).	Provided	Yes
5.3.14 Crime Prevention Through Environmental Design			
Site and Building Layout			
(a)	Ensure that the design of the development allows for natural surveillance to and from the street and between individual dwellings or commercial units within the site.	Provided	Yes
(b)	Provide entries that are clearly visible and avoid confusion.	There are concerns with the pedestrian entry areas which are considered in the key issues section of this report.	Yes
(c)	Avoid blind corners in pathways, stairwells, hallways and car parks.	There are a number of blind corners identified in the basement levels and the	**No**

	ground floor levels which the CPTED Report considers require effective lighting and video surveillance as natural surveillance cannot be achieved in these locations. These areas include: • Storage and garbage areas in basement levels 1-3 • Around some areas of the ground floor façade adjoining Building B and the vehicle entry ramp on the ground floor and between the residential and retail components of Building A on level 1 • Rooftop garden areas However, it is considered that these areas should be redesigned to provide for more casual surveillance from other areas of the basement and not rely on lighting and cameras for safety. In this way, the proposal is unsatisfactory.	
(d) Provide natural surveillance for communal and public areas.	This has not been provided arising from the potential concealment opportunities in the basement.	**No**
(e) Ensure that design for natural surveillance also provides for a suitable streetscape appearance.	Satisfactory.	Yes
(f) Where permitted, provide appropriate mixed uses within buildings to increase opportunities for natural surveillance, while protecting amenity.	Provided.	Yes
(g) Locate public services (ATMs, telephones, help points, bicycle storage etc) in areas of high activity.	Not proposed	N/A
(h) Design car parks to allow for natural surveillance and ensure clear sight lines, ease of access and safety at the entrance and within the car park.	This has not been provided given the concerns outlined above in relation to concealment opportunities in the basement.	**No**
Lighting (a) Lighting is to be provided to enable natural surveillance, particularly in entrances/exits, service areas, pathways and car parks. (b) All entrance and exits must be clearly identifiable after dark by appropriate lighting.	Provided as conditions where appropriate	Yes

(c) Service areas such as garbage areas and loading bays must be well lit. (d) Lighting must be designed so it does not produce areas of glare and shadow.		
5.3.15 Landscaping		
(a) All DAs must include a landscape plan prepared by a qualified person. The landscape plan shall focus on common open space areas and/or areas which can be viewed from the street.	Provided	Yes
(b) A survey plan indicating the precise location of existing trees, their condition, species and crown size, and which trees are proposed to be removed.	Provided	Yes
(c) Landscaping is to generally incorporate indigenous and water efficient species to the area, and those which will not cause damage to adjacent buildings and driveways. Plants that have a short life, drop branches, gum or fruit, or which interfere with underground pipes, must be avoided.	Satisfactory.	Yes
(d) Landscaped areas must be irrigated with recycled water.	Rainwater tanks are proposed for irrigation.	Yes (condition)
Streetscape (Front Setback Area)		
(a) Landscaping in front of buildings (that is, between the buildings and the front property boundary) shall provide a suitable visual screen or softening function for the development. Trees selected must complement Council's vision for the streetscape, contained in the Hurstville City Centre Public Domain Plan. Applicants must consult Council about the particular requirements for their site.	Landscaping is proposed in the front setback area as well as throughout the site.	Yes
(b) Landscaping is to be provided where the site abuts access streets, service roads, railway lines or residential development.	Provided	Yes
(c) Species selected must complement the building height and street width.	Satisfactory.	Yes
Trees		
(a) Where possible, the site layout must retain all existing mature trees. (b) Trees planted must optimise shade in summer and allow sunlight in winter and must be positioned appropriately. (c) Protective measures are required around trees during site works and construction. Such measures must be submitted with the development application. (d) All open car parks must be landscaped with adequate trees to shade vehicles,	Tree protection and planting are discussed in further detail in the key issues section of this report.	Yes

improve amenity and enhance sustainability		
5.3.16 Planting on Structures		
(a) Any Development Application must provide a landscape plan identifying species selection, appropriate soil depth and area of landscaping, as well as the ability for structure to accommodate the nominated landscaped area. As a guide the following minimum standards are recommended: ▪ Minimum 1000mm depth for tree planting; ▪ Minimum 500mm depth for shrub planting/lawn. Note: This excludes the depth that would need to be set aside for drainage below the soil, which will be in excess of that required for planting. (b) Planting must provide for optimum conditions for plant growth by: ▪ Providing soil depth, soil volume and soil area that is appropriate to the size of the plants to be established; ▪ Providing appropriate soil conditions and irrigation methods; and ▪ Providing appropriate drainage. (c) Planters must be able to support appropriate soil depth and plant selection by: ▪ Ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and ▪ Providing square or rectangular planting areas rather than narrow linear areas. (d) Soil depths must be increased in accordance with: ▪ The mix of plants in a planter, for example where trees are planted in association with shrubs, groundcovers and grass, ▪ The level of landscape management, particularly the frequency of irrigation, ▪ Anchorage requirements of large and medium trees, and ▪ Soil type and quality. (e) Areas with planting on structures must be preferably irrigated with recycled water. (f) Ensure stormwater for structures provides some controlled flow to landscaped areas. (g) Ensure plant species are drought tolerant to minimise the need for irrigation.	Podium planting is discussed in further detail in the key issues section of this report.	**No**
5.3.16 Site Servicing		
Mail Boxes (a) Provide letterboxes for residential	Letterboxes are provided in the residential	Yes

building and/or commercial tenancies in one accessible location adjacent to the main entrance to the development. (b) Letterboxes must be integrated into a wall where possible and be constructed of materials consistent with the appearance of the building. (c) Letterboxes shall be secure and large enough to accommodate articles such as newspapers.	lobby areas.	
Communication Structures, Air Conditioners and Service Vents (a) Locate satellite dish and telecommunication antennae, air conditioning units, ventilation stacks and any ancillary structures: ▪ Away from the street frontage. ▪ Integrated into the roof design and in a position where such facilities will not become a skyline feature at the top of any building, and ▪ Adequately setback from the perimeter wall or roof edge of buildings. (b) A master antenna must be provided for residential apartment buildings. This antenna shall be sited to minimise its visibility from surrounding public areas.	Satisfactory	Yes
Fire Service and Emergency Vehicles (a) For developments where a fire brigade vehicle is required to enter the site, vehicular access, egress and manoeuvring must be provided to, from and on the site in accordance with the NSW Fire Brigades Code of Practice – Building Construction – NSWFB Vehicle Requirements. (b) Generally, provision must be made for NSW Fire Brigade vehicles to enter and leave the site in a forward direction where: ▪ NSW Fire Brigade cannot park their vehicles within the road reserve due to the distance of hydrants from the building or restricted vehicular access to hydrants; or ▪ The site has an access driveway longer than 15m.	MRV access is provided throughout the basement and basement entry ramp.	Yes
Residential (a) Provide either communal or individual laundry facilities to every dwelling. The public visibility of this area must be minimised. Drying of clothes is only permitted on balconies that are permanently screened from public view. (b) Provide storage at rate of 10sqm per dwelling unit. (c) Make provision for on-site car-washing.	Provided for each dwelling. Storage – refer to ADG Car wash bay provided	Yes Yes Yes

(d) Make provision for on-site composting.	Refer to waste	Yes
Electrical Services Electrical Service substations and transformers should be designed and integrated into the development to allow service access and screening from public areas in accordance with the requirements of relevant authorities	A substation is proposed in a prominent location near the intersection of Forest and Gloucester Road which is unsatisfactory.	**No**
5.4 Transport, Traffic, Parking and Access		
5.4.3 Sustainable Transport		
5.4.3.1 Car Share Schemes (a) The number of car share parking spaces provided does not replace more than 25% of the total off-street parking requirement if those car share space had not been provided, excluding any residential visitor parking spaces; and (b) 1 car space can be provided in lieu of 3 car parking spaces.	3 car share spaces are provided	Yes
5.4.3.2 Travel Plans Travel Plans must be submitted with all development applications that involve: (a) New, or redevelopment of, non-residential developments which result in the total floor space of the development exceeding 2,000m2.	Can be provided as a condition	Yes (condition)
5.4.3.3 Bicycle Facilities (a) Bicycle storage racks must be provided to accommodate a minimum of: – 1 bicycle space/200m² (office) (13 spaces required – 2,517sqm) – 1 bicycle space/300m² (retail) (7 spaces required – 2,103sqm) – 1 bicycle space/3 residential units (117 spaces required – 349 units)	B1 – 20 commercial/retail & 24 residential B2 – 46 residential B3 – 48 residential Total – 118 residential & 20 comm/retail	Yes
(b) Bicycle racks must be easily accessible from the public domain, and within areas that are well lit with adequate levels of natural surveillance.	The bicycle rack are located close to the lift areas which is safe and convenient.	Yes
(c) The bicycle parking area must be capable of being made secure to protect the security of cyclists and their belongings with communal showers, changing facilities and lockers for storing cycling attire and equipment provided.	There are end of trip facilities provided in the basement area of Building A.	Yes
(d) Notwithstanding (b) and (c) above, bicycle storage facilities for residential uses can be provided within private garage areas, where it is demonstrated that: – sufficient storage within garage for bicycle and required number of vehicles; and – There is a safe path for cyclists to	Provided in the basement.	Yes

leave the garage area.		
5.4.4 Parking & Service Delivery Requirements		
5.4.4.1 Vehicle Parking Rates (a) Parking areas must be designed to facilitate safe and efficient movement and circulation of vehicles and pedestrians, including safe pedestrian access within car parks.	Council's traffic engineer does not object to the proposal subject to recommended consent conditions.	Yes
(b) Parking areas and loading/unloading facilities designed to comply with AS 2890.	The proposal allows an MRV to access the loading dock.	Yes
(c) Car park location and design to ensure pedestrian safety, clear sight lines and to maintain streetscape character and amenity. All carparking positioned below ground level.	Basement parking below ground level is proposed.	Yes
(d) Provide car parking: • Business & office premises (B4 Mixed Use) - 1 space/100m² • Retail premises (including food and drink premises, restaurants & café unless elsewhere defined) - 1 space/50m² • Dwelling (1-2 beds) - 1 space/dwelling • Dwelling (3 beds) - 2 spaces/dwelling • Visitor spaces - 1 space/4 dwellings (or part thereof)	• Commercial (1/100sqm) – 2517 = 25.17 & retail (1/50sqm) – 2103 = 42.06 = 67.23 - 68 spaces required • 1 & 2 beds (291) – 291 spaces • 3 beds (58) – 116 spaces • Residential – 407 spaces required • Visitor – 88 spaces required	Refer to ADG
(e) Number rounded up (3.2 spaces = 4 spaces).	Noted	Yes
(f) For mixed use development the allocation of spaces among the uses indicated on plans.	Complies	Yes
(g) Use of car spaces restricted to occupiers(s) and visitors of development.	Complies	Yes
(h) Any non-residential development that cannot provide all of the required car parking on-site will be required to pay a contribution for each deficient car parking space in accordance with Council's adopted section 94 contributions plan.	Complies	Yes
(i) Development generating high amounts of traffic, as defined under Infrastructure SEPP referred to RMS.	Refer to Transport & Infrastructure SEPP assessment – referral to TfNSW with no objections	Yes
(j) Where change of use	Not proposed.	N/A
(k) No additional parking is required for a change of use of existing commercial premises to another type of commercial premises where the GFA of the premises is less than 100sqm.	Not proposed.	N/A
(l) alterations and additions.	Not proposed.	N/A

5.4.3.2 Other Car Parking Controls **Visitor Parking** (a) Designate disabled and visitor car parking spaces as common property.	Condition	Yes
Car Parking for Adaptable Dwellings Developments containing adaptable housing must allocate at least one accessible parking space to each adaptable dwelling.	Provided – 36 adaptable spaces.	Yes
Stack Parking Not more than 25% of cars must be stack parked; ▪ Provision is made in the design of the car park to enable reasonable shuffling of cars without the movement or the likely encouragement of reversing vehicles on or off the property.	48 tandem spaces – 15% of total spaces	Yes
Car Wash Bays For residential developments containing 4 or more dwellings, a car wash bay is to be provided within the visitor parking area. The car wash bay may comprise a visitor car space. The wash bay is to be adequately drained and connected to the sewer line.	A car wash bay has been provided.	Yes
5.4.5 Vehicular Access and Manoeuvring		
Location of Vehicular Access (a) Vehicular access points must be provided in accordance with Figure 5.4.4.	The map requires all vehicle access to be from Gloucester Rd. the proposal provides vehicle access only form Gloucester Road.	Yes
(b) Where practicable, vehicle access is to be from lanes and minor streets, such as Second and Third Order Streets, rather than First Order streets with major pedestrian activity or along park edges. Refer to the Street Hierarchy Map, Figure 5.3.11 in Section 5.3.10.	Gloucester Road is a third order street, where vehicle access is proposed.	Yes
(c) Vehicular access to sites along Forest Road, (the First Order street) are not permitted.	Vehicle access is proposed from Gloucester Rd.	Yes
(d) Some properties located along the southern side of Forest Road abut RailCorp property and access roads/lanes. RailCorp approval is required if access is sought from these lanes.	Not proposed.	N/A
(e) One vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be permitted per site. More than one vehicular access point may be permitted on larger sites where it can be demonstrated to meet the above objectives	Only one vehicle access point is proposed.	Yes
(f) No additional vehicle entry points will be	Vehicle access is proposed from	Yes

permitted into the parking or service areas of development along those streets identified as significant pedestrian circulation routes in Figure 5.4.4.	Gloucester Rd, which is permissible.	
(g) Vehicle access may not be required or may be denied to some properties listed as heritage items under Schedule 5 of Hurstville LEP 2012.	Not relevant to this site.	N/A
Design of Vehicular Access (a) Vehicle entries must have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes must be visible from the street.	Satisfactory	Yes
(b) Vehicle access is to be designed to: ▪ Minimise impact on the street, site layout and the building façade design; and ▪ If located off a primary street frontage, be integrated into the building design.	Satisfactory	Yes
(c) Where practicable, buildings must share, amalgamate, or provide a rear lane for vehicle access points.	Vehicle access from secondary street.	Yes
(d) All vehicles must be able to enter and leave the site in a forward direction	Vehicles can enter and leave in a forward direction.	Yes
(e) Separate and clearly differentiated pedestrian and vehicle access must be provided.	Separate and clearly differentiated pedestrian and vehicle access provided.	Yes
(f) Vehicular access must be located a minimum of 3 metres from pedestrian entrances.	Complies	Yes
(g) Vehicular access may not ramp along boundary alignments edging the public domain, streets, lanes parks and the like.	Not proposed	Yes
(h) Driveway crossing width and the profile must comply with Council Standards and the relevant Australian Standards (AS2890 or as amended)	Council's traffic engineer and public Domain Engineer do not object to the proposal subject to recommended consent conditions.	Yes
(i) Driveway widths must comply with the relevant Australian Standards.	Council's traffic engineer does not object to the proposal subject to recommended consent conditions	Yes
(j) Driveway grades, vehicular ramp width/grades and passing bays must be in accordance with the relevant Australian Standard, (AS 2890.1 or as amended).	Council's traffic engineer does not object to the proposal subject to recommended consent conditions	Yes
(k) Access ways to underground parking should not be located adjacent to doors or windows of the habitable rooms of any residential development.	Accessway located adjacent to the lobbies for Building D and E.	Yes
5.4.6 Loading/Unloading facilities and Service Vehicle Manoeuvring (a) For the development of all new buildings, site design must allocate	The loading dock complies.	Yes

adequate space for the loading, unloading, parking and manoeuvring of delivery and service vehicles within the subject property. Design of these areas shall comply with AS 2890 or as amended.		
(b) All loading and unloading activities must take place wholly within the loading bay, at all times. No loading or unloading activity is to take place within any car parking area, landscaping area, pedestrian footway or any public road reserve.	The loading dock complies.	Yes
(c) All delivery vehicles must be able to enter and leave the site in a forward direction.	Satisfactory	Yes
5.4.7 Pedestrian Access and Mobility (a) Access to public areas of buildings and dwellings must follow the principles of universal access, with any development providing continuous paths of travel from all public roads and spaces as well as unimpeded internal access.	Access report states that the proposal is capable of compliance.	Yes
(b) Access must be direct and without unnecessary barriers. Avoid obstructions, which cause difficulties including: ▪ Uneven and slippery surfaces; ▪ Steep stairs and ramps; ▪ Narrow doorways, paths and corridors; and ▪ Devices such as door handles which require two hands to operate.	Refer above	Yes
(c) Ensure that barrier free access is provided to the common areas of all buildings, and not less than 20% of dwellings in each development.	Level paths are provided to and throughout the site as well as lift access to all levels.	Yes
(d) The design of facilities (including car parking requirements) for disabled persons must comply with AS 1428 Pt 1 and 2, or as amended) and Disability Discrimination Act 1992 (as amended).	Access report states that the proposal is capable of compliance.	Yes
(e) The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.	Provided	Yes
(f) Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain (street) with appropriate slip resistant materials, tactile surfaces and contrasting colours.	Provided	Yes

(iii) Section 6. Site Planning Considerations

Section 6 provides controls for site planning considerations which are considered below in **Table 10**.

Table 10: Consideration of Site Planning Controls

Requirement	Proposal	Comply
6.1: Public Domain		
6.1.1 Landscaping (Street Trees)	The 11 existing street trees are to be retained as part of this development. This issue is considered further in the key issues section of this report.	Yes
6.1.2 Infrastructure (Street Furniture, Lighting)	This will be subject to public domain plans required to be approved by Council's Assets and Infrastructure Section as consent conditions.	Yes (conditions)
6.1.3 Front Fences / Outdoor Dining	This does not form part of the current proposal, notwithstanding that outdoor dining is likely to be provided on the site in the future. Future uses of the site are to be the subject of future DAs to Council.	Yes
6.1.4 Paving, Culture and Public Art The design of public art to be in accordance with the Hurstville City Centre Public Domain Plan.	There has been three (3) locations proposed for public art on the site: 1. Entry to through site link on Forest Road - sculpture 2. North entry to site along Gloucester Rd – water feature/Feng Shi 3. Urban common – sculptured form (pavilion, pergola, dome). This is considered to be satisfactory and can be further address in consent conditions where required.	Yes
6.1.5 Signage	Not proposed	N/A
6.2: Environmental Management		
6.2.1 Energy Efficiency and Conservation To reduce the proportion of overall energy consumption in the construction and use of buildings.	The proposal is consistent with the BASIX requirements.	Yes
6.2.2 Water Management Ensure future built form is water efficient, through the reduction of water usage and incorporation of water recycling in day to day operations and to safeguard the environment by improving the quality of water run-off.	The proposal is consistent with the BASIX requirements.	Yes
6.2.3 Stormwater Management A Site Stormwater Management Plan (SSMP) is required to be submitted with all development applications.	Council's stormwater engineer raises no objections subject to conditions.	Yes
6.2.4 Waste Minimisation and Management	Council's Waste officer has reviewed	**No**

a) Installation of grey water collection and treatment on site, so that waste water can be re-used for non-potable purposes, such as toilet flushing and irrigation of gardens and landscape. b) Provide for recycling of household and commercial waste and common storage for recyclables as well as a waste/recycle storage area within each building. c) Include on-site composting where possible, either in each dwelling or as a shared facility. d) Recycling and reuse of materials should occur at all stages of development including demolition of existing buildings, selection of materials and during building construction stages. e) Where possible, reuse of existing buildings to be undertaken f) Recycling and reuse of materials should occur at all stages of development, including demolition of existing buildings, selection of materials and during building construction stages. g) Waste management plan required h) Provide storage room for garbage, recyclable and compostable waste bins i) Storage area must be located in a position which is not visible from the street, easily accessible to dwelling occupants, accessible by collection vehicles with water and drainage facilities for cleaning and maintenance; and does not immediately adjoin private open space, windows or clothes drying areas. j) Where a sufficient sized kerbside collection point cannot be provided for the number of bins to stand in single file one metre apart without encroaching neighbouring properties, Council will require details of an alternative garbage collection service. Council staff should be consulted in these situations, as it may be necessary to engage a private waste collection contractor. k) Incorporate convenient access for waste collection (access driveways and internal roads must be designed to provide adequate clearance and manoeuvring space to allow the waste collection vehicle to enter and exit in a forward direction without impeding upon general access to, from or within the site). l) In the case where a development proposes to use a dumpster/bulk bins, access is to be provided from the street level without the need for manual handling with sufficient	the proposal and considers that the current proposal does not achieve compliance with the following requirements: • Paths of travel - The path of travel of waste from the point of generation (each unit) to level-specific waste/bin storage areas, including bulky waste storage, and to the central storage area to the proposed collection point has not been provided. • Waste storage areas - The proposed bin storage rooms for each building do not appear to provide the number of waste, recycling and FOGO bins that the WMP states are required for the proposal. The location of each bin must be shown on the Architectural Plans. • Bulky waste areas - The access and travel distances to the collection point for the bulky waste storage areas are unsatisfactory. The total maximum travel distance from any residential dwelling entry to bulky waste storage must not exceed 30 metres and the access into the storage area must be double door width (a minimum of 2.5 metres). These requirements have not been achieved by the proposal. • Waste collection - The proposal states that the Council will service the site from the loading dock, however, it is unclear whether access and clearances to the waste collection (holding) room is able to accommodate a 12.5m long HRV per AS2890.2-2002. The plans also do not outline where the waste collection vehicle stands while providing collection services. No vehicle swept path diagrams for the Council collection vehicle have been provided. • Food Organics and Garden Organics ('FOGO') waste - The proposal has not made provision for FOGO waste on each occupied floor.	

space for the collection vehicle to drive to the collection point, empty the bin safely and exit without traffic interference or any height restrictions. m) Composting facilities provided where possible.		
6.2.5 Wind Mitigation To ensure that new developments satisfy nominated wind standards and maintain comfortable conditions for pedestrians. ii. To ensure that moderate breezes are able to penetrate the streets of Hurstville City Centre.	A Wind report has been provided which considers the proposal is satisfactory with regard to pedestrian comfort surrounding the building.	Yes
6.2.6 Reflectivity To minimise the impacts by reflected light and solar reflectivity from buildings on pedestrians and motorists.	There is a variety of colours and materials proposed which will ensure there is no significant problems with reflectivity.	Yes
6.2.7 Soil Management Ensure that changes to land use will not increase the risk to public health or the biophysical environment. Minimise air and water pollution due to soil loss either through erosion or poor site practices. Avoid inappropriate restrictions on land use.	An erosion and sediment control plan has been provided and the potential land contamination has been considered in the Resilience & Hazards SEPP consideration.	Yes
6.3: Development of a Heritage item or in the vicinity of a Heritage item		
	There is no heritage items on the site.	N/A
6.4: Preservation of Trees and Vegetation		
	The development will result in the removal of a number of on-site trees, however the 11 street trees are proposed to be retained as part of the development. Tree protection and planting are discussed in further detail in the key issues section of this report.	Yes

(iv) Section 7 - Controls for Other Development Types (trading hours)

Section 7 provides controls for trading hours in Section 7.1, which states:

> *Standard Trading Hours Standard trading hours are 6am – 12am (midnight), daily.*
> *Extended Trading Hours Extended trading hours are 12am (midnight) – 6am, daily.*

Hours of operation will be considered in future development applications for uses of the individual commerical and retail tenancies.

(v) Section 8 - Controls For Specific Sites And Localities (*8.3 - 9 Gloucester Rd, Hurstville)*

This Section applies to the site which was the subject of Amendment 18 to the HLEP 2012, which came into operation on 12 February 2021. This section provides a detailed guide for the development of the site. there are three main parts which are applicable to the proposed development and include the following:

- Section 8.3.1 – General Information

- Section 8.3.2 – Background and Context
- Section 8.3.3 – Development Requirements

These provisions are considered in detail below.

Section 8.3.1 – General Information

Pursuant to Section 8.3.1.2, these controls apply to the site and the purpose of this section is to provide a detailed guide for the development of the site that achieves the urban design principles contained in Section 8.3.1.4, considered in **Table 11**.

Table 11: Urban Design Principles in Section 8.3 of the HDCP No 2

URBAN DESIGN PRINCIPLE	COMMENT	COMPLY
a) Create a sustainable and livable environment for people through leadership and integration of design excellence.	The proposal does not achieve design excellence as outlined in the key issues section of this report.	**No**
b) Development is distinctive, visually interesting and appealing.	The proposal does not provide visually interesting or appealing facades and design excellence has not been achieved as outlined in the key issues section of this report.	**No**
c) Development is designed to address the context of the area.	The proposal does not achieve design excellence as outlined in the key issues section of this report.	**No**
d) Provision of good residential amenity in terms of privacy and built form by complying with the SEPP 65 Apartment Design Guide and incorporating appropriate transition between the new development and the adjoining residential development.	Refer to ADG	N/A
e) Development to ensure the built form outcome provides a transition to the adjoining sites.	There is inadequate building separation and side setbacks provided for the proposal as outlined in the key issues section of this report.	**No**
f) Clearly define the street edge with building podiums.	Satisfactory	Yes
g) Articulate the building façades to enhance the streetscape character.	The proposal does not provide articulated building facades or achieve design excellence as outlined in the key issues section of this report.	**No**
h) Maintain a human scale at the street level, with particular emphasis on the human experience in the built environment.	The proposal achieves an active street edge along Forest Road, with a human scale provided through the activated retail uses and the podium along the majority of the street frontage.	Yes
i) Provide pedestrian connections between streets and communal spaces.	Appropriate pedestrian connections have been identified via the through site link.	Yes

j)	*Retain significant existing trees and plant new trees to maintain the landscaped character of the Site.*	The street trees along Gloucester Road are retained.	Yes
k)	*Provide adequate basement car parking and a safe and efficient access network for both pedestrians and vehicles.*	Adequate car parking has been provided in the basement.	Yes
l)	*Create an active streetscape that enhances the liveliness and vitality of Forest Road.*	Satisfactory through the use of the active retail uses along Forest Road.	Yes

Section 8.3.2 – Background and Context

This Section provides the Concept Master Plan which was prepared for the site as part of the Planning Proposal (discussed in the background section of this Report), which provides general guidance on the overall form of development on the site. The HDCP No 2 states that Council will consider alternative schemes subject to compliance with the HLEP 2012, SEPP 65, the ADG and other sections of HDCP 2 as well as key features listed below being provided:

- a central communal open space
- a through site link between Forest and Gloucester Roads
- retention of significant trees in accordance with Section 8.3.3.8
- active street frontages with commercial uses occupying the ground floor along Forest Road and comprising a minimum FSR of 0.5:1.

These key features have generally been included in the proposal.

The concept plan is considered in detail in the key issues section of this report.

Section 8.3.3 – Development Requirements

Section 8.3.3 provides the development requirements for the site based on the concept plan, which are considered in **Table 12**. These matters are considered further in the key issues section of this report.

Table 12: Consideration of Section 8.3.3 of the HDCP No 2

Requirement	Proposal	Comply
8.3.3.1 – Surveyor's Certificate		
a) A Surveyor's Certificate including GFA diagrams to scale of each and every proposed level that indicates the breakup of residential and non-residential floor area, with a minimum non-residential FSR of 0.5:1 required (accompanied by scaled surveyor diagram).	The scaled plans from a registered surveyor outlining the GFA for each level has been provided (SDG Pty Ltd dated 28/11/22).	Yes
8.3.3.2 Commercial Floor Space		
a) Retail and community uses shall be provided on the whole of the ground floor.	Retail and commercial uses are proposed on the ground levels of Buildings A, B and C. RFBs are permissible in the area of the site where Buildings D and E are proposed.	Yes
b) Flexible types of office spaces shall be	Building C has commerical space on	Yes

provided above ground floor, including a range of floor plate sizes.	level 2.	
8.3.3.3 Built Form and Setbacks (outlined in more detail in key issues)		
a) Development shall display a built form comprising a 4m front setback for the entire length of Forest Road to allow the provision of awnings and street tree planting (Refer #1 in Figure 3).	The proposal is setback 4 metres from Forest Road for all levels.	Yes
b) Define the street edge by retaining significant trees along Forest and Gloucester Roads (Refer Section 8.3.3.8).	Trees are largely retained along Gloucester road. This is further discussed in the key issues section of this report.	Yes
c) Development shall display a built form comprising a 2m front setback along the southern portion of Gloucester Road and 5m front setback along the remaining Gloucester Road frontage reflecting the established setback of the adjacent 4 storey residential flat buildings (Refer #2 and #3 in Figure 3).	The proposal is setback 5 metres at the northern end and 2 metres at the southern end of the Gloucester Rd frontage. There are some encroachments into the 5 metre setback for Building D/E comprising terrace areas for the proposed ground level units.	**No** (some encroach ments)
d) Development shall display a 6m setback to side boundary at street level to allow for landscaping of the side boundary interface zone (Refer #4 in Figure 3).	• Building A –3m (ground) • Building E – 6m with terrace areas encroaching	**No**
e) An additional setback of minimum 3m is required for built forms above 4 storeys to allow suitable building separation and appropriate transition to adjoining developments (Refer #4 in Figure 3).	This setback control already applies to Building E under the ADG as it adjoins a different zone which permits lower density development.	Yes
f) Define the Forest Road street edge by providing a podium of maximum 4 storeys, with the exception of Building C and a portion of Building B (unless where indicated in Figure 2).	A 4 storey podium is provided along Forest Road for Buildings A, B and C.	Yes
g) Building layout, setbacks and separation of building forms are to be in accordance with SEPP 65 and the ADG to ensure the amenity of residents is maintained. Note: Refer to Figure 5.3.3: Indicative Building Floor to Ceiling heights in Section 5.3 Built Form Controls of this DCP.	Refer to ADG	N/A
h) All residential apartments are to be insulated and to have Impact Isolation between floors to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). An Acoustic Report is to be submitted with the Development Application to ensure that the above standards have been achieved.	This is to be covered by relevant conditions relating to compliance with the BCA/NCC.	Yes
i) A Pedestrian Wind Impact Report prepared by a suitably qualified engineer is to be submitted with Development Applications for buildings 30m or higher, and for other buildings at the discretion of Council. At a minimum, the report	A Wind Report has been provided which included that subject to a number of recommended design measures, that it is expected that wind conditions for the various trafficable	Yes

is to: a) Report the likely impacts of wind on the pedestrian environment at the footpath level within the site and the public domain; and b) Show how the proposal minimises the impact of wind on the public and private domain.	outdoor areas within and around the development will be suitable for their intended uses, and that the wind speeds will satisfy the applicable criteria for pedestrian comfort and safety.	
8.3.3.4 Façade Treatment and Street Corners (outlined in more detail in key issues)		
a) Building facades must be articulated and employ materials and finishes that enhance and complement the streetscape character.	This has not been provided as outlined in the key issues.	**No**
b) The Forest and Gloucester Road street corner must be reinforced through strong architectural form that reflects the geometry of the site with appropriate use of materials, colour, height and transition towards Forest Road.	Satisfactory.	Yes
c) Human scale at street level must be created through the use of fine-grain elements, rhythm, high quality materials and/or landscaping.	Satisfactory.	Yes
d) The use of blank walls is not acceptable for façades visible from the public domain. Façade treatments such as wall cladding and green walls should be considered as alternatives to blank walls.	There are no blank walls to the street frontages.	Yes
e) Development must not rely solely on the use of two-dimensional colour and materials to create visual interest. Modulation and articulation in the building form must be explored	This has not been provided as outlined in the key issues.	**No**
f) Essential services such as substations and fire hydrants must be integrated into the design of the façade.	A substation is proposed in a prominent location, which is unsatisfactory. This matter is outlined in the key issues.	**No**
g) Clear glazing balustrades must be avoided where they are visible from the public domain.	The majority of the proposed apartments have brick balustrades with a glazing top, however, Building C has glass balustrades while some of the units in Building A also have clear glazing. This is considered acceptable given distance to the street to the majority of these proposed apartments.	Yes
h) The ground floor along the prominent corner and extending up both Forest and Gloucester Roads must have (as close as possible) level access to the footpath and pedestrian access ways without any proposed basement carpark extending above such levels.	There is level access in the vicinity of the corner and to proposed Buildings A, B and C, however, there are some stairs up to the ground floor of Building D with an access ramp and a stair lift for Building E.	Yes
8.3.3.5 Pedestrian Access and the Public Domain		
a) Provide high quality accessible routes to public and semi-public areas of the building and the site, including major entries, lobbies, communal open space, site facilities, parking areas and pedestrian pathways.	Good pedestrian access is provided to each of the buildings and the associated lobby and entry areas.	Yes
b) Separate and clearly distinguish between public and private pedestrian accessways and	This has been achieved by the proposal.	Yes

vehicle accessways and utilise consistent paving treatments throughout the site.		
c) All pedestrian links are to have appropriate levels of illumination.	Lighting is not shown on the plans however can be provided.	Yes (condition)
d) The through-site link from Forest Road to the landscaped communal open space and Gloucester Road (Refer Figure 6) is to: a. be a minimum of four storeys in height with no blank walls facing the underpass space. b. ensure that a clear and safe path that is unobstructed by parking and services is available for pedestrians at all times. c. incorporate elements that positively contribute to the Forest Road streetscape, especially from the public domain. d. integrate landscaping elements such as existing and new tree plantings. e. ensure pedestrian safety through the application of CPTED principles, especially measures that promote passive surveillance.	The through site link provides connection between Forest and Gloucester Roads and comprises a four (4) storey height above. There are windows, shopfronts and lobby areas facing this through site link which is unobstructed. Landscaping is proposed through this connection, with a focus on the Forest road end. There is good natural surveillance through this area given the retail and commerical uses which adjoin this connection and the straight configuration allows vision from each end. The proposal is consistent with Figure 6 of the DCP illustrated below.	Yes
 Figure 6: Section of four-storey through site link		
e) The landscaped communal open space on the ground level is to provide the opportunity to be used in a variety of ways over different times of the day, week and year.	Provided	Yes
f) The existing above ground electricity and telecommunication cables within the road reserve and within the site area are to be replaced, at the applicant's expense, by underground cables and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines.	Can be a condition of consent	Yes (condition)

8.3.3.6 Active Street Frontages		
a) Active street frontages are to be provided along Forest Road in accordance with the HLEP 2012 Active Street Frontage Map (the "ASF Map") 	This clause is not included in the GRLEP 2021. Notwithstanding this, the proposal incorporates active frontages along the Forest Rd frontage in accordance with Cl 6.13(3) of the GRLEP 2021.	Yes
b) Active street frontages are to contribute to the liveliness and vitality of streets by: • maximising entries and display windows to commercial premises or other uses that provide pedestrian interest and interaction; • providing a high standard of finish and appropriate level of architectural detail for shopfronts; and • providing elements of visual interest (minimising blank walls), such as display cases, or creative use of materials where fire escapes, service doors, equipment hatches and other services are provided.	The proposal provides numerous street entry points into proposed Buildings A, B and C as well as large windows and glazed shopfronts to activate the street edge. There are no blank walls facing the street and there is an appropriate interaction within the street for each of the proposed buildings.	Yes
c) Generally, a minimum of 70% of the ground floor frontage is to be transparent glazing with a predominantly unobstructed view from the adjacent footpath to at least a depth of 6m within the building.	Complies.	Yes
d) Active frontages are to be designed with the ground floor level at the same level as the footpath.	Proposed Buildings A, B and C have direct access from the street.	Yes
e) A continuous awning must be provided above all active street frontages.	Proposed Buildings A, B and C provide an awning to the street.	Yes
f) Security grilles may only be fitted internally behind the shopfront and are to be fully retractable and at least 50% transparent when closed.	Not proposed	N/A
8.3.3.7 Open Space and Landscaping (discussed in key issues)		
a) A landscaped communal open space is to be provided generally in the location shown in Figure 8 and is to include: • A ground level communal open space of approximately 1,870sqm that is protected from the busier Forest Road environment and receives reasonable solar access; • Retention of trees and proposed street tree planting in accordance with Section 8.3.3.7.	The proposal provides 2,084m² at ground level and 2,103m² on the roof, with a total area of 4,187m², resulting in 45.31% of the site. The proposal retains existing significant street trees and includes new street tree planting as required (discussed in key issues).	Yes Yes
b) Landscape design is to be in scale with the development and should relate to building form; facilitate storm water infiltration through the use of permeable surfaces; and be easily	Generally consistent with the controls with the exception of the podium planting depth.	**No**

maintained.		
c) Landscaping is to ensure amenity of private and publicly accessible open spaces and solar efficiency of apartments by providing shade from the sun and shelter from the wind, including the use of deciduous trees for shading of windows and open space areas in summer and allowing solar access in winter.	Generally consistent with the controls.	Yes
d) Deep soil planting is to be provided in accordance with the ADG and incorporated in the landscaped central common area – the deep soil area should not be above the basement parking. a. 6m wide deep soil landscaped screening along the interface with residential properties to the west (Refer Figure 8); b. 6m wide deep soil planting along Gloucester Road (Refer Figure 8)	The proposed deep soil area is not provided along the NW boundary adjoining Building A, which is unsatisfactory (discussed in key issues). It is noted that Clause 6A of SEPP 65 which provides for certain clauses of DCPs to have no effect does not include deep soil zone controls.	**No**
e) Additional communal open spaces such as above podium and internal courtyards may be provided to ensure equitable access to all residents.	Roof top communal open space provided for each building.	Yes
f) All DAs to include a landscaping plan for all landscaped areas prepared by a qualified landscape designer. The landscaping plan should demonstrate that there is no conflict with the location of services on the site and any deep soil planting area.	A landscape plan has been provided. This issue is considered further in the key issues section of this report.	Yes
8.3.3.8 Tree Retention (discussed in key issues)		
a) Any new development must retain identified trees in accordance with Figure 9 and Table 1 in this section.	The trees along Gloucester Rd are proposed to be retained comprising Trees 20-37, with the exception of Tree 36 which requires removal of the proposed driveway. This issue is considered further in the key issues section of this report.	Yes
b) Any new development must propose new trees in the locations identified in Figure 9. Details of the proposed trees, including the species and size, will need to be provided with the Development Application to the satisfaction of Council. The proposed tree canopy must exceed the existing canopy cover on the site of 3,385sqm. The costs of the works are to be borne by the applicant.	The landscape plan proposes trees in these locations. The tree canopy is 2,878m² which is less than the required amount and is considered further in the key issues section of this report.	**No**
c) Any trees that are located on public land will be subject to the payment of security in accordance with Council's Tree Management Policy.	Street trees to be retained.	Yes
8.3.3.9 On-Site Parking (discussed in key issues)		
a) Car parking must be located underground in a basement and be designed in accordance with Section 5.4 Transport, Traffic, Parking and Access of this DCP.	Basement parking is proposed.	Yes

b) Car parking rates must comply with RMS car parking rates in accordance with the Apartment Design Guide	Complies (exceeds controls)	Yes
c) All loading and unloading of goods is to be accommodated within the property and off the public roads, including garbage pickup.	A loading dock is provided in the basement, which is accessed from Gloucester Rd.	Yes
d) All vehicles are to enter and leave the site in a forward direction at all times	All vehicles can enter and exit in a forward direction.	Yes
e) The designs for all the levels of the basement car park are to adhere to the latest edition of relevant AS/NZS 2890.1, 2890.2 and 2890.6.	Councils Traffic Engineer does not object to the proposal subject to relevant consent conditions.	Yes
f) Safe and secure access is to be provided for building users, direct access to residential apartments and convenient access to customers /staff of the commercial uses.	Lobby and entry areas are provided from the street.	Yes
g) Ventilation grilles or screening devices of car park openings are to be integrated into the overall façade and landscape design of the development and must not be located above existing or proposed footpath levels along Forest Road and Gloucester Road.	None proposed.	Yes
8.3.3.10 Vehicle Access (discussed in key issues)		
a) Vehicular access to the site is to be provided in accordance with Section 5.4 Transport, Traffic, Parking and Access of this DCP.	The vehicle access point is consistent with Figure 10 and the concept plan.	Yes
b) Vehicle access to the site is to be located off Gloucester Road.	Vehicle access is from the Gloucester Road frontage of the site.	Yes
c) The appearance of car parking and service vehicle entries are to be improved by screening and locating garbage collection, loading/unloading and servicing areas within the basement of the development. Refer to Section 6.2.2 Waste Minimisation and Management of this DCP.	The proposal provides the basement entry in accordance with the concept plan and there are no garbage areas at street level.	Yes
d) Vehicle access to the site is to be setback from the neighbouring residential properties to provide for a landscaping buffer as shown in Figure 10.	The proposed development provides access in accordance with the DCP.	Yes

The *Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12)* is the relevant contributions plan to the proposal pursuant to Paty 7 (Division 7.1) of the EP&A Act. The relevant contributions required under this Plan are required to be imposed as conditions on any consent granted.

(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

A planning agreement was executed in relation to the Planning Proposal, which has been entered into under Section 7.4 of the EP&A Act. The proposal is consistent with this Planning Agreement as discussed in this report.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the EP&A Regulation 2021 contains additional matters that the consent authority must consider in determining this development application. Relevant to this development application is Section 61(1) which requires the *consent authority to consider the Australian Standard AS 2601—2001: The Demolition of Structures* when demolition is proposed. These provisions can be addressed in conditions on any consent granted.

4.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposed development is considered to be contrary to the context and setting of the site due to the inconsistencies with the building separation and side setback controls. These building alignment controls assist in providing the character of the area since landscaping and open space can be provided throughout the site when appropriate building separation and side setbacks are provided. The proposed facades of the building are also unsatisfactory and reduce the compatibility of the proposal with surrounding development given the bulk and scale of the proposed building forms is not sufficiently mitigated.

- Access and traffic – The proposed development provides sufficient car parking on the site and the proposed vehicle access point is satisfactory. The traffic generation of the proposal is satisfactory and there are a number of public transport options available to future residents of the site. Issues relating to the road network are considered in the Transport & Infrastructure SEPP assessment and in the comments from TfNSW. These matters are satisfactory.

- Public Domain – The proposal provides for publicly accessible areas on the site as well as a through-site link in accordance with the HDCP No 2, which are considered to be satisfactory (refer to key issues section).

- Utilities – There are adequate utilities available at the site.

- Heritage – The site does not contain or adjoin any heritage items.

- Other land resources – Potential impacts on land resources such as water catchments are considered in this report.

- Water/air/soils impacts – The site contains some contamination which is considered in the assessment of the Resilience and Hazards SEPP, which is satisfactory.

- Flora and fauna impacts – The site does not contain any threatened species, however, there are significant street trees adjoining the Gloucester Road frontage of the site. The potential impact on these trees and the proposed landscaping are considered in the key issues section of this report.

- Natural environment – The proposal involves significant excavation which is

considered in the LEP assessment of this report. The proposed tree removal is considered in the key issues section of this report.

- Noise and vibration – Potential impacts arising from noise and vibration from the railway and road are considered in the Transport & Infrastructure SEPP assessment.

- Natural hazards – The site is affected by flooding in the southern corner of the site which has been considered in the LEP assessment. The site is not affected by bushfire and potential impacts arising from wind have been adequately considered.

- Safety, security and crime prevention – The proposal has been assessed having regard to the CPTED Principles and there are a number of concerns, which are considered in the key issues.

- Social impact – The proposed development is considered to have a beneficial social impact as it provides for publicly accessible areas as well as retail and commerical uses which can serve the day to day needs of existing and future residents of the area. The proposal also provides additional housing choice and opportunities in the area.

- Economic impact – The proposed development is considered to have a positive economic impact in the area arising from the proposed retail and commerical uses which will be employment generating and will provide business investment in the area.

- Site design and internal design – The proposal does not provide for adequate building separation or deep soil areas on the site and in this way is not considered to be appropriately set out on the site to mitigate potential impacts.

- Construction – Potential impacts arising from the construction of the proposal can be adequately mitigated in conditions imposed on any consent granted.

- Cumulative impacts – The proposal is likely to result in any adverse cumulative impact in the area given the inconsistency with some of the planning controls, including building height.

Accordingly, it is considered that the proposal will result in adverse impacts in the locality as outlined above.

4.3 Section 4.15(1)(c) - Suitability of the site

The site is suitable for the proposed development in that the site is located between the city centre and the high density residential areas which border the centre and there are adequate services on the site. There are no land hazards or adjoining uses which are prohibitive of the proposal and the site attributes are conducive to the development. However, the design of the development and the separation of the buildings within and external to the site is unsatisfactory.

4.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

4.5 Section 4.15(1)(e) - Public interest

The proposal is considered to be contrary to the public interest arising from the inconsistency

with a number of fundamental planning controls as discussed in the key issues section of this report. The potential impacts arising from the adverse building form and appearance controls have not been adequately mitigated. Therefore, on balance, the proposal is contrary to the public interest.

5. REFERRALS AND SUBMISSIONS

5.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 13**. There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 13: Concurrence and Referrals to agencies

AGENCY	CONCURRENCE/ REFERRAL TRIGGER	COMMENTS	RESOLVED
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – *State Environmental Planning Policy (Transport and Infrastructure) 2021* - Development near electrical infrastructure	Ausgrid has reviewed the application and raises no objections to the proposal subject to conditions.	Yes
Sydney Trains (delegated to TfNSW)	Section 2.98 – *State Environmental Planning Policy (Transport and Infrastructure) 2021* – Development adjacent to rail corridors	TfNSW under delegation from Sydney Trains has reviewed the application and raises no objections to the proposal subject to conditions.	Yes
Transport for NSW	Section 2.122 – *State Environmental Planning Policy (Transport and Infrastructure) 2021* Development that is deemed to be traffic generating development in Schedule 3.	TfNSW has reviewed the application and raises no objections to the proposal subject to conditions.	Yes
Design Review Panel	Cl 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	There is no DRP, however, Council's urban design officer has reviewed the proposal, with these comments considered in the proposal and is further discussed in the SEPP 65 assessment and the Key Issues section of this report.	**No**

5.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 14.**

Table 14: Consideration of Council Referrals

OFFICER	COMMENTS	RESOLVED
Urban Design	There have been a number of urban design concerns raised by Council throughout the assessment of this application, which were raised in the request for information correspondence from Council. Som of these concerns have been resolved through amendments while the majority of these concerns remain unresolved. The urban design matters are considered in detail below in the key issues section of this report.	**No**
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Yes
Traffic	Council's Traffic Engineering Officer reviewed the proposal and raised various concerns with the layout of the basement parking levels in May 2022. In March 2023, Council's Traffic Engineer identified that the applicant had imposed the incorrect parking rates and there was a resulting oversupply of car parking. This parking however relied on small car spaces which were required to be deleted as they were marked for resident use which is unacceptable. Council's Traffic Engineer assessed the March 2023 amended plans and raised no objections subject to conditions. Given there is an oversupply of car parking, the small car spaces as resident spaces are acceptable. These issues are further discussed in the key issues section of this report.	Yes
Building	Council's Building Surveyor reviewed the proposal and stated that the proposal relies on alternate BCA performance solutions in lieu of strict compliance with deemed to satisfy BCA provisions and that a full BCA assessment has not been undertaken. There were also concerns that the plans did not include all of the measures proposed in the various consultants reports including the measures outlined in the Wind Report. The potential wind impacts are considered further in the key issues section of this report. The Building referral was satisfactory subject to recommended conditions.	Yes
Health	The original referral (March 2022) reviewed the PSI and the Acoustic Report and requested a DSI and RAP be provided. A further referral requested consideration to be given to grease trap/s for the possible use of the proposed commercial ground floor as food premises and whether cooling towers would be installed and if so, information regarding mechanical exhaust discharge point for the commercial ground floor. In January 2023, consent conditions were provided.	Yes
Waste	The final referral dated 28 June 2023 stated the application was supported subject to design amendments as conditions, however, the amendments would have been significant and therefore the proposal is considered to be unsatisfactory. This is discussed further in the key issues section of this report.	**No**
Public Domain/ Assets	Council's Public Domain engineer considers the proposed driveway profile to be satisfactory and raises no objections to the proposal subject to recommended conditions.	Yes
Landscape	Council's Landscape Officer had several concerns with the	**No**

	proposal in the initial referral (March 2022) including requiring the following: • Tree root mapping for 11 x London Plane Trees fronting Gloucester Road (trees numbered 20-23, 26-29, 34, 35 and 37) required by Arborist's report. • Tree Protection Plan as required by the Arborist's report • Required Landscape plan amendments including: - Increased planting depth to the proposed podium. - Replacement of London Plane Tree along Gloucester Street frontage with a *Platanus orientalis* 'Digita' and not the proposed 4 x *Tristaniopsis laurina*. - Removal of proposed street tree planting along Forest Road frontage as this street frontage is paved, narrow, under overhead utility lines and fronts a busy arterial road and dense canopy planting is proposed within the site close to the property boundary along this frontage. - Reconsider proposed planting of 7 trees with mature height of 15 metres <1m from OSD tank - Consider structural root zone, species selection and possible use of root barrier where trees proposed close to paving or other structures. - The rooftop arrangement will require review to provide a vegetative buffer and set-back to ensure no overlooking into private open space or ground floor units in Building D, fronting the proposed Urban Common. - Proposed outdoor dining is within major entrance thoroughfare, preferable to use of landscaping to provide delineation between dining areas and walkways.	
GIS	Council's GIS Officer has reviewed the proposal and raise no objections subject to the imposition of conditions in relation to the allocation of street addresses.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

5.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan, *Community Engagement Strategy 2023-2033* (Part C: Notification Plan) from 17 March to 31 March 2022. The notification included the following:

- An advertisement in the St George and Sutherland Shire Leader;
- A sign placed on the site;
- Notification on the Council's website;
- Notification letters sent to adjoining and adjacent properties.

The Council received a total of five (5) unique submissions, all comprising objections to the proposal. The issues raised in these submissions are considered in **Table 15**.

Table 15: Community Submissions

ISSUE	NO OF SUBMISSIONS	COUNCIL COMMENTS
Construction and Demolition Impacts	2	There were concerns with the likely lengthy construction process and the regular construction work being undertaken in the area. There were also concerns that construction activities often break construction hours (including railway work). A Construction Management Plan has been provided and relevant conditions can be imposed on any consent granted in relation to further minimising construction impacts on neighbouring properties, including hours for construction work. There were also concerns that the Waste Management Plan does not adequately deal with likely asbestos material arising from the demolition of the existing buildings on the site. The lack of arrangements for the proposed removal of green waste was also raised. Relevant conditions can be imposed on any consent granted ensuring that asbestos and green waste are appropriately managed during the construction and demolition process. **Outcome**: This issue can be satisfactorily addressed in conditions on any consent granted.
Traffic Impacts	3	Concerns were raised that the traffic impacts from the proposal would exacerbate existing congestion in the area, particularly along Forest Road which is already congested. Council's Traffic Engineer has reviewed the proposal and the Traffic Report and concluded that the proposed traffic generation is acceptable. **Outcome**: This issue has been satisfactorily addressed in the application.
Parking	2	There were concerns that there are already significant number of cars parked on the street arising from various uses in the area including commuter and hospital parking which will be exacerbated by the proposal. Council's Traffic Engineer has reviewed the proposal and the Traffic Report and concluded that the proposed car parking provision is acceptable. **Outcome**: This issue has been satisfactorily addressed in the application.

Health impacts from increased traffic including reduction in air quality and noise pollution	1	There were concerns that the increased traffic will result in health impacts in relation to a reduction in air quality and noise pollution. The proposal being located in close proximity to the railway station and the town centre is likely to generate less vehicles than a similar size development located further from the railway station and services. **Outcome**: This issue has been satisfactorily addressed in the application.
Privacy and overlooking, loss of natural light, impact on views	1	There were concerns that the proposed 18 storey tower along Forest Road would reduce the natural light and outlook to the adjoining development to the northwest of the site. The proposal provides inadequate building separation along this boundary which is discussed in the key issues section of this report. **Outcome**: This issue has not been satisfactorily addressed in the application and forms a reason for refusal.
Height	1	Concerns were raised that the proposal exceeds the height limit, it is inconsistent with the height objectives and should be limited to 7 storeys. The proposal involves a height breach for the prosed lift overruns, with the height limits set by the DCP and LEP amendment, which the proposal is generally consistent. This issue is considered in the assessment of the Clause 4.6 request as well as the key issues section of this report. **Outcome**: This issue has not been satisfactorily addressed in the application and forms a reason for refusal given the excessive height of the proposed lift overruns.
Visual Impact	1	Concerns were raised about the potential visual impact of the proposal. The proposal involves facades and a building massing which are unsatisfactory which results in adverse visual impacts. The visual impact of the proposal is considered in the urban design issues outlined in this report. **Outcome**: This issue has not been satisfactorily addressed in the application.
Overdevelopment	2	The submissions raised concerns that the proposal was adding to the general overdevelopment of the area, whereby ‘mini tower cities’ have formed.

		The proposal is generally in accordance with the LEP height and FSR controls as well as the built form controls of the DCP. There are some inconsistencies with some of these controls, which are discussed in the key issues section of this report. the overall density of the development is satisfactory. **Outcome**: This issue has been satisfactorily addressed in the application.
Tree loss	2	The submissions were concerned with the removal of trees proposed in the application and that this will result in a loss of canopy cover as well as screening along the road frontages. The DCP requires the retention of the significant London Plane trees along Gloucester Road which the proposal is generally consistent, however, the removal of the Chinese Hackberry trees are proposed along Forest road contrary to the DCP. Council's Landscape Officer has reviewed the proposal and raises no objection to the proposed tree removal subject to the proposed landscaping and tree planting outlined in the application. There are some concerns with the proposed depth of the podium planting areas which is considered in the key issues section of this report. **Outcome**: This issue has been satisfactorily addressed in the application (with the exception of the podium planting depths).
Acoustic report	1	Concerns were raised that the acoustic report required measures to be implemented in adjoining properties to comply with the requirements. The Acoustic report provides recommendations for construction of the proposed development having regard to the proximity to the railway and Forest road and is acceptable. **Outcome**: This issue has been satisfactorily addressed in the application.
Impact on property values	1	There were concerns that the proposal will result in a reduction in property values. This is not a planning issue.

6. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

6.1 Building Height

The development site is subject to five height zones for the site with 23, 30, 40, 55 and 60 metres across the site. The proposed development seeks to vary the building height development standards for all of the proposed buildings, with the exception of the portion of Building A adjoining the north-western boundary. The variations relate to screening, shade structures, architectural roof features, fire stairs and lift over runs. The variations to the top of the lift over run for each building is as follows:

- Building A – 6.25%
- Building B – 7.3%
- Building C – 12%
- Building D – 9.9%
- Building E – 11.95%

The Clause 4.6 lodged for this height exceedance is considered in detail in the GRLEP 2021 assessment in Section 4.1 of this report, which noted that Council has generally been consistent with supporting a height breach containing non habitable space such as lift over runs, where it can be demonstrated that there will not be an adverse visual impact or impact upon the amenity of neighbouring properties. Council had requested that to limit the height breach, the overall heights of lift over runs and fire stairs are to be reduced where possible.

The concept plan prepared for the planning proposal and incorporated into the site-specific DCP provided for maximum building heights in metres as well as indicative locations for buildings without detailed building footprints. The DCP concept plan provided broad parameters with the detailed design to be provided at the DA stage, having regard to SEPP 65 and the ADG. Given these broad parameters, it is considered that the proposal can achieve a compliant design for the site. The natural slope of the site, provision of a ground floor level as close as possible to the natural ground level to ensure street connectivity, ceiling heights and the provision of building services on the roof are acknowledged. These issues are site and development constraints to be factored into a compliant design.

The need to provide lift overruns and associated plant, with some minor protrusion of parapets, lift overruns and plant is acknowledged, however, it is considered that the proposed height to the lift overruns is excessive. The lift overruns are also large in size ranging from 8m² (Building D) to 50m² (Building A) and are up to 4.8 metres above the height limit (Building C). The open form shade structures and the building parapet features which exceed the maximum height limit have less impact in the area.

The proposed lift overruns adds unnecessary bulk and scale to the proposal and the visual impact of the proposed height variation is considered to be unacceptable since some of the lift overruns and plant equipment are not located centrally on the roof, particularly for Buildings B and C, which can be readily perceptible from the public domain.

The proposed height exceedance is considered to be contrary to object (g) of the EP&A Act in that it does not promote good design arising from the large, bulky structures on the roof. Lift overruns which were smaller and of a height closer to the development standard would allow for a design which was more consistent with the prevailing scale and design of development in the area.

6.2 Architectural detailing and Facades

The proposed development comprises building façades dominated by repetition of materials and façade treatment with little attention to detail or massing (**Figures 35** and **36**). Overall, the proposed facades of all five buildings are dominated by the repetition of materials and architectural detailing. While minor changes were made to the materiality and the awning added in the amended plans, the proposed facades generally replicate the architectural details and materials throughout the development to such an extent, that it does not provide an adequate design response.

The proposed buildings largely appear as monolithic blocks without any recessing or projecting elements or massing variation with the exception of the repetitive balconies and glazed door and windows. The repetitious balcony parapets and architectural detailing emphasise horizontality and increases the perceived building bulk, which is further exacerbated by lack of adequate building separation (discussed in a separate issue below).

Figure 35: Proposed Montage - Gloucester Rd *(Source: Turner, November 2021)*

Figure 36: Proposed Montage - Forest Rd *(Source: Turner, November 2021)*

The concerns include:

- The proposed façade treatments of Buildings A, B and C, when viewed from Forest Road (Figure 36), have provided some variation in material, particularly on the upper 3 to 4 storeys of Buildings A and B. However, this does not assist in minimising the bulk and scale of the proposed development, given the lack of variation in massing. This variation in massing is needed particularly for Buildings B and C which provide a wider building to the street;

- The ground floor retail has been differentiated by the proposed use of green ceramic tile, however, the ground floor and the floor above do not present an integrated development and appear detached. Some of the architectural detailing or materials should either be extended beyond the podium or vice versa to present and integrated design. These facades do not contribute to the amenity and attractiveness of the area, which is of particular importance given the location at an intersection and the required design excellence.

- The residential and commercial entries are not clearly identifiable or clearly distinguishable on the façade and hence do not assist with wayfinding or enhance the street presence of the development (discussed further below).

- Visual interest in the façades has not been provided by the development, with the proposed façades not contributing to the aesthetic appeal of the building or the character of the area. The repetition of the face brick exacerbates the bulk of the buildings to the street, with the proposed corbelling not having a high degree of legibility from the street.

- The architectural expression of the elevations and overall built form is unsatisfactory and does not enhance the streetscape, which is particularly required at this corner location, the scale of development and the design excellence required to be provided

pursuant to the GRLEP 2021.

- The proposed design does not incorporate an adequate composition of lightweight materials or detailing to minimise the perceived bulk and scale. Recessing and projecting massing and elements to break down the mass and avoid flat monotonous facades have also not been provided.

- The proposed 8 storey wall height of Building D, the extensive use of the "Brick Reclaimed Original Mix" and the lack of any articulation in the building form results in an unsatisfactory streetscape appearance to this building.

- Building C comprises an 11 storey wall height, with little to no articulation and no variation in massing which will dominate the streetscape along Gloucester Street.

The architectural expression of the proposed development is considered to be unsatisfactory and is inconsistent with Design Quality Principle, No 9 (Aesthetics) in that the proposed built form does not have good proportions or a balanced composition of elements. The proposal also does not provide a variety of materials, colours and the visual appearance of the proposal does not respond to the existing or future local context.

The proposal also fails to exhibit design excellence in that it does not provide a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved or provide a form and external appearance which will improve the quality and amenity of the public domain pursuant to Cause 6.10(5)(a) and (b) of the GRLEP 2021.

The proposal is also contrary to Part 4M of the ADG in the following ways:

- *Objective 4M-1: Building facades provide visual interest along the street while respecting the character of the local area* – this has not been achieved by the proposal as the building facades provide minimal variation in the design or materials to provide sufficient visual interest in the facades.

- The design guidance is also not satisfised in that the suggested design solutions for front building facades including the composition of varied building elements, a defined base, middle and top of buildings and changes in texture, material, detail and colour to modify the prominence of elements have not been sufficiently incorporated into the proposal.

- The design guidance requiring building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale has also not been achieved in that the facades do not comprise well composed horizontal and vertical elements.

The proposal is also contrary to the aims of the GRLEP 2021 pursuant to Clause 1.2(2)(f) in that it does not promote a high standard of urban design and built form.

Accordingly, it is considered that the proposal is unsatisfactory.

6.3 Building Bulk and Scale

Building bulk and scale (massing) contribute to the streetscape quality, sense of place and compatibility of the development within a specific context. Massing is influenced by specific design features and architectural treatment, which include building height, setbacks and façade treatment.

Section 8.3.2.2 of the HDCP No 2 provides the concept Master Plan (**Figure 37**) which was prepared for the Site as part of the Planning Proposal and provides general guidance on the overall form of development on the Site. The DCP also provides that Council will consider alternative schemes subject to compliance with the LEP, SEPP 65 and the ADG, and also outlines a number of key features. An alternative and better design solution will be accepted subject to compliance with SEPP 65 and ADG.

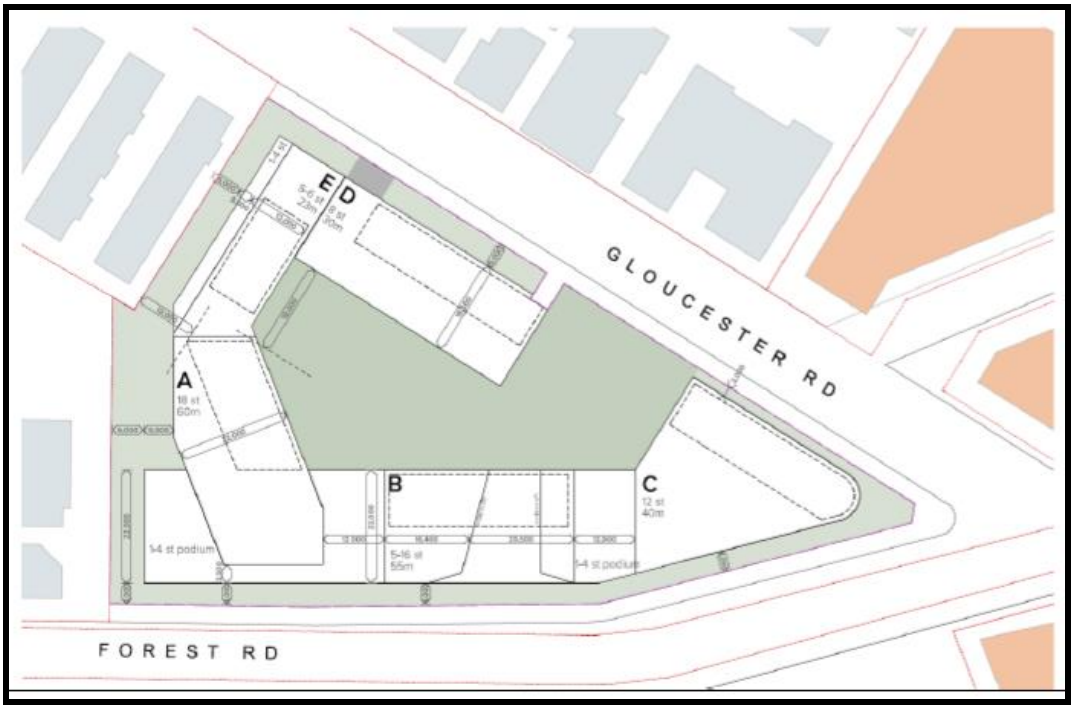

Figure 37: Concept Master Plan ***(Source: HDCP No 2 - Figure 2, Section 8.3.2.2)***

Buildings A, B, E and D combine to create a "C" shaped built form with around 200 metres perimeter length over 5 storeys around the proposed communal open space. This is a significant bulk of building mass which will be imposing on surrounding development and will overshadow the communal open space on the Site throughout the day. The proposal also does not comply with building setbacks, building separation and upper level setbacks (further considered below).

While the proposed building footprints are consistent with the building footprints illustrated in the figures in the HDCP No 2, the DCP is only a 'Concept' Master Plan and allows alternative schemes to be considered subject to compliance with the LEP, SEPP 65 and the ADG. An alternative and better design solution will be accepted subject to compliance with SEPP 65 and ADG and should be sought to ensure the proposal complies with the design quality principles of SEPP 65.

In this regard, Principle 2 (Built form and scale) is of particular relevance. In this case, it is considered that the lack of articulation and manipulation of the building elements, particularly for the 'C shaped' area of Building A, B, D and E as well as the street façade of Building D, to reduce bulk and scale has not been provided and results in the proposal being inconsistent with this design quality principle.

The proposed 8 storey wall height of Building D (**Figure 38**) along Gloucester Road predominantly maintains the building edge and does not provide any substantial articulation. This design will dominate the surrounding residential context and it is considered that an upper

level setback is required (discussed further below). There is only a minor in-setting of the southern portion of the proposed building for an 8 metre wide portion of the building, which is insignificant given the building is proposed to be approximately 58 metres wide (combines with Building E) and approximately 30 metres high.

Similarly, although balconies are proposed on the western façade of Building E, they maintain the building edge and do not provide any substantial articulation. The building design including the bulk and massing are not acceptable in the context of the Site.

Figure 38: Proposed Building D *(Source: Turner, March 2023)*

The proposal is considered to be inconsistent with the following urban design objectives pursuant to Section 8.3.1.4 of the HDCP No 2:

- Objective (b) in that the proposed development is not visually interesting or appealing given the lack of adequate articulation of the building form, particularly for Buildings A, B, C and D which for levels 1 to 4 are one large building mass.

- Objective (c) in that the proposed development has not been designed to address the context of the area given the large building forms proposed which are inconsistent with the articulated and separated buildings in the vicinity of the site.

The proposal also fails to exhibit design excellence in that the development does not adequately address the bulk, massing and modulation of buildings and street frontage heights pursuant to Cause 6.10(5)(d)(v) and (vi) of the GRLEP 2021.

In these ways, it is considered that the proposal is unsatisfactory having regard to the proposed building bulk and scale.

6.4 Pedestrian Access and Street Activation

The interaction of the building with the street is an important consideration, outlined in Part 3C and 3G of the ADG, which is considered below in the context of the proposal.

Pedestrian Access (residential building entry)

There are numerous concerns with the proposed pedestrian access and residential lobbies for the development, which are discussed below for each building:

Building A

Proposed Building A comprises a residential lobby accessed from Forest Road and consists of 3 lifts, which are inset from the street with the nearest lift being approximately 12 metres from the edge of the building (**Figure 39**). The 21 metre long residential lobby is wider at the street edge (around 7.5m) and narrows down to 4.8 metres and further narrows to a 2 metre wide corridor opposite the lifts. Given the recessed nature of this area, the lift lobby does not have receive any natural light or ventilation or benefit from any significant natural surveillance from the street. This lack of amenity and surveillance may also make the space undesirable.

The narrowing and awkward shape of this lobby area also reduces the common circulation spaces which are desired to provide opportunity for casual social interaction. These concerns were raised with the applicant, however, were not addressed in the amended plans.

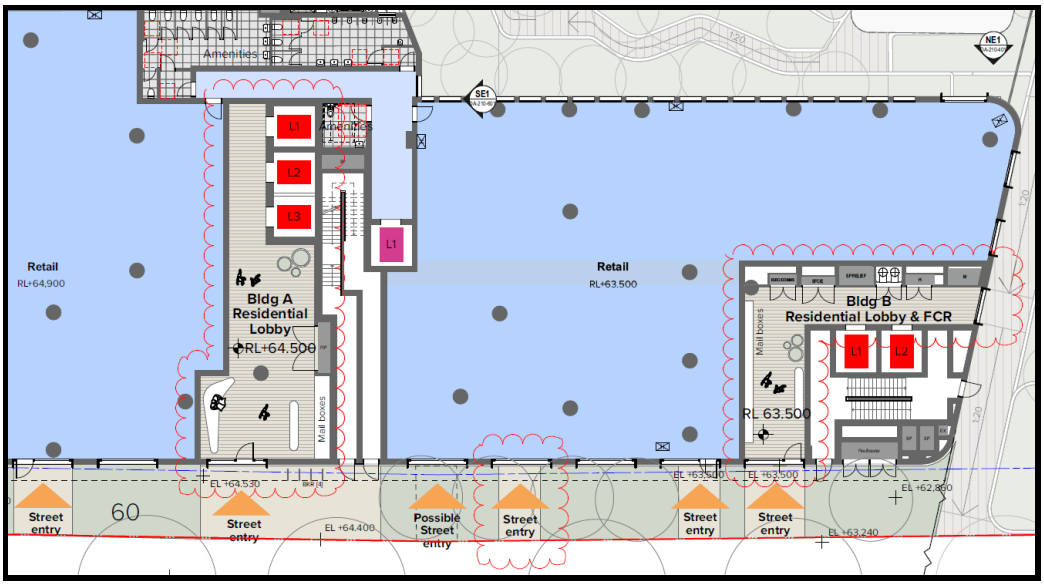

Figure 39: Proposed residential lobbies for Buildings A and B (*Source: Turner, March 2023*)

Building B

The Building B residential lobby includes 2 lifts as well as building services equipment in an "L" shaped configuration, with access from both the through-site link as well as Forest Road (refer Figure 39 above). There were minor changes made to this lobby area in the amended plans, however, there are still remaining concerns, including the following:

- The proposed shape of this lobby results in restricted width and vision in that all of the lobby area cannot be viewed when entering from either end.
- The location of the proposed services within the lobby space is considered unsafe as there should be more separation from these services.
- The lobby area lacks space for social interaction as the maximum width of 3 metres for the lobby does not make it a desirable or comfortable space, notwithstanding the addition of mailboxes and a seat to this area.
- The residential entry is not clearly identifiable or distinguishable and does not enhance the presence of the building in the streetscape resulting in poor wayfinding.
- The lifts face away from the street and therefore there is inadequate surveillance of this area from the street.

The feasibility of relocating some of the services and stairs to provide for the lifts to face the street and provide for an area which provides for more interaction with the street is desirable.

Building C

The Building C residential lobby has access from the public open space/through-site link to the north of the building (**Figure 40**). This building entry area is approximately 3.8 metres wide and is setback from the retail and service corridor façade by 3 metres. The lobby includes 2 lifts and an "L" shaped corridor with no access to natural light and ventilation.

Similar to Buildings A and B residential lobbies, safety concerns are raised due to the shape of the corridor which has a blind space. In addition, the lobby does not provide opportunity for casual social interaction. The building entry is not clearly identifiable or distinguishable arising from the small and recessed opening to this area given the length of the northern facade of Building C and the narrow width of the residential lobby entry, which results in poor wayfinding.

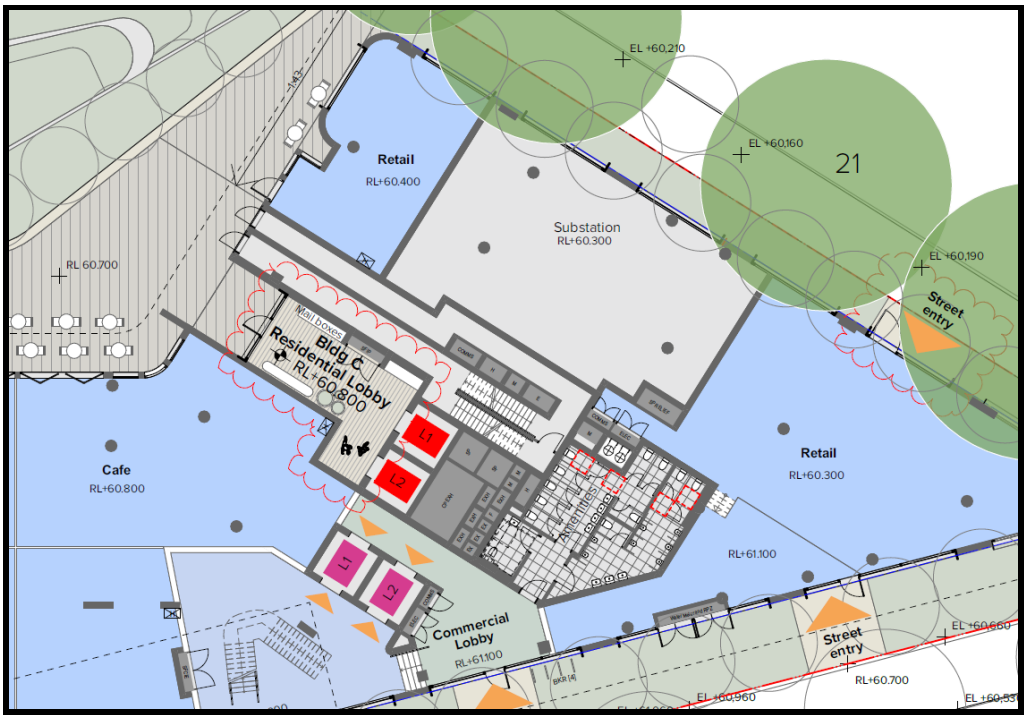

Figure 40: Proposed lobby - Building C (*Source: Turner, March 2023*)

Building D

The pedestrian entry to Building D comprises two (2) separate lobby areas (west and east), and includes a convoluted combination of ramps and steps, especially the ramp for the east lobby (**Figure 41**). This area is also inset from the street frontage and the lifts face away from the entry and street. The use of the room within the front courtyard of Unit DA002 is also unclear. A single lift lobby area would be of higher amenity value to the development, which would provide for a wider area and a physical and visual connection between the entrance to the communal open space rather than the very narrow passage between the Lift L2 service stair and services.

The residential building entries are not clearly visible or distinguishable from the street as these areas are narrow and/or inset from the building edge and are often obstructed by building services. The residential entries should be clearly identifiable and distinguishable from commercial and private entries and should consist of a change in texture, material, architectural detail. Landscaping should be incorporate to distinguish building entries and

enhance streetscape. These design elements have not been provided for the proposed development.

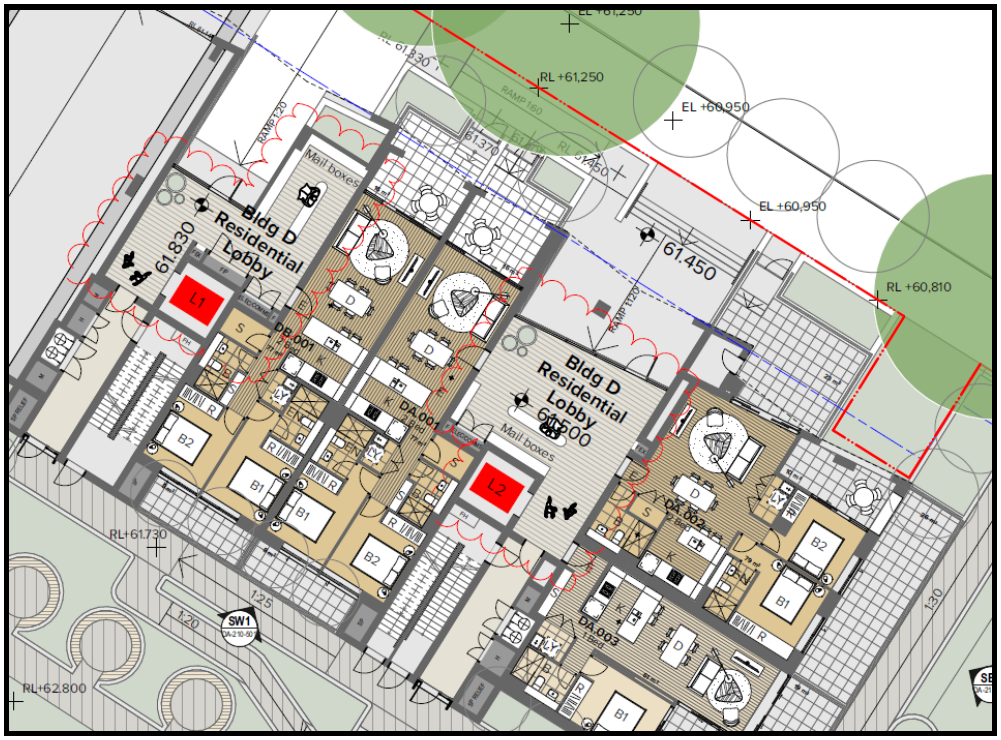

Figure 41: Proposed lobby for Building D *(Source: Turner, March 2023)*

The lift lobbies are also not clearly visible from the street given they are recessed into the building and are awkwardly shaped areas with no surveillance of this area from the street. there is no direct connection to the street given the recessed nature of these areas. The residential building entries and lobbies do not maximise exposure to the street and have not been designed without any obstructions. Therefore, it is considered that the proposal is inconsistent with Part 3G of the ADG.

The design guidance includes that opportunities should be provided for casual interaction between residents and the public domain, with design solutions provided including seating at building entries, near letter boxes and in private courtyards adjacent to streets. The proposed building entries provide limited opportunities for casual surveillance of the street from the lobbies due to the long, recessed nature of the corridors from the street and awkwardly shaped entries into the proposed buildings.

The design guidance for Objective 3C-2 includes that substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view. These building services are largely proposed at street level, including the substation, which is contrary to this objective and design guidance.

Accordingly, it is considered that the proposal is inconsistent with Parts 3C and 3G of the ADG and HDCP No 2. The proposed building entries and lobby areas are considered to be unsatisfactory.

The proposal also fails to exhibit design excellence in that it does not adequately achieve appropriate interfaces at ground level between the building and the public domain pursuant to Cause 6.10(5)(d)(x) of the GRLEP 2021.

The proposal is also contrary to Part 4M of the ADG in that the proposal is inconsistent with Objective 4M-2 as the building functions are not expressed by the façade. The design guidance that building entries should be clearly defined has not been achieved by the proposal.

Street Activation

There were Buildings A, B and C propose retail and commerical uses which assist in street activation for the proposal. In relation to Building C, there are retail uses proposed along the ground floor and there are now numerous entry points to these retail spaces along both street frontages which assists with activation. There are also windows to the through-site link which assists with activation of this space and casual surveillance.

The ground floor is generally at the ground level of the street (within 100-200mm) (**Figure 42**) and the proposed retail use at the corner of Gloucester and Forest Roads adequately addresses the corner with a glazed shopfront.

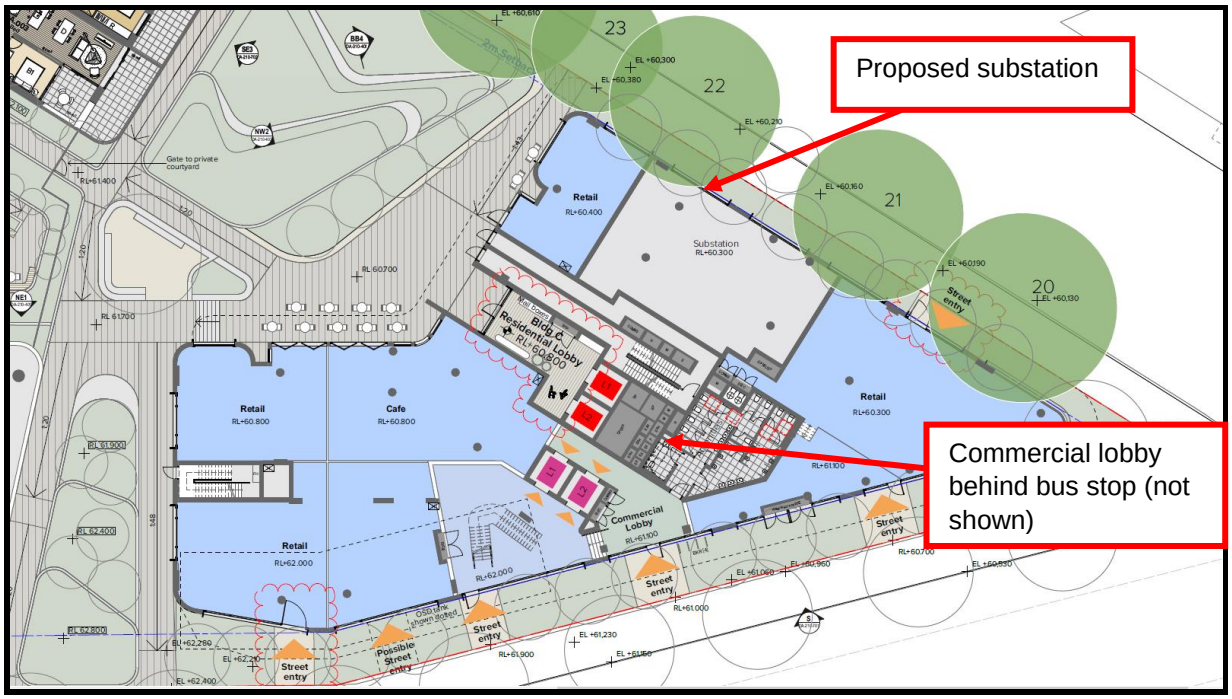

Figure 42: Proposed Building C (*Source: Turner, March 2023*)

The are still some remaining concerns with the street activation for proposed Building C, including the location of the proposed substation in a prominent location along the Gloucester Road frontage (**Figure 43**). This substation, which comprises a blank façade, has an approximate width of 14 metres which represents around 35% of the frontage of the proposal to Gloucester Road, which detracts from the activation of this frontage. There are other areas on the site which could accommodate the substation, which would result in an increase in the retail space to enhance activation at this key point on the site.

Part 3C-2 of the ADG provides objectives and controls for the amenity of the public domain which is to be retained and enhanced. The current location of the substation is considered to result in a lack of street activation along this frontage which is contrary to Part 3C-2 of the ADG and is unsatisfactory.

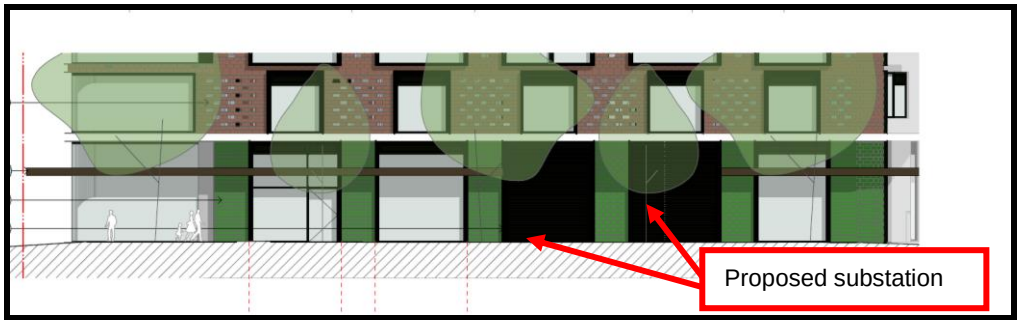

Figure 43: Proposed frontage to Gloucester Road with Substation *(Building C (Source: Turner, March 2023)*

A further concern is that the majority of the street entry / pedestrian access to the Commercial Lobby for Building C will be blocked by the existing bus stop located almost at the site boundary. The floor and elevation plans do not include the existing bus stop and therefore it is evident that the proposed obstruction of the entry has not been considered.

In relation to proposed Buildings A and B along Forest Road, the finished floor levels of these buildings are now more closely aligned with the footpath level and include direct access from the street. Window to retail uses are also included to the through-site link to activate this space and provide casual surveillance of the area.

6.5 Building Form - Setbacks and Street Wall Heights

The setback controls for the proposal are derived from both the HDCP No 2 and the ADG via the visual privacy controls in Part 3F for building separation. Section 8.3.3.3 of the HDCP No 2 provides the objectives and controls for built form and setbacks, with the objectives including:

a) *To provide a vibrant mixed-use development that takes advantage of the site's location within the Hurstville City Centre.*
b) *To ensure that the height of the development responds to the existing scale and character of the adjacent residential development and the desired future character of the City Centre West precinct.*
c) *To achieve a transition in scale through variation in building form, density and typology that appropriately responds to the surrounding context.*
d) *To ensure adequate separation between the subject development and adjoining residential development to provide reasonable solar access, open space and privacy to occupants of the residential developments on the subject site and adjoining sites.*
e) *To reduce the apparent bulk and scale of buildings by breaking up expanses of building wall with modulation of form and articulation of facades.*
f) *To establish the desired spatial proportions of the street and define the street edge.*
g) *To ensure acoustic privacy for occupants and neighbours.*
h) *To provide good residential amenity by complying with the State Environmental Planning Policy No.65 Design Quality of Residential Apartment Development and the Apartment Design Guide.*

These objectives and the relevant controls of the ADG and the HDCP No 2 are considered below.

Front Setback

The front setback requirements are contained in Section 8.3.3.3 of the HDCP No 2 and include the following (**Figure 44**):

- 4 metre front setback for the entire length of Forest Road to allow the provision of awnings and street tree planting;
- 2 metre front setback along the southern portion of Gloucester Road; and
- 5 metre front setback along the remaining Gloucester Road frontage reflecting the established setback of the adjacent 4 storey residential flat buildings.

Proposed Buildings A and B are setback 4 metres from Forest Road as well as the Forest Road fronting part of Building C and therefore complies with the controls. The Gloucester Road portion of Building C is setback 2 metres from Gloucester Road and proposed Building E is setback 5 metres from Gloucester Road, complying with the controls.

The setback to Building D is generally 5 metres consistent with the controls, however, there are some encroachments into the 5 metre setback comprising terrace areas for the proposed ground level units. These encroachments prevent landscaping being provided along the frontage to assist in screening the building and providing for a consistent t setback along Gloucester Road. Therefore, the proposal is inconsistent with some of the front setback requirements of the HDCP No 2 which is unsatisfactory.

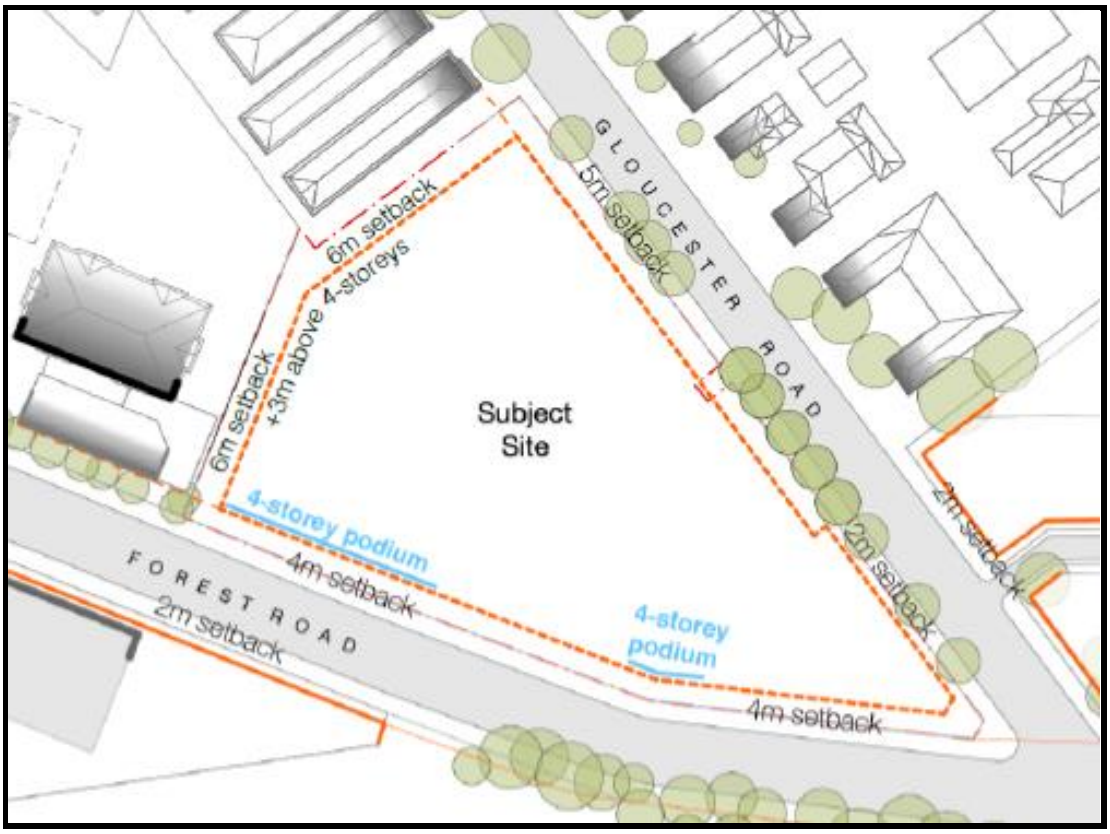

Figure 44: Minimum Street Setbacks DCP diagram *(Source: Fig 3 of HDCP 2)*

Side Setbacks

The side setback requirements are contained in the HDCP No 2 (Figure 44) and the ADG. The required side setbacks only apply to Buildings A and E as the remaining proposed buildings do not share a boundary with other properties. Building separation controls apply to all of the buildings, which are considered further below.

Pursuant to Clause 6A(1)(a) and (2) of SEPP 65, however, the visual privacy objectives, design criteria and design guidance of the ADG prevail over the controls of the HDCP No 2 to the extent that the DCP provisions have no effect. Both of these control are considered below.

The HDCP No 2 requires the following side/rear setbacks (**Figure 45** and **46**):

- *6 metre setback to side boundary at street level to allow for landscaping of the side boundary interface zone*
- *An additional setback of minimum 3 metres is required for built forms above 4 storeys to allow suitable building separation and appropriate transition to adjoining developments.*

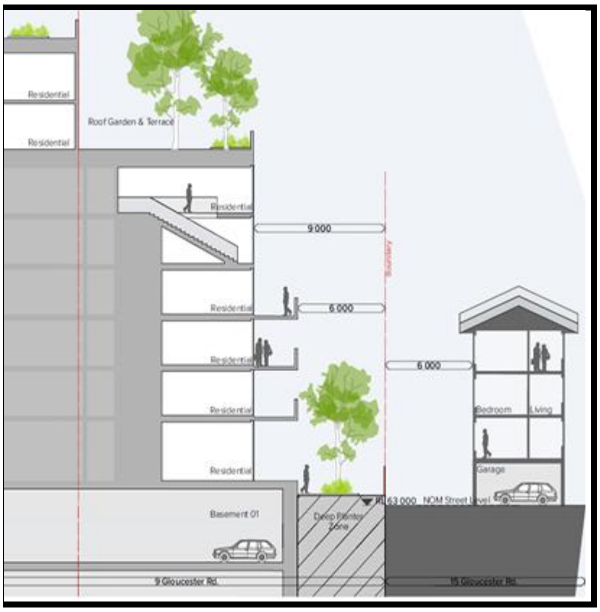

Figure 45: Section - Gloucester Rd (Source: Fig 4 Section 8.3 of HDCP 2)

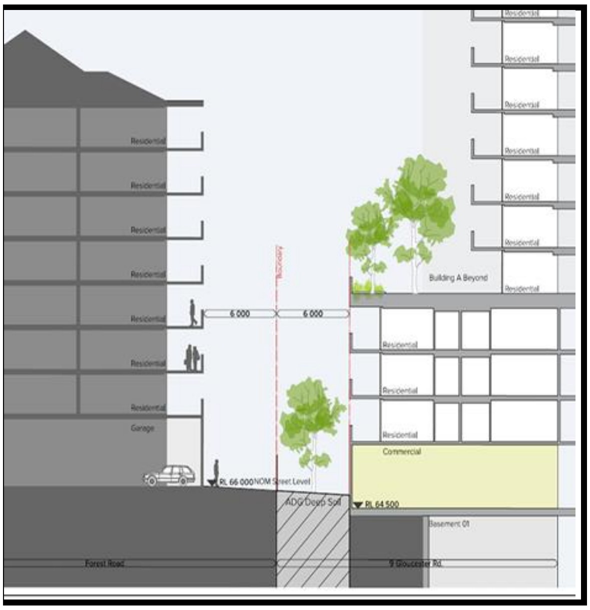

Figure 46: Forest Rd transition to Adjoining Development (Source: Fig 5 Section 8.3 HDCP 2)

These side setbacks are also illustrated in the concept Master Plan (**Figure 47**).

Part 3F-1 of the ADG provides the design criteria for side setbacks and also includes the following design guidance on setbacks:

> *Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping.*

The adjoining property to the site to the northwest comprises No 15 Gloucester Road, which is within the R4 High Density Residential zone and has a maximum FSR of 1:1 and a height limit of 12 metres. Therefore, this adjoining site meets the criteria of "*when adjacent to a different zone that permits lower density residential development".* Accordingly, an additional 3 metre setback is required under the ADG.

The proposal is inconsistent with the required setbacks pursuant to Part 3F-1 of the ADG and Section 8.3.3.3 of the HDCP No 2 in that the proposal does not provide the required setbacks outlined in the ADG or the Concept Master Plan for the site, which are outlined in **Table 16**.

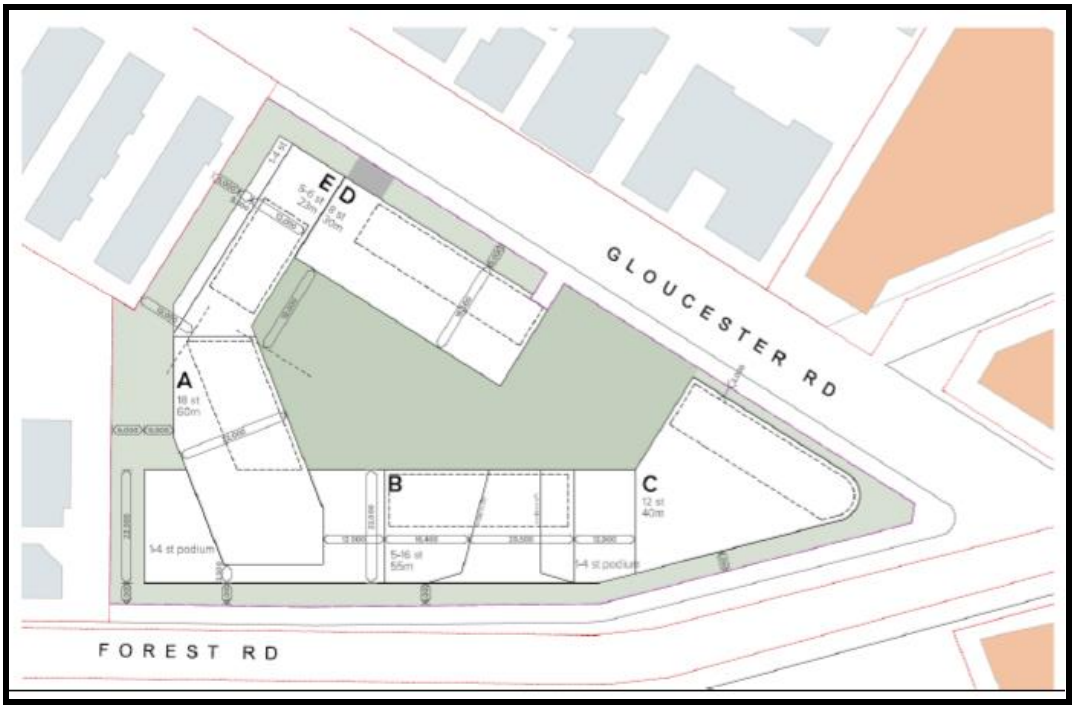

Figure 47: Concept Master Plan (*Source: Fig 2 Section 8.3 HDCP 2*)

Table 16: Side Setbacks - ADG & HDCP No 2

BUILDING	REQUIRED ADG (DESIGN CRITERIA OF PART 3F-1)	REQUIRED HDCP (S8.3.3.3(D), (E))	PROPOSED	COMPLY
Building A (adjoining same (MU1) zone – No 436 Forest Rd				
Front portion adjoining Forest road				
Up to 12m (ground to Level 3	6m (for hab)	6m	• Level 1 – **3m** – retail with windows/doors • Level 2 – **3m** (podium) – 6m (bldg) • Level 3 - **3m** (podium) – 6m (bldg) • Level 4 – 6m	**No** (only level 4 complies)
12m – 25m (5-8 storeys)	9m (for hab)	9m 6m + 3m (above 4 storeys)	• Level 5 to 8: >12m	Yes
Over 25m (9+ storeys)	12m (for hab)	9m 6m + 3m (above 4 storeys)	• Level 9 to 19: >12m	Yes
Rear portion adjoining Building E				
Up to 12m (ground to Level 3	6m (for hab)	6m + 6m	• Level 1 – level 4: 12m	Yes
12m – 25m (5-8 storeys)	9m (for hab)	6m + 6m 9m 6m + 3m (above 4 storeys)	• Level 5 to 8: >12m	Yes
Over 25m (9+ storeys)	12m (for hab)	6m + 6m 9m 6m + 3m (above 4 storeys)	• Level 9 to 19: >12m	Yes

Building E (adjacent to a different zone that permits lower density residential development) – No 15 Gloucester Road				
Up to 12m (ground to Level 3	9m (6m (hab) +3m (adj lower density zone)	6m	• Ground: 6m (balcony encroachments) • Level 1 to 3: 6m	**No**
12m – 25m (5-8 storeys)	12m (9m (hab) +3m (adj lower density zone)	9m 6m + 3m (above 4 storeys – 8.3.3.3(e))	• Level 4: 9m (balcony encroachments) • Level 5: 9m	**No**
Over 25m (9+ storeys)	Not proposed	Not proposed	Not proposed	N/A

In relation to the side setbacks, the proposal does not comply with the following:

- Building A (levels 1-3) – the required 6 metre side setback to the northwest boundary adjacent to the B4 Zone along Forest Road.

- Building E (entire building) – the required 9 and 12 metre setback to the northwest boundary adjacent to the R4 Zone along Gloucester Road, which includes inconsistency with the requirement for an additional setback of 3 metres for built form above 4 storeys; and

These setbacks are critical to maintaining the existing and desired future character of the area and therefore the inconsistencies with the required setbacks is not supported.

The proposal is inconsistent with the built form and setback objectives of the HDCP No 2 in that it does not ensure adequate separation between the subject development and adjoining residential development to provide reasonable solar access, open space and privacy to occupants of the residential developments on the subject site and adjoining sites (objective (d)).

The proposal is also inconsistent with Section 8.3.3(d) as the development does not provide a 6 metre setback to the side boundary at street level to allow for landscaping of the side boundary interface zone for Buildings A and E. The proposal is also contrary to Part 3F-1 of the ADG and in these ways is considered to be unsatisfactory.

The proposal is also contrary to urban design objective (e) pursuant to Section 8.3.1.4 of the HDCP No 2 as the proposed development does not ensure the built form outcome provides an adequate transition to the adjoining sites.

Street Wall Height and Upper Level Setback

The requirements for street wall heights and upper level setbacks are provided in Section 8.3.2.2 (concept master plan) and 8.3.3.3 (f) (built from and setbacks) of the HDCP No 2, considered in **Table 14**.

Levels 4 and 5 of Building E have an 8 and 9 metre setback to the northwest boundary, however, this inconsistent with the required setback of 9 metres (for Level 4) for levels above 4 storeys or the separation required by the ADG (12 metres required adjoining a lower density zone). This setback to the northwest boundary is critical especially given the change in density to the northwest. This northwest boundary setback is discussed further in building separation below.

Building D has a wall height of 8 storeys, with built form northwest of the site along either side of Gloucester Road within the R4 Zone predominantly is occupied by 3 to 4 storey walk up

apartments. However, the 8 storey wall height for Building D is inconsistent with the objectives of built form and setbacks given the predominant 4 storey building height of the surrounding residential context and not considered an appropriate transition in height or streetscape character. The 8 storey wall height has created a poor and uncomfortable relationship with the characteristic medium rise streetscape.

Accordingly, it is considered:

- Building D should be setback by an additional minimum 3 metres above 4 storeys to address the surrounding residential context, enhance the streetscape and be consistent with the objectives for built form and setbacks; and

- Building E is unsatisfactory in that the setback to the northwest boundary for built form above 4 storey should comply with the ADG and the DCP.

The proposal is also contrary to urban design objectives (f) and (g) pursuant to Section 8.3.1.4 of the HDCP No 2 as the proposed development does not clearly define the street edge with building podiums or articulate the building façades to enhance the streetscape character. for Building D.

Building Depth and Widths

Consideration of the proposal against these controls as outlined in **Table 17**.

Table 17: Building Form Controls from Sections 8.3.3.2 & 8.3.3.3 of the HDCP No 2

BUILDING	PODIUM HEIGHT & UPPER LEVEL SETBACKS (HDCP - S8.3.3.3(E & FIG 3), (F & FIG 2))	BUILDING DEPTH	BUILDING WIDTH	COMPLY
Building A				
Front	• Required: 1-4 storey • Proposed: 4 storey • Additional 3m setback above 4 storeys – provided via podium	• Required: 22m • Proposed: (22m)	-	Yes
Rear	• Additional 3m setback above 4 storeys – provided as minor step in at L4	• Required: 22m • Proposed: (22m)	-	Yes
Building B	• Required: 1-4 storey (12m wide) • Proposed – 3 storey podium adjoining undercroft • Additional 3m setback above 4 storeys – provided via podium	• Required: 22m • Proposed: (22m)	• Required: 36.9m • Proposed: 35m	Yes
Building C	• Additional 3m setback above 4 storeys	-	-	Yes
Building D		• Required: 18.5m • Proposed: 18m	-	Yes
Building E	• 1-4 storey along NW boundary	12m + 3m	-	Yes

	• Additional 3m setback above 4 storeys			

Therefore, the proposal is inconsistent with a number of the built form and setback controls of Section 8.3.3 of the HDCP No 2.

The proposal also fails to exhibit design excellence in that the development does not adequately address the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of setbacks, amenity and urban form and street frontage heights pursuant to Cause 6.10(5)(d)(iv) and (vi) of the GRLEP 2021.

The proposal is considered to be unsatisfactory having regard to the setbacks and street wall heights.

6.6 Building Separation

The visual privacy controls of the design criteria in Part 3F-1 of the ADG provide the building separation requirements, where it is noted that the separation distances between buildings on the same site should combine required building separations depending on the type of room. It is also noted in this Part that for residential buildings next to commercial buildings, separation distances for retail, office spaces and commercial balconies should be measured using the habitable room distances. Clause 6A of SEPP 65 provides that the controls for visual privacy in the ADG prevail over any DCP controls to the extent that the DCP control shave no effect.

For the proposal, the following is noted in relation to building separation, illustrated in **Figure 48**:

- Building A and B are attached (i.e. the same building) until Level 5 and therefore separation is only required from Level 5;
- Building A and E adjoin each other and therefore no separation is required;
- Building D and E adjoin each other from Level 1, with separation only required at ground level, where Building E has a blank wall to Building D adjoining the basement entry point.

Consideration of the required building separation for the remaining buildings within the site are outlined in **Table 18**.

Figure 48: Proposed Level 5 - lack of building Separation (*Source: Turner, March 2023*)

Table 18: Building Separation within the Site

BUILDING	REQUIRED ADG (DESIGN CRITERIA OF PART 3F-1)	PROPOSED	COMPLY
Building A to Building B (from Level 5)			
Up to 12m (4 storeys)	N/A	N/A	N/A
12m – 25m (5-8 storeys)	9m x 2= 18m (for hab)	12 metres	**No**
Over 25m (9+ storeys)	12m x 2 = 24m (for hab)	12 metres	**No**
Building A (rear portion) to Building D			
Up to 12m (4 storeys)	6m x 2 = 12m	18 metres	Yes
12m – 25m (5-8 storeys)	9m x 2 = 18m	18 metres	Yes
Over 25m (9+ storeys)	12m x 2 =24m	N/A (Bldg D 8 storeys)	N/A
Building B to Building C			
Up to 12m (4 storeys)	6m x 2 = 12m	Ground – N/A (to blank wall) Level 1 (retail to retail) – 8m Level 2 (res-comm) - 6.5m Level 3 (res-res) – 6.5m	**N/A** **No** **No** **No**
12m – 25m (5-8 storeys)	9m x 2 = 18m	Level 4 – 21m Level 5 – 9m, 10m & 15m Level 6 – 9m, 11m, 20m Level 7 – 9m, 11m, 20m	Yes **No** **No** **No**
Over 25m (9+ storeys)	12m x 2 =24m	Levels 8 to 10 - 9m	**No**
Building C to Building D			
Up to 12m (4 storeys)	6m x 2 = 12m	26m	Yes
12m – 25m (5-8 storeys)	9m x 2 = 18m	26m	Yes
Over 25m (9+ storeys)	12m x 2 =24m	26m	Yes

As oultined above, there are significant departures from the required building separation distances under the ADG, with the main concerns comprising:

- Building A to Building B (from Level 5**);** and
- Building B to Building C.

The side setback of Building A to the adjoining property is also unsatisfactory, as outlined above in the discussion on side setbacks.

It is acknowledged that the windows in Building B are designed at an angle and screening has been provided to the balconies to mitigate any potential visual privacy issues arising between Buildings A to B and B to C, however, there are still some direct overlooking opportunities. These arise between Unit B.204 and the level 2 commercial premises in Building C, between Unit B.304 and Unit C.303 on Level 3 and the upper levels of Building B to both Building A and Building C.

Aside from privacy impacts, minimum building separation controls also aim to limit adverse impacts on the character of the area, provide sky views and a sense of openness as well as providing amenity to the proposed apartments. It is considered that these objectives have not been achieved by the proposal given the lack of adequate building separation provided between Buildings A to B and B to C.

The building separation controls aim to ensure that new buildings contribute to the urban form of an area, with appropriate building separation contributing to how buildings are arranged and the character of the area which has not been achieved by the proposal. The proposed building separation distances between proposed Buildings A to B and Buildings B to C are not proportionate to the proposed building heights, resulting in a development with significant bulk and scale that will dominate the streetscape.

The proposed building form, with a lack of separation of the building forms, results in the proposal being unsympathetic to the adjacent residential area as well as the existing character of the area. This character includes buildings which are adequately separated (**Figures 49** & **50**). A compatible visual scale to create a human scale environment has not been achieved, as illustrated in **Figures 51** and **52**.

The minimum separation distances between proposed buildings are required to be provided to be consistent with the Design Principles under SEPP 65, including Principle 1 - Context and neighbourhood character and Principle 2 - Built Form and Scale. The proposed development does not fit within the existing and planned context of the neighbourhood and is therefore unsatisfactory.

Figure 49: RFBs separated along Gloucester Road

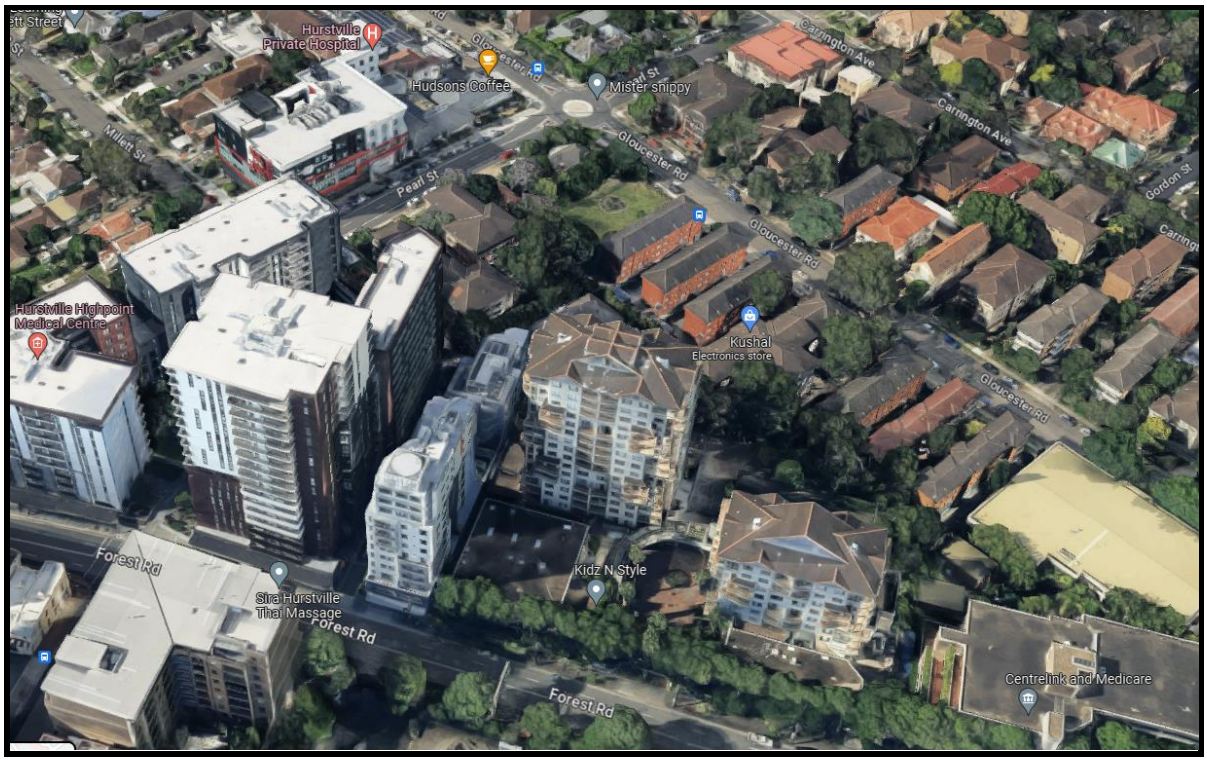

Figure 50: Building Separation along Forest Road (Source: Google Maps)

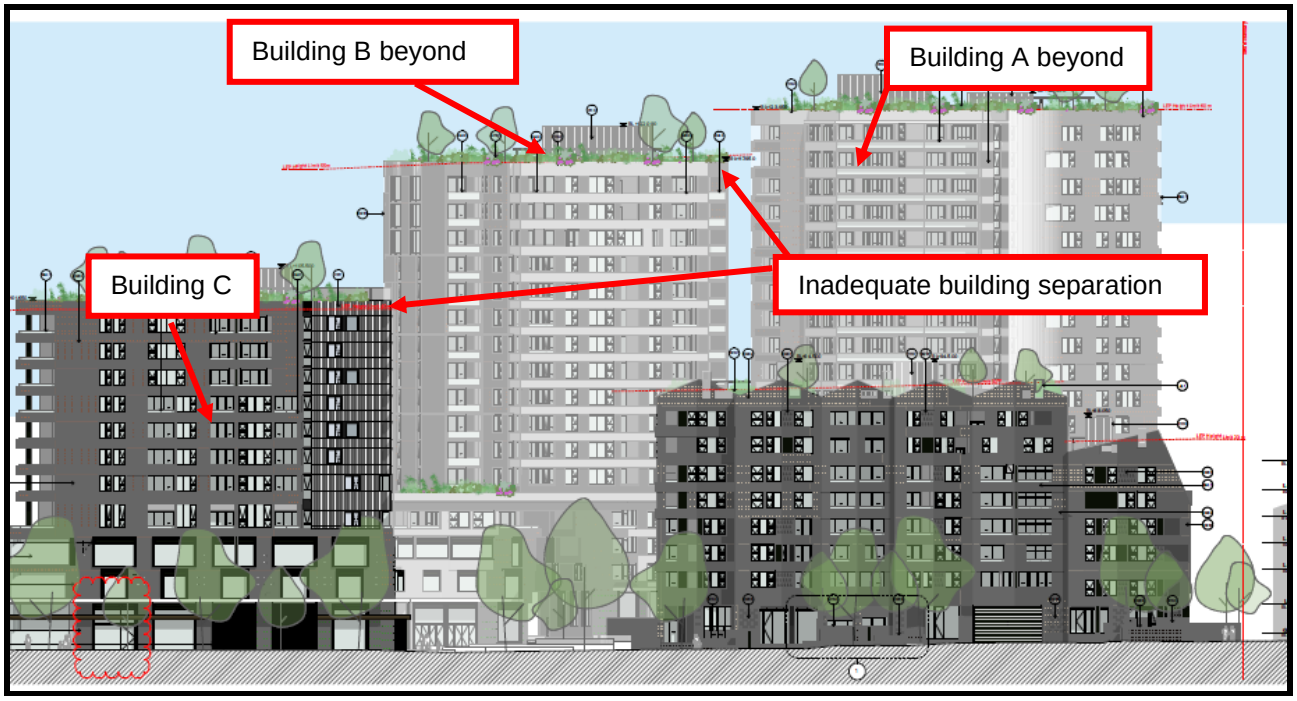

Figure 51: North East elevation (*Source: Turner, March 2023*)

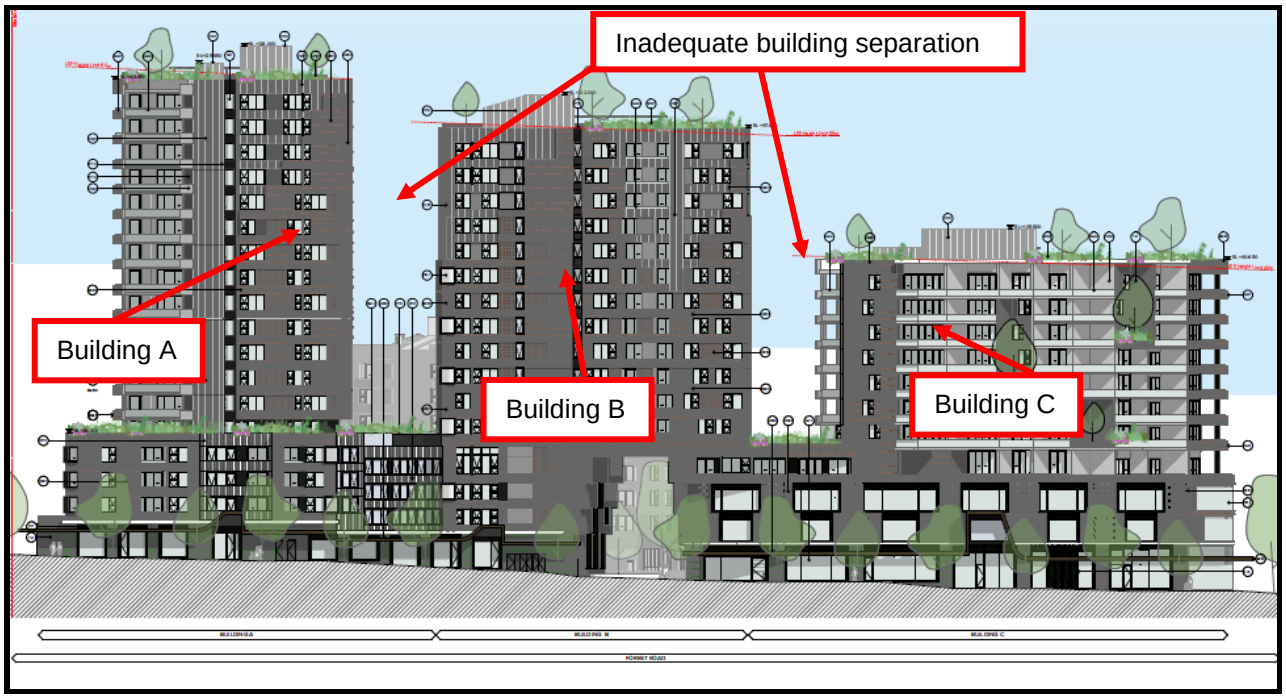

Figure 52: South West Elevation (*Source: Turner, March 2023*)

In relation to creating a sense of openness, this is critical for the proposal given the extent of densification proposed. The lack of adequate building separation reduces access to access to sky views that will offer relief from the built form. This is particularly marked along the pedestrian link, which is not open to sky and therefore reduces the amenity of Units B.204,

B.304, C.302 and C.303. this sense of openness has not been provided for apartments within proposed Building B and C.

The lack of adequate building separation also reduces the amenity to the proposed apartments in that access to ventilation and solar access is reduced and results in an adverse impact on visual amenity issues arising from the building bulk and scale which is exacerbated by the lack of adequate building separation. In these ways, it is considered that the proposal does not achieve the required minimum building separation and is unsatisfactory.

Consequently, the proposal is considered to be inconsistent with the objectives of the built form and setback controls pursuant to Section 8.3.3.3 of the HDCP No 2 in that the proposal does not ensure adequate separation between the subject development and adjoining residential development to provide reasonable privacy to occupants of the residential developments on the subject site and adjoining sites (objective (d)). The proposal also does not establish the desired spatial proportions of the street and define the street edge (objective (f)).

Therefore, the proposal is considered to be unsatisfactory having regard to the lack of adequate building separation, and is inconsistent with Part 3F and section 8.3.3.3 of the HDCP No 2.

The proposal also fails to exhibit design excellence in that the development does not adequately address the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation pursuant to Clause 6.10(5)(d)(iv) and (vi) of the GRLEP 2021.

6.7 Tree Removal and Retention and Landscaping

There are a large number of trees located within the road reserves of both Gloucester Road and Forest Roapd as well as within the site and therefore the potential impact on these trees is a fundamental issue in this assessment. The provision of a comprehensive landscaping for the site is also an important consideration given the scale of the proposed development.

The following plans and documents have been prepared in relation to trees and landscaping:

- *Arboricultural Impact Assessment Report* prepared by Sturt Noble Arboriculture dated 23 November 2021 (‘Arborist’s Report’);
- *Arborist’s Letter of Response to Council Issues* prepared by Sturt Noble dated 13 December 2022 (‘Arborist’s Letter’);
- Response to Landscape Comments prepared by RPS dated 20 December 2022 (‘RPS Landscape Letter’); and
- Landscape Concept Issue C, prepared by RPS dated 15 March 2023 (‘Landscape Plans’).

The proposed landscaping and tree retention is considered below.

(a) Tree Retention and Removal

The trees on the site and within the adjoining road reserves are outlined in Figure 9 of Section 8.3.3.8 of HDCP No 2, illustrated in **Figure 53**. The proposal is considered below having regard to these existing trees on the site.

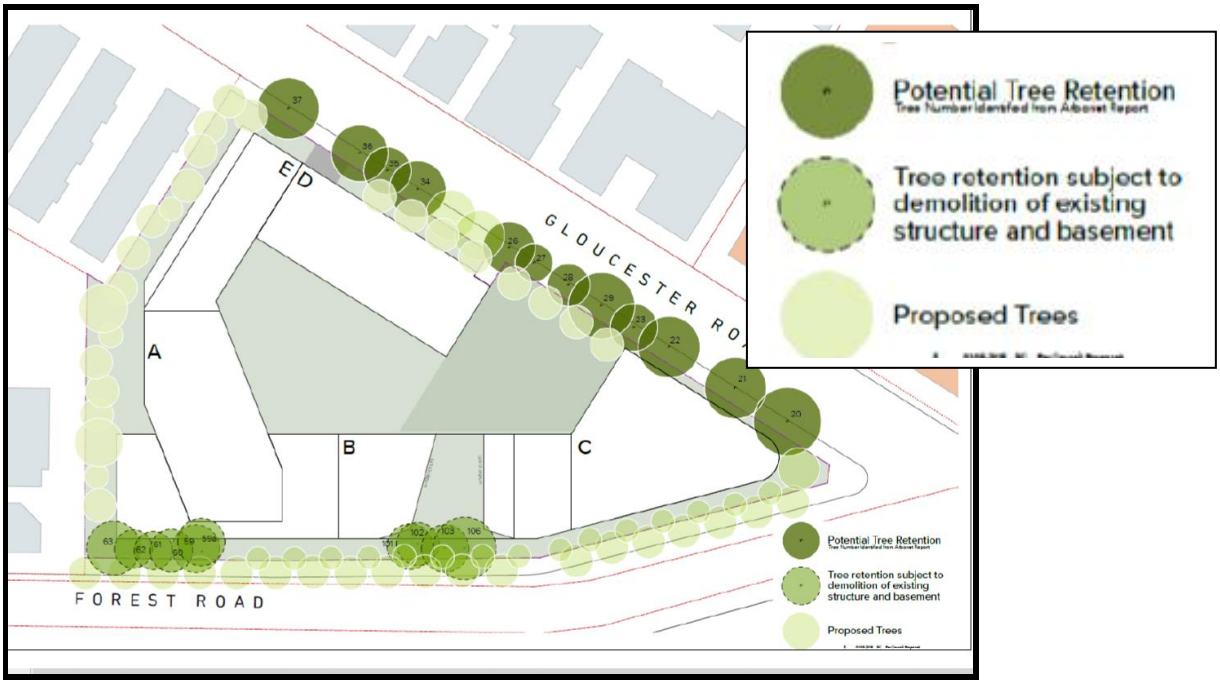

Figure 53: Potential Tree Retention and Proposed Trees (*Source: Figure 9 in Section 8.3.9 of HDCP No 2*)

London Plane Trees

The road reserve of Gloucester Road consists of an avenue of large London Plane trees (*Platanus x acerifolia syn. Platanus x hybrida*) with large canopies which characterise the streetscape in this area (**Figure 54**). Section 8.3.3.8.(a) of the HDCP No 2 requires the retention of these trees, described as Nos 20, 21, 22, 23, 26, 27, 28, 29, 34, 35, 36 and 37 given their high value to the streetscape. The DCP also requires an exclusion zone should be established for the design of buildings and basement levels that ensures the protection of trees.

Figure 54: Avenue of London Plane Trees along Gloucester Road (*Source: Google Maps)*

The proposal retains these trees with the exception of Tree No 36 which is required to be removed for the proposed basement access point. The proposal originally proposed to replace this tree with 4 x *Tristaniopsis laurina* trees, however, Council's Landscape Officer did not support this proposed tree species and required that to keep a consistent avenue of street tree species, the replacement planting of *1 x Platanus orientalis* 'Digita' should be provided. This was based on this species being almost the same as those existing and preferred by Council's operational management team.

The landscape plan has been amended to reflect Council's preferred tree species, with three (3) of these trees proposed in front of Building D and a further one planted adjoining Building C close to the intersection of Forest and Gloucester Road.

The Arborist's report (November 2021) concluded that the London Plane trees (Trees No 20-23,26-29,34,35 and 37) generally have only minor encroachments (generally 0.8-10%) with only a few towards higher percentages and are all are suitable for retention. The encroachments include:

- Clear of all works – Trees No 27, 28 and 29 (adjoining urban common and through-site link);
- Minor encroachment - Trees No 20, 21, 22, 23,24, 25 and 26 (adjoining proposed basement and Buildings C and D); and
- Major encroachment - Trees No 34 (13,5%), 35 (12.2%) & 37

Council's Landscape officer requested tree root mapping be undertaken for these London Plane trees to be retained, behind existing property boundary in the landscaped areas which avoids the existing timber and crib lock retaining walls and along the line of the proposed basement car park entry. The Arborist's Letter considered this request, noting that it was based on the requirement for root mapping as identified by the Arborist's Report and that root mapping is difficult to obtain due to the excavation required and the benefits of doing so.

A revised Tree Encroachment Plan (Revisions C dated 9 December 2022) was prepared by the Arborist (**Figure 55**) which identified the revised impacts. It is noted that the proposed access ramp/chair lift adjoining Building E is to be designed as a lightweight structure over the TPZ with pier and beam construction reducing impacts to the Tree Root zone. Relevant conditions can be imposed for this requirement where appropriate.

The Arborist's Letter noted the following revisions to the potential impacts to the London Plane trees, oultined in **Figure 56**:

a. Tree 20 - has an increased impact zone to 13% of TPZ
b. Tree 21 - minor impact (7.2%)
c. Tree 21 - very minor impact (0.8%)
d. Tree 23 - minor impact (4.6%)
e. Trees 27,28,29 - No impact
f. Trees 34, 35 - No impacts
g. Tree 37 - major impact 19.1%

The Arborists' Letter concluded that given the London Plane Trees are in very good health and vigour, and are highly tolerant to disturbance, that root mapping does not need to be undertaken. The only trees with major impacts are Tree 20 (13%) and Tree 37 (19%) which are both at tolerable margins subject to tree protection measures outlined in the Arborist report being carried out.

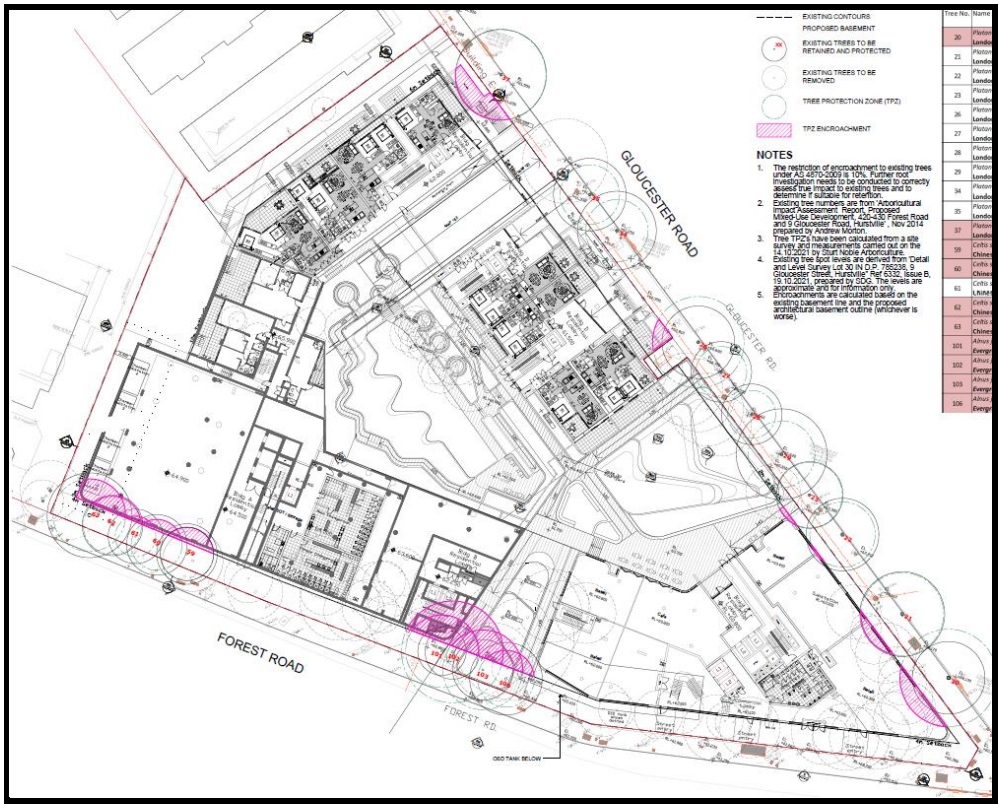

Figure 55: Tree Encroachment Plan (*Source: Noble, December 2022*)

Tree No.	Name	TPZ (m)	Area of TPZ (m2)	Encroachment (m2)	Percentage (%)	Existing R.L. (approx)
20	*Platanus x hybrida* **London Plane**	8.04	202.97	26.40	**13.0%**	60.13
21	*Platanus x hybrida* **London Plane**	6.84	146.91	10.63	**7.2%**	60.23
22	*Platanus x hybrida* **London Plane**	5.40	91.56	0.77	**0.8%**	60.25
23	*Platanus x hybrida* **London Plane**	5.40	91.56	4.25	**4.6%**	60.40
26	*Platanus x hybrida* **London Plane**	7.56	179.46	8.76	**4.9%**	60.86
27	*Platanus x hybrida* **London Plane**	4.20	55.39	0.00	0.0%	60.71
28	*Platanus x hybrida* **London Plane**	3.96	49.24	0.00	0.0%	60.66
29	*Platanus x hybrida* **London Plane**	5.52	95.68	0.00	0.0%	60.62
34	*Platanus x hybrida* **London Plane**	5.16	83.60	0.00	**0.0%**	61.25
35	*Platanus x hybrida* **London Plane**	4.92	76.01	0.00	**0.0%**	61.30
37	*Platanus x hybrida* **London Plane**	7.44	173.81	33.20	**19.1%**	61.80
59	*Celtis sinensis* **Chinese Hackberry**	4.40	60.79	15.80	**26.0%**	64.83
60	*Celtis sinensis* **Chinese Hackberry**	4.20	55.39	10.00	**18.1%**	64.71
61	*Celtis sinensis* **Chinese Hackberry**	3.36	35.45	3.80	**10.7%**	64.99
62	*Celtis sinensis* **Chinese Hackberry**	4.80	72.35	17.00	**23.5%**	64.86
63	*Celtis sinensis* **Chinese Hackberry**	6.00	113.04	29.00	**25.7%**	65.36
101	*Alnus jorullensis* ***Evergreen Alder***	6.00	113.04	39.5	**34.9%**	63.05
102	*Alnus jorullensis* ***Evergreen Alder***	8.40	221.56	95.4	**43.1%**	63.05
103	*Alnus jorullensis* ***Evergreen Alder***	6.60	136.78	43.2	**31.6%**	62.75
106	*Alnus jorullensis* ***Evergreen Alder***	4.68	68.77	16.6	**24.1%**	62.50

Figure 56: Existing Trees to be retained encroachment assessment (*Source: Arborist's Letter December 2022)*

The Arborist's Report states that the proposed pavement design and construction of the new building and associated infrastructure should consider the recommended Tree Protection Zones to minimise any adverse impact. The Report stated that Plane trees are very tolerant to disturbance, however, non-invasive exploratory trenching is to be carried out to all encroached trees and that a Site arborist should review any large roots uncovered (above 50mm in diameter) and provide advice on removal or mitigation by design changes. Where possible large roots should be retained.

The report also noted that these trees have high retention value both in SULE (from an earlier Arborist's report prepared by Earthscape Horticultural Services 2014) and currently medium to long term retention SRIV values in the current Arborist's Report. With appropriate tree protection measures outlined in Arborist's Report, retention of these trees is possible. A Tree Protection Plan as required by the Arborist's report will be required to be provided as a consent condition. These matters can be addressed in consent conditions where appropriate.

Chinese Hackberry Trees

The Forest Road frontage of the site comprises a row of Chinese Hackberry Trees, comprising Tree Nos. 59 - 63,101,102,103,106 as outlined in the HDCP No 2 (**Figure 57**). The DCP requires these trees to be retained, however, the Arborist's Report concluded that these trees have a low to very low retention value both in SULE (Earthscape Horticultural Services 2014) and the Sustainable Retention Index Value (SRIV) values (tree health, vigour, structure and age class).

The Arborist's Report also noted that considers these trees have roots which currently extend over the existing basement line in raised planters and therefore the proposed demolition of the current basement will effectively undermine all of these trees. These trees also appear to have major encroachments between 32% and 43% arising from the proposal (Figures 27 and 28), with the Arborist's report noting that in many cases, the structural root zones are also encroached. Consequently, the Arborist's Report concluded that these trees should be removed.

Figure 57: Chinese Hackberry Trees along the Forest Road frontage (*Source: Google Maps)*

Council's landscape officer considered the tree removal and retention for the proposal and concluded that the removal of all trees within the site and the retention of 11 x street trees fronting Gloucester Road is supported and that the replacement planting proposed within the deep soil areas on the landscape plans more than satisfies Council's 2:1 replacement policy. This tree removal is only supported where it can be demonstrated that replacement planting proposed is a substantial improvement and can be adequately supported with appropriate soil depths volume and space for canopy development (considered below).

(b) Podium Soil Depth

Part 4P of the Apartment Design Guide recommends the following minimum depths:

- Large Trees 12-18m tall – 150m^3, 1200mm depth
- Medium Trees 8-12m tall – 35m^3, 1000mm depth
- Small Trees 6-8m tall – 9m^3, 800mm depth

The proposed soil depths for trees on the slab at ground level and on the rooftop (as podium planting) range from 500mm to 750mm for proposed trees which can achieve 6 metres to 25 metres in height. The proposed podium soil depths are inadequate to support the proposed tree species and the number of trees, with greater soil volume and depth required for the proposed tree species growth. Soil depth, volume and adequate area for tree root and canopy development has not been addressed in the amended plans.

Removal of existing trees is only supported where it can be demonstrated that replacement planting proposed is a substantial improvement and can be adequately supported with appropriate soil depths volume and space for canopy development. This has not been demonstrated for the proposal and in this way the proposed landscaping is unsatisfactory.

The proposal is inconsistent with Objective 4P-1 of the ADG in that the proposal does not provide appropriate soil profiles and the soil volume is inappropriate for the proposed plant growth in these areas.

(c) Proposed Tree Planting

Council's Landscape Officer had several concerns with the proposal in the initial referral (March 2022) including requiring amendments to the Landscape plan comprising the following:

(i) Street trees along the Forest Road frontage – The proposal involved street tree planting along the Forest Road frontage, however, this was not supported as this street frontage is paved, narrow, under overhead utility lines and fronts a busy arterial road. Dense canopy planting is proposed within the site close to the property boundary along this frontage and therefore it was considered that street planting was not required. There is no longer any planting in the street frontage of Forest Road, with Water gums and Tuckeroos now proposed within the site along this frontage.

(ii) Trees proposed close to structures and the OSD – The proposal included planting of 7 x trees with a mature height of approximately 15 metres less than 1 metre from the proposed OSD tank along the Forest Road boundary of the site. Root systems for these trees are likely to extend to the limit of the available soil volume and may exert pressure on the wall of the OSD tank as they increase in girth over time. The OSD design, tree locations and species selection need to be reviewed to ensure that the structure and trees can co-exist.

Furthermore, where trees are proposed to be planted close to paving or other

structures within what will be expected to be their mature structural root zone, consideration should be given to location, species selection and possible use of root barrier. The proposal should be reviewed and amended to consider required soil volumes, species selection and proximity to structures.

The drawings were amended to show trees are now offset 1.8m from the edge of the OSD Basin (whilst still located 1m from the back of footpath) and a root barrier has now been proposed between the trees and the basin (**Figure 58**). Root barriers are also proposed adjoining the entry areas to Building B (**Figure 59**). The tree species have also be amended and are now smaller in size, with the Lophostemon removed and water gum species (8 metres in height) now proposed in this area.

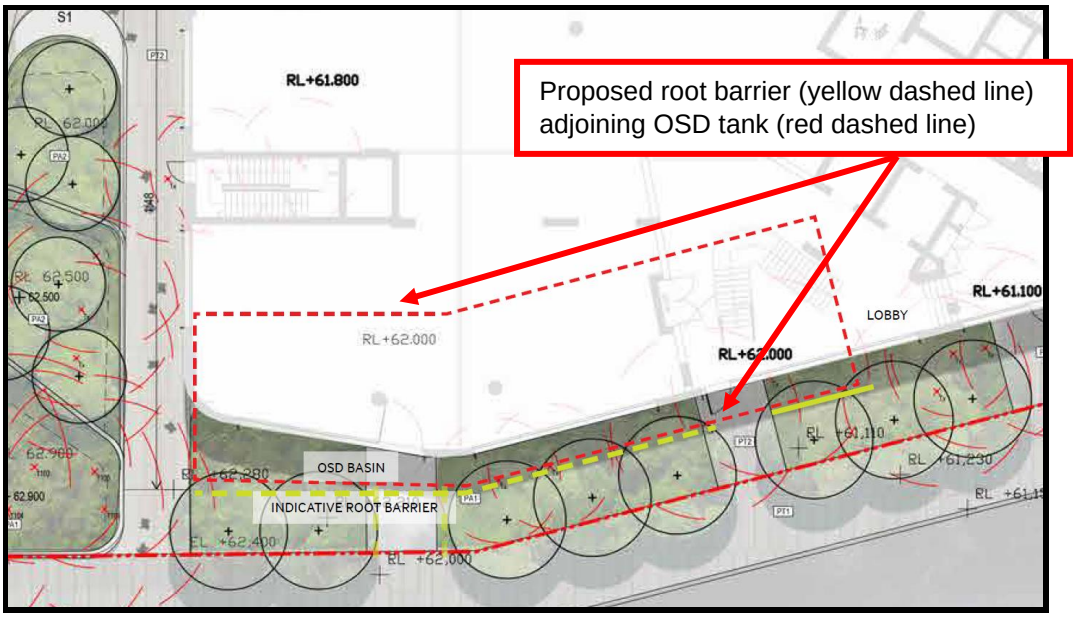

Figure 58: Proposed root barrier adjoining the OSD Tank *(Source: RPS, Drawing No DA18, March 2023)*

Figure 59: Proposed root barrier adjoining the OSD Tank *(Source: RPS, Drawing No DA18, March 2023)*

(iii) Proposed outdoor dining in major entrance thoroughfare – The proposal involves an outdoor dining area which is within the main pedestrian thoroughfare between the though-site link and the urban common. It is preferable to use soft or hard landscaping to provide delineation between dining areas and walkways in addition to the consideration for shelter for dining areas. The amended plans have addresses these concerns in that the main paths of travel are clear through the site and the BBQ areas and the outdoor dining areas allow for pedestrian activity through the site.

(d) HDCP No 2 requirements – Trees and Canopy Cover

Section 8.3.3.8(b) of the HDCP No 2 requires that development must propose new trees in the locations identified in Figure 9 (illustrated above) and the proposed tree canopy must exceed the existing canopy cover on the site of 3,385sqm, which is approximately 36.63% of the site.

The landscape plan proposes trees in the approximate locations as shown in the DCP, with the tree locations designed around the proposed basement and entry areas. However, in relation to the tree canopy, the proposed canopy site coverage is 2,878m², which is 507m² under the requirement (**Figure 60**). Given the large site and the proposed density, it is considered that this tree canopy cover should be provided.

It is noted that Council's Landscape Officer does not require the retention of the Chinese Hackberry trees along Forest Road or the planting on the Forest Road street frontage, however this canopy cover is required to compensate for the loss of trees on the site for the proposal. The proposal also involves insufficient deep soil area pursuant to the ADG which requires a greater percentage of the site given its large size (>1500m²) landscaping and tree cover. Additional canopy cover could be provided in an expanded deep soil area on the site. The proposal is unsatisfactory having regard to the required canopy cover on the site.

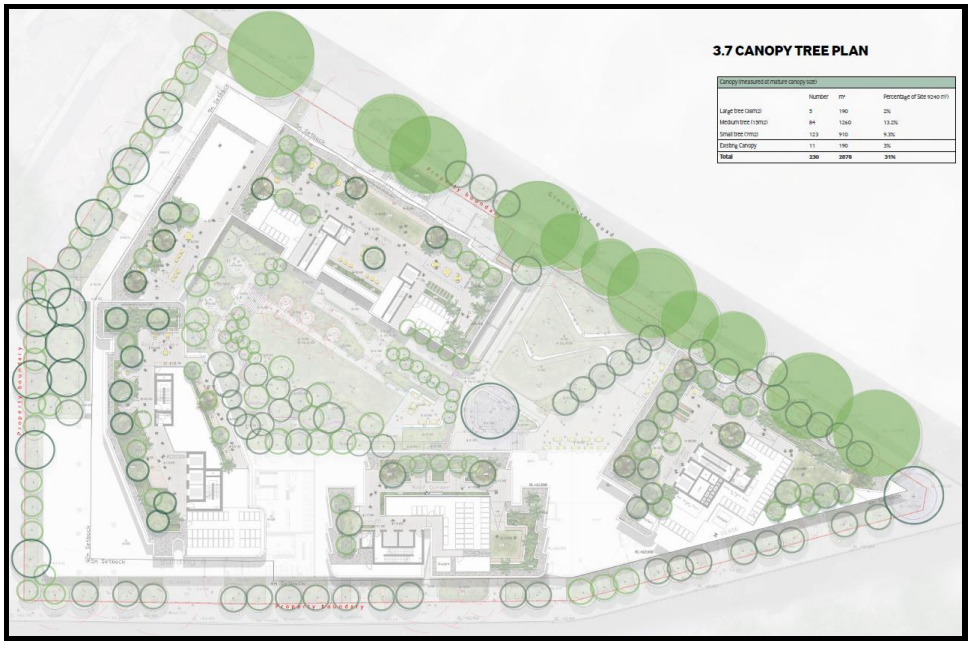

Figure 60: Proposed Tree Canopy Plan *(Source: RPS, Drawing No DA22 dated 10 March 2023)*

(e) Overlooking from Rooftop communal areas

The proposal involves rooftop communal areas which provide for the future residents of the proposed development. These areas provide seating and circulation areas which have the

potential to overlook other private open space areas within the site. Council's Landscape Officer requested that the rooftop arrangement be reviewed to provide a vegetative buffer and setback to ensure there is no overlooking into private open space or ground floor units in Building D, fronting the proposed Urban Common.

The revised Landscape Plans provide for several trees to be provided along the northern boundaries of the rooftop communal areas of proposed Building B and C which have the potential to overlook down into the private open space areas of the ground floor units in Building D adjoining the urban common (Units DA.002 and DA. 003 on the ground floor. This boundary area is considered wide enough and with sufficient tree planting to ensure overlooking is minimised to these private open space areas as illustrated in **Figures 61, 62** and **63**). This is considered to be satisfactorily addressed.

While the proposed tree retention and planting is satisfactory and some of the other landscaping issues have been resolved, the proposed podium planting depth is unsatisfactory. Without adequate depth for planting, the landscaping for the proposal cannot be provided and therefore the landscaping scheme for the proposal is unsatisfactory.

Accordingly, the proposal fails to exhibit design excellence in that the development does not adequately address integration of landscape design pursuant to Clause 6.10(5)(d)(xi) of the GRLEP 2021.

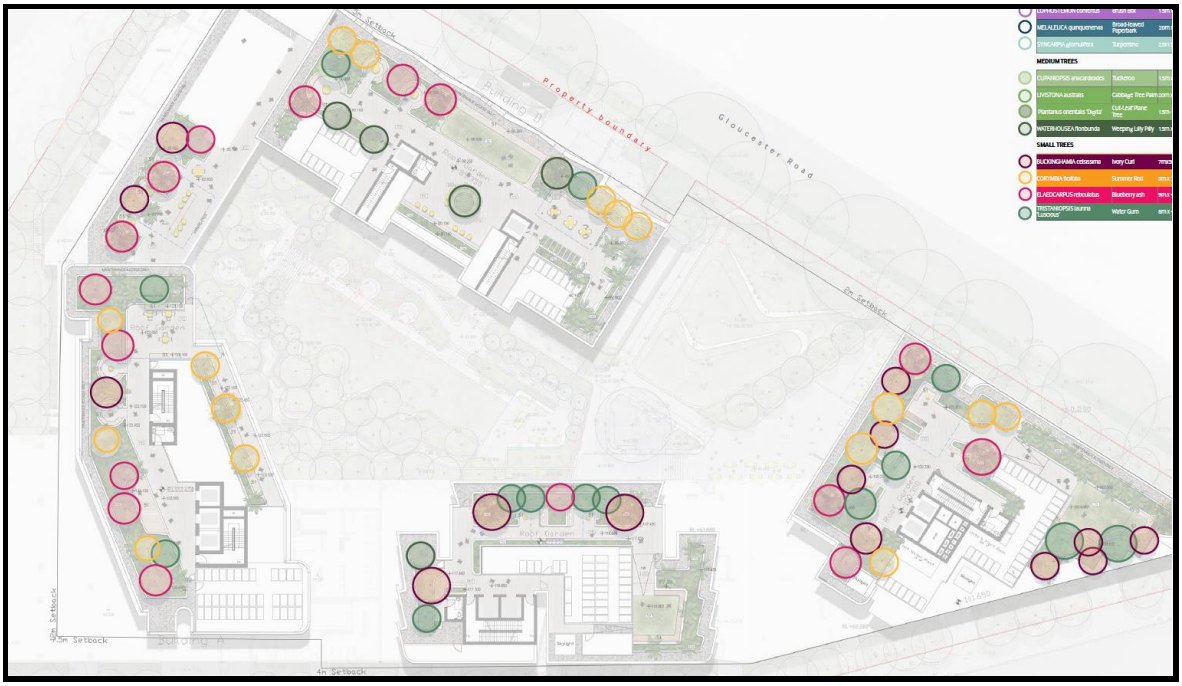

Figure 61: Tree Plan - Podium ***(Source: RPS Australia, 15 March 2023)***

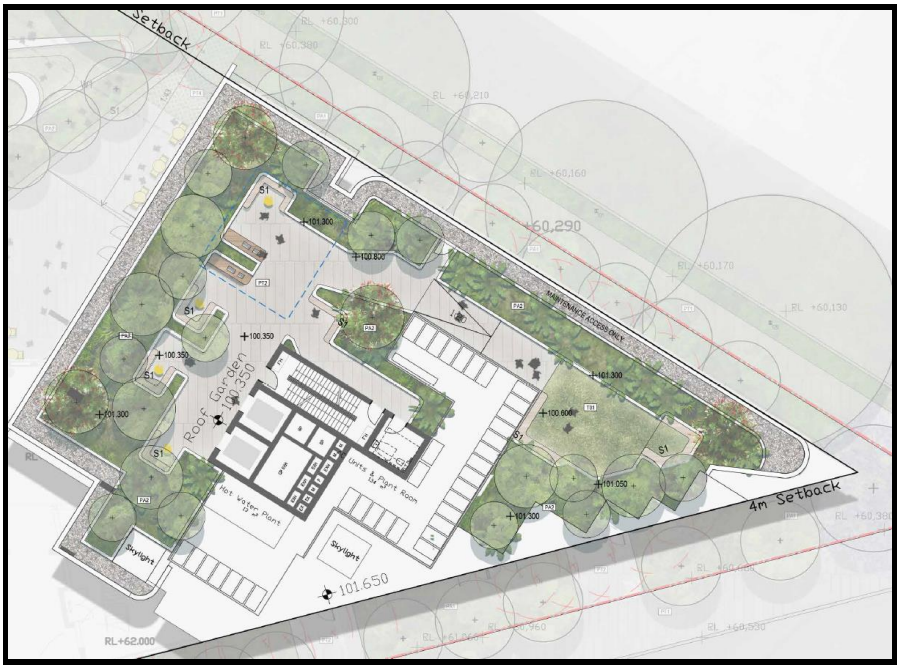

Figure 62: Rooftop communal open space - Building C *(Source: Landscape Plans March 2023)*

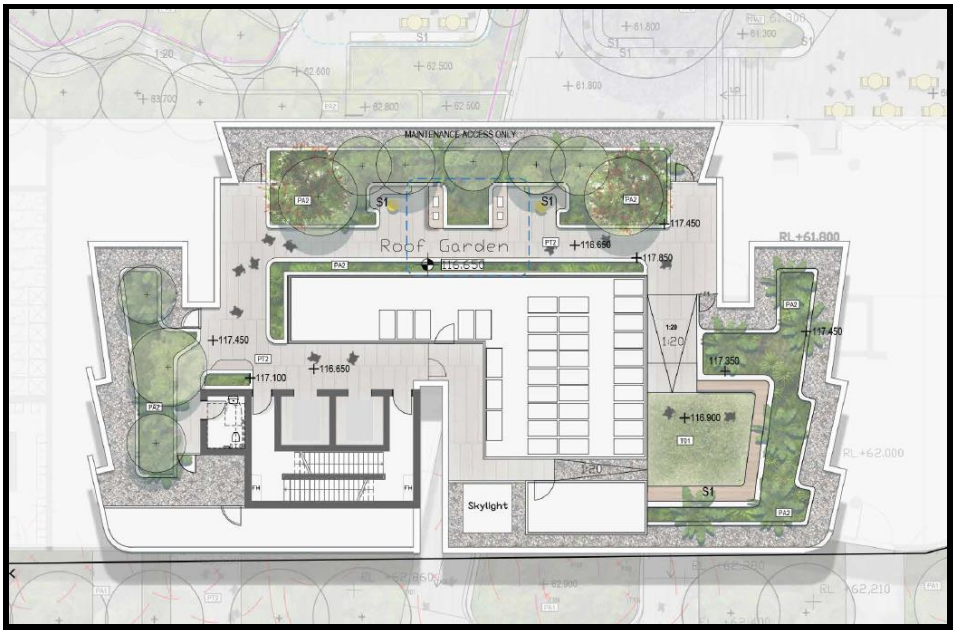

Figure 63: Rooftop communal area for Building B (*Source: Landscape Plans March 2023)*

6.8 Crime Prevention

Section 5.3.14 of the HDCP No 2 contains controls for Crime Prevention Through Environmental Design (CPTED), which seeks to ensure that safety and crime prevention are considered in the design of the proposed development. The controls aim to enhance safety by reducing opportunities for crime to occur, improving observation of public and private spaces and promoting the design of safe, accessible and well maintained buildings and spaces. A Crime Risk Assessment prepared by LOTE Consulting dated 24 November 2021 (the CPTED Report') has been prepared to consider these controls.

There are a number of blind corners identified in the basement levels and the ground floor

levels which the CPTED Report considers require effective lighting and video surveillance as natural surveillance cannot be achieved in these locations. These locations (**Figures 64** and **65)** include:

- Storage and garbage areas in basement levels 1-3; and
- Areas of the ground floor façade between Building B and the vehicle entry ramp on the ground floor and between the residential and retail components of Building A on level 1.

These areas largely comprise storage areas which are likely to be used on a regular basis by future residence of the development as well as waste storage rooms and areas surrounding the lift cores. However, it is considered that the blind spots and recessed areas in the basement levels should be redesigned to provide for more casual surveillance from other areas of the basement and not rely on lighting and cameras for safety. This is the essence of CPTED that safety arises from the design of the development, which has not been achieved by the proposal.

There are also limited opportunities for casual surveillance of the street from the lobbies due to the long, recessed nature of the corridors from the street and awkwardly shaped entries into the proposed buildings. The lifts face away from the street which further reduces surveillance opportunities into these areas.

The CPTED Report also identified that the rooftop communal areas would require camera surveillance for safety, which is considered satisfactory given these areas are also overlooked by other rooftop communal areas.

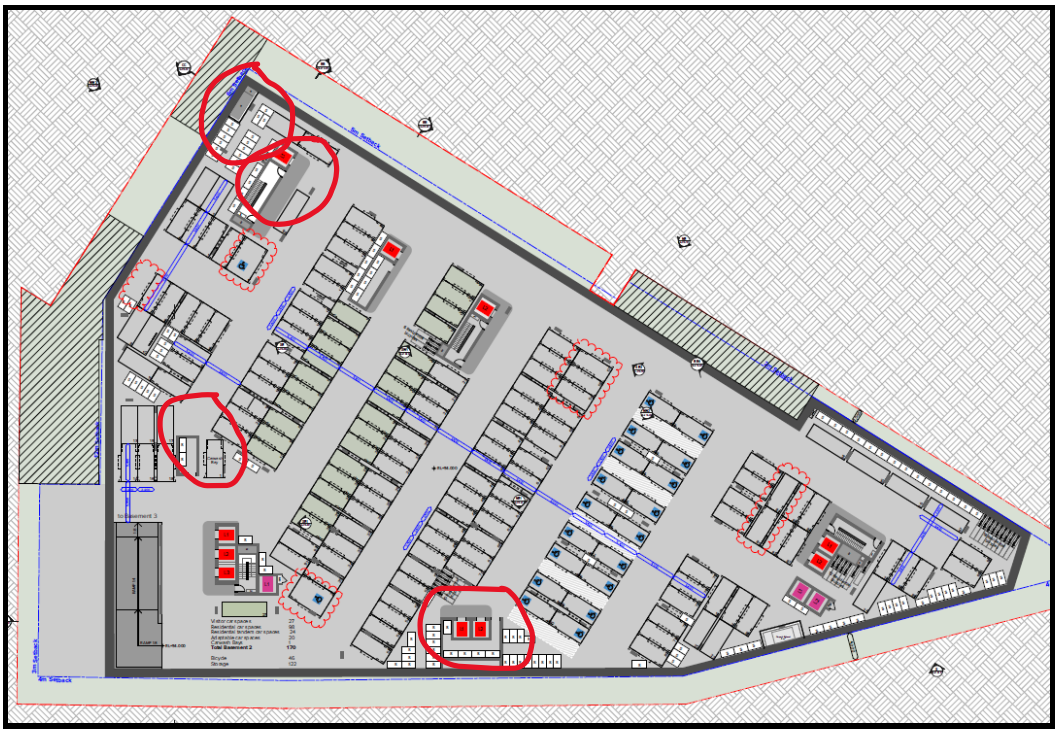

Figure 64: Proposed Basement 2 Level *(Source: Turner, March 2023)*

Figure 65: Proposed Basement 1 Level (*Source: Turner, March 2023)*

6.9 Communal Open Space and Deep Soil

The requirements for communal open space and deep soil are contained in Section 8.3 of the HDCP No 2 and Part 3D and 3E of the ADG. The DCP requirements were formed having regard to the ADG and therefore these controls are reasonably consistent. The open space and landscaping requirements for the proposal pursuant to Section 8.3.3.7 of the HDCP No 2 are illustrated in **Figure 66**, while the proposed communal areas and deep soil areas for the proposal are illustrated in **Figure 67**.

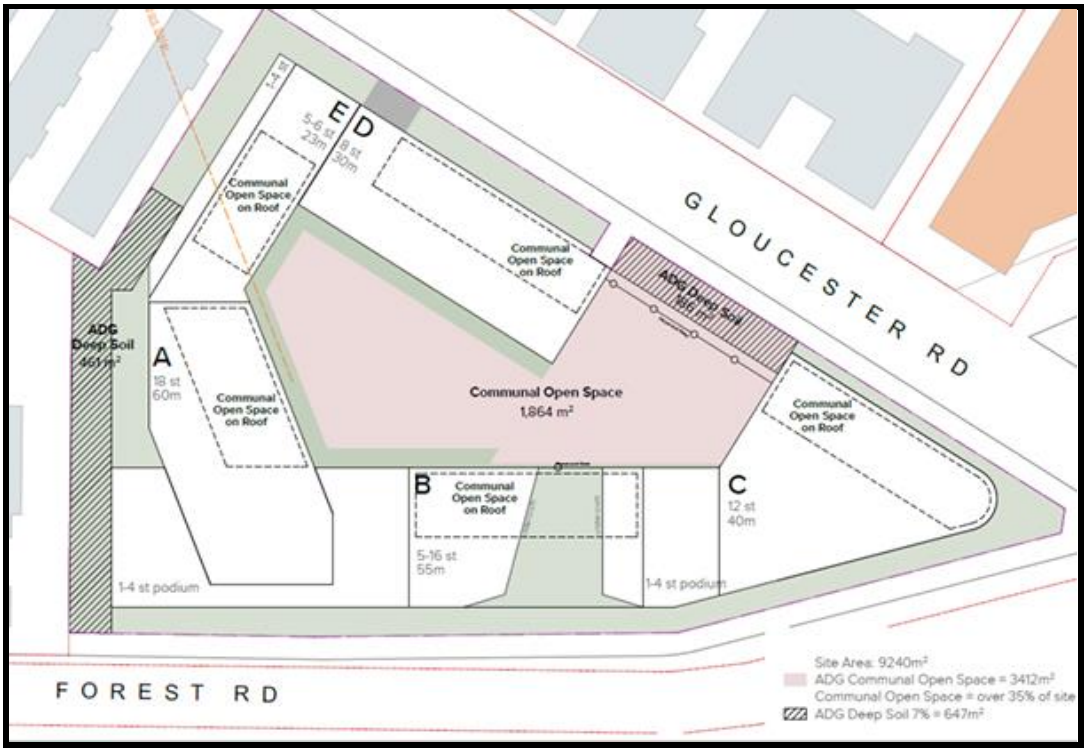

Figure 66: Communal Open Space and Deep Soil *(Source: Fig 8 - Section 8.3 of HDCP No 2)*

Figure 67: Proposed communal open space and deep soil areas *(Source: Turner, dated 10 January 2021)*

Communal Open Space

The proposal provides 2,084m² of communal open space at ground level and 2,103m² on the roof, which exceeds the requirement pursuant to Section 8.3.3.7 of the HDCP No 2 which requires 1,864m², while the rooftop spaces are not dimensioned. The resulting total communal open space area proposed is 4,187m² or 45.31% of the site, which also exceeds the ADG requirements (**Figure 67**). The location of this communal area is generally consistent with the requirements of the DCP and will receive solar access to the area within the urban common as well as the rooftop areas.

While the area of ground level communal open space between Building A,D and E does not receive any significant solar access in midwinter, there are areas where there is significant solar access available to residents including the urban common and the rooftop areas (**Figure 68**). It is also noted that the proposal is subject to the DCP controls which set out the building envelopes and locations on the site which have been adopted following a lengthy Planning Proposal. It is considered that the proposed communal open space area is consistent with the DCP and the ADG and in these ways is satisfactory.

Figure 68: Solar Access to Communal Open Space *(Source: Turner, dated 10 January 2021)*

Deep Soil Zone

The HDCP No 2 requires that the deep soil planting is to be provided in accordance with the ADG and incorporated in the landscaped central common area and should not be above the basement parking. The specific requirements for the deep soil area include (Refer **Figure 69**):

- 6 metres wide deep soil landscaped screening along the interface with residential properties to the west; and
- 6 metres wide deep soil planting along Gloucester Road.

The ADG requires that for sites greater than 1,500m², 7% of the site with a minimum dimension of 6 metres is required to be provided as deep soil zone, consistent with the DCP.

The proposal provides 669m² of deep soil area in three (3) separate locations on the site, with an area along the western boundary, a small area on the north western boundary and an area on Gloucester Road near the urban common area. While this complies with the minimum area of 646.8m² under the design criteria for deep soil pursuant to Part 3E-1 of the ADG, the design guidance of this Part recommends that on sites larger than 1,500m², 15% of the site should be provided as deep soil area.

The Planning Proposal and DCP provisions were designed following a rigorous assessment, which requires a 6 metre wide deep soil area along the full length of the western boundary. This deep soil, combined with the lower 23 metre height limit along this boundary were designed to provide a low-scale buffer between the site and the adjoining development at 438-452 Forest Road ('No 438') which comprises an eight (8) storey development adjoining the site.

This has not been achieved by the proposal and instead a wider deep soil area is provided beyond the adjoining development and another smaller area is provided closer to Gloucester Road (refer to Figure 69). These areas do not provide the buffer to the adjoining development at No 438 required by the controls and also does not provide for a consolidated area of deep soil which can provide for residential amenity.

Figure 69: Proposed Deep Soil *(Source: Turner, Rev C, Deep Soil and Communal Space Diagrams)*

The proposal is considered to be inconsistent with Section 8.3.3.7(d)(a) of the HDCP No 2 in that a 6 metre wide deep soil landscaped screening along the interface with residential properties to the west has not been provided. The proposal is also considered to be inconsistent with the objectives for open space and landscaping in that the proposal does not ensure that landscaping is integrated into the design of the development nor does it improve the overall appearance of the development when viewed from neighbouring sites.

6.10 Waste Management

The controls for waste management are contained in Section 6.2.4 of the HDCP No 2. There are a number of concerns with the proposed waste management arrangements for the proposal including the following:

(a) Waste rooms – The proposed bin storage rooms for each building do not provide sufficient area to store the number of waste, recycling and FOGO bins that the WMP states are required for the proposal. These concerns also arise from the lack of clarity on the architectural plans as to the number of bins to be stored in each waste room and the type/size of bins. The proposal is considered to be inconsistent with Section 6.2.4(b) of the HDCP No 2 in that the adequate common storage for waste and recyclables within each building has not been adequately provided (**Figure 70**).

(b) Bulky waste areas - The access and travel distances to the collection point for the bulky waste storage areas are unsatisfactory. The travel distance from any residential dwelling entry to bulky waste storage is excessive and the access into the bulky waste room for Building C,D and E is access via a narrow, convoluted corridor and obstructed by bicycle spaces, car spaces and fire stairs. These requirements have not been achieved by the proposal.

(c) Paths of travel - The path of travel of waste from the point of generation (each unit) to

level-specific waste/bin storage areas, including bulky waste storage, and to the central storage area to the proposed collection point has not been provided.

(d) Food Organics and Garden Organics ('FOGO') waste - The proposal has not made provision for FOGO waste on each occupied floor.

The proposal is considered to be inconsistent with the objectives for waste minimisation and management pursuant to Section 6.2.4 of the HDCP No 2 in that it does not ensure efficient storage and collection of waste and quality design of facilities.

Accordingly, the proposal fails to exhibit design excellence in that the development does not adequately address the provision of on-site integrated waste and recycling infrastructure pursuant to Clause 6.10(5)(d)(xiv) of the GRLEP 2021.

Figure 70: Proposed loading dock and bin holding room (*Source: Turner, 22 March 2023*)

6.11 Public Spaces

The proposal involves publicly accessible open space as well as a through-site link. The open space which is publicly accessible is the 'central green' and the 'urban common' area, which is located between Buildings C and D, while the area between the 'C' shaped built form comprising Building A, B, D and E is communal open space for the development only. These central green and urban common areas are proposed to be retained in private ownership as outlined in the application.

The through-site link is proposed between Buildings B and C and connects Forest Road with Gloucester Road. This link forms an undercroft under Building B up to Level 3, with Level 4 of Building B built over this link. The proposed through-site link is consistent with the indicative location and requirements pursuant to Section 8.3.3.5(d) of the HDCP No 2. The proposed link is activated with ground floor retail uses on the ground level of Building C which provides for surveillance of this area, while there are retail uses and the residential lobby for Building B

on the higher side of this link at level 1. This link provides for a clearly defined throughway for pedestrians and will provide public access 24 hours a day 7 days a week. The publicly accessible areas on the site are illustrated in **Figure 71**.

Apart from the open space areas remaining in private ownership, the application does not outline the management and ownership of the remaining areas of the site which are proposed to be publicly accessible. These areas would need to be maintained in perpetuity to a high standard, and it is unknown whether this is by way of strata title ownership by Council of the public space, or some other means. The application is unsatisfactory in that there is inadequate information on the future ownership and management of the publicly accessible areas on the site.

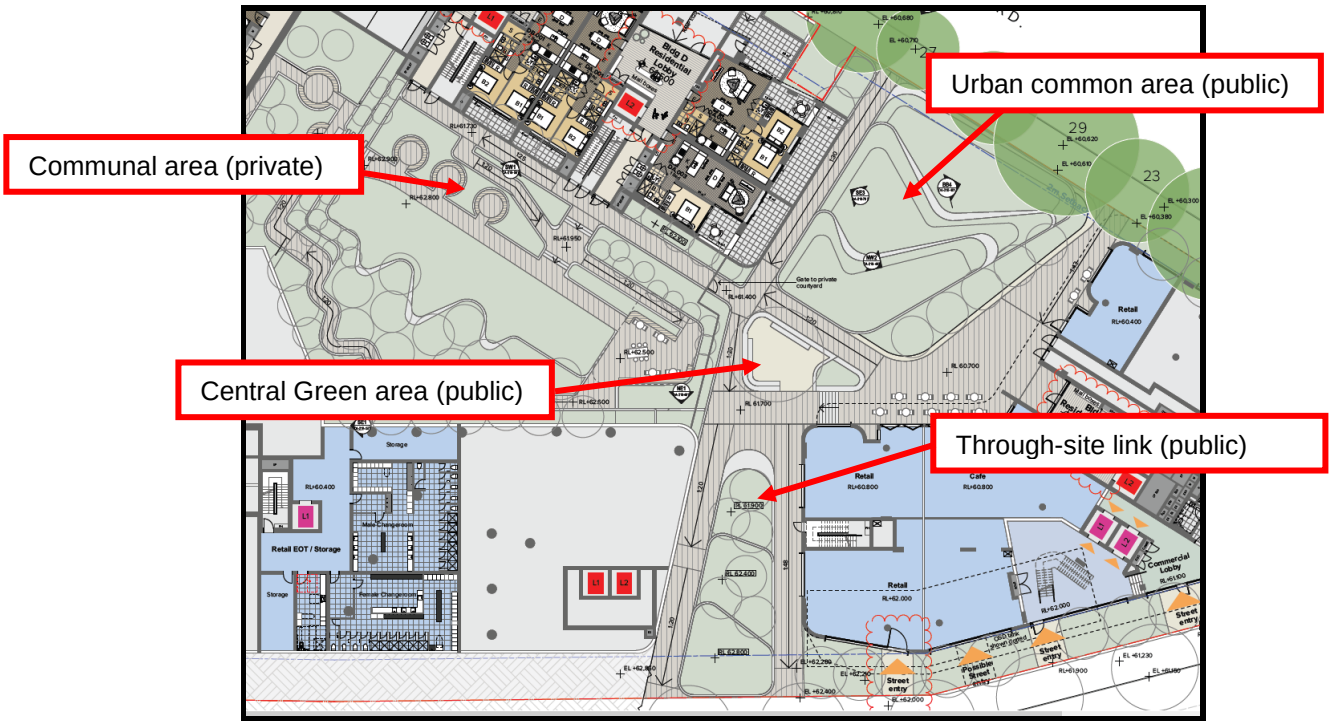

Figure 71: Proposed publicly accessible areas *(Source: Turner, March 2023)*

6.12 Wind Impact

A *Pedestrian Wind Environment Statement* prepared by Windtech dated 27 October 2021 (the Wind Report)has been provided which considers the potential impact of the proposal on the local wind environment in the outdoor areas within and around the site. The potential impacts from the three predominant wind directions including the north-easterly, southerly, and westerly winds have been considered having regard to the local wind climate, building morphology and land topography.

The Wind Report focussed its assessment on the following critical outdoor trafficable areas associated with the proposed development:

- Ground Level areas around the site and pedestrian footpaths
- Ground Level communal open spaces and Garden Laneway
- Private balconies
- Communal Roof Gardens

This assessment addresses only the general wind effects and any localised effects that are identifiable by visual inspection and the acceptability of the conditions for outdoor areas are

determined based on their intended use. There was no wind tunnel studies undertaken.

The Wind Report concluded that the proposal has incorporated several design features and wind mitigating strategies and is expected to be suitable for the intended use for the majority of the outdoor trafficable areas. There were some areas identified to be exposed to stronger winds which the Wind Report considered can be ameliorated with the following treatment strategies:

- Ground level areas and pedestrian footpath:
  - Retention and addition of proposed densely foliating evergreen tree and vegetation plantings
- Communal open spaces at the centre of the site:
  - Retention and addition of proposed densely foliating tree and vegetation plantings
  - Operator-controlled screens for the Outdoor Dining and Plaza area
- Private balconies:
  - Addition of full-height impermeable end screens on corner balconies from Level 6 and above
- Communal Roof Gardens:
  - Addition of 1.5m high impermeable screens around roof gardens and the north-western corner balcony of Building D
  - Retention of proposed densely foliating evergreen tree plantings and 1.5m high vegetation plantings

The Wind Report concluded that with the inclusion of the abovementioned recommendations in the final design, it is expected that wind conditions for the various trafficable outdoor areas within and around the development will be suitable for their intended uses, and that the wind speeds will satisfy the applicable criteria for pedestrian comfort and safety.

The recommended measures to the private balconies have largely been included although it is unclear as to the height of screens for some of these balconies. The recommended full height impermeable screens for the corner balconies for the units in the eastern corner of Building C have also not been shown on the plans. The 1.5m high screens around the communal roof gardens have been provide, while the required operator-controlled screens for the Outdoor Dining and Plaza area can be considered at the DA stage of the proposed tenancies at ground level. The plans are considered to be lacking in sufficient information to consider this issue resolved.

6.13 Commercial Development

The site currently contains three commerical buildings between 2 and 4 storeys, which are now essentially vacant. The Planning Proposal introduced a minimum non-residential FSR of 0.5:1, having regard to the site's location adjoining the commerical core of the Hurstville City Centre. While the proposed redevelopment reduces the amount of commercial floor space offered by the existing development, the current office facilities are redundant with poor economic prospects as demonstrated by the high vacancy rate (generally 100% along Forest Road).

The proposal will allow for the feasible redevelopment of redundant office facilities on a highly accessible, but underutilised, site for the purpose of a mixed use development. The proposal provides the opportunity to renew commercial activity on the site with more contemporary facilities that can support the viability of Hurstville as a Strategic Centre.

The proposal continues to provide for employment opportunities within the proposed commercial and retail floor space of approximately 4,620sqm and complies with the minimum

non-residential FSR development standard of 0.5:1. The amount of commerical/retail floor space proposed ion the site is satisfactory.

6.14 Traffic, Access and Car Parking

The traffic, access and car parking aspects of the proposal have been considered in the following documents:

- Transport and Parking Assessment Study prepared by Henson Consulting dated December 2021 ('the Traffic Report');
- Response to TfNSW feedback prepared by JMT Consulting dated 15 November 2022;
- Response to Council – traffic matters prepared by JMT Consulting dated 10 December 2022.

The traffic and parking issues are considered below.

Arterial Road

Forest Road is an arterial road and accordingly, TfNSW have provided comments on the application and the Planning Proposal. Initially, there were concerns raised by TfNSW in relation to the following:

- **Road safety** – concerns were raised in relation to the following which were to be addressed in an Addendum to the Traffic Report and appropriate mitigation measures provided:
  - Further consideration be given to potential improvements to the intersection of Forest Road / Pearl Street where the delay for the right turn out of Pearl Street (Give-way controlled) onto Forest Road increases from 900 to 1100 seconds with the proposed development's traffic generation.
  - Consideration to be given to the increased pedestrian activity and increased pedestrian/vehicular conflicts due to the left turn from Forest Road into Gloucester Road. Furthermore, the right turn queue length in a shared lane was also noted to increase significantly which could potentially increase the right of rear end collisions.
  - The existing kerb ramps at Gloucester Road at Forest Road are not compliant, due to their grade and are also outside the crossing's pedestrian crossing walk lines and with the proposed increase in pedestrian activity along this section should be upgraded at no cost to Council or the agency.
- **SIDRA Network Modelling -** The SIDRA analysis is unsatisfactory and an addendum to the TIA is to be provided as well as an electronic copy of SIDRA files for the agency's review and verification.
- **Freight and Servicing -** The Applicant should demonstrate that there is adequate space for largest sized vehicle is able to facilitate all freight and servicing operations to the development. All vehicles including delivery to enter and leave in a forward direction and it must be demonstrated that the largest vehicle can legally turn from Forest Road into Gloucester Street and then into and out of the site unobstructed.

The applicant indicated that the matters were addressed to the satisfaction of both the Council and TfNSW in the Planning Proposal as outlined in the report to Council in May 2020. A *Transport Management and Accessibility Plan* ('TMAP') was prepared on behalf of Council for the Hurstville City Centre in relation to the proposed land use changes from development applications, planning proposals and the City Centre Strategy to produce forecast traffic demands for 2026 and 2036.

This TMAP stated in relation to the Planning Proposal for the site that the *road network and pedestrian network capable of accommodating the proposed development.* This appears to satisfy these concerns. Having regard to the kerb ramps at the intersection of Forest Road and Gloucester Road, TfNSW has included the upgrading of these kerb ramps in their recommended conditions of consent to Council.

Vehicle Access

The required vehicle access point for the site is oultined in Section 8.3.3.10 of the HDCP No 2 and illustrated in **Figure 72**. The proposal involves a new combined entry/exit driveway for vehicle access to the site from Gloucester Road in a similar location to the existing site driveway and in accordance with DCP No 2.

Council's Traffic Engineer initially had concerns with the driveway as it was an unsuitable design and was inconsistent between the civil and architectural plans. An amended driveway profile was subsequently prepared in the amended architectural plans, which provides for appropriate transitions at the top and bottom of the ramp. Access points for pedestrians, cyclists, and vehicles are suitable and in accordance with road hierarchy considerations, particularly with no vehicle access proposed from Forest Road.

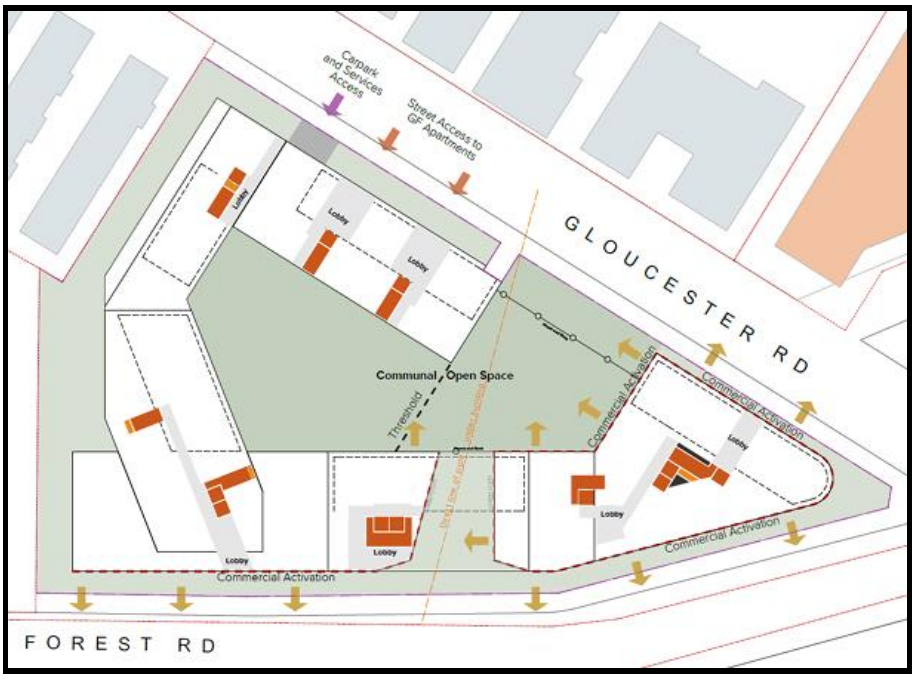

Figure 72: Vehicular and Pedestrian Access (*Source: Fig 10 - Section 8.3 of HDCP 2*)

Traffic Generation

The Traffic Report considered the potential cumulative impacts on the road network and concluded that traffic generation of the proposed development will be similar to the approved TMAP, and is an insignificant change in traffic generation from the existing site uses.

The TMAP provided the following forecast trip rates based on an FSR of 4.5:1 (475 units) and a minimum 1:1 non-residential FSR to replace existing employment uses:

- AM Peak – 150 vehicles in, 135 vehicles out
- PM Peak – 172 vehicles in, 186 vehicles out

The change in traffic generation (existing scenario less the future scenario) forecast for the AM peak:-11 in, +103 out and the PM Peak: +150 in, +2 out. The TMAP stated that the road and pedestrian network were capable of accommodating the proposal. The Traffic Report concluded that the traffic generated by the proposed development can be accommodated at existing and acceptable levels of service without adversely affecting traffic efficiency on the existing road network and that intersections are maintained at existing and acceptable levels of service.

Car Parking

The proposal provides three (3) levels of basement parking with parking for residents, visitors, commerical/retail, car share and bicycle parking for residents and commerical/retail uses. There is on-street parking provided along the Gloucester Road frontage, however, there are a number of parking restrictions along the Forest Road frontage of the site including a bus zone for the eastern end of this frontage and a clearway between 6am and 10am for the western portion of this frontage.

Consideration of the car parking provided on the site under the proposal having regard to the relevant planning controls is outlined in **Table 19** below. Pursuant to the ADG, the relevant car parking requirements for the proposed residential component of the proposal are set out in the *Guide to Traffic Generating Developments* as the site is 470 metres of Hurstville railway station, while the commerical/retail components of the proposal are oultined in the DCP No 2. The proposal is generally consistent with the planning controls for car parking subject to a number of recommended consent conditions as discussed below.

Table 19: Consideration of Car Parking Requirements

USE	NO OF UNITS/GFA	RATE/UNIT	NO OF SPACES REQUIRED	NO OF SPACES PROPOSED	COMPLY
Residential		*Guide to Traffic Generating Development*			
1 Bed	74	0.4	29.6		
2 bed	217	0.7	151.9		
3 bed	58	1.20	69.6		
		Subtotal (res)	**251.1**	320	Yes
Visitor	349	1/7 units	49.8	66	Yes
Car wash	-	1	1	1 (as a visitor space)	Yes
Car share	-	-	-	3	Yes
Commercial		*Council DCP*			
Retail	2103	1/50m²	42.06		
Commercial	2517	1/100m²	25.17		
		Subtotal (comm)	67.23	65 (conditions to reallocate additional resident visitor spaces)	**On Merit**
Total (car parking)	**-**	**-**	**369**	**455**	**Yes**
Bicycle parking					
Residential	340	1/3 units	116.33	118	Yes

Retail	2103m²	1/300m²	7.01		Yes
Commercial	2517m²	1/200m²	12.58	20	Yes
		Subtotal		138	Yes
Motorcycle parking			-	15	Yes

Council's Traffic Engineer reviewed the proposal and raised several concerns with the original proposal (May 2022) including the reliance on small car spaces (which are not acceptable for resident only parking), a lack of aisle and parking space dimensions and inconsistencies in stated and drawn car spaces on the plans for some residential and residential tandem car spaces. There were also concerns with the parking spaces behind the loading dock. The majority of these concerns were subsequently addressed in the amended plans.

There were also concerns with the proposed resident visitor spaces proposed on Basement 2, with Council requesting that they be relocated to Basement 1 (highest level) and 27 retail/commercial spaces be relocated to Basement 2 (from Basement 01). It is considered that the proposed commerical spaces located on the highest basement level as well as some of the residential spaces (Basement 01) with the remaining visitor spaces located on Basement 02 is satisfactory. All of these spaces were unable to be accommodated on the highest basement level and therefore the proposed parking spaces are satisfactory. Council's Traffic Engineer has recommended a condition requiring visitor parking signage to be installed on Basement 01 to inform motorists of additional visitor parking being available on Basement 02.

There are further conditions of consent recommended to reduce the visitor spaces on Basement 01 to a maximum of three (3) spaces in the vicinity of proposed visitor car spaces 36-39 arising from the obstructions at the eastern and western ends which are inconsistent with AS/NZS 2890.1:2004. Since there is a two (2) space shortfall in the commerical/retail parking provision, two (2) of the visitor spaces proposed on Basement 01 are to be provided as commerical/retail parking spaces. Council's Traffic Engineer is satisfied that the on-site parking supply, layout, circulation and accesses are designed in accordance with the relevant Australian Standards, LEP, and DCP subject to relevant consent conditions.

Servicing

The service area will provide access for a Medium Rigid Vehicle ('MRV'). There were initially concerns with the height clearance of the loading dock, which has now been confirmed as a 4.5 metre clearance for HRV access. Council's Traffic Engineer has confirmed that the maximum vehicle size using the proposed development shall be limited to an MRV as defined in *AS2890.2-2018: Parking Facilities – Part 2- Off-street commercial vehicle parking.* Relevant consent conditions can be imposed on any consent granted.

Public Transport

The proposal is well located in relation to public transport, with bus stops located along the Forest Road frontage of the site, which is a major bus arterial route and Hurstville Railway station and bus interchange is within 400 metres of the site. There are also sufficient pedestrian facilities in the area including signalised crossings at the intersection of Forest and Gloucester Roads and a good network of footpaths in the area. The proposal is considered to be consistent with the NSW Government and Council targets to increase the transport mode share to the range of sustainable modes of public transport, walking, and cycling.

The proposed through-site link will improve pedestrian circulation, add route choices and reduce walking distances to bus stops and local services. The proposed operation can be appropriately managed and have no significant impact on amenity.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

7. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported for the reasons outlined in **Attachment A**.

The Clause 4.6 requests do not adequately demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case or that there are sufficient environmental planning grounds to justify the contravention of the development standard. The excessive height and size of the proposed lift overruns is not supported.

The key issues of architectural detailing, building bulk and scale including setbacks and wall heights, building separation and pedestrian access and street activation concerns, warrant refusal of the application given the adverse impact those matters will have on the streetscape and surrounding development.

The landscaping proposed for the site, including the lack of deep soil areas for a development of this size and the inconsistencies with the required canopy cover result the landscaping scheme for the site being unsatisfactory. The safety concerns with entrapment sites in the basement are considered to be design issues which should not rely on lighting and camera surveillance. Concerns with waste management as well as inadequacies in the architectural plans and information have also not been adequately resolved by the proposal.

It is considered that the key issues as outlined in Section 6 have not been satisfactorily resolved.

8. RECOMMENDATION

That the Development Application DA No 2022/0061 for the demolition of existing structures, remediation and construction of an 8 to 18 storey mixed use development comprising 5 buildings consisting of retail and commercial uses and 349 residential apartments over 3 basement levels at Lot 30 DP 785238 - 9 Gloucester Road Hurstville be REFUSED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal attached to this report at **Attachment A**.

The following attachments are provided:

- Attachment A: Reasons for refusal
- Attachment B: ADG Compliance table

Attachment A: Refusal Reasons

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the variation to the building height development standard pursuant to Clause 4.3(2) of *Georges River Local Environmental Plan 2021* lodged pursuant to Clause 4.6(3) has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify the contravention of the development standard.

2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the building height, comprising the lift overruns, is inconsistent with the *Georges River Local Environmental Plan 2021* in that it adds unnecessary bulk and scale to the proposal and the visual impact of the proposed height variation is considered to be unacceptable since some of the lift overruns and plant equipment are not located centrally on the roof, particularly for Buildings B and C, which can be readily perceptible from the public domain. The proposal is inconsistent with:

    (a) Clause 1.2(2)(f) in that the proposal does not promote a high standard of urban design and built form and is therefore contrary to one of the aims of the plan;
    (b) Clause 4.3(1)(a) in that the proposal does not ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality; and
    (c) Clause 6.10(5)(b) in that the proposal does not provide a form and external appearance of development will improve the quality and amenity of the public domain.

3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the development does not exhibit design excellence and accordingly, consent cannot be granted pursuant to Clause 6.10(4) of *Georges River Local Environmental Plan 2021.* In considering whether the development exhibits design excellence, the following matters have not been satisfied (Cl 6.10(5)):

    (a) A high standard of architectural design, materials and detailing appropriate to the building type and location has not been achieved by the proposal in that (Cl 6.10(5)(a)):

        (i) The proposed facades of all five buildings are dominated by the repetition of materials and architectural detailing and the proposed design does not incorporate an adequate composition of lightweight materials or detailing to minimise the perceived bulk and scale.
        (ii) The proposed buildings largely appear as monolithic blocks without any recessing or projecting elements or any massing variation with the exception of the repetitive balconies and glazed door and windows, which emphasises horizontality and increases the perceived building bulk and scale of the proposal.
        (iii) There is limited visual interest in the façades, which do not contribute to the aesthetic appeal of the building or the character of the area. There is also a lack of integration between the ground floor and the upper floors in terms of the architectural detailing and materials.

(iv) Building D proposes an 8 storey wall height and combined with the extensive use of the same material, lacks articulation, while Building C comprises an 11 storey wall height, with minimal articulation and no variation in massing which will dominate the streetscape along Gloucester Road.

(b) The external appearance of the proposed development does not improve the quality or amenity of the public domain arising from the lack of adequate detailing and articulation, which exacerbates the bulk and scale of the proposal, pursuant to Clause 6.10(5)(b);

(c) The proposed development has not adequately addressed the following matters pursuant to Clause 6.10(5)(d):

(i) The relationship of the development with other development on both the site and within the site in terms of separation, setbacks, amenity and urban form in that the proposed development has an unsatisfactory building separation with respect to the adjoining buildings as well as between the proposed buildings on the site. (Cl 6.10(5)(e)(iv));

(ii) The bulk, massing and modulation of buildings in that the proposed buildings are unsatisfactory due to a lack of adequate articulation of the building forms, particularly for Buildings A, B, E and D which combine to create a “C” shaped built form with around 200 metres perimeter length over 5 storeys. There is also an inadequate street wall height and upper level setbacks provided for Buildings D and E above 4 storeys to enhance the streetscape and be consistent with the objectives for built form and setbacks, which would provide more visual relief to the street and allow a more even distribution of bulk from the development across the site (Section 6.10(5)(e)(v));

(iii) The street frontage heights for Building D, consisting of a wall height of 8 storeys, which is inconsistent with the characteristic medium rise streetscape along Gloucester Road comprising 3 to 4 storey walk up apartments. This street frontage height results in an adverse impact on the streetscape (Clause 6.10(3)(5)(vi));

(iv) The proposed interfaces with the public domain are unsatisfactory in that the proposed building entry areas are recessed from the building edge, are awkwardly shaped and are not clearly identifiable or distinguishable from the street, which does not enhance the presence of the building in the streetscape. The proposed substation in a prominent location along the Gloucester Road frontage results in a 14 metre blank wall to the street at this prominent corner and reduces street activation along this frontage. The majority of the street entry / pedestrian access to the Commercial Lobby for Building C will be blocked by the existing bus stop located almost at the site boundary (Clause 6.10(5)(e)(x));

(v) The proposed landscape design is unsatisfactory given there is inadequate podium planting depths which will reduce the opportunities for landscaping on the site (Clause 6.10(5)(e)(xi));

(vi) The proposed waste management arrangements for the site are unsatisfactory in that a sufficient area for waste management has not been adequately demonstrated (Clause 6.10(5)(e)(xiv)); and

(vii) The promotion of safety has not been achieved by the proposal in that there are a number of blind corners identified in the basement levels and

the ground floor levels (Clause 6.10(5)(e)(xv)).

4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the development does not provide adequate consideration of environmental sustainability in the design of the development and accordingly, consent cannot be granted pursuant to Clause 6.11(3) of *Georges River Local Environmental Plan 2012.*

5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the design quality of the proposal when evaluated in accordance with the design quality principles is unacceptable, contrary to Clause 28(2)(b) of *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* ('SEPP 65') and adequate regard has not been demonstrated to the design quality principles contrary to Clause 30(2)(a) of SEPP 65. Consent must not be granted as the proposal does not demonstrate that adequate regard has been given to the design quality principles.

   In particular, the proposal is inconsistent with the following design quality principles:

   (a) Principle 1: Context and neighbourhood character as the proposed development does not respond to its context given the inconsistencies with the building separation and side setback controls. These building alignment controls assist in providing the character of the area since landscaping and open space can be provided throughout the site when appropriate building separation and side setbacks are provided. The proposed facades of the building are also unsatisfactory and reduce the compatibility of the proposal with surrounding development given the bulk and scale of the proposed building forms is not sufficiently mitigated.

   (b) Principle 2: Built form and scale as the proposed building form and massing is inconsistent with the setbacks, street frontage heights, building separation controls for the site and the lack of legibility of the residential entry lobbies is unsatisfactory. The lack of articulation and manipulation of the building elements, particularly for the 'C shaped' area of Building A, B, D and E as well as the street façade of Building D, to reduce bulk and scale is unsatisfactory. The proposed 8 storey wall height of Building D along Gloucester Road does not provide any substantial articulation which will dominate the surrounding residential context. Building E also does not provide any substantial articulation.

   (c) Principle 5: Landscaping as the proposed landscape design is considered to be unsatisfactory in that there is lack of adequate podium planting depths which reduces the available landscaping opportunities on the site given the large extent of podiums across the site. The proposed deep soil zone has not been provided in accordance with the DCP controls and is inadequate for the size of the site, being larger than 1500 square metres and there is an inadequate amount of canopy cover as outlined in the Development Control Plan.

   (d) Principle 7: Safety as there are a number of safety concerns in the basement in relation to potential entrapment sites and concealment opportunities. There are also concerns with the interface of the proposal with the public domain in relation to the deeply recessed entry areas and the lack of surveillance of the street entry points. The lifts also face away from the street which reduces overlooking of these areas from the street.

(e) Principle 9: Aesthetics as the architectural expression of the proposed development is considered to be unsatisfactory in that the visual interest in the façades has not been provided, with the proposed façades not contributing to the aesthetic appeal of the building or the character of the area. The repetition of the face brick exacerbates the bulk of the buildings to the street, with the proposed corbelling not having a high degree of legibility from the street.

6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal does not comply with the building separation design criteria or the objectives of Part 3F-1 of the *Apartment Design Guide* given the separation between buildings on adjoining sites and within the site does not ensure visual privacy is achieved. Pursuant to Clause 30(2)(b) of *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*, consent cannot be granted as the proposal does not demonstrate that adequate regard has been given to the objectives specified in the Apartment Design Guide for the building separation (visual privacy) design criteria. Further, the application does not provide sufficient information as to whether the objectives have been satisfied for the design criteria for apartment layout (Part 4D) and private open space and balconies (Part 4E) of the ADG.

7. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as there are numerous inconsistencies with the *Apartment Design Guide* pursuant to Clause 28(2)(c) of *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* ('SEPP 65') which result in an unsatisfactory impact to amenity, adjoining properties and the streetscape, including the following:

(a) Part 3C: Public Domain Interface in that there are limited opportunities for casual surveillance of the street from the residential lobby areas due to the long, recessed nature of the corridors from the street and awkwardly shaped entries into the proposed buildings. Opportunities have also not been provided for casual interaction between residents and the public domain on these areas given the small and narrow areas provided. The amenity of the public domain is not enhanced since the substation and other service requirements are located along the street frontages and often adjoining entry areas, which results in a lack of street activation along this frontage and is unsatisfactory.

(b) Part 3E: Deep Soil Zones in that the site is larger than 1,500m² and therefore 15% of the site area should be provided as deep soil zone as oultined in the design guidance, which is not provided.

(c) Part 3F: Visual Privacy in that the proposal does not comply with the building separation distances to both side boundaries for adjoining properties as well as within the site. In particular, Buildings A and E are not adequately setback from side boundaries while Buildings A (from Level 5) to B and Buildings B to C (from Level 2) are also inadequately separated within the site. The proposal has minimal steps proposed in the buildings, in particular Building D and an increased separation distance of 3 metres when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping has not been provided for Building E.

(d) Part 3G: Pedestrian access and entries in that the proposed residential entry lobbies are not clearly visible or distinguishable as these areas are narrow and/or inset from the building edge and are often obstructed by building

services. The proposed building entries and pedestrian access do not adequately connect to and address the public domain and the lift lobbies are not clearly visible from the street given they are recessed into the building and are awkward shaped areas with no surveillance of this area from the street.

(e) Part 4D: Apartment size and layout in that the application does not provide sufficient information to assess whether the proposal satisfies the design criteria and design guidance for this Part.

(f) Part 4E: Private Open Space and balconies in that the application does not provide sufficient information to assess whether the proposal satisfies the design criteria and design guidance for this Part, including the recommended wind measures outlined in the Wind Report.

(g) Part 4H: Acoustic Privacy in that there are several apartments located in close proximity to noise sources such as circulation areas in Building D.

(h) Part 4M: Facades in that the proposed building facades do not provide visual interest along the street as the façades lack a composition of varied building elements, a defined base, middle and top of buildings and clearly defined entries have not been provided. The proposal building facades are not well resolved with an appropriate scale and proportion to the streetscape and lacks well composed horizontal and vertical elements.

(i) Part 4P: Planting on Structures in that the proposal provides inadequate soil depths for the proposed podium planting and therefore plant growth will not optimised.

(j) Part 4W: Waste Management in that the proposed waste rooms provide an insufficient area for the required number of bins in the basement.

8. The proposed development is considered unacceptable as the proposal is inconsistent with the objects of the *Environmental Planning and Assessment Act 1979* pursuant to Section 1.3 in that the proposed built form, including the proposed height of the building, does not promote good design and is incompatible with the character of the area contrary to Object (g).

9. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the *Hurstville Development Control Plan No 2* in that:

(a) The proposal is inconsistent with the urban design principles of Section 8.3.1 since:
   (i) The proposed development does not achieve design excellence (Objective (a));
   (ii) The proposal does not provide visually interesting or appealing facades (Objective (b));
   (iii) The proposal does not address the context of the site in that the building form is not sufficiently articulated or have adequate upper level setbacks (Objective (c));
   (iv) The proposal does result in a built form outcome that provides a transition to the adjoining sites given the inconsistencies with the side setback controls (Objective (e));
   (v) The proposal does not provide articulated building facades to enhance

streetscape character (Objective (d);

(b) The proposal is inconsistent with the built form and setbacks of Section 8.3.3.3 in that:

(i) There are encroachments into the 5 metre setback for Buildings D and E comprising terrace areas for the proposed ground level units (Section 8.3.3.3(c)).
(ii) Buildings A and E do not comply with the required side setback of 6 metres as Building A is only setback 3 metres at ground level and Building E has terrace areas encroaching into the 3 metre setback (Section 8.3.3.3(d)).

(c) The proposal is inconsistent with the façade treatment and street corners of Section 8.3.3.4 in that:

(i) Building facades have not been sufficiently articulated or materials and finishes proposed that enhance and complement the streetscape character (Section 8.3.3.4(a));
(ii) The proposed development heavily relies on the use of two-dimensional colour and materials to create visual interest with limited articulation in the building form (Section 8.3.3.4(e)); and
(iii) The proposal does not integrate essential services into the façade in that a substation is proposed in a prominent location, which is unsatisfactory.

(d) The proposal is inconsistent with building entrances and lobbies controls of Section 5.3.9 in that:

(i) The proposed entrances are not clearly visible or identifiable from the street and public areas (Section 5.3.9(a));
(ii) The proposed lobby areas do not have a generous street frontage and the lifts are not located to maximise casual surveillance from the street (Section 5.3.9(c)); and
(iii) The lobby areas have not been designed to provide resident interaction opportunities arising from the awkward and narrow shape of these areas (Section 5.3.9(e)).

10. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the waste management objectives and requirements of Section 6.2.4 Waste Minimisation and Management of the *Hurstville Development Control Plan No 2* in that the proposed waste management arrangements are unacceptable and do not adequately demonstrate compliance with the requirements including:

(a) The proposed bin storage rooms for each building do not appear to provide the number of waste, recycling and FOGO bins required for the proposal;
(b) The access and travel distances to the collection point for the bulky waste storage areas are unsatisfactory; and
(c) The proposal has not made provision for Food Organics and Garden Organics waste on each occupied floor.

11. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with Section 5.3.14 of the *Hurstville Development Control*

Plan No 2 in that the proposal is inconsistent in relation to the Crime Prevention Through Environmental Design controls since there are areas which offer potential concealment opportunities including:

(a) A number of blind corners in the basement and the ground floor levels
(b) Storage and garbage areas in basement levels 1-3;
(c) Areas of the ground floor façade between Building B and the vehicle entry ramp on the ground floor and between the residential and retail components of Building A on level 1;
(d) The proposed lifts face away from the street reducing opportunities for natural surveillance of these areas from the street.

12. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the landscaping and deep soil requirements of the *Hurstville Development Control Plan No 2* including:

(a) Section 5.3.16 in that there is insufficient podium planting depth for the proposed landscaping regime;
(b) Section 8.3.3.7 in that the proposed deep soil zone is not provided along the northwest boundary adjoining Building A; and
(c) Section 8.3.3.8(b) in that the proposed canopy cover required to compensate for the loss of trees on the site for the proposal has not been provided, with the proposed canopy site coverage being undersized by 507m².

13. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* as the proposal is not in the public interest as it is inconsistent with numerous planning controls in relation to the adverse impacts on the streetscape and amenity of immediately adjoining properties. The proposal also lacks good urban design and will negatively affect the character and nature of the neighbourhood.

14. The application is unsatisfactory in that there is inadequate information on the following matters:

(a) Future ownership and management of the publicly accessible areas on the site;
(b) The recommended full height impermeable screens for the corner balconies for the units in the eastern corner of Building C; and
(c) There are inadequate building sections provided for the proposal.

Attachment B: ADG Compliance Table

ADG - DESIGN CRITERIA	PROPOSAL	COMPLY
Site Analysis (3A)		
Development proposals need to illustrate that design decisions are based on careful analysis of the site conditions and relationship to the surrounding context.	A site analysis has been prepared.	✓
Each element in the Site Analysis Checklist should be addressed.	The site analysis has been considered in the proposed design.	✓
Orientation (3B)		
3B-1: Building types and layouts respond to the streetscape and site while optimising solar access within the development. • Buildings along the street frontage define the street, by facing it and incorporating direct access from the street.	The proposed development is orientated towards both street frontages and there are direct pedestrian entry points to the site from the street.	✓
• Where the street frontage is to the east or west, rear buildings should be orientated to the north.	The proposal is orientated to a number of different aspects given the dual street frontages, however, the main orientation is to the north as well as the north-east and north-west.	✓
• Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west	The street frontage is orientated to the north to east, with the majority of apartments orientated to the north, north-east and north-west. There is some overshadowing to apartments on the lower levels of Building A, D and E.	✓
3B-2: Overshadowing of neighbouring properties is minimised during mid-winter. Design Guidance • Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	Refer to Parts 3D and 4A.	-
• Solar access to living rooms, balconies and private open spaces of neighbours should be considered	Overshadowing of adjoining properties is minimised, as the majority of the shadow falls to the railway land on the opposite side of Forest Road.	✓

• Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%	Refer above – limited overshadowing to adjoining properties.	✓
• If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	Refer above – limited overshadowing to adjoining properties.	✓
• Overshadowing should be minimised to the south or downhill by increased upper level setbacks	Refer above – limited overshadowing to adjoining properties.	✓
• It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development	Refer above – limited overshadowing to adjoining properties.	✓
• A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	Refer above – limited overshadowing to adjoining properties.	✓
Public Domain Interface (3C)		
3C-1: Transition between private and public domain is achieved without compromising safety and security.		
• Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.	There is direct street entry from the proposed ground floor apartments in Buildings D and E.	✓
• Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings	The upper level balconies and windows overlook the street and entry areas.	✓
• Upper level balconies and windows should overlook the public domain.	The upper level balconies and windows overlook the street and entry areas as well as the public open space areas on the site.	✓
• Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.	There are no fences or walls proposed along the front elevations.	✓
• Length of solid walls should be limited along street frontages.	There are no fences or walls proposed along the front elevations.	✓
• Opportunities should be provided for casual	There are limited opportunities for	**No**

interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	casual surveillance of the street from the lobbies due to the long, recessed nature of the corridors from the street and awkwardly shaped entries into the proposed buildings.	
• In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: architectural detailing changes in materials, plant species, colours	Buildings A, B and C have both residential and commerical development. Building C has separate commercial and residential lobbies, while Building A and B only have residential lobbies as there are direct entries to the ground level retail areas.	✓
• Opportunities for people to be concealed should be minimised	There are no concealment opportunities in the public domain areas of the site.	✓
3C-2: Amenity of the public domain is retained and enhanced.		
• Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.	There are no raised terraces to the street.	✓
• Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	Mail boxes are proposed at the ground level.	✓
• Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.	Services are largely at the street level including the service bays and substation.	**No**
• Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.	Satisfactory.	✓
• Durable, graffiti resistant and easily cleanable materials should be used.	Satisfactory.	✓
• Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions.	Not relevant to the site.	N/A
• On sloping sies protrusion of car parking above ground level should be minimised by using split levels to step underground car parking.	The basement is fully underground.	✓
Communal and Public Open Space (3D)		

3D-1: An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. Design Criteria **1. Communal open space has a minimum area equal to 25% of the site (907.38m²).**	The plans indicate that the communal open space ('COS') provided includes: • 2,084m² (ground level – 22.55% of site) • 2,103m² as rooftop open space on each building (22.75%) • Total – 4,187m² (45.3% of the site)	✓
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).	The communal open space receiving a minimum 2 hours of solar access comprises 2,843m² which is 67.9% of the total communal open space. The rooftop communal areas are for the residents only, which receives significant solar access. The rooftop areas represents only 22.75% of the site, which when combined with the urban common area, which receives the required solar access and can also be used by both residents and the community, results in a compliant area of communal open space which receives adequate solar access. The ground level communal area, known as the community green, does not receive any solar access. While this area is also only for the private use of the future residents of the site, it is not the main area of communal open space and therefore it is considered acceptable that it does not receive the required solar access. It is also noted that the proposal is subject to the DCP building envelope controls which set out the building envelopes and locations on the site which have	✓

	been adopted following the Planning Proposal. It is considered that the proposed communal open space area is consistent with the DCP and the ADG and in these ways is satisfactory.	
Design Guidance • Communal open space should be consolidated into a well-designed, easily identified and usable area.	The COS is not consolidated, however, there are a number of different areas for the residential in the different buildings. Overall there are sufficient communal areas on the site as well as landscaped areas.	✓
• Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.	This has been achieved.	✓
• Communal open space should be co-located with deep soil areas.	The communal open space is partially co-located with deep soil areas.	✓
• Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.	Direct access to the ground and roof level areas is provided.	
• Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.	Located on the ground and roof levels.	✓
• 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: - provide communal spaces elsewhere such as a landscaped roof top terrace or a common room - provide larger balconies or increased private open space for apartments - demonstrate good proximity to public open space and facilities and/or provide contributions to public open space	Communal open space is located on the ground and roof levels and there are also adequate private open space areas for each apartment.	✓
3D-2: Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		
• Facilities are provided within communal open spaces and common spaces for a range of age groups, incorporating some of the following elements: – seating for individuals or groups – barbecue areas play equipment or play areas. – swimming pools, gyms, tennis courts or	There is a BBQ space in the community green at ground level as well as a nature walk, while the roof top areas also include BBQ areas and seating communal areas.	✓

common rooms		
• The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts	This has been considered given the communal areas provide shade structures on the roof and planting to provide for shade, amenity and to maintain privacy for lower levels of the development (from the roof).	✓
• Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks.	These services are not visible from the communal areas.	✓
3D-3: Communal open space is designed to maximise safety.		
• Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy.	The ground level common area is overlooked by the proposed units and the public domain, while the roof top areas can be viewed from the other roof top common areas on the other buildings on the site. The planting along the internal edges of the communal roof top areas assists in minimising direct overlooking into the lower private open space areas.	✓
• Communal open space should be well lit.	This can be provided via conditions where required.	✓
• Where communal open space/facilities are provided for children and young people they are safe and contained	There is no children's play area.	✓
3D-4: Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood. **Design Guidance**		
• The public open space should be well connected with public streets along at least one edge.	The proposed public space areas (through site link and urban common) are well connected to both road frontages.	✓
• The public open space should be connected with nearby parks and other landscape elements.	The proposed public space areas are connected to the street.	✓
• Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.	The proposed public space areas links with the street system and is in close proximity to transport and services.	✓

<table>
<tr><td>

- Solar access should be provided year round along with protection from strong winds.

</td><td>The proposed public space areas are well protected from windows given they are located behind Building E and there is good solar access available to the urban common area.</td><td>✓</td></tr>
<tr><td>

- Opportunities for a range of recreational activities should be provided for people of all ages.

</td><td>The proposed public space areas provide for passive recreation and public access.</td><td>✓</td></tr>
<tr><td>

- A positive address and active frontages should be provided adjacent to public open space.

</td><td>The proposed public space areas are connected to the street.</td><td>✓</td></tr>
<tr><td>

- Boundaries should be clearly defined between public open space and private areas.

</td><td>This is achieved by the proposal through the use of fencing of the community green so that it is for residential use only and through the provision of separate lobby areas for commercial and residential.</td><td>✓</td></tr>
<tr><td>Deep Soil Zones (3E)</td><td></td><td></td></tr>
<tr><td>

3E-1: Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality

- **Deep soil zones are to meet the following minimum requirements:**

Site Area	Minimum Dimension	Deep Soil Zone site area)
650m² to 1,500m²	3m	7%
Greater than 1,500m²	6m	

Design Guidance

- On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:

  15% of the site as deep soil on sites greater than 1,500m²

- Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems,

</td><td>Required DSZ = 7% of site = 646.8m².

The proposal provides 669m² of deep soil area in three (3) separate locations on the site, with an area along the western boundary, a small area on the north western boundary and an area on Gloucester Road near the urban common area.

The site is larger than 1,500m² and therefore 15% of the site area should be provided as deep soil zone as oultined in the design guidance. This would require 1,386m² on the site which has not been provided.

The London Plane trees along the Gloucester Road are significant trees located adjoining the site which are proposed to be</td><td>✓

No

✓</td></tr>
</table>

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<tr><td>providing anchorage and stability for mature trees. Design solutions may include:

– basement and sub-basement car park design that is consolidated beneath building footprints
– use of increased front and side setbacks
– adequate clearance around trees to ensure long term health
– co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil</td><td>retained. The removal and retention of trees is further discussed in the key issues section of this report and is considered satisfactory.</td><td></td></tr>
<tr><td>• Achieving the design criteria may not be possible on some sites including where:

– the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)
– there is 100% site coverage or non-residential uses at ground floor level</td><td>Not relevant to the proposal.</td><td>N/A</td></tr>
<tr><td>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved, and alternative forms of planting provided such as on structure</td><td>Refer above.</td><td>N/A</td></tr>
<tr><td>Visual Privacy (3F)</td><td></td><td></td></tr>
<tr><td>3F-1: Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

• Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

<table>
<tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-habitable rooms</th></tr>
<tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr>
<tr><td>12m – 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr>
<tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr>
</table>
</td><td><u>Setbacks to adjoining buildings</u>
(bold indicates non-comply)

<u>Northern boundary (No 15 Gloucester Rd – 3 Storey RFB)</u>

<u>Building E</u>
<u>Up to 12m</u> (6m +3m = 9m for hab)
- Ground – 6m (balcony encroachments)
- Level 1 – level 3: 6m
<u>12m – 25m</u> (9m +3m = 12m-hab)
- Level 4 - 9m (balcony encroachments)
- Level 5 – 9m

<u>Western boundary (No 436 Forest Rd – 8 Storey RFB)</u></td><td>No

No (L1 to L3 retail</td></tr>
</table>

	Building A • Up to 12m (6m for hab) Front portion to Forest Rd - Level 1 – **3m** – retail with windows/doors - Level 2 – **3m** (podium) – 6m (bldg) - Level 3 - **3m** (podium) – 6m (bldg) - Level 4 – 6m Rear portion - Level 1 – level 4: 12m • 12m – 25m (9m - hab) Front portion to Forest Rd - Level 5 to 8 – >12m Rear portion - Level 5 to 8 – >12m • + 25m (12m - hab) Front portion to Forest Rd - Level 9 to 19 – >12m Rear portion - Level 9 to 19 – >12m	**& podium)** **No**
• **NOTE: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)**	**Building Separation within the site:** Non-compliances for: • Building A to Building B (from Level 5) • Building B to Building C (from Level 2)	
• **Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.**	Outlined in the key issues section. Not proposed.	N/A
Design Guidance • Generally, one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance.	There are minimal steps proposed in the buildings, with no step in the building form for Building D (discussed further in the key issues section).	**No**
• New development should be located and oriented to maximise visual privacy between buildings on	There is inadequate building separation provided. While there	**No**

site and for neighbouring buildings. Design solutions include: – site layout and building orientation to minimise privacy impacts (see also section 3B Orientation) – on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4)	are screening devices proposed to balconies for Building B, building separation is more than just for privacy (discussed further in the key issues section).	
• Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)	This has not been provided for Building E as oultined in the key issues section.	**No**
• Direct lines of sight should be avoided for windows and balconies across corners.		✓
• No separation is required between blank walls.	This is generally provided.	
	Noted	N/A
3F-2: Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.		
• Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows.	There is fencing and walls proposed for the ground level private open space for apartments in Building D to ensure there is privacy from the communal areas.	✓
• Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Satisfactory.	✓
• Balconies and private terraces should be located in front of living rooms to increase internal privacy	Provided	✓
• Windows should be offset from the windows of adjacent buildings	Generally provided	✓
• Recessed balconies and/or vertical fins should be used between adjacent balconies	Generally provided	✓
Pedestrian Access and Entries (3G)		
3G-1: Building entries and pedestrian access connects to and addresses the public domain.		
• Multiple entries (including communal building entries and individual ground floor entries) should	There are multiple entries provided to each of the buildings	✓

be provided to activate the street edge.	proposed. The quality of these spaces is considered below.	
• Entry locations relate to the street and subdivision pattern and the existing pedestrian network	There are multiple entries provided to each of the buildings proposed, with entries located on both Forest Road and Gloucester Road.	✓
• Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries.	The residential building entries are not clearly visible or distinguishable as these areas are narrow and/or inset from the building edge and are often obstructed by building services.	**No**
• Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.	The street frontage is not limited and multiple entry points are proposed.	✓
3G-2: Access, entries and pathways are accessible and easy to identify		
• Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.	The lift lobbies are not clearly visible from the street given they are recessed into the building and are awkward shaped areas with no surveillance of this area from the street.	**No**
• The design of ground floors and underground car parks minimise level changes along pathways and entries.	There are no level changes between the street and the lift lobbies.	✓
• Steps and ramps should be integrated into the overall building and landscape design.	Ramps are proposed to Buildings D and E which are satisfactory.	✓
• For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3)	Not required.	N/A
• For large developments electronic access and audio/video intercom should be provided to manage access	Can be provided as consent conditions where required.	✓
3G-3: Large sites provide pedestrian links for access to streets and connection to destinations		
• Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport	A through-site link is provided as required by the DCP.	✓
• Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate	The through-site link is in a straight line configuration, provides clear sight lines and is	✓

<table>
<tr><td></td><td>overlooked by the retail and commerical spaces.</td><td></td></tr>
<tr><td>Vehicle Access (3H)</td><td></td><td></td></tr>
<tr><td>3H-1: Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes

Design Guidance
• Car park access should be integrated with the building's overall facade.</td><td>The proposed basement access is integrated into the building's overall façade.</td><td>✓</td></tr>
<tr><td>• Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.</td><td>The basement is proposed at the lowest point of the site and is consistent with the DCP and concept plan.</td><td>✓</td></tr>
<tr><td>• Car park entry and access should be located on secondary streets or lanes where available.</td><td>Access is from Gloucester Road.</td><td>✓</td></tr>
<tr><td>• Access point locations should avoid headlight glare to habitable rooms.</td><td>Complies</td><td>✓</td></tr>
<tr><td>• Adequate separation distances should be provided between vehicle entries and street intersections.</td><td>Adequate separation is provided between the vehicle entry and the intersection of Forest and Gloucester Roads.</td><td>✓</td></tr>
<tr><td>• Garbage collection, loading and servicing areas are screened.</td><td>Garbage area is within the basement.</td><td>✓</td></tr>
<tr><td>Bicycle and car parking (3J)</td><td></td><td></td></tr>
<tr><td>3J-1: Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.

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
• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre

the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less

The car parking needs for a development must be provided off street</td><td>The site is located within 800m of a railway station (Hurstville) in the Sydney Metropolitan Area, therefore the Guide to Traffic Generating Developments applies ('GtTGD').

<table><tr><th>Unit</th><th>No</th><th>Requir</th></tr><tr><td colspan="3">GtTGD</td></tr><tr><td>1 bed (1 space)</td><td>10</td><td>29.6 spaces</td></tr><tr><td>2 Beds (1.5 spaces)</td><td>48</td><td>151.9 spaces</td></tr><tr><td>3 beds (2 spaces)</td><td>50</td><td>69.6 spaces</td></tr><tr><td>Visitors (1/7)</td><td>349</td><td>49.8 spaces</td></tr><tr><td>Total required (res)</td><td></td><td>300.9 spaces</td></tr><tr><td colspan="3">DCP (for commerical /retail)</td></tr></table></td><td>✓</td></tr>
</table>

Design Guidance • Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site. • Where less car parking is provided in a development, council should not provide on street resident parking permits	<table><tr><td>Retail (1/50m²)</td><td>2103</td><td>42.06 spaces</td><td></td></tr><tr><td>Commercial (1/100m²)</td><td>2517</td><td>25.17 spaces</td><td></td></tr><tr><td>Total required (comm)</td><td></td><td>67.23 spaces</td><td></td></tr><tr><td>Total required</td><td></td><td>369 spaces</td><td></td></tr></table> Provided – 455 spaces including car share Not applicable	✓ N/A
3J-2: Parking and facilities are provided for other modes of transport. Design Guidance • Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters. • Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas. • Conveniently located charging stations are provided for electric vehicles, where desirable.	Motorbike and bicycle spaces are provided. Provided Can be provided.	✓ ✓ ✓
3J-3: Car park design and access is safe and secure. Design Guidance • Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces. • Direct, clearly visible and well-lit access should be provided into common circulation areas. • A clearly defined and visible lobby or waiting area should be provided to lifts and stairs.	Satisfactory.	✓
3J-4: Visual and environmental impacts of underground car parking are minimised. Design Guidance • Excavation should be minimised through efficient car park layouts and ramp design • Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles.	Satisfactory Satisfactory	✓ ✓ ✓

• Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites. • Natural ventilation should be provided to basement and sub-basement car parking areas.	The proposed basement is below ground. Noted	✓
3J-5: Visual and environmental impacts of on-grade car parking are minimised. <u>Design Guidance</u> • On-grade car parking should be avoided • Where on-grade car parking is unavoidable	Complies Not proposed	✓ N/A
3J-6: Visual and environmental impacts of above ground enclosed car parking are minimised.	Not proposed.	N/A
Part 4: Designing the Building		
Solar Access and Daylight (4A)		
4A-1: To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. **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 and in the Newcastle and Wollongong local government areas.**	The total number of proposed apartments achieving 2 hours solar access is 282 apartments, representing 80.8% of total apartments. • Bldg A % of apartments achieving 2 hours solar access: **100 apartments = 76.3%** • Bldg B % of apartments achieving 2 hours solar access: **66 apartments = 81.5%** • Bldg C % of apartments achieving 2 hours solar access: **48 apartments = 82.7%** • Bldg D % of apartments achieving 2 hours solar access: **40 apartments = 80%** • Bldg E % of apartments achieving 2 hours solar access: **28 apartments =96.6%**	✓
2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter	Not relevant as the site is located in Sydney.	N/A
3. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter (max 16.5 units).	33 of 349 units (9.45%) receive no solar access. Bldg A % of apartments receiving no direct sunlight: **9 apartments = 6.9%**	✓

	Bldg B % of apartments receiving no direct sunlight: **14 apartments = 17.3%** Bldg C % of apartments receiving no direct sunlight: **9 apartments = 15.5%** Bldg D % of apartments receiving no direct sunlight: **1 apartments = 2%** Bldg E % of apartments receiving no direct sunlight: **0 apartments = 0**	
Design Guidance • The design maximises north aspect and the number of single aspect south facing apartments is minimised.	The proposal is generally orientated to the north with a large number of units facing to the north to achieve a good level of solar access.	✓
• Single aspect, single storey apartments should have a northerly or easterly aspect.	There are single aspect apartments proposed in Building A (3 units per floor) and B (1 unit per floor) which face south. There are other single aspect units proposed, however they are generally orientated to the west in Building C and to the northeast in Building C.	✓
• Living areas are best located to the north and service areas to the south and west of apartments	The stairs and lift cores are located to the south of the respective buildings with living areas generally oriented to the north to benefit from solar access.	✓
• To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: - dual aspect apartments - shallow apartment layouts - two storey and mezzanine level apartments - bay windows	The majority of the proposed apartments in Buildings B and D are dual aspect and there are a number of corner apartments in Buildings A (upper levels), C and E which also provide opportunities for dual aspect apartments. Building C also provides several two stprey apartments which assists with solar access and natural ventilation.	✓
• Achieving the design criteria may not be possible on some sites. This includes: – where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source – on south facing sloping sites	Complies	✓

– where significant views are oriented away from the desired aspect for direct sunlight Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective	Satisfactory	✓
4A-2: Daylight access is maximised where sunlight is limited. • Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms. • Opportunities for reflected light into apartments are optimised through: - reflective exterior surfaces on buildings opposite south facing windows. - positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light. - integrating light shelves into the design - light coloured internal finishes	Not required. Not required.	N/A N/A
4A-3: Design incorporates shading and glare control, particularly for warmer months • A number of the following design features are used: - balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas - shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting - horizontal shading to north facing windows. - vertical shading to east and particularly west facing windows. - operable shading to allow adjustment and choice. - high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided).	Balconies are provided which assist with shade to the proposed apartments in summer. The glazing in the proposal is consistent with BASIX requirements.	✓
Natural Ventilation (4B)		
4B-1: All habitable rooms are naturally ventilated • The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.	The proposed development maximises and captures the prevailing breezes for natural ventilation through the location of windows and habitable rooms. Building depth is also satisfactory having regard to natural ventilation.	✓ ✓

• Depths of habitable rooms support natural ventilation. • The area of unobstructed window openings should be equal to at least 5% of the floor area served • Light wells are not the primary air source for habitable rooms. • Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: - adjustable windows with large effective openable areas - a variety of window types that provide safety and flexibility such as awnings and louvres. - windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors	Generally complies (refer to Part 4D). Complies where windows are provided. Not proposed Complies	 ✓ N/A ✓
4B-2: The layout and design of single aspect apartments maximises natural ventilation • Apartment depths are limited to maximise ventilation and airflow. • Natural ventilation to single aspect apartments is achieved with the following design solutions: - primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation) - stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries - courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells	 Complies Complies	 ✓ ✓
4B-3: The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents • **At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed (66 units).**	The application indicates that 161 of the proposed apartments (67%) up to 9 storeys are naturally cross ventilated. • Bldg A % of apartments that are naturally ventilated: 43 apartments = 60.5% • Bldg B % of apartments that are naturally ventilated: 29 apartments = 69% • Bldg C % of apartments that are naturally ventilated: 30 apartments = 62.5%	✓

	• Bldg D % of apartments that are naturally ventilated: 41 apartments = 82% • Bldg E % of apartments that are naturally ventilated: 18 apartments = 62%	
• **Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.**	The proposed cross through units do not exceed 18 metres deep.	✓
• The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths.	145 (41.55%) proposed apartments are dual aspect or corner apartments.	✓
• In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side).	Satisfactory	✓
• Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow	Satisfactory	✓
• Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow	Satisfactory	✓
Ceiling Height (4C)		
Objective 4C-1: Ceiling height achieves sufficient natural ventilation and daylight access <u>Design Criteria</u> **1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:** • **Habitable rooms – 2.7m** • **Non-habitable – 2.4m** • **Mixed use areas – 3.3m ground and first floor to promote future flexibility of use** <u>Design Guidance</u> • Ceiling height can accommodate use of ceiling fans for cooling and heat distribution	Proposed ceiling heights include (FFL -300mm): • Building A – 4.3m (retail -L1) & 2.8m (residential) • Building B – 3.5m (retail L1) & 3.5m (L2) to 2.8m (residential) • Building C – 5.5m (Ground – Commerical), 3.5m (L1 &L2 Commercial), 2.8m (residential) • Building D – 5.4m (ground residential/basement entry), 2.8m (residential) • Building E – 3.1m (ground – residential), 2.8m (residential)	✓
Objective 4C-2: Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.	Complies – refer above	✓
Objective 4C-3: Ceiling heights contribute to the flexibility of building use over the life of the building		

Design guidance Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses (see figure 4C.1)	The ceiling heights of the ground floor are higher than required as outlined above.	✓
Apartment Layout (4D)		
4D-1: The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.		
1. Apartments are required to have the following minimum internal areas: • **Studio - 35m²** • **1 Bedroom - 50m²** • **2 Bedroom - 70m²** • **3 Bedroom - 90m²**	All of the proposed apartments comply with the minimum internal areas.	✓
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.	The 1 bed units contain only 1 bathroom. All of the proposed 2 bed and 3 bed apartments exceed the minimum internal areas by more than 5m² and contain ensuites.	✓
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.	There are no 4 bed units proposed.	N/A
2. 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.	**These is insufficient information to undertake a thorough assessment of this matter as the plans do not provide any room dimensions.**	
Design Guidance • Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space). • A window should be visible from any point in a habitable room. • Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits.		
4D-2: Environmental performance of the apartment is maximised.	**These is insufficient information to undertake a**	**No**

1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height (6.75m). **2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.** <u>Design Guidance</u> • Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths. • All living areas and bedrooms should be located on the external face of the building. • Where possible: - bathrooms and laundries should have an external openable window. - main living spaces should be oriented toward the primary outlook and aspect and away from noise sources.	**thorough assessment of this matter as the plans do not provide any room dimensions.**	
4D-3: Apartment layouts are designed to accommodate a variety of household activities and needs. **1. Master bedrooms have a minimum area of 10m² & other bedrooms 9m² (excluding wardrobe space).** **2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).** **3. Living rooms or combined living/dining rooms have a minimum width of:** • **3.6m for studio and 1 bedroom apartments** • **4m for 2 and 3 bedroom apartments** **4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.** <u>Design Guidance</u> • Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas. • All bedrooms allow a minimum length of 1.5m for robes	**These is insufficient information to undertake a thorough assessment of this matter as the plans do not provide any room dimensions.**	**No**

• The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high • Apartment layouts allow flexibility over time, design solutions may include: - dimensions that facilitate a variety of furniture arrangements and removal - spaces for a range of activities and privacy levels between different spaces within the apartment - dual master apartments - dual key apartments *Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments* - room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) - efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms.		
Private Open Space and Balconies (4E)		
4E-1: Apartments provide appropriately sized private open space and balconies to enhance residential amenity **1. All apartments are required to have primary balconies as follows:** • **Studio - 4m²** • **1 Bedroom - 8m² (Min depth 2m)** • **2 Bedroom - 10m² (Min depth 2m)** • **3 Bedroom - 12m² (Min depth 2.4m)** **Minimum balcony depth contributing to the balcony area is 1m.** **2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.** • Increased communal open space should be provided where the number or size of balconies are reduced • Storage areas on balconies is additional to the minimum balcony size	**These is insufficient information to undertake a thorough assessment of this matter as the plans do not provide any room dimensions.** • Building D (ground level units) – insufficient information on dimensions • Building E (ground level units) – insufficient information on dimensions Not required Noted Noted	**No**

• Balcony use may be limited in some proposals by: - consistently high wind speeds at 10 storeys and above - close proximity to road, rail or other noise sources - exposure to significant levels of aircraft noise - heritage and adaptive reuse of existing buildings In these situations, juliet balconies, operable walls, enclosed winter gardens or bay windows may be appropriate, and other amenity benefits for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated.		
4E-2: Primary private open space and balconies are appropriately located to enhance liveability for residents		
• Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space	Complies.	✓
• Private open spaces and balconies predominantly face north, east or west	All balconies face either north, east or west. There are some units which face south along Forest Road in Building A and B.	✓
• Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms	Complies	✓
4E-3: Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building		
• Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred	All of the balcony areas are proposed to have solid (brick or rendered) balustrades.	✓
• Full width full height glass balustrades alone are generally not desirable	This is not proposed – refer above	✓
• Projecting balconies should be integrated into the building design and the design of soffits considered	Not proposed.	N/A
• Operable screens, shutters, hoods and pergolas are used to control sunlight and wind	The proposed wind measures outlined in the Wind Report have not been fully integrated into the proposal.	**No**

• Balustrades are set back from the building or balcony edge where overlooking or safety is an issue	Complies	✓
• Downpipes and balcony drainage are integrated with the overall facade and building design	Complies	✓
• Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design	Complies	✓
• Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design	Condition	✓
• Ceilings of apartments below terraces should be insulated to avoid heat loss	Conditions – BCA	✓
• Water and gas outlets should be provided for primary balconies and private open space	Conditions	✓
4E-4: Private open space and balcony design maximises safety • Changes in ground levels or landscaping are minimised • Design and detailing of balconies avoids opportunities for climbing and falls	Complies	✓
Common Circulation Space (4F)		
4F-1: Common circulation spaces achieve good amenity and properly service the number of apartments **1. The maximum number of apartments off a circulation core on a single level is eight.**	• Building A – 7 to 11 units with 3 lift cores • Building B – 4 to 6 units with 2 lift cores • Building C – 6 to 11 units with 2 lift cores • Building D – 2 lift cores with 1 to 4 units per floor/core • Building E – between 4 and 7 per floor	✓
2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	The buildings of 10 storeys of more (Buildings A, B and C) all have at least 2 lift cores.	✓
<u>Design Guidance</u> • Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry door	Noted	-
• Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	Provided	✓

• Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors	Provided	✓
• Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: - a series of foyer areas with windows and spaces for seating - wider areas at apartment entry doors and varied ceiling heights	Building A has long corridors with limited light and areas for seating.	**No**
• Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments	Achieved	✓
• Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including: - sunlight and natural cross ventilation in apartments - access to ample daylight and natural ventilation in common circulation spaces - common areas for seating and gathering - generous corridors with greater than minimum ceiling heights - other innovative design solutions that provide high levels of amenity	Achieved	✓
• Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level	Achieved	✓
• Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Satisfactory	✓
Storage (4G)		
Objective 4G-1: Adequate, well designed storage is provided in each apartment.		
1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: • **Studio - 4m³** • **1 Bedroom - 6m³** • **2 Bedroom - 8m³**	Each of the apartments achieves well-designed storage including internal storage and additional storage within the basement.	✓

• **3 Bedroom - 10m³** **At least 50% of the required storage is to be located within the apartment.**	Provided	✓
Design Guidance • Storage is accessible from either circulation or living areas	Complies	✓
• Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street.	None proposed	-
• Left over space such as under stairs is used for storage	None proposed	-
Objective 4G-2: Additional storage is conveniently located, accessible and nominated for individual apartments. Design Guidance • Storage not located in apartments is secure and clearly allocated to specific apartments. • Storage is provided for larger and less frequently accessed items • Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible • If communal storage rooms are provided they should be accessible from common circulation areas of the building • Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.	Complies	✓
Acoustic Privacy (4H)		
Objective 4H-1: Noise transfer is minimised through the siting of buildings and building layout. Design Guidance • Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses	Not provided – refer to Part 3F	-
• Window and door openings are generally orientated away from noise sources	Complies	✓
• Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas	Generally complies with the exception of Building D which includes the main access stairs adjoining bedrooms.	**No**
• Storage, circulation areas and non-habitable rooms should be located to buffer noise from	Complies	✓

external sources • Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms	Complies	✓
Objective 4H-2: Noise impacts are mitigated within apartments through layout and acoustic treatments. <u>Design Guidance</u> • Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: – rooms with similar noise requirements are grouped together – doors separate different use zones – wardrobes in bedrooms are co-located to act as sound buffers • Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: – double or acoustic glazing – acoustic seals – use of materials with low noise penetration properties – continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements	Satisfactory Noted	✓ ✓
Noise Pollution (4J)		
To minimise impacts the following design solutions may be used: • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses • buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer • landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry	Satisfactory – addressed in the acoustic report.	✓
Apartment Mix (4K)		
Objective 4K-1: A range of apartment types and sizes is provided to cater for different household types now and into the future. <u>Design Guidance</u>		

• A variety of apartment types is provided. • The apartment mix is appropriate, taking into consideration: – the distance to public transport, employment and education centres – the current market demands and projected future demographic trends – the demand for social and affordable housing – different cultural and socioeconomic groups • Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households	A range of unit sizes are provided comprising 2, 3 and 4 bedroom units comprising the following: • 74 x 1 bedroom apartments (21.2%) • 217 x 2 bedroom apartments (62.2%) • 58 x 3 bedroom apartments (16.6%) Satisfactory	✓ ✓
Objective 4K-2: The apartment mix is distributed to suitable locations within the building. <u>Design Guidance</u> • Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3). • Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available	Satisfactory The proposed 3 bedrooms units are located throughout the buildings and there is sufficient open space on the site.	✓ ✓
Ground Floor Apartments (4L)		
4L-1: Street frontage activity is maximised where ground floor apartments are located • Direct street access should be provided to ground floor apartments • Activity is achieved through front gardens, terraces and the facade of the building. Design solutions may include: - both street, foyer and other common internal circulation entrances to ground floor apartments - private open space is next to the street - doors and windows face the street • Retail or home office spaces should be located along street frontages • Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases, provide higher floor to ceiling heights and ground floor amenities for	There are ground floor apartments proposed in Buildings D and E with direct street access. Provided Not proposed. Not proposed.	✓ ✓ N/A N/A

easy conversion		
4L-2: Design of ground floor apartments delivers amenity and safety for residents • Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include: - elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4) - landscaping and private courtyards - window sill heights that minimise sight lines into apartments - integrating balustrades, safety bars or screens with the exterior design • Solar access should be maximised through: - high ceilings and tall windows - trees and shrubs that allow solar access in winter and shade in summer	Privacy measures have been provided for the ground floor units in Building D which adjoin the communal open space.	✓
Facades (4M)		
4M-1: Building facades provide visual interest along the street while respecting the character of the local area <u>Design Guidance</u> • Design solutions for front building facades may include: – a composition of varied building elements – a defined base, middle and top of buildings – revealing and concealing certain elements – changes in texture, material, detail and colour to modify the prominence of elements	The proposed facades are unsatisfactory as outlined in the key issues section.	**No**
• Building services should be integrated within the overall facade	Satisfactory	✓
• Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: - well composed horizontal and vertical elements - variation in floor heights to enhance the human scale - elements that are proportional and arranged in patterns - public artwork or treatments to exterior blank walls - grouping of floors or elements such as balconies and windows on taller buildings	The proposed facades are unsatisfactory as outlined in the key issues section.	**No**
• Building facades relate to key datum lines of adjacent buildings through upper level setbacks,	Satisfactory	✓

parapets, cornices, awnings or colonnade heights • Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals	Satisfactory	✓
4M-2: Building functions are expressed by the facade • Building entries should be clearly defined • Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height. • The apartment layout should be expressed externally through facade features such as party walls and floor slabs	The building entries are not clearly defined as outlined in Part 3C. There are no important corners on the site which are satisfied. Complies	**No** ✓ ✓
Roof Design (4N)		
Roof treatments are integrated into the building design and positively respond to the street Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations Roof design incorporates sustainability features	Satisfactory. Satisfactory.	✓ ✓ N/A
Landscape Design (4O)		
Landscape design is viable and sustainable. Landscape design contributes to the streetscape and amenity	Satisfactory	✓
Planting on Structures (4P)		
Appropriate soil profiles are provided Plant growth is optimised with appropriate selection and maintenance Planting on structures contributes to the quality and amenity of communal and public open spaces	Inadequate soil depths for podium planting are provided.	**No**
Universal Design (4Q)		
4Q-1: Universal design features are included in apartment design to promote flexible housing for all community members <u>Design Guidance</u> • Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.	LHD Silver Level (70 apartments = 20%).	✓
Objective 4Q-2: A variety of apartments with adaptable designs are provided <u>Design Guidance</u>		

• Adaptable housing should be provided in accordance with the relevant council policy • Design solutions for adaptable apartments include: – convenient access to communal and public areas – high level of solar access – minimal structural change and residential amenity loss when adapted – larger car parking spaces for accessibility – parking titled separately from apartments or shared car parking arrangements	Section 5.4.1(e) of the HDCP No 2 requires 1 accessible unit/10 units and therefore 34.9 units are required. The Access report and plans indicate that there are 36 adaptable units (10.2%) and 36 adaptable car spaces	✓
Objective 4Q-3: Apartment layouts are flexible and accommodate a range of lifestyle needs. <u>Design Guidance</u> • Apartment design incorporates flexible design solutions which may include: – rooms with multiple functions – dual master bedroom apartments with separate bathrooms – larger apartments with various living space options – open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom	Provided.	✓
Mixed Use (4S)		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	The site is zoned mixed use and commercial/retail and residential uses are proposed with active site frontages.	✓
Awnings and Signage (4T)		
4T-1: Awnings are well located and complement and integrate with the building design **Design Guidance** • Awnings should be located along streets with high pedestrian activity and active frontages • A number of the following design solutions are used: – continuous awnings are maintained and provided in areas with an existing pattern – height, depth, material and form complements the existing street character – protection from the sun and rain is provided – awnings are wrapped around the secondary frontages of corner sites – awnings are retractable in areas without an established pattern • Awnings should be located over building entries for building address and public domain amenity	satisfactory	✓

Energy Efficiency (4U)		
Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	Complies with BASIX and incorporates solar.	✓
Water Management and Conservation (4V)		
Potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design.	Addressed on stormwater plans (detention) and BASIX.	✓
Waste Management (4W)		
4W-1: Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents		
• Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park	The proposed waste management arrangements are unsatisfactory arising from the insufficient area for the required number of bins in the basement and the lack of clear evidence that a garbage collection vehicle can enter, stand and leave the loading dock.	**No**
• Waste and recycling storage areas should be well ventilated	Provided in the basement which will be ventilated.	✓
• Circulation design allows bins to be easily manoeuvred between storage and collection points.	To be undertaken by the Building Manager.	✓
• Temporary storage should be provided for large bulk items such as mattresses	Provided	✓
• A waste management plan should be prepared		
4W-2: Domestic waste is minimised by providing safe and convenient source separation and recycling		
• All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days' worth of waste and recycling	The proposed waste rooms are not conveniently located given the long distances to them from car parking areas (on the ground floor while the majority of car parking is provided in the basement).	**No**
• Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core	Provided	✓
• For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses	Not proposed.	N/A
• Alternative waste disposal methods such as composting should be provided		

Building Maintenance (4X)		
Building design detail provides protection from weathering Systems and access enable ease of maintenance Material selection reduces ongoing maintenance costs	Satisfactory	✓