

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSH-150
DA Number	Mod 2023 / 0019
LGA	Georges River Council
Proposed Development	Section 4.55 application to modify Development Consent No 12/DA-132 for a mixed use development for additional GFA, increased heights at Forest Rd by (1) storey and Hill St tower by (3) three storeys, reconfiguration of basement levels to cater for additional parking and storage, and conversion of south facing balconies on Hill St end to winter gardens.
Street Address	105 Forest Road and 1A Hill Street, Hurstville Lot B DP 421265 Lot A DP 421265
Applicant/Owner	Applicant- Mrs Susan Tsang & Lee Architects Pty Ltd (H3 Architects) Owner – Forest Road Holdings Pty Ltd
Date of DA lodgement	23 January 2023
Total number of Submissions Number of Unique Objections	Two (2) submissions received.
Recommendation	Refusal
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979. • Environmental Planning and Assessment Regulation 2021. • Water Management Act 2000 • State Environmental Planning Policy (Resilience and Hazards) 2021. • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Building Sustainability Index: BASIX) • Georges River Local Environmental Plan 2021 • Georges River Development Control Plan 2021

List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Amended Architectural Drawings • Assessment Letter: Revised Car Parking Layout Adequacy • Acoustical Assessment Mixed use Development Proposed S4.55(2) modification • Stormwater Drainage Plans • Wind Impact Assessment Report • Operational Waste Management Plan • Access Report • Additional Costing of s4.55(2) Submissions Drawings • BASIX Certificate • NaTHERS Certificate • Statement of Environmental Effects. • SEPP 65 Design Statement 	
Clause 4.6 requests	• No clause 4.6 provided as not required for modified proposals.	
Report prepared by	Nicole Lennon Planik Pty Ltd	
Report date	24 October 2023	
Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes	
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes	
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	-	

Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	No

Executive Summary

Proposal

1. Council received an application (MOD2023/0019) seeking the modification of Development Consent No. 12/DA-132. The proposed modification includes additional GFA, increased heights at Forest Rd by (1) storey and Hill St tower by (3) three storeys, reconfiguration of basement levels to cater for additional parking and storage, and conversion of south facing balconies on Hill St end to winter gardens.

Site and Locality

2. The subject development site is made up of two lots known as 105 Forest Road (1758 m²) and 1A Hill Street, Hurstville (876 m²) — Lots B and A in DP 421265.
3. The combined development site is an irregular shaped allotment with a 54 m street frontage to Forest Road and an 82 m street frontage to Hill Street. The development site has a total area of 2,634sqm.
4. The site is currently vacant with demolition of pre-existing structures complete. The site is boarded by hoarding fencing.
5. The site is surrounded by mixed use developments of varying heights and the T4 eastern suburbs and Illawarra railway line.

Comparison of Development Statistics

Original Consent	Current Modification	Change % & comment
Storeys	Storeys	
7 & (steps to 3) 13 (steps to 7 and 4)	10 & 14	43% 7.7%
Height	Height	
27.6 m Hill Street	NB: Current standard: Hill Street 23 m Forest Road 45 m	68% 13 %

Original Consent	Current Modification	Change % & comment
44.85 m Forest Road Note these buildings were various heights and stepped to the maximum.	38.63 (RL 93.95 roof – RL 97.05 COS roof) 51.1 m (RL 104.9 roof 0 RL108.30 COS roof)	40% 14 %
Dwellings 116 32 x 1 61 x 2 23 x 3	Dwellings 147 1x studio 47 x 1 73 x 2 26 x 3	21 additional apartments 27% increase Dwelling mix similar to as approved.
Commercial 10 x units 905.4 m2	897.5 Note: 0.35:1 FSR Current standard should be 1:1 (LEP clause 4.4(4))	Previous modification reduced to 815 m ² so now more in line with as originally approved but below the planning control of 1:1
GFA 11,010 m2 NB Previous standard was: (HLEP 1994) not assessed against this LEP part 3:1 and part 3.5:1 (HELP 2012) FSR 4.18:1	NB: Current standard: 3.5:1 Permissible: 11,854 m2 Additional 2399 m2 (2692 over original approval) Total 13,702 m2 5.2:1	21% over current standard 24.4% over original approval
Landscape Area Total as previously modified 1755 m2 66% of site area	 1527 m2 57.9 %	Reduction in landscaped area No landscape plan or site plan provided
Carparking 179 4 service bays	222 3 additional visitor spaces, no additional loading or car wash. 24 additional basement storage units. (150 total)	Note 21 additional units Deficient by 11 Visitor car spaces
Communal Open Space	relocated	No COS plan provided

Issues with Documentation

6. The documentation submitted with the modification was deficient in that there was:
 - a. No site plan
 - b. No landscape plan

- c. No communal open space plan
- d. No updated traffic impact assessment
- e. Deficient parking for visitors
- f. Inadequate Waste Management
- g. Incorrect and inadequate justification for the “substantially the same” test.
- h. No justification for additional and non-compliant GFA / FSR.
- i. Little justification for additional and non-compliant height.
- j. Inconsistency with figures for GFA and FSR in SEE and SEPP 65 design statement.

State Environmental Planning Policies

- 7. The proposed modification does not conflict with the following policies which have been considered in respect to the application. However, it is unsatisfactory in relation to SEPP No 65:
 - State Environmental Planning Policy (Planning Systems) 2021
 - State Environmental Planning Policy (Resilience and Hazards) 2021
 - State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.
 - State Environmental Planning Policy (Building and Sustainability Index:2004).
 - State Environmental Planning Policy (Biodiversity and Conservation) 2021.
 - State Environmental Planning Policy (Transport and Infrastructure) 2021.
- 8. The proposed modification presents differing figures related to GFA, FSR and height between the SEE and the SEPP 65 Design Statement.
- 9. The proposed modification seeks significant height (40%) and FSR (24%) variations over the original approved development which is considered to be inconsistent with the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development. In particular, the development is inconsistent with the following Design Principles:
 - a. Principle 1 – Context
 - b. Principle 2 - Scale
 - c. Principle 3 - Density
 - d. Principle 5 – Landscape
 - e. Principle 6 – Amenity
 - f. Principle 7 – Safety
 - g. Principle 8 – Social interaction
 - h. Principle 9 Aesthetics

Zoning and GRLEP (2021) Compliance – LEP

10. The s4.55 application seeks to modify Consent No 12/DA-132 for a mixed use development for additional GFA, increased heights at Forest Rd by (1) storey and Hill Street tower by (3) three storeys, reconfiguration of basement levels to cater for additional parking and storage, and conversion of south facing balconies on Hill Street end to winter gardens.
11. The site is zoned MU1— Mixed Use under the provisions of the Georges River Local Environmental Plan 2021. The proposed modification is antipathetic to the aims of the GRLEP.

1.2 2(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,**

Comment: The modification continues to depart from the controls which have been established to inform and enhance the character of the local area

1.2 2(f) to promote a high standard of urban design and built form,

Comment: The modification “(...) *is considered that there has been a progressive decline in design excellence of this development, which was originally approved in 2012 and the urban form of the context. The modifications to the originally approved design over the years have compromised the urban form, amenity, skyviews and the skyline. The current modifications are not consistent with the SEPP 65 Design Principles of Context and neighbourhood character, Built form and Scale, Density and Aesthetics as it will result in significant impact the built form, context, skyline and sky views. Hence the proposal is not supported.*”

Source: Georges River Council's Urban Design Assessment

12. The proposed modification is antipathetic to the MU1 zone objectives:
 - *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 encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
 - *To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.*

Comment: The additional height proposed will overshadow the surrounding streets reducing their vitality, vibrancy and attractiveness to pedestrians and businesses, thereby reducing the function of the mixed use zone.

13. The modification exceeds the two maximum height controls that apply to the site.

Height requirement:

LEP Maximum height at Hill Street (23m) - 68% exceedance

LEP Maximum height at Forest Road (45m) - 13% exceedance

14. Through this exceedance, the modification fails to achieve height objectives related to the bulk and scale, visual impacts and the desired character of the locality.

LEP's 4.3 Height of Buildings Objectives:

- (1) *The objectives of this clause are as follows—*
- (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 modified proposal is antipathetic to all three objectives of the maximum height clause. The disregard to buildings height transitions as required by the controls will negatively alter the future character of the locality. Comments by Council's urban designer:

It is considered that the current amendments will result in the additional bulk which is not proportionate to the built form and context as established in the key principles for the Eastern Bookend Precinct, which requires building to provide a transition between the City Centre and surrounding residential areas where the building heights are transitioning down 45m to 23m to 15m.

Significant increased overshadowing will occur to the street and apartments at 1 Treacy Street. While the solar studies show that the proposed built form will maintain the existing 44% of apartments receiving 2 hours sunlight, that percentage will be further and substantially reduced if 107 Forest Road is developed to its maximum height of 45 metres.

15. The modification greatly exceeds the FSR control and the additional floorspace will add to bulk and scale and the diminish the desired character of the area, thus contravening the FSR objectives of the LEP. No justification was provided with the application for the exceedance.

FSR Requirement:

LEP Maximum FSR (3:1 & 3.5:1)

LEP's 4.4 Floor Space Ratio Objectives:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
 - (b) *to ensure that development provides appropriate built form transition between new buildings and—*
 - (i) *adjoining land uses, or*
 - (ii) *heritage items, heritage conservation areas or Aboriginal places of heritage significance,*
 - (c) *to control development density and intensity of land use, taking into account—*
 - (i) *the environmental constraints and values of the site, including retaining the scenic, visual, and landscape qualities of the area, and*
 - (ii) *the amenity of adjoining land and the public domain, and*
 - (iii) *the availability of infrastructure to service the site, and*
 - (iv) *the capacity of the road network to accommodate the vehicular and pedestrian traffic that a development will generate.*

The proposal will detract from the amenity of adjoining land by increasing shadows to private open space (to the east note pool area will be shadow3ed further in Summer) and public domain (Hill Street) and by reducing solar access to adjacent building (1 Treacy Street).

Georges River Development Control 2021

16. The provisions of Georges River Development Control Plan 2021 are applicable to the proposed modification.

Part 10 Precincts – Eastern Bookend Precinct.

In addition to the GRDCP, site specific controls have been developed for the Eastern Bookend Precinct development site. The proposal is considered an inappropriate built form in relation to the applicable planning controls of the Eastern Bookend Precinct and to not reasonably satisfy its objectives.

A detailed assessment of the proposal against these controls is provided later in this report.

Submissions

17. The application was notified for a period of fourteen (14) days between 30 March August 2023 and 17 April 2023 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Two (2) submissions were received.
18. Issues raised in the submissions related to:
 - a. Loss of sunlight to apartments at 1 Treacy Street (noted already an issue) by increasing Height at Hill Street.
 - b. Traffic congestion at intersection of Hill and Treacy Street (noted already an issue)
 - c. Lack of green spaces to cater for increased density
 - d. More three bedroom apartments are required to offset unaffordability of houses.
 - e. Liveability impacted by increase in height to Forest Road Building
 - f. Loss of views of sky, more noise and more congestion
 - g. Developer pushing boundaries by taking one step at a time

Level of Determination

19. The proposed modification represents an additional CIV of \$1,902,069.57 (including GST). The s4.55 application required to be determined by the Sydney South Planning Panel as the proposal seeks a variation to the building height standard of over 10% on an application that was originally approved by the Panel.
20. The additional CIV has been confirmed and is outlined in the Construction Cost Estimate for additional GBA report which accompanies the Development Application.

Summary Conclusion

21. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed s4.55 Application (MOD2023/0019) does not meet the test requirements to be considered “substantially the same”.
22. Notwithstanding, the proposal has been assessed against the current state and local planning controls and the requirements, considerations of the EP& A Act. It has been found to disregard the aims and objectives of the broader planning framework and vastly depart from the planning controls that apply to the site without justification and will result in unsatisfactory impacts to the environment and adjoining properties.

Report in Full
Site and Locality

23. The subject development site is generally flat and on the south-eastern corner of Forest Road and Hill Street Hurstville, opposite Treacy Street. It is made up of two lots known as 105 Forest Road (1758 m²) and 1A Hill Street, Hurstville (876 m²) — Lots B and A in DP 421265.

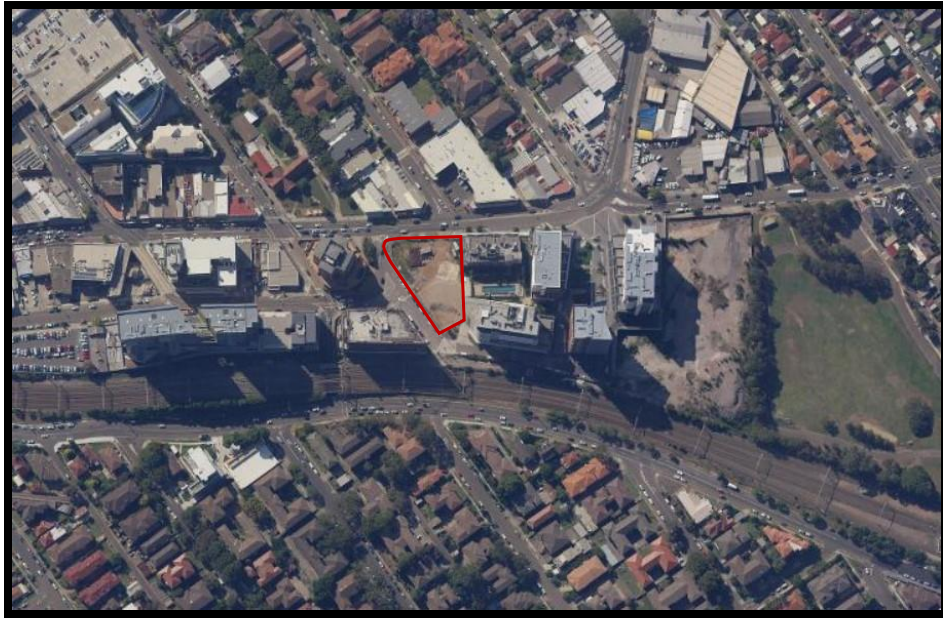


Figure 1: Aerial view of subject site outlined in red (*Source: Sixmaps*)

24. The combined development site is an irregular shaped allotment with a 54 m street frontage to Forest Road and an 82 m street frontage to Hill Street. The development site has a total area of 2,634sqm.

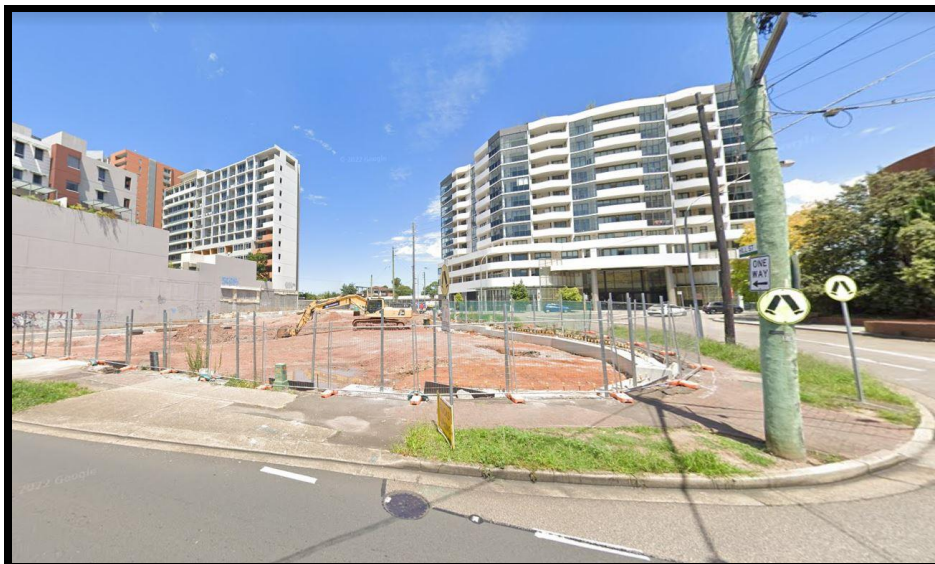


Figure 2: Subject site as viewed from the corner of Forest Road and Hill Street.

25. The site is currently vacant and is being prepared for the construction of the mixed use development.



Figure 3: Subject site as viewed from Forest Road



Figure 4: Subject site as viewed from Hill Street.

Surrounding Development

26. To the east of the site is a multi storey mixed use development known as “East Quarter”. The approved building heights in this development range from six storeys to 20 storeys. A private access road to the East Quarter development adjoins the southern boundary of the subject site.
27. On the opposite corner of Hill Street and Forest Road is a 13 storey mixed use building incorporating some above ground car parking.
28. There are some more recent mixed use developments in near vicinity of the site including a 16 storey building at 21 Treacy Street approved under Part 3A of the EP&A Act and an 11 Storey mixed use building at 1- 5 Treacy Street. It is noted that a modified application (DA 2014/0183) to add a further five (5) levels and 31 apartments to 1/5 Treacy Street was refused by delegation on 05 10 2017.

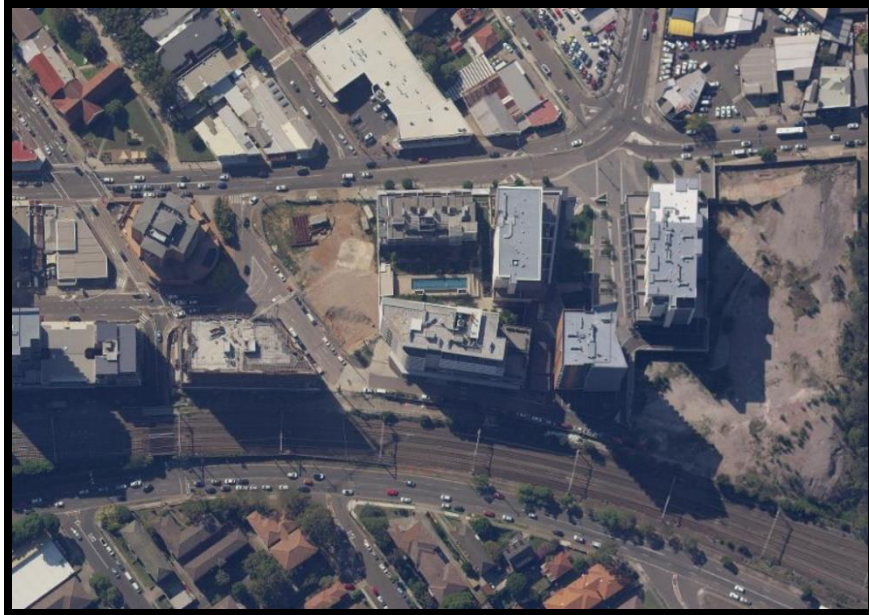


Figure 5: Aerial view of the locality. Source: Sixmaps



Figure 6: View of the site and adjoining mixed use developments to the east (East Quarter at the background).

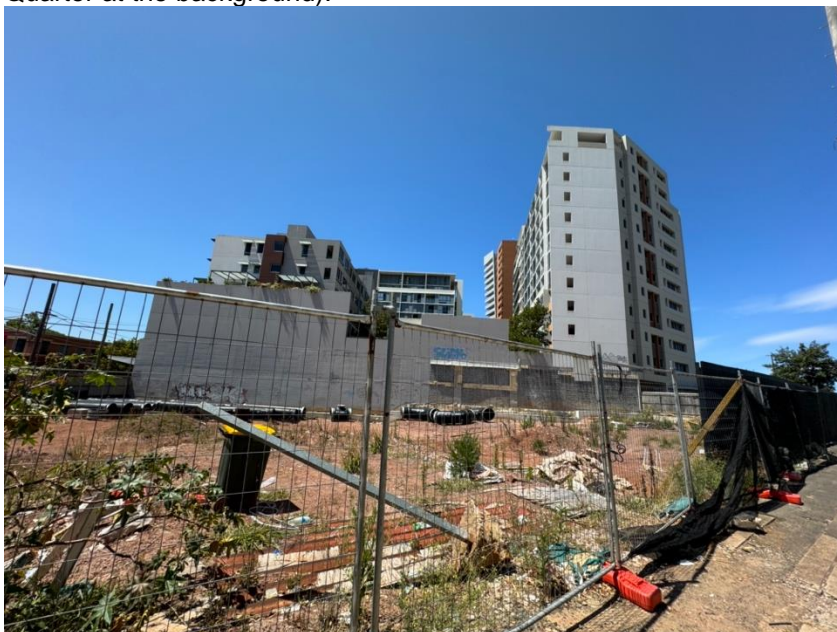


Figure 7: Internal site view towards the east from Hill Street. Source: Planik

29. To the South:

A railway line runs along Jack Brabham Drive which is on the southern side of the street from the subject site to the south.



Figure 8: Railway line as viewed from the intersection of Hill Street and Jack Brabham Drive. Source: Google

30. To the West:

The subject site faces a 11 to 13 storey residential flat buildings at 1-5 Treacy Street and 107 Forest Road across Hill Street.



Figure 9: Residential flat developments to the west of the site 1-5 Treacy at left and 105 Forest Road at right. Source: Planik



Figure 10: View West from towards the end of Jack Brabham Drive looking back towards 1-5 Treacy Street, site out of view at end to the right. Source: Planik

31. To the north:

The subject site is located in front of a number of one-to-two storey commercial and retail premises across Forest Road at N^os 130-to-138 and N^o124.



Figure 11: One-to-two storey retail premises to the north of the subject site. Source: Google

Description of Proposal

32. The s4.55 application seeks to modify Consent No 12/DA-132 for a mixed-use development.

Original Approval

33. In 2007, the Land & Environment Court granted development consent for a 13 storey mixed use development on the site at 105 Forest Road. At the time of approval the development exceeded the controls in Council's development control plan.

34. In 2012 a 3-13 storey development (DA 12/ 132) was approved by the JRPP and included the following:
- 13 storey component of the development located on the corner and the building then stepped down to seven (7) and four (4) storeys along the Forest Road frontage.
 - On the Hill Street frontage the building was a (3) three storey podium before stepping up to seven (7) storeys where it adjoins Jack Brabham Drive and the railway to the rear.
 - Communal open space in the form of a landscaped and terraced courtyard was located on level 1 of the development. The proposal also had communal landscaped open space located on the roof of the seven storey and the 13 storey components of the development.
35. The breakdown of the development included:
917sqm of gross leasable retail/commercial floor space (10 commercial units) on the ground floor and 116 residential units above. Three levels of basement parking for 179 vehicles is accessed from Hill Street.
- The residential unit breakdown within the development is as follows:
- 16 x 1 bedroom units
 - 61 x 2 bedroom units
 - 23 x 3 bedroom units
 - 16 x 1 bedroom adaptable units
36. The built form of the part of the development at 105 Forest Road is essentially the same building envelope in terms of height, floor space and building form as a development previously approved by the Land & Environment Court.

2017 Modification

37. In 2017 a modification (MOD2017/0033) was approved to allow redesign of the façade and built form to reduce stepping, increase height by 900 mm at the 1A Hill Street building and increase overall unit numbers by 10, reduce commercial GFA by ~85 sqm but FSR at 4.29:1. Note another Modification (MOD2017/0026) for deferral of s.94 contributions to CC of above ground works was withdrawn.
38. In 2021 Modification (MOD2021/0067) was approved to amend ground floor and basement layouts.

Current Proposed Modification

The proposed 4.55(2) modification application seeks to modify development consent 12/DA-132 by:

- Increasing the height of the Forest Road tower by one (1) additional storey:

- The proposed additional storey mirrors the six (6) unit layout of Level 12 for a total of eleven (11) bedrooms, as follows:
 - 1 x 1 bedroom unit
 - 3 x 2 bedroom units
 - 1 x 3 bedroom unit
 - 1 x 1 bedroom adaptable unit
- However, this layout departs from the previously approved Level 12 layout which provided three (3) units for a total of nine (9) bedrooms, as follows:
 - 3 x 3 bedroom units

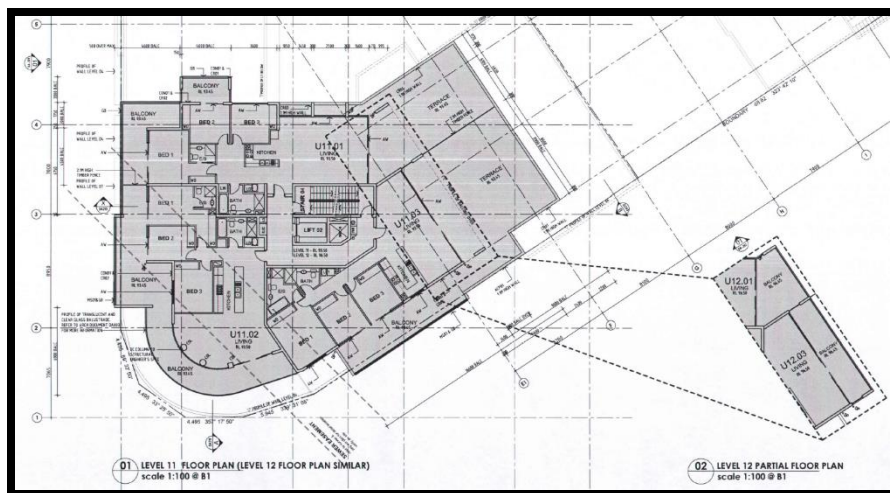


Figure 12: Approved Forest Road Tower — Level 12 Floor Plan



Figure 13: Forest Road Tower Modification — Level 13 Floor Plan

- The new roof terrace (Level 14) slightly modifies the previously approved roof plan shape, includes common terrace space and replaces the rectangular plant room with a common room and lobby directly accessible from stairs and lifts. The plans do not appear to relocate the plant room elsewhere.

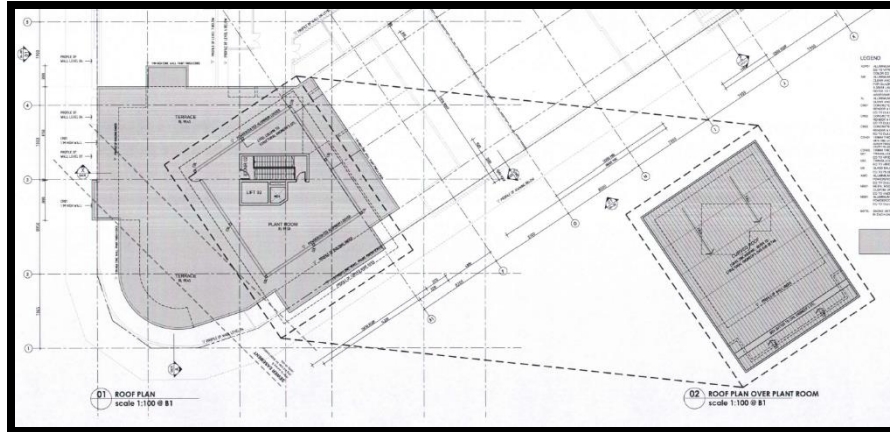


Figure 14: Approved Forest Road Tower — Roof Plan

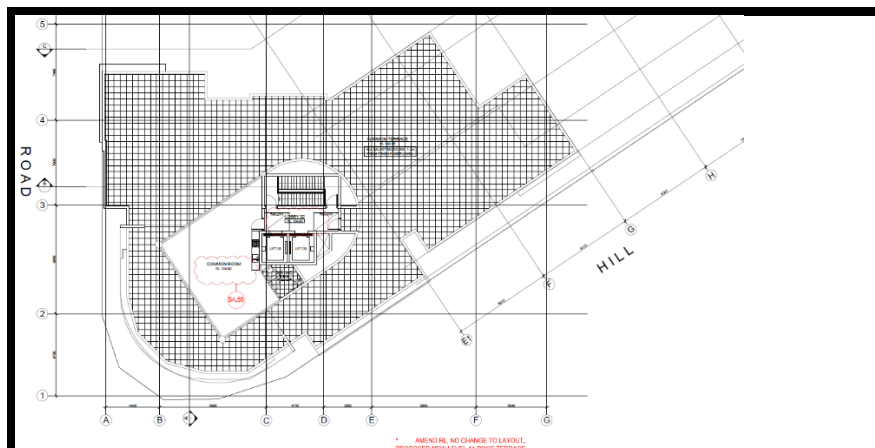


Figure 15: Forest Road Tower Modification — Level 14: Terrace Roof Plan

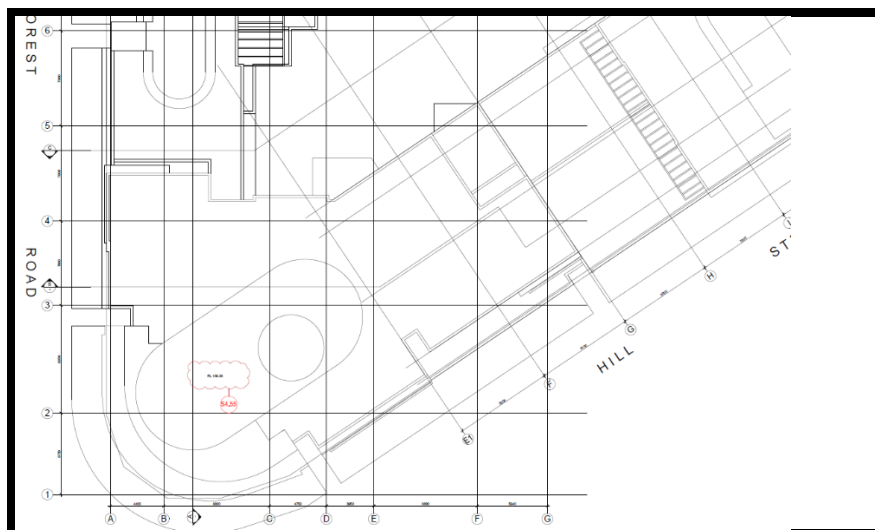


Figure 16: Forest Road Tower Modification — Roof Plan

2. Increasing the height of the Hill Street tower by three (3) additional storeys:

- The three proposed additional storey (Levels 7-9) mirror the five (5) unit layout of Level 6 for a total of eight (8) bedrooms for each additional storey, as follows:
 - 1 x 1 bedroom unit
 - 3 x 2 bedroom units
 - 1 x 1 bedroom adaptable unit
- This layout replicates the number of units and bedrooms of that of the previously approved Level 6, although slightly altering the units' internal distribution and turning one of the 1-bedroom units into an adaptable unit. The previously approved layout consisted of:
 - 2 x 1 bedroom unit
 - 3 x 2 bedroom units

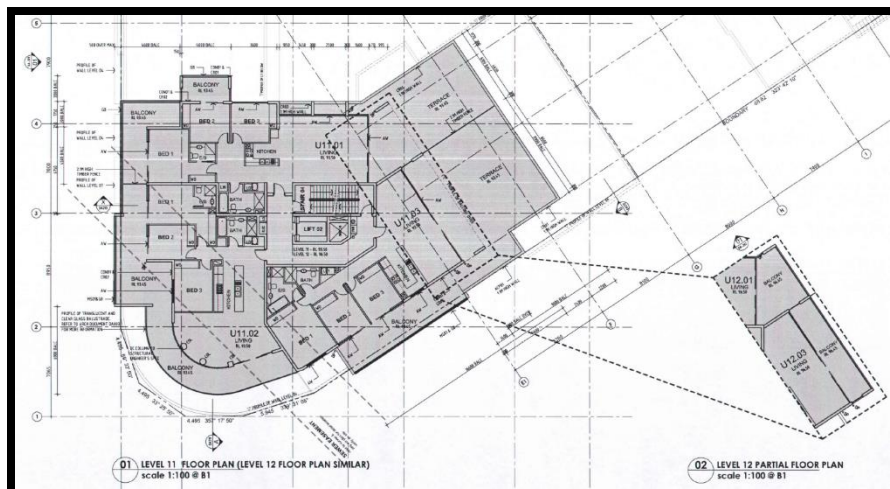


Figure 17: Approved Hill Street Tower — Level 6 Floor Plan

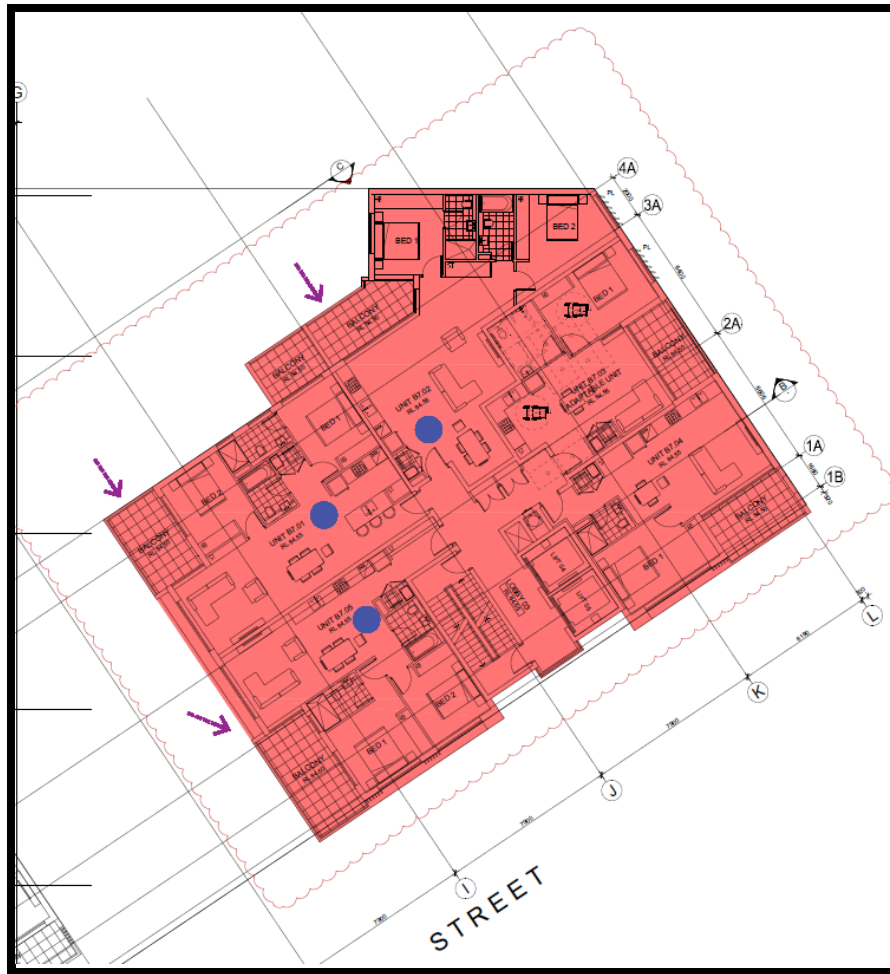


Figure 18: Hill Street Tower Modification — Level 7 Floor Plan

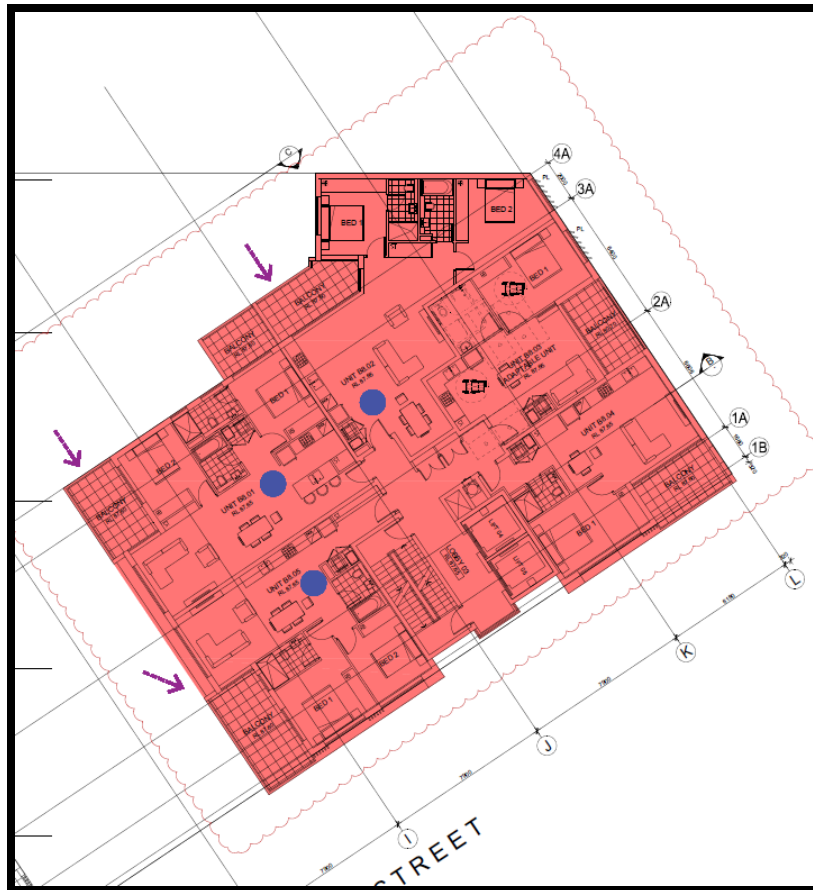


Figure 19: Hill Street Tower Modification — Level 8 Floor Plan

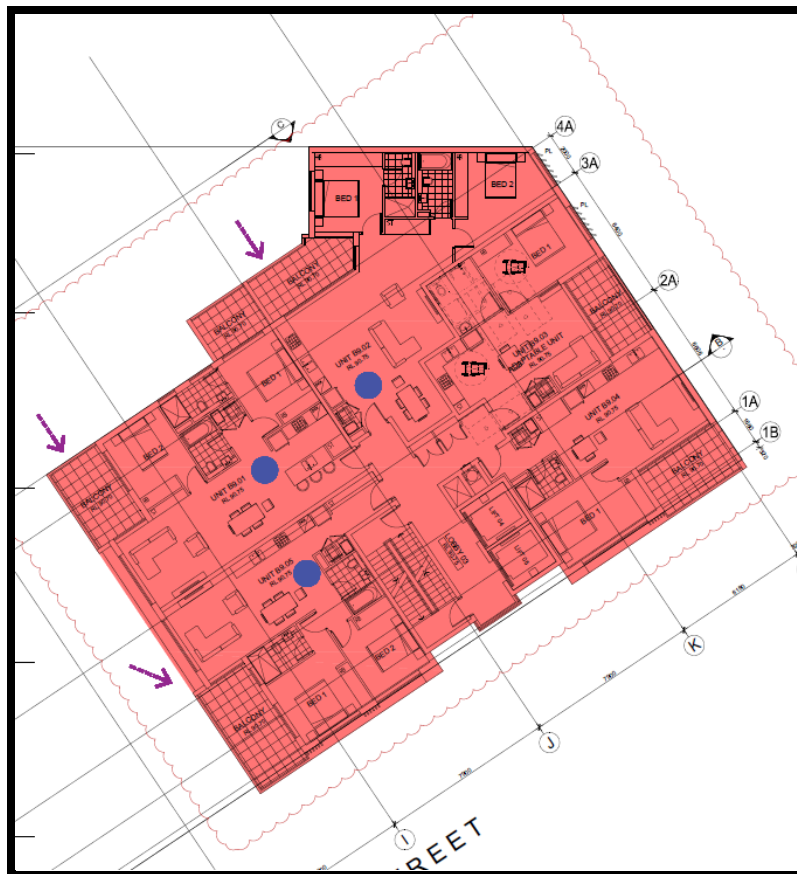


Figure 20: Hill Street Tower Modification — Level 9 Floor Plan

- The new roof plan (Level 10) differs from the previously approved (Level 7) by including common terrace space and replacing rectangular plant room with an enclosed common room and lobby directly accessible from stairs and lifts.
- No information regarding relocation of plant and requirement of plant for more apartments.

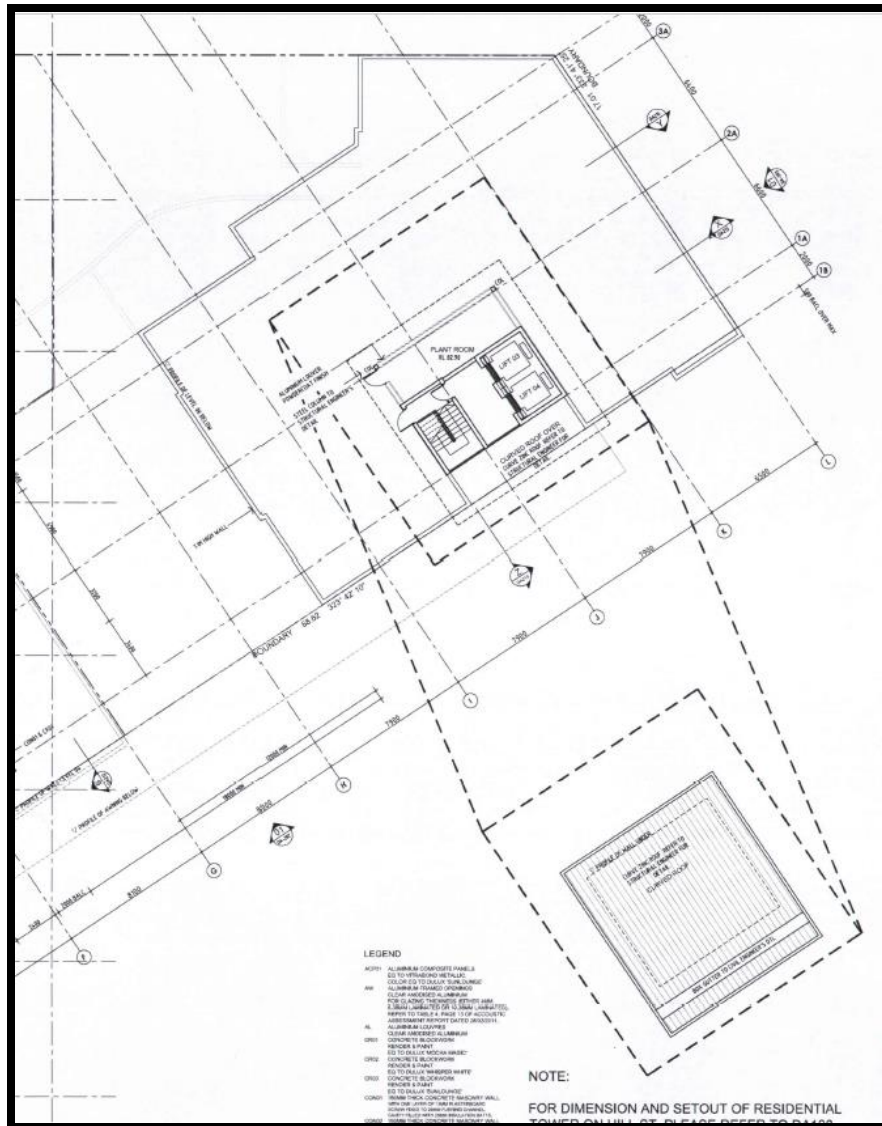


Figure 21: Approved Hill Street Tower — Level 7: Roof Plan

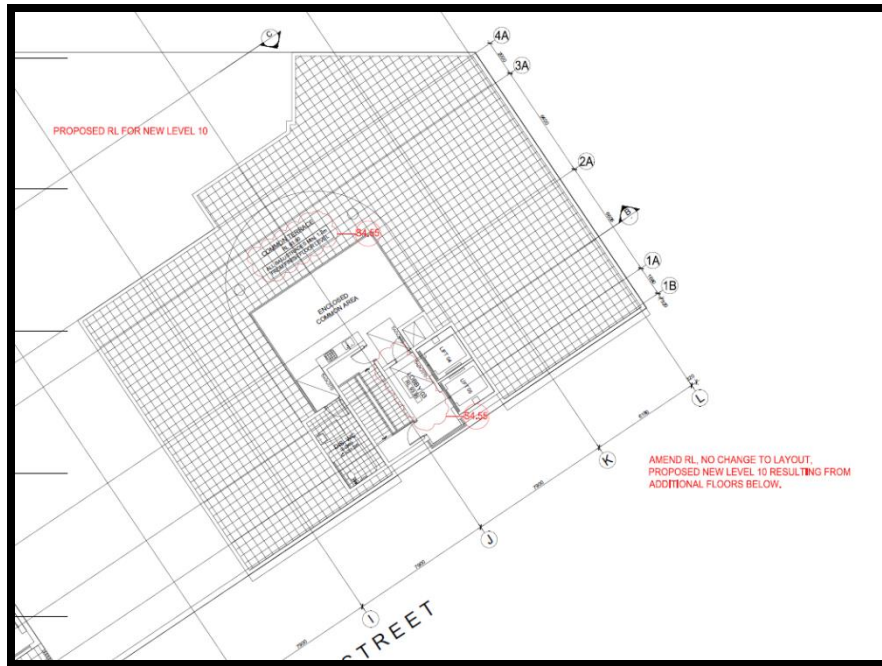


Figure 22: Hill Street Tower Modification — Level 10: Roof Plan

3. Adding 2,399sqm of Gross Floor Area (GFA).
4. Undertaking a general re-arrangement of the basement levels in terms of location and orientation of car parking spaces and storage cages,
5. The modification introduces 1 additional basement (Basement level 4) and 39 additional parking spaces for a total of 222 (218 cars paces + 3 loading bays + 1 car wash). The modification introduces 3 additional visitor spaces but no additional loading or car wash.
6. The modification also includes 24 additional basement storage units for a total of 150 total.
7. Converting all twelve (12) approved south-facing balconies to wintergardens. The new six (6) south-facing balconies at the three additional storeys are proposed as wintergardens as well.
 - Total wintergardens: 18
 - Levels 1 to 6 x 2 — 12 (converted wintergardens)
 - Levels 7 to 9 x 2 — 6 (proposed wintergardens)

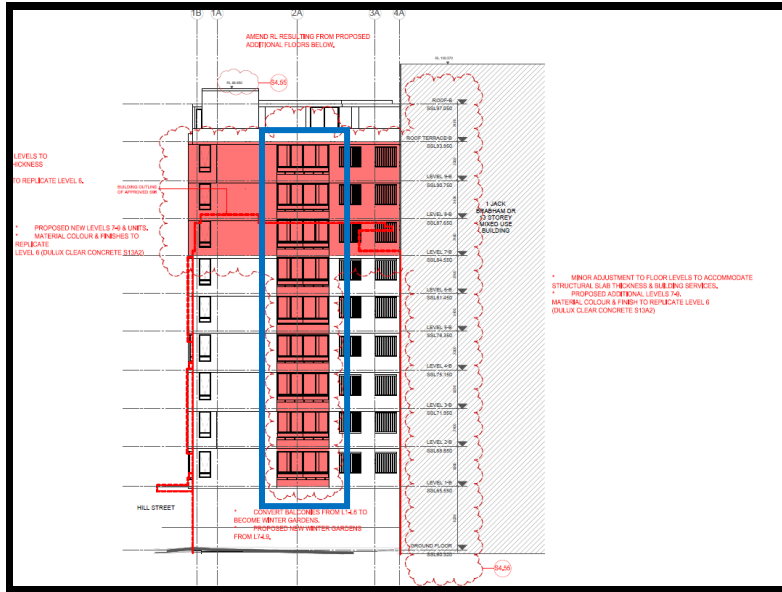


Figure 23: Modified Hill Street Elevation — Approved and proposed south-facing balconies to be converted into wintergardens (shown in blue).

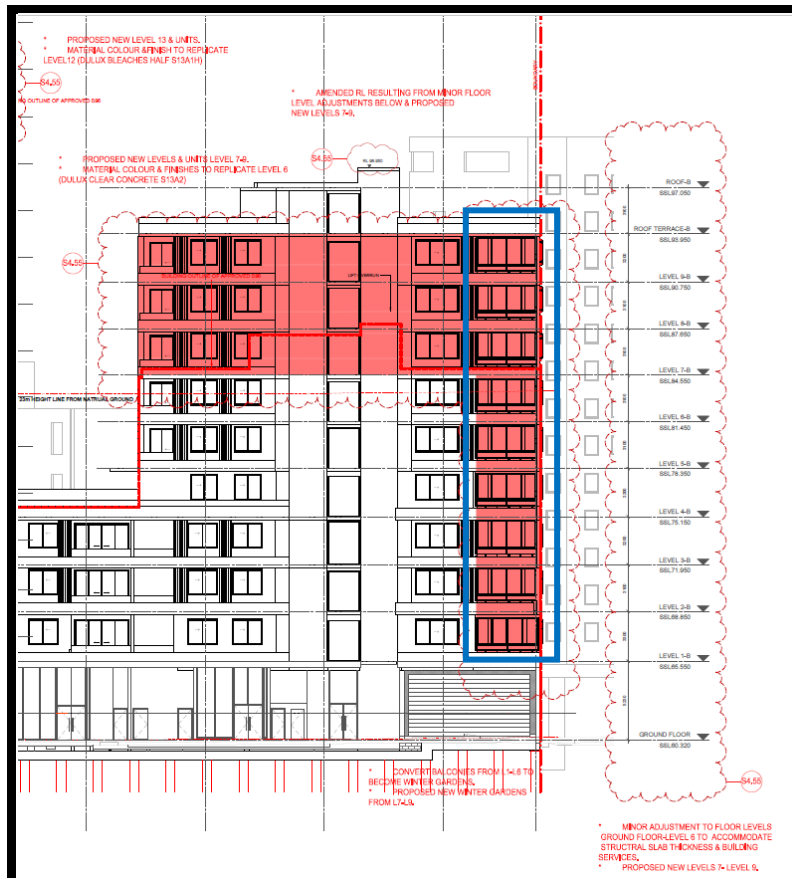


Figure 24: Modified South East Elevation — Approved and proposed south-facing balconies to be converted into wintergardens (shown in blue).

- The s4.55 Statement of Environmental Effects states that “No change is proposed to the previously approved landscaping design” and that “The communal open spaces have been relocated to the rooftop levels, with no other change proposed”.

Source: Statement of Environmental Effects prepared by GYDE (planning consultants), dated 17 November 2023.

- Although the modified roof terrace plans — Level 7 (Hill street tower) and Level 14 (Forest Road tower) identify “Common Terrace” areas, there is no landscape plan for the modified development.



Figure 26: Approved Site Plan



Figure 27: Perspective of modified proposal as viewed from Treacy Street.

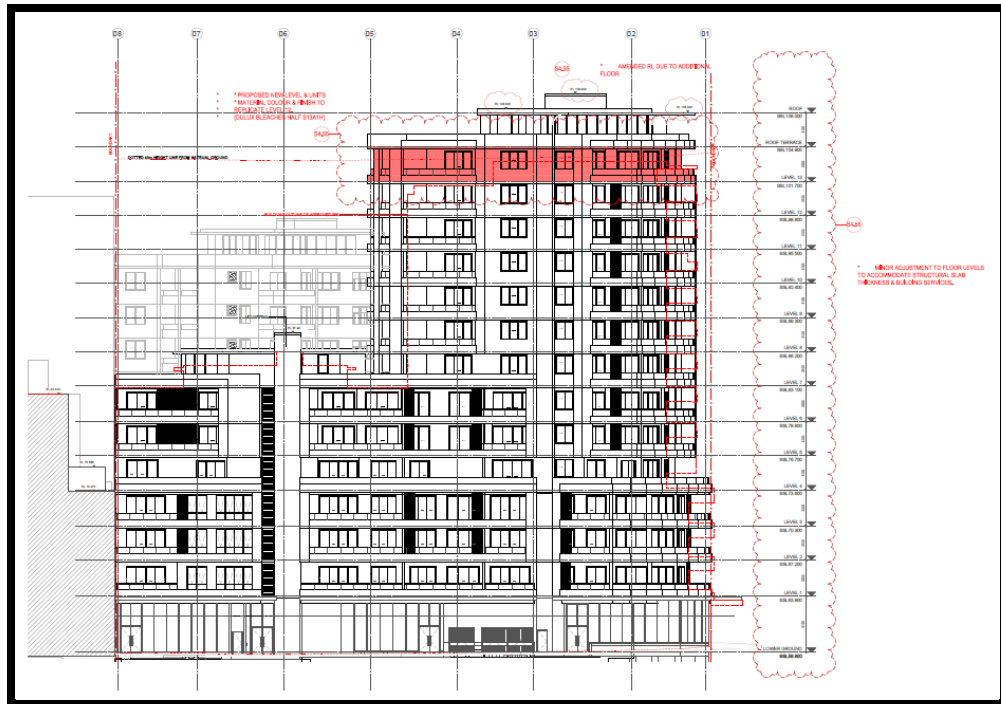


Figure 28: Forest Road elevation

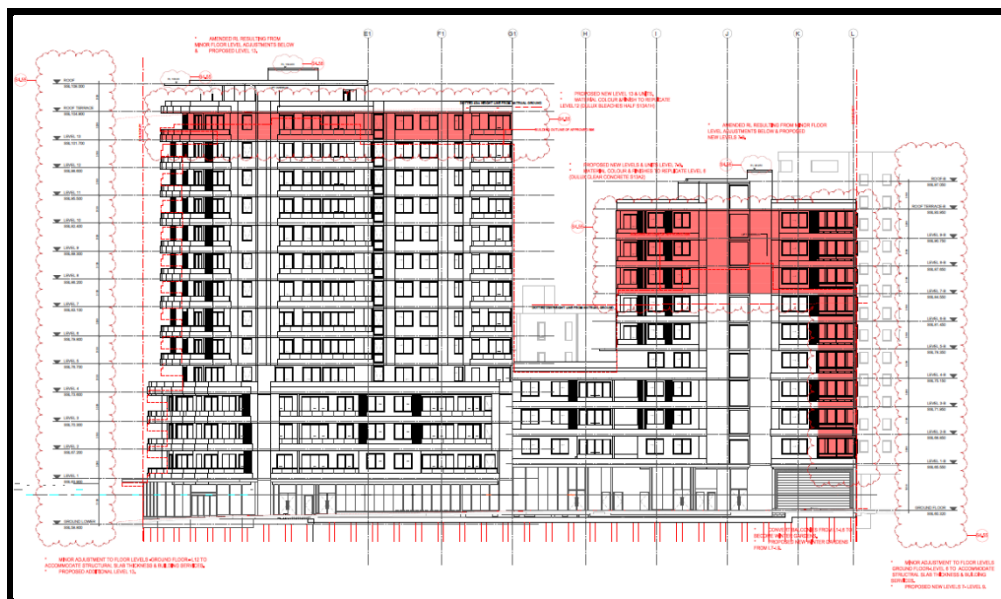


Figure 29: Hill street elevation

39. A detailed breakdown of the approved development is as follows:

- Four (4) levels of basement levels to accommodate 222 car parking spaces, together with storage and services for the development
- Retail/commercial spaces on the ground floor, comprising 6 individual tenancies and approximately 896.4sqm
- A total of 147 residential dwellings comprising:
 - 1 x studio unit
 - 47 x 1 bedroom units
 - 73 x 2 bedroom units

- 26 x 3 bedroom units
- A 14 storey element at the corner of Forest Road and Hill Street, stepping down to 4 floor levels at podium, and then rising up to a 10 storey element where the site adjoins Jack Brabham Drive and the railway line
- To retain the communal open space elements on the uppermost level of each tower element.

Development Summary

40. A numerical summary of the proposed development is provided as follows:

Element	Proposal
Height	Hill Street: 38.63 (RL 93.95 roof – RL 97.05 COS roof) Forest Road: 51.1 m (RL 104.9 roof 0 RL108.30 COS roof)
Levels	Forest Road: Fourteen (14) storeys Hill Street: Ten (10) storeys
Dwellings	147 Residential units comprised as follows: <ul style="list-style-type: none"> • 1 x studio unit (0.68%) • 47 x 1 bedroom units (31.97%) • 73 x 2 bedroom units (49.66%) • 26 x 3 bedroom units (17.69%)
Commercial	1 x 6 tenancies 896.4sqm
Car parking spaces	222 car parking spaces comprising the following: <p>121 x parking spaces (studio,1&2 BR)</p> <p>53 x parking spaces (3BR)</p> <p>21 x visitor parking spaces</p> <p>23 x commercial parking spaces</p> <p>3 x loading bay spaces</p> <p>1 x car wash spaces</p>
Storage units	150
Bicycle parking spaces	60 bicycle spaces as follows: <ul style="list-style-type: none"> - 54 Residential bicycle spaces. - 6 commercial bicycle spaces.
Landscaped Area	1,527 sqm (57.9% of the site area) No Detail provided appears as though previous Level 4 communal terrace area is now deleted.

Solar access for apartments	107/147 apartments (72.8%) receive a minimum of 2 hours of solar access during mid-winter
Cross ventilation for apartments	64.6% (95/147 apartments)

Background

41. Development Consent No. 12/DA-132 was granted by the Joint Regional Planning Panel (JRPP) on 11 October 2012 for the “Demolition of buildings at 1A Hill Street and construction of 7-13 storey mixed use development with basement car parking”.

The development has been modified on a number of occasions:

42. MOD2017/0026 was withdrawn on 09 June 2017 to allow deferral of Section 94 contributions to issue Construction Certificate for works above ground level (RL58.7).
43. MOD2017/0033, approved on 07 August 2017, modified the approved development through alterations and additions including the redesign of the façade and built form, internal unit redesign and layout, increased FSR from 4.18:1 to 4.29:1, an increase in dwelling yield from 116 units to 126 units, and change in dwelling mix, changes to parking and commercial gross floor area, and associated other minor changes.
44. MOD2021/0067 was approved on 08 October 2021 modified 12/DA-132 (MOD2017/0033) to amend the ground floor and basement layouts.

Statutory Framework

Environmental Planning and Assessment Act 1979 (EP&A Act)

45. The proposal has been assessed and considered against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the objects of the EP&A Act, and the principles of ecologically sustainable development.

Section 4.55 Modification under the Environmental Planning and Assessment Act, 1979

46. The proposal has been considered against the relevant statutory provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979.

(2) Other modifications

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

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and*

before that consent as originally granted was modified (if at all), and

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

47. The application has been made pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 to modify Consent No 12/DA-132 for a mixed use development for additional GFA, increased heights at Forest Rd by (1) storey and Hill Street tower by (3) three storeys, reconfiguration of basement levels to cater for additional parking and storage, and conversion of south facing balconies on Hill Street end to winter gardens.

48. Section 4.55(2) of the EP&A Act 1979 enables the consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided the consent authority is satisfied by the following criteria:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
49. Comment: The development as modified does not meet the test requirements to be considered “substantially the same” as that originally approved as it substantially increases height and FSR and in presenting the application, only compares what is now proposed against the last “as modified” approval and not that originally approved. The proposal vastly departs from the current planning controls that apply to the site without establishing merit or any sound justification.
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
50. Comment: The modification application has been notified with the relevant public authorities and approval bodies as required with no objections raised.
- (c) *it has notified the application in accordance with—*
(i) *the regulations, if the regulations so require, or*
(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
51. Comment: In accordance with the public notification provisions of the Georges River Development Control Plan, the application was notified to neighbouring properties. Two submissions were received during the notification period held between 30 March August 2023 and 17 April 2023
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*
52. Comment: Two submissions were received regarding the modification during the notification period. The submissions raise objections regarding loss of sky views, overshadowing to apartment building at 1 Treacy Street, noise impacts, lack of green spaces and traffic congestion. The issues raised by the submission are considered further in paragraph 106 in this report.

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

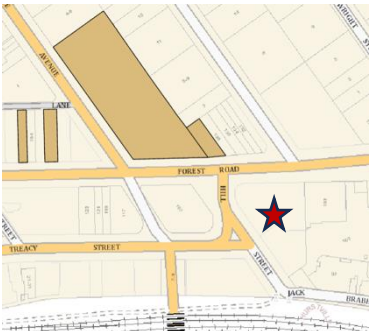
53. Comment: The modification application seeks amendments to the approved development that significantly alter the form and nature of the development, including a 43% percent increase in the number of storeys and a 68% and 13% increase over the two LEP height controls that apply to the site. It is noted that the original built form approved included a stepping up of the buildings to their maximum heights as opposed to the current modification which presents broader and higher structures. The original approval maintained a human scale when viewed from the streetscape, it allowed views through and across the site to the sky and sunlight was able to penetrate through the site to neighbouring sites and the street. The changes proposed will result in significant additional building bulk on the site which is not considered acceptable.
54. The proposal has been considered under the considerations under Section 4.15 in the following sections.

Objects of the EP & A Act

55. Consent authority is required to consider the objects in Section 1.3 of the EP&A Act when making decisions under the Act. Council Officers have considered the objects of the EP&A Act in the Table below and is satisfied that the proposal complies with all objects.

Objects of the EP&A Act	Proposal	Compliance
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources</i>	The proposal results in additional housing within the precinct at the expense of the planned urban design elements of the precinct and the vitality and vibrancy of the street.	No
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and</i>	The design does not integrate facilitate ESD principles as the additional Height and floorspace will result in potentially negative	No

<i>social considerations in decision-making about environmental planning and assessment</i>	economic and social outcomes at the street level and at lower levels of the apartment building at 1 Treacy Street due to increased solar impacts that directly result from height and floor space that was not planned for.	
<i>(c) to promote the orderly and economic use and development of land</i>	The development has been designed with disregard to the key planning controls for this site and the built form as proposed is considered to depart substantially from the desired future character for development within the locality and for this precinct.	No
<i>(d) to promote the delivery and maintenance of affordable housing</i>	The proposal does not provide for any affordable rental housing but does provide a mix of housing types and styles: studio, 1, 2 and 3 bedroom apartments (includes adaptable units).	Satisfactory
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>	The proposal is not considered to result in adverse impacts on any threatened or other species of native animals and plants, ecological communities and their habitats. There are no significant species mapped within the Site or its immediate vicinity.	Yes
<i>(f) to promote the sustainable management of built and cultural heritage</i>	The Site is not a Heritage Item nor is it located within a Heritage Conservation Area. However, the site is proximate to two Heritage Items: 175 (St	No

	<p>George Anglican Church) and I73 (Shop and Residence)</p> <p>The application fails to consider the impact of the additional height at the site and its potential impact on the nearby heritage items.</p> 	
<i>(g) to promote good design and amenity of the built environment</i>	<p>This report assesses the proposal's design and amenity against SEPP 65, the ADG Guidelines, GRLEP 2021 and GRDCP 2021.</p> <p>The amended design is unsatisfactory in relation to the key development and design controls.</p>	No
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</i>	<p>Health and safety questioned in relation to waste management. Council's internal waste referral has called for a redesign to address the significant waste issues that the proposal presents and that it does not meet best practice.</p>	No
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i>	<p>The original DA was determined by the SSPP.</p>	Yes
<i>(j) to provide increased opportunity for</i>	<p>The submissions section of this report outlines</p>	No

<p><i>community participation in environmental planning and assessment</i></p>	<p>Council's public exhibition of the proposal, including the receipt of two public submissions that object to the proposal.</p> <p>It is noted that the current planning controls were arrived at via community participation in the planning process. Incremental and multiple modifications including excessive departure from the controls without justification threatens to undermine the strategic planning process.</p> <p>The submission section also sets out details of Council's consideration of the key issues raised in public submissions.</p>	
--	--	--

Ecologically Sustainable Development (ESD)

56. The Act adopts the definition of ESD found in the Protection of the Environment Administration Act 1991. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

(a) The precautionary principle

Officer Comment: The site is zoned for this form of development but not to the density proposed. The proposed mixed-use development includes Residential flat buildings and commercial premises which are all permitted uses within the zone. However, the "development creep" introduced by multiple modifications as well as this current modification would cumulatively create adverse impacts on the internal amenity of dwellings impacted by loss of solar access, insufficient communal open space areas and the broader urban environment. Issues such as waste management are also not resolved by the proposal.

(b) Inter-generational equity

Officer Comment: The "development creep" introduced by multiple modifications as well as this current modification would cumulatively adversely impacts on the urban environment for future generations.

(c) Conservation of biological diversity and ecological integrity

Officer Comment: The site is within an urbanised and established residential/commercial area which does not contain any significant flora or fauna. There are no threatened species or significant vegetation within the development site or within the immediate vicinity of the Site.

(d) Improved valuation, pricing and incentive mechanisms

Officer Comment: Not addressed by the modified proposal.

Integrated Development

57. The application is not integrated development.

Compliance and Assessment

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

58. Compliance with the relevant State Environmental Planning Policies (SEPP) is detailed below.

State Environmental Planning Policy	Compliance
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65)	No
State Environmental Planning Policy – (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Planning Systems) 2021	Yes

State Environmental Planning Policy (Resilience and Hazards)2021

59. The Resilience and Hazards SEPP has replaced and repealed the following SEPPs:

- State Environmental Planning Policy (Coastal Management) 2018;
- State Environmental Planning Policy No 33—Hazardous and Offensive Development; and
- State Environmental Planning Policy No 55—Remediation of Land.

The development as amended, has no implications on the approved development's compliance with the provisions of relevant environmental planning instruments except the provisions of SEPP 65, SEPP Planning Systems and SEPP Infrastructure as detailed below.

State Environmental Planning Policy (Transport and Infrastructure) 2021

60. The Transport and Infrastructure SEPP has replaced and repealed the following SEPP's:

- a) *State Environmental Planning Policy (Infrastructure) 2007;*
- b) *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;*
- c) *State Environmental Planning Policy (Major Infrastructure Corridors) 2020; and*
- d) *State Environmental Planning Policy (Three Ports) 2013.*

Chapter 2 Infrastructure

- 61. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. A standard Ausgrid response was received advising to undertake a Dial Before you Dig search and providing the following advice:
 - a. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.
- 62. Clause 2.119 relates to Development with frontage to a classified road and Clause 2.120 relates to the impact of road noise or vibration on non-road development and Clause 2.121 relates to traffic generating development. N/A
- 63. The application is accompanied by a Traffic Impact Assessment Report prepared by Traffix Traffic and Transport Planners which addresses the relevant traffic issues associated with the proposal. The proposal has been referred to Transport for NSW who have provided their concurrence subject to requirements and conditions as detailed within their letter.
- 64. The application was also internally referred to Council Traffic Section who are satisfied with the proposal subject to conditions.

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

- 65. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (State Environmental Planning Policy 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three (3) or more storeys in height and containing at least four (4) dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.

66. Clause 28(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 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.*
67. The application has been reviewed having regard to the criterion and design principles as set out in the ADG.
68. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy No 65 and the ADG.

Table - application of State Environmental Planning Policy 65

Clause	Standard	Proposal	Complies
3. Definitions	<p>Complies with definition of “Residential Apartment Development” (RAD) Section 4 (1) (Application of Policy) of the State Environmental Planning Policy 65 states that the policy “<i>applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:</i></p> <ul style="list-style-type: none"> - <i>the development consists of any of the following:</i> <ul style="list-style-type: none"> (a) <i>the erection of a new building,</i> (b) <i>the substantial redevelopment or the substantial</i> 	Complies with the definition.	Yes

	<p><i>refurbishment of an existing building,</i></p> <p><i>(c) the conversion of an existing building, and</i></p> <p><i>- the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and</i></p> <p><i>- the building concerned contains at least 4 or more dwellings.”</i></p>		
4. Application of Policy	<p>Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB</p> <p>The definition of an RFB in the State Environmental Planning Policy includes mixed use developments.</p>	<p>The development proposes the construction of a new mixed-use development, which satisfies the definition of the policy.</p>	Yes
Clause 50 - Development Applications (E P & A Regulation 2000)	<p>Design verification statement provided by qualified designer.</p> <p>Registered Architect Name and Registration No.</p>	<p>A Design Verification Statement provided by Registered Architect Susan Tang (Nominated Architect</p>	Yes

		No.8972) accompanies the application.	
Schedule 1 Design Quality Principles			
Principle 1	Context and Neighbourhood Character	The planning controls have been set to establish a rhythm of built forms that respond to the context and provide a transition in building heights from the centre. The proposed modification continues to step away from the controls to maximise yield without consideration for the streetscape adjacent sites and the neighbourhood.	No
Principle 2	Built Form and Scale	The desired future character of the street and area will be detrimentally impacted by the height and scale of the proposal. Internal and external amenity will be negatively impacted by visual bulk and loss of sunlight,	No

		views to sky and reduced attractiveness of the streetscape.	
Principle 3	Density	The proposal seeks increased density without corresponding increased amenity on or off site.	No
Principle 4	Sustainability	Minimum requirements achieved	Yes
Principle 5	Landscape	No landscape plan provided. A reduction in landscaped area proposed. DCP eastern bookend precinct calls for greening of built forms but this is not proposed. Extract of DCP below. <i>The Precinct will be greened through tree planting and the provision of vegetation on the façade of new developments.</i>	No
Principle 6	Amenity	The proposal does not consider amenity evidenced by no provision of landscape or communal open space plan and no wholistic review of solar impacts to	No

		internal and external spaces and apartments and streetscape.	
Principle 7	Safety	Council's urban designer raises an issue with building entries	No
Principle 8	Housing Diversity and Social Interaction	<p>Housing diversity is achieved, however communal spaces are not planned in this proposal.</p> <p>Extract of principle below</p> <p><i>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.</i></p>	Part Yes part No
Principle 9	Aesthetics	<p>The built form is considered to have a bulk and scale that is too bulky, diminishes the human scale sought to be achieved by the four storey street wall height.</p> <p>Proposal mentions that the modification reduces the need for cladding but does not</p>	No

		provide a schedule of amended materials and finishes.	
--	--	---	--

69. A design verification statement has been provided by Susan Tang (Registration No 8972) of H3 Architects in accordance with Clause 29 of the *Environmental Planning and Assessment Regulation 2021*. Statistics provided depart from the SEE ie FSR 5.13:1 vs 5.2:1 Floorspace 13515m² vs 13702m².
70. Clause 28 of SEPP 65 requires the consent authority to take into consideration the provisions of the Apartment Design Code. The table below assesses the proposal against these provisions.

Table - Design considerations of Part 3 and Part 4 of the Apartment Design Guide (ADG)

Clause	Standard	Proposal	Complies
3D - Communal open space	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>- Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>• Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <p>• provide communal</p>	<p>Communal room with disabled toilet and common terrace to both roof tops.</p> <p>No landscape plan submitted.</p> <p>No site plan submitted</p> <p>Rf: DW s4.55_1.15 (Hill Street) s4.55_1.19 s4.55_1.20 (Forest Road)</p>	<p>No</p> <p>No detail plan provided. Application relies on 2017 plans which should have been updated</p> <p>No increase to amenities for increase in apartment numbers (21 additional)</p> <p>No details on any plant that would be provided at this level required and that may impact amenity and use of the terrace.</p>

	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		
	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)	Complies	Yes, all areas of communal open space on the rooftop will achieve a minimum of 2 hours (or more) of solar access throughout the day in midwinter.
3E – Deep Soil zones	1. Deep soil zones are to meet the following minimum requirements: Where the site has an area of between 650sqm – 1,500sqm =	No Site plan provided No landscape plan provided	No detail provided

	<p>3m min dimension >1500sqm – 6m min dimension</p> <p>Minimum deep soil area of 7% (184.4 sqm)</p>		
3F- Visual Privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m</p> <p>Up to 25m (5-8 storeys) Habitable – 9m Non-habitable – 4.5m</p>	Replicating a previously approved over additional levels	Yes
3G – Pedestrian Access and entries	Building entries and pedestrian access connects to and addresses the public domain	No change to approved	Yes

	Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge		
3H- Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	No change to approved	Yes
3J- Bicycle and carparking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use 	<p>The off street car parking provisions will meet the requirements of RMS/ADG provisions except for visitors deficient by 11 spaces</p> <p>Refer to traffic engineers comments later in this report.</p> <p>A loading dock for three trucks has been provided as</p>	The bike and car parking are sufficient. Car parking is compliant except for 11 visitor spaces.

	<p>or equivalent in a nominated regional centre</p> <p>The minimum car parking requirement for residents and visitors is set out in the Roads and Maritime Services Guide to Traffic Generating Developments (RMS), or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>In accordance with Section 5.4.3 (High Density Residential Flat Buildings) of the RMS Traffic Generating Guidelines. The site is located within the “Metropolitan Regional (CBD) Centres” and the following provisions apply;</p>	<p>previously approved.</p>	
--	--	-----------------------------	--

	<p>0.6 spaces per 1 bedroom unit 0.9 spaces per 2 bedroom unit 1.4 spaces per 3 bedroom unit 1 space per 5 units (visitor parking)</p> <p>The provision of at least one loading dock for residential use is desirable, although a dock intended for commercial uses may be sufficient.</p>		
4A-Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm in midwinter</p>	A minimum of 107/147 (73%) achieves required solar access.	Complies
4B-Natural	At least 60% of apartments are naturally cross	A minimum of 95 / 147 achieves	Yes

Ventilation	<p>ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	cross ventilation (65%)	<p>Yes</p> <p>Yes</p>
4C- Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p> <p>Non-habitable rooms = 2.4m</p>	A minimum 3.1m floor to floor height has been provided to enable a minimum 2.7m ceiling height to be achieved to the residential component.	Yes
	3.3m for ground floor and first floor in mixed use areas to promote flexibility of use	The ground floor provides a minimum floor to floor height of 5.1m however Level 1 has only provided a 3.3m floor to floor.	No
4D- Apartment size	Apartments are required to have the following	One bedroom units have	Complies

and layout	<p>minimum internal areas: Studio = 45sqm 1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>minimum areas of 50sqm -58sqm.</p> <p>Two bedroom units have minimum area of 77 - 84sqm.</p> <p>Three bedroom units have minimum internal areas of 95sqm - 110sqm.</p> <p>Every habitable room has window openings larger than 10% of the room area.</p>	
4D-2 Apartm ent size and layout	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum</p>	<p>Satisfactory.</p> <p>With the minimum floor to ceiling heights complying with the 3.1m minimum, all habitable room depths satisfy the minimum requirements.</p>	Complies

	habitable room depth is 8m from a window	The apartments have open plan living/dining room layouts.	
	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of: -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>All master bedrooms have a minimum internal size of 10sqm.</p> <p>All bedrooms have minimum dimensions of 3m.</p> <p>All living rooms have minimum widths of 4m.</p> <p>Minimum 4m provided for cross-over or cross-through apartments proposed.</p>	Complies
4E-Private Open	All apartments are required to have primary	The proposed additional levels	Complies

space and balconies	<p>balconies as follows:</p> <p>-1 bedroom = 8sqm/2m depth</p> <p>-2 bedroom = 10sqm/2m depth</p> <p>-3+ bedroom = 12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>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 15sqm and a minimum depth of 3m</p>	<p>comply with POS requirements.</p> <p>The enclosure of wintergarden balconies is not offset with additional communal open space. Refer to Council's urban designer comment</p>	No additional communal area provided
4F-Common circulation areas	The maximum number of apartments off a circulation core on a single level is eight	No more than eight (8) units are provided to any one core on a single level.	Complies
	For Buildings of 10 storeys and over, the maximum number of apartments	5 lifts support the buildings (3 in Forest and 2 in Hill Street) with 147 dwellings	Yes

	sharing a single lift is 40.		
4G-Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>1 bedroom = 6m³ 2 bedroom – 8m³ 3 bedroom – 10m³</p> <p>At least 50% of storage is to be located within the apartment.</p>	<p>Each unit is provided with sufficient storage space with at least 50% located in individual units. The remaining is in a dedicated secure location within the residential areas of the basement. Storage spaces within apartments are located as part of a holistic design approach and integrated into the overall layout.</p>	Yes
4H-Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses. Window and door openings are generally orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas</p>	<p>The application is accompanied by an acoustic report addressing potential noises issues on the site from the roadways, relating to traffic generation and vehicle movements, noise from rail.</p> <p>Acoustic report does not consider mechanical plant.</p>	No

	next to or above quieter areas Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources		
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> • 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 	Impacts of mechanical plant not considered either within apartments or the impact on use of rooftop terraces and nearby plant (no details provided)	No

	perception of noise and acts as a filter for air pollution generated by traffic and industry		
4K – Apartment Mix	A range of apartment types and sizes is provided to cater for different household types now and into the future The apartment mix is distributed to suitable locations within the building	The development offers a mix accommodation being a studio apartment and 1, 2 and 3 bedroom apartments. Studio = 1 unit (0.7%) 1 bedroom = 47 units (32%) 2 bedroom = 73 units (49.6%) 3 bedroom = 26 units (17.7%) Total number = 147 units Adaptable units = 29 units (20%) The mix is acceptable.	Complies
4L – Ground Floor Apartments	Street frontage activity is maximised where ground floor apartments are located. Design of ground floor apartments delivers amenity and safety for residents.	No ground floor apartments proposed.	N/A
4M - Facades	Facades should be well resolved with an appropriate scale and	The façade treatments as amended remain the same as previously	No

	proportion to the streetscape and human scale.	approved apart from the creation of winter gardens to all south facing apartments. The increased height and overall bulk however diminish achievement of an appropriate planned streetscape.	
4N – roof design	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	No detail provided in relation to plant provision on the roof which had been previously approved. Communal open space areas shown on the roof to both buildings but without detail. No additional facilities or size proposed for additional apartments.	No
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	No landscape plan submitted. SEE states a reduction in landscape area from 1755 m ² (66%) site area to 1527 m ² (57.9%) site area. (Source: Council's Landscape referral comments)	No

		Increased yield for less amenity is not supported.	
4P- Planting on Structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	No Site Plan No landscape Plan provided	No
4Q – Universal Design	Universal design – design of apartments allows for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Satisfactory.	Complies
4R – Adaptive reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	This is a new development.	N/A
4S Mixed Use	Mixed use development is provided in appropriate locations and	Increase to GFA of commercial floorspace by 82.5 m2.	Yes

	provide active street frontages that encourage pedestrian movement	Reduction of storage areas and substation Otherwise, No change to as approved.	
4U – Energy Efficiency.	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	A compliant BASIX Certificate accompanies the application.	Yes
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	The development incorporates appropriate stormwater measures and Council's Development Engineers are satisfied with the design subject to conditions.	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic	Inadequate Waste Management Plan provided refer to Waste Officer comments.	No

	waste is minimised by convenient source separation and recycling		
4X – Building Maintenance	Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost	The proposal states that the changes eliminate the use of cladding material.	Yes

Georges River Local Environmental Plan 2021 (GRLEP 2021)

71. The subject development site is zoned B4 Mixed Use under the GRLEP 2021 as shown in **Figure15** below:

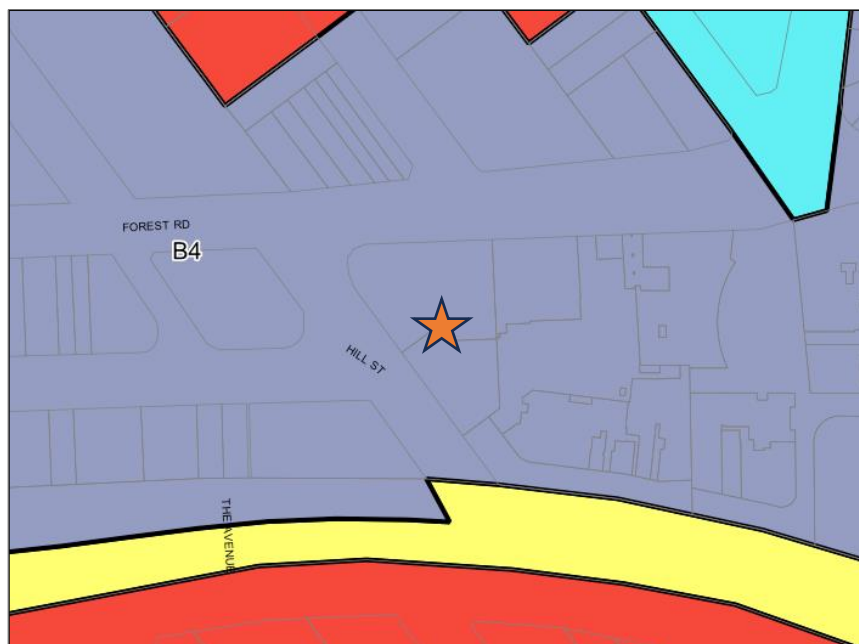


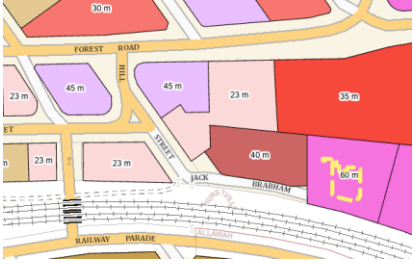
Figure 15: Zoning map (GRLEP 2021) – B4 (Now MU 1) Mixed Use Subject site noted with a star

72. The modification has been reviewed against the aims of the GRLEP 2021 and is considered antipathetic to the following aims which have been bolded:
- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

- **to provide for housing choices to cater for changing demographics and population needs,**
 - comment: departing from the planned density will increasingly result in a highly urbanised environment with diminished open areas and reduced solar access that inadequately caters for any demographic.
- **to provide for a range of business uses which promote employment and economic growth and contribute to the viability and vibrancy of centres,**
 - comment: increased heights and building scales will reduce the vibrancy of the precinct at street level which will detract from business and economic growth.
- **to promote and facilitate an ecologically and economically sustainable and vegetated urban environment in which the needs and aspirations of the community are realised,**
 - comment: the proposal results in reduced landscaped areas with reduced environmental amenity
- (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,**
 - comment: The proposal and resulting built form are not supported by Council's urban designer
- (g) to protect, preserve and enhance the natural landform, vegetation and open space, especially foreshores or bushland, 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.

73. An assessment of the proposal against the relevant LEP clauses and development standards is as follows:

Clause	Standard	Proposal	Com plies
Part 2: Permitted or Prohibited Development			
2.2 Zoning of Land to which Plan applies	B4 Mixed Use	The proposed application is for a mixed-use development comprising a residential flat development, and commercial premises at ground floor which are all permitted land uses zone.	Yes

2.3 Zone objectives and Land use table	Objectives of zone to be satisfied	The modified proposal potentially conflicts with the zone objectives in that active street frontages are compromised by decreased amenity from compromised solar access. Ground floor layout appears less resolved for general storage, cleaners' room etc and waste has not been properly catered for. That is increased GLA for less optimal commercial conditions.	Yes
2.7 Demolition	Demolition requires development consent.	N/A demolition already occurred	N/A
Part 4: Principal Development Standards			
4.3 Height of Buildings	Maximum permitted height as per height of building map: Hill St - 23 m Forest Rd -45 m	38.63 (RL 93.95 roof – RL 97.05 COS roof) 40% variation 51.1 m (RL 104.9 roof 0 RL108.30 COS roof) 14% variation	No
<p>Note: No Clause 4.6 objection due to application submitted as a modification. The SEE points to 2 Jack Brabham Drive (refer map below and refer to yellow dashed) which has a height control of 60 metres and uses that as evidence of compatibility with context.</p> 			
4.4 Floor Space Ratio	Maximum permitted	5.2:1 (13702 sqm)	No

	3.5:1 (11,854sqm) Note: 4.18:1 originally approved. 4.29:1 approved 2017		
Note: Based on a site area of 2634 sqm			
4.5 Calculations of Floor space and Site area	Floor space to be calculated in accordance with Clause.	Floor space has been calculated in accordance with this clause.	Yes
4.6 Exceptions to Development Standards	No Clause 4.6 submitted due to application being submitted as a modification		
Part 6: Additional Local Provisions			
6.1 Acid Sulfate Soils (ASS)	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The modified proposal does not impact ASS considerations	Yes
6.2 Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.	No additional earthworks proposed, rearrangement of basement levels only below ground	Yes

6.3 Stormwater Management	(2) In deciding whether to grant development consent for development, the consent authority 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.	Stormwater drainage has been reviewed by Councils Drainage Engineer and is found to be satisfactory subject conditions.	Yes
6.9 Essential Services	Development 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		Yes

	<p>available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water, (b) the supply of electricity, (c) the supply of telecommunications facilities,</p> <p>(d) the disposal and management of sewage,</p> <p>(e) stormwater drainage or on-site conservation,</p> <p>(f) suitable vehicular access.</p>	<p>Water and electricity supply is available to the site and can be extended to service this new development.</p> <p>Sewage disposal is available from the site.</p> <p>Stormwater disposal has been assessment by Council's Development Engineer and is supported subject to conditions.</p> <p>Access has not changed</p>	
6.10 Design Excellence	(1) The objective of this clause is to deliver the highest standard of sustainable architecture and urban design.	Not supported by Council's urban designer. Due to bulk and scale, issues with lobby and building entrances and lack of private open space where winter gardens are created.	Yes
6.10 (3) (b)	(3) (b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres	The proposal is for a building greater than 3 storeys with a height greater than 12 metres hence	Yes

	<p>or greater above ground level (existing), or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <p>(i) Zone R4 High Density Residential,</p> <p>(ii) Zone B1 Neighbourhood Centre,</p> <p>(iii) Zone B2 Local Centre,</p> <p>(iv) Zone B3 Commercial Core,</p> <p>(v) Zone B4 Mixed Use,</p> <p>(vi) Zone B6 Enterprise Corridor,</p> <p>(vii) Zone IN2 Light Industrial.</p>	design excellence clause applies	
6.10 (4)	(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.	Not supported	No
6.10 (5)	<p>(5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p>	The increase in height and bulk and scale detracts aesthetically from the public domain and reduces the ability for the public domain to function as a pleasant commercial and service environment to residents and visitors.	No

	<p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the</p>	<p>Views of the sky from varying building heights originally approved will be lost.</p> <p>Adjoining sites amenity is compromised by the proposal through overshadowing and reduced solar access.</p> <p>The proposed rooftop and ground floor communal open space areas are reduced in size and amenity will be compromised by less solar access to level 1 areas, and increased wind at higher roof top terrace areas with no information on plant requirements at the roof top which could further compromise the enjoyment of the spaces.</p> <p>Modulation of buildings reduced by increased height and bulk. Enclosure of winter gardens reduces façade relief.</p> <p>Ground floor issues with Lobby design as raised by urban designer comments.</p>	
--	--	--	--

	<p>permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>(xi) excellence and integration of landscape design,</p> <p>(xii) the provision of communal spaces and meeting places,</p> <p>(xiii) the provision of public art in the public domain,</p> <p>(xiv) the provision of on-site integrated waste and recycling infrastructure,</p> <p>(xv) the promotion of safety through the application of the principles of crime prevention through environmental design.</p>		
6.11 Environmental sustainability	<p>(1) The objective of this clause is to ensure that the development to which this clause applies is consistent with principles of best practice environmentally sensitive design.</p>	No evidence of additional best practice methods submitted	No
	<p>(2) This clause applies to development—</p> <p>(a) on land in the following zones—</p> <p>(i) Zone R4 High Density Residential,</p> <p>(ii) Zone B1 Neighbourhood Centre,</p> <p>(iii) Zone B2 Local Centre,</p>	The proposed development being a new building zoned R4 High Density Residential this clause applies to this development.	Yes

	<p>(iv) Zone B3 Commercial Core, (v) Zone B4 Mixed Use, (vi) Zone B6 Enterprise Corridor, (vii) Zone IN2 Light Industrial, and (b) that involves— (i) the erection of a new building, or (ii) the change of use of an existing building, or (iii) alterations or additions to an existing building that, in the opinion of the consent authority, are significant.</p>		
	<p>(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 the following in the design of the building— (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</p>	<p>The subject building exceeds 1500sqm so the clause applies to this development.</p> <p>The applicant has submitted a BASIX Certificate, Stormwater Drainage Plans which comply with their respective requirements.</p> <p>The documentation states that the proposal meets solar access and ventilation requirements.</p> <p>No landscape plan provided to enable assessment of water demand reduction.</p> <p>Adequate</p>	Partly

	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.	bicycle parking spaces will also encourage active transport options.	
--	--	--	--

Detailed assessment of variation to Clause 4.3 Height of Buildings

74. Clause 4.3 of the Georges River Local Environmental Plan 2021 (GRLEP) relates to the maximum permitted building height for a site and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 23m / 45m. Building Height is defined as:

“Building height (or height of building) means:

- 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*
- 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.”

The maximum height zones within the immediate area is shown below:

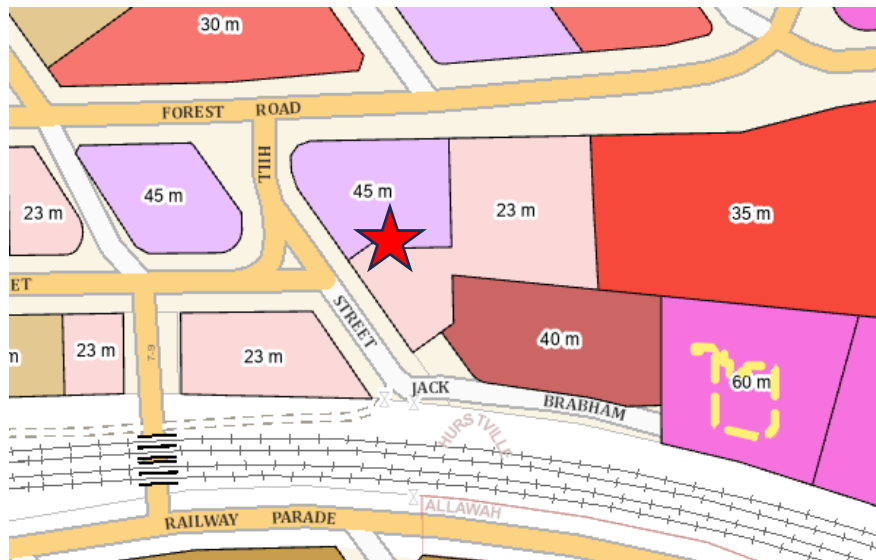


Figure 17: Map showing maximum heights under GRLEP 2021 for the site and surrounding sites

The proposal does not identify the LEP maximum height control on any plan. Justification provided in the Statement of Environmental Effects includes:

- Additional level to Forest Rd tower will create better alignment with adjoining built form at No 1 Jack Brabham Drive and No 1 Treacy Street
- Additional three levels to Hill Street tower will create better alignment with adjoining built form at No.1 Treacy Street
- Council has previously supported additional height.
- Heights discussed on page 32 under clause 4.3 are not the true maximum height of the built forms as the roof structures are not included. SEE States 49.5 m and 36.73 instead of 51.1m and 38.63 m.
- Additional storeys unlikely to result in adverse impact on the adjoining and surrounding developments.

75. Officer's comment: The proposal does not offer sufficient environmental planning ground to support the variation. On or off site Impacts of the non-compliant height has not been appropriately considered against the overall aim of the LEP, the aims of the zone or the maximum height clause.
76. The amenity impacts associated with the non-compliance have been considered. In terms of visual impact, the height of towers including the Additional non-compliant floor space in unison will create a highly urbanised built form that departs from and is inconsistent with the urban outcome originally planned for.
77. The proposal will result in a poor street environment which will be cast in shadow without the visual and solar relief offered by the original approval.

78. The variation is not considered minor and is a vast departure from the current planning controls.
79. It is considered that the proposal will result in a public disbenefit with a poorer public domain and the potential for reduced economic viability of street level business as a result of the poorer street level environment.

Variation of Floor Space

80. The proposal is subject to clause 4.4 Floor Space Ratio
 - (1) *The objectives of this clause are as follows—*
 - (a) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
 - (b) *to ensure that development provides appropriate built form transition between new buildings and—*
 - (i) *adjoining land uses, or*
 - (ii) *heritage items, heritage conservation areas or Aboriginal places of heritage significance,*
 - (c) *to control development density and intensity of land use, taking into account—*
 - (i) *the environmental constraints and values of the site, including retaining the scenic, visual, and landscape qualities of the area, and*
 - (ii) *the amenity of adjoining land and the public domain, and*
 - (iii) *the availability of infrastructure to service the site, and*
 - (iv) *the capacity of the road network to accommodate the vehicular and pedestrian traffic that a development will generate.*
 - (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*



V 3

W1 3.5

AREA 4 AREA 4 - Refer to clause 4.4B

81. 4.4B Exceptions to Floor Space Ratio – Non Residential Areas.
- (1) *The objective of this clause is to encourage an appropriate mix of residential and non-residential uses in order to ensure a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of Zone E1 Local Centre and Zone MU1 Mixed Use.*
 - (2) *This clause applies to development that is the erection of a new building or alterations or additions to an existing building.*
 - (3) *Development consent must not be granted for development on land in Zone E1 Local Centre or Zone MU1 Mixed Use unless the non-residential floor space ratio is at least 0.3:1.*
 - (4) *Development consent must not be granted for development on the following land identified on the Floor Space Ratio Map unless the non-residential floor space ratio is—*
 - (a) *for land identified as “Area 3”—at least 0.5:1,*
 - (b) ***for land identified as “Area 4”—at least 1:1.***
 - (5) (6) (7) N/A
 - (6) *In this clause—*

non-residential floor space ratio *means the ratio of the gross floor area of that part of a building used or proposed to be used for a purpose other than residential accommodation in a building on the site to the site area.*
82. The site is subject to part 3:1 and part 3.5:1 FSR but proposes 5.2:1. The proposal does not provide any justification for the additional floorspace nor assess the likely impacts arising from it.
83. The site is required to provide 1:1 (2634 m²) in relation to non residential floor space but proposes 0.35:1 897.5 m². It is noted this is a small increase in non residential GFA to what was previously approved but likely at the expense of adequate storage and other utility spaces as well as lobby circulation at ground level.
84. Officers comment: The variation is a vast departure from the maximum floor space permitted without justification or consideration of impacts and is not supported.

Georges River Development Control Plan 2021 (GRDCP 2021)

85. The proposed development is subject to the provisions of Georges River Development Control Plan 2021 (GRDCP 2021).
86. The modified proposal failed to address any requirements within the GRDCP.
87. Relevant provisions of Part 3 General Planning Considerations, Part 4 General Land Use, Part 6.3 High Density Residential Controls. Part 8.2.6.4 eastern Bookend Precinct
88. These provisions are addressed below.

Part 3: General Planning Considerations

Part 3 of GRDCP provides general planning considerations and is discussed in the table below:

Part 3 General Planning Considerations		
3.6 Contaminated Land		
1. Each development application is to include information sufficient to allow Council to meet its obligation to determine whether development should be restricted due to the presence of contamination.	This matter has been dealt with in earlier applications for the site	Yes
2. Proposals for the development of contaminated land or potentially contaminated land will need to determine: i. The extent to which land is contaminated (including both soil and groundwater contamination); ii. Whether 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; iii. Whether the land requires remediation to make the land suitable for the intended use prior to that development being carried out; and iv. If the land has been previously investigated or	Resolved earlier	Yes

remediated, development cannot be carried out until Council has considered the nature, distribution and levels of residues remaining on the land and Council has determined that the land is suitable for the intended use.		
3.10 Water Management		
Stormwater Management		
1. Development must comply with Council's Stormwater Management Policy 2020 which provides detail of drainage requirements for different development types. Consultation with Council is recommended.	The stormwater drainage plans have been reviewed by Council's Drainage Engineer and have been found to be satisfactory subject to conditions.	Yes.
3.11 Ecologically Sustainable Development		
Residential Buildings		
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	The application is accompanied by a BASIX certificate which confirms compliance with the minimum requirements.	Yes
7. Development must comply with Clause 6.10 Design Excellence of Georges River LEP 2021.	Assessment has been undertaken under Clause 6.10. The amended plans do not satisfy the requirements/objectives of Clause 6.10.	No
8. All development must comply with Section J Energy Efficiency of the BCA/NCC	Section J Report has not been submitted	No

Part 6.3 Residential Flat Buildings and residential components of shop top housing (High Density)

Part 6.3 provides specific planning controls for Residential Flat Buildings and residential components of shop top housing (High Density). As the controls primarily relate to the existing approved built form and do not inform the additional levels a full assessment has not been carried out from this section of the DCP.

Part 8.2.6.4 eastern Bookend Precinct

8.2.6.4 Eastern Bookend



Figure 7 Eastern Bookend

The Eastern Bookend will define and create a sense of entry into the Hurstville City Centre, reinforced by articulated towers at the intersection of Forest Road and Durham Street. A continuous 4 storey street wall will be provided by new developments to respond to the human scale and to provide visual relief from the assertive skyline created by the taller towers. Active uses will be provided at the ground and lower levels of developments fronting Forest Road and Durham Street to promote vibrancy and passive and active surveillance of the public domain. The public domain will have uniformity with paving types and paving width. The key gateway at the intersection of Forest Road, Durham Street and Wright Street will be emphasised by articulated building design to mark the entrance to the Hurstville City Centre. The Precinct will be greened through tree planting and the provision of vegetation on the façade of new developments.

<ol style="list-style-type: none"> 1. (1) Define the street edge using building podiums that feature and active uses. 2. (2) Maintain a street wall height of maximum four (4) storeys. 3. (3) Provide a continuous awning along all active street frontages. 4. (4) Provide a minimum setback of 3 metres from the street for upper residential storeys (including balconies) to respect the human scale while allowing passive 	<p>The modification seeks additional height to the towers without relief to their bulk. This is a large departure from the originally approved articulated and stepped built forms above the four storey wall height and diminishes the human scale sort by the street wall height.</p> <p>The streetscape qualities will be diminished as the scale and rhythm of</p>	<p>No</p>
--	--	------------------

<p>surveillance of the public domain.</p> <p>5. (5) Enhance the streetscape character through the use of scale, rhythm, materiality and/or landscaping in new developments.</p> <p>6. (6) Provide a transition in scale, form and massing on land that is adjacent to a lower density zone.</p>	<p>what was originally approved continues to be departed by the proposal.</p> <p>Transition in scale is not achieved.</p>	
---	---	--

Impacts on the Natural Environment

- 89. No trees or natural vegetation is impacted by the proposal
- 90. No landscape plan provided so no assessment can be made. The See states a reduction in landscaped area which is considered unsatisfactory.

Built Environment

- 91. The proposal is considered an over development of the subject site and departs vastly from the maximum height and density controls without justification.
- 92. There has been no careful consideration of amenity impacts both on or off site or design measures to ameliorate impacts.
- 93. Essential services such as waste management has not been resolved in the proposal.
- 94. Aspects of ground floor entry including Lobby areas are poorly designed.
- 95. Council's Urban designer does not support the proposal and makes the following comment:

- a. It is considered that the current amendments will result in the additional bulk which is not proportionate to the built form and context as established in the key principles for the Eastern Bookend Precinct, which requires building to provide a transition between the City Centre and surrounding residential areas where the building heights are transitioning down 45m to 23m to 15m. The increase in the building height has added significant bulk to the built form especially considering the length of the building along Forest Road (fat building without articulation and flat roof). The additional floors and enclosure of the balconies, especially on the Hill Street tower have also significantly altered the skyline and skyviews. The increase in height is also not proportionate to the building separation. Combined with the overshadowing impacts, the proposal is not considered a good urban design outcome.

Social Environment

96. The proposed development is of a scale and form that is inconsistent with the desired future character of this eastern bookend precinct.

Economic Environment

97. The reduced amenity resulting from the bulk and scale of built form, reduced human scale and reduced solar access is likely to impact the vitality of the commercial tenancies at street level and have negative knock on economic impacts.
98. The proposed development will provide temporary employment through the construction of the development.

Suitability of the Site

99. It is considered that the proposed development is of a scale and design that is unsuitable for the site and the planned density for the precinct.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

100. The application was advertised for a period of fourteen (14) days in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Two (2) submissions were received.

The concerns raised are summarised below:

- a. Loss of sunlight to apartments at 1 Treacy Street by increasing height at Hill Street.
- b. Traffic congestion at intersection of Hill and Treacy Street (noted already an issue)
- c. Lack of green spaces to cater for increased density
- d. More three bedroom apartments are required to offset unaffordability of houses.
- e. Liveability impacted by increase in height to Forest Road Building

- f. Loss of views of sky, more noise and more congestion
- g. Developer pushing boundaries by taking one step at a time

Comment: The increased height proposed to the Hill Street tower and Forest Road Tower will significantly increase shadows cast to the street and to 1 Treacy Street. 1 Treacy Street currently has only 44% of its apartments receiving the minimum requirement of 2 hours sunlight in mid-winter. While the modification claims to retain that 44%, where 107 Forest Road developed to its full height potential (45 m) 1-5 Treacy Street would be further compromised for solar access which is considered unsatisfactory. (Ref: DWG S4.55_9.01)

Council's traffic engineer raises the issue that the modification is not accompanied by a current traffic impact assessment.

Increasing densities well in excess of the planning controls will result in a deficiency of recreation space such as parks and the proposal reduces landscape area on the site and does not offer any increase in communal spaces.

Liveability will be impacted by the loss of solar access and lack of recreation spaces.

The history of this site's applications is representative of developer creep, the comment of the developer incrementally pushing the boundaries is supported.

Application Referrals

101. The application was referred to a number of external agencies and internal officers for comment as follows:

Council Referrals

Development Engineer

102. Council's Development Engineer has reviewed the proposal. There are amended drainage plans lodged which are now superseded by earlier approved plans. The abovementioned submitted drainage concept plans were assessed and found to be satisfactory. Conditions of development consent have been imposed.

Traffic Engineer

103. The DA was referred to Council's Traffic Engineer.

104. The review of carparking follows:

The required and proposed provision of car parking is as follows:

Component	Number of Parking Spaces per Apartment	Number of Apartments	Required Number of Parking Spaces	Proposed Number of Parking Spaces
Studio Apartments	1	1	1	121
1 Bedroom	1	47	47	
2 Bedroom	1	73	73	
3 Bedroom	2	26	52	53
	TOTAL	147	173	174
Resident Visitors	1 space per 4 apartments	147	36.75(37)	21
Retail	1 per 50sqm GFA	897.5sqm GFA	17.95(18)	22

105. The oversupply of resident and retail parking totalling 5 spaces in all if converted to resident visitor parking spaces is insufficient to make up for the deficiency in visitor parking of 16 spaces.

106. Bicycle parking

Component	Rate	Application Proposal	Bicycle Spaces Required	Bicycle Spaces Proposed
Residential	1 per 3 apartments	147 Apartments	49	56
Retail	1 per 300sqm GFA	897.5sqm GFA	3	4
		TOTAL	52	60

Comment:

Satisfactory.

A total of 10 racks catering for the parking of 6 bicycles per rack are proposed on Basement 1 for both residential and retail components.

107. Council's Traffic Engineer has recommended not to approve the application due to deficiencies which is considered cannot be remedied by a conditional approval and which will require amended architectural drawings and a fresh TPIA. **Proposal not supported for reasons provided:**

- The significant deficiency in the provision of visitor car parking spaces which cannot be remedied by changing the mix of parking
- There being no provision shown for the installation of a traffic light system as recommended in the TPIA prepared in 2012 by Lyle Marshall and Associates Pty to reduce conflict between cars and trucks at the confluence of the ramps to the loading dock area and basement car parks

- c. Design deficiencies on the ground floor drawing relating to a door to R.01 opening out onto Council's footpath area and potential for ramping at doorways on the public domain
- d. There being no TPIA submitted with the application to assess traffic movements generated by the proposal nor an assessment of the impact the movements will have on the road network having regard to the increase in number apartments in the development since approval was granted to Development Consent No.12/DA-132 in October 2012.

Senior Landscape & Arboriculture Assessment Officer

108. Council's Senior Landscape & Arboriculture Assessment Officer has reviewed the landscape plan and arborist report submitted with the application. **The application is not supported — request for additional information.**
- a. No landscape plan submitted
 - b. Reduction of landscape area from 66 % of site to 57.9% of site
109. Note landscape area above includes landscaping and communal spaces on structures not deep soil

Urban Designer

110. Council's Urban Designer has reviewed the proposal and provided the following detailed comments (presented in italics):

1.0 Building Bulk and Scale

The proposed amendments, which include increasing the ceiling height of every floor, additional floor above the Forest Road Tower, additional 3 floors above Hill Street Tower and enclosing all the balconies on the south eastern façade, will result in significant departure from the prescribed maximum building height and an undesirable building bulk and scale.

The ADG requires minimum 3.1m ceiling height (floor to floor) for habitable floors . The ceiling height proposed and approved under modification MOD2017/0033 for residential floors (except Level 3) is 3.0m (floor to floor), which did not comply with the ADG. All the approved FFL's are proposed to be amended (Refer Table below).



		Lobby 01	Lobby 02	Lobby 03
Ground	Approved	RL 58.59	RL 60.2	RL 60.2
	Proposed	RL 59.69	RL 59.88	RL 60.37
Level 1	Approved	RL 63.5	RL 63.5	RL 65.55
	Proposed	RL 63.9	RL 63.9	RL 65.55
Level 2	Approved	RL 66.5	RL 66.5	RL 68.55
	Proposed	RL 67.2	RL 67.2	RL 68.85
Level 3	Approved	RL 69.5	RL 69.5	RL 71.55
	Proposed	RL 70.3	RL 70.3	RL 71.06
Level 4	Approved	RL 72.7	RL 72.7	RL 74.75
	Proposed	RL 73.6	RL 73.6	RL 75.15
Level 5	Approved	RL 75.70	RL 75.70	RL 77.75
	Proposed	RL 76.70	RL 76.70	RL 78.35
Level 6	Approved	RL 78.70	RL 78.70	RL 80.75
	Proposed	RL 79.80	RL 79.80	RL 81.45
Level 7	Approved	RL 81.90 COS	RL 81.90	RL 83.95 COS
	Proposed	RL 83.10 COS	RL 83.10	RL 84.55
Level 8	Approved	-	RL 84.90	-
	Proposed		RL 86.20	RL 87.65
Level 9	Approved	-	RL 87.90	-
	Proposed		RL 89.30	RL 90.75
Level 10	Approved	-	RL 90.90	-
	Proposed		RL 92.40	RL 93.95 COS
Level 11	Approved	-	RL 93.90	-
	Proposed		RL 95.50	
Level 12	Approved	-	RL 96.90	-
	Proposed		RL 98.60	
Level 13	Approved	-	RL 100.10 TERRACE	-
	Proposed		RL 101.70	

*The notation on the drawings states: **minor** adjustment to floor levels Ground Floor to Level 12 to accommodate structural slab thickness and building services. The proposed changes to the FFL vary between **400mm to 2.0m**, which are quite significant and NOT minor. In 2017, there was an opportunity to resolve the ceiling height issue and ADG compliance, when the proposal was significantly amended to increase the building height, FSR and number of units (MOD2017/0033). However, it is considered that ceiling heights not compliant with the ADG were proposed to gain more floor space through the modification process. The 2017 modification application was not consistent with the vision and desired future character for Hurstville. The modification application changed the 4 storey street wall height to 7 storeys by adding units in the building separation setback to the east. This added to the building bulk and compromised the human scale, pedestrian experience, streetscape character, skyline, skyviews and amenity (overshadowing and wind impacts).*

It is considered that the current amendments will result in the additional bulk which is not proportionate to the built form and context as established in the key principles for the Eastern Bookend Precinct, which requires building to provide a transition between the City Centre and surrounding residential areas where the building heights are transitioning down 45m to 23m to 15m. The reasons provided for the additional floors in the Statement of Environmental Effects (SEE) is to: Better alignment with the adjoining built form at no. 1 Jack Brabham Drive and No.1 Treacy Street. As illustrated in the figure above, the increase in the building height has added significant bulk to the built form especially considering the length of the building along Forest Road (fat building without articulation and flat roof). The additional floors and enclosure of the balconies, especially on the Hill Street tower have also significantly altered the skyline and skyviews. The increase in height is also not proportionate to the building separation. Combined with the overshadowing impacts, the proposal is not considered a good urban design outcome. Hence, the justification provided is not based on urban design principles (Enclosure of balconies is discussed further under Section 3.0).

The changes to the FFLs will further increase the non-compliance of the proposal with the prescribed maximum building height further degrading the skyline and adding to the building bulk. Contrary to the statement in the SEE: the proposal continues the high quality and design excellence; the proposal with its bulk and scale, lack of adequate building separation, impact on the streetscape character and amenity and repetitious and mundane façade treatment, does not exhibit design excellence.

The proposed changes to the FFLs could be taken into consideration if they are necessary for the proposal to comply with ADG and accommodate structural slab thickness and building services; however only for the approved level. The additional level above the Forest Road tower, additional 3 levels above the Hill Street tower and enclosure of balconies are considered undesirable and unnecessary are not supported.

2.0 Building Entry

Lobby 1

The approved building entry was 1.5m inset from the site boundary. The proposed building entry has a 3.4m setback to the Forest Road frontage with a ramp at the public/private interface. The proposed building entry is not supported as it does not add to the streetscape character, is not clearly visible from the public domain as it is dominated by the blank wall of the lift at the Forest Road frontage and the service stairs and it does not enhance the presence of the building on the streetscape. The inset building entrance does not support safe and convenient access as required by CPTED design principles. The public /private interface is dominated by the ramp, which is undesirable.

In addition, the redesign of the lobby area, which includes relocation of the service ramp entry/exit and mail boxes, has resulted in a lobby devoid of any space for social interaction, which was possible to an extent in the approved design.

The proposed redesign is not supported.

Lobby 2

The proposed Lobby 2 design is an improvement to the approved, which his encouraging. However, the building entry along Hill Street has been reduced, which is not supported.

The car park exhaust should to relocated / moved west in the commercial space to provide a wider building entry and a lobby space without unwanted corners and obstacles.

3.0 Enclosure of Balconies

It is proposed to enclose the balconies on the southeast façade as “winter gardens” to provide added acoustic (from the nearby railway line) and weather protection is the justification provided in the SEE.

Wintergradens is one of the design options recommended in the ADG to mitigate noise impacts. However, the preferred design options are to provide adequate building separation, orientating windows and doors away from the noise source, locating non-habitable rooms as a buffer between the noise source and setting back the tower away from the noise source. The proposal has failed to take any of the above into consideration. As stated before, enclosing of balconies is further removing the minimal articulation the façade has and significantly adding to the bulk of the building. It also is further eroding the podium and tower typology.

If balconies are proposed to be enclosed, the ADG requires provision of additional area as private open space to compensate for the enclosing of balconies. Enclosing of balconies will result in the associated apartments with no private open space as well as additional FSR.

Hence, the enclosure of the balconies is not supported. In addition, the acoustic report provided does not recommend enclosing the balconies to mitigate noise.

If acoustic privacy is a concern, then an option is to setback the building away from the source of the noise or designing the apartments for the living areas to be away from the source of the noise.

Urban Designer's Conclusion

The proposed additional FSR and enclosure of the balconies on the southern façade is not supported. *If ceiling heights are necessary to accommodated structural requirements, the approval should include conditions such that the approved ceiling heights are maintained during construction phase and ceiling heights are not further amended in the future.*

Waste Development Officer

111. The application was referred to Council's Waste Development Officer for assessment and review who has advised that a redesign is required to address the significant issues with the design to ensure waste management is considered according to Council's requirements and in line with best practice.

External Referrals

Ausgrid

112. The application was referred to Ausgrid in accordance with Clause 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Comments were received from Ausgrid on (no date on letter, but file date: 3 July 2023) and they have raised no objection to the proposed development.

However, the following points were recommended:

- Ensure that construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.
- Locate and record the depth of all known underground services prior to any excavation in the area. (Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD)).
- Consider that Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
- Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.
- Refer to the following documents to support safety in design and construction:
 - SafeWork Australia – Excavation Code of Practice.
 - Ausgrid's Network Standard NS156 (minimum requirements for working around Ausgrid's underground cables) via www.ausgrid.com.au.

- Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances” via www.ausgrid.com.au/Your-safety/Working-safely-around-the-network/Clearance-enquiries .

Water NSW

113. Water NSW documentation submitted with the application (19 July 2021) relates to previous modification.

TfNSW (Sydney Trains)

114. The application was referred to TFNSW (Sydney Trains) in accordance with Section 2.99(4) of State Environmental Planning Policy (Transport and Infrastructure) 2021. A formal response was provided, concurrence was obtained subject to previous conditions and comments to the previously development application 12/DA -132 being still applicable.

Developer Contributions

115. The proposed development if approved would require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979 as the proposal is increasing the density of the locality.

Conclusion

116. The proposal seeks consent for Section 4.55 application to modify Development Consent No 12/DA-132 for a mixed use development for additional GFA, increased heights at Forest Rd by (1) storey and Hill St tower by (3) three storeys, reconfiguration of basement levels to cater for additional parking and storage, and conversion of south facing balconies on Hill St end to winter gardens.
117. The modified application submitted, fails to demonstrate that the modification is “substantially the same” as that originally proposed as it only compares to the last “as modified” approval.
118. Reviewing the modification against the original approval, the proposal does not meet the test requirements to be considered “substantially the same” and is therefore outside of the realms of a modification and should be refused on this basis.
119. The documentation submitted with the modification was deficient in that there was:
- a. No site plan
 - b. No landscape plan
 - c. No communal open space plan
 - d. No updated traffic impact assessment
 - e. Deficient parking for visitors
 - f. Inadequate Waste Management

120. The proposal has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report, the modified proposal is considered a form of development which is incompatible with its surrounding environment. The modification along with earlier approved modifications would result in a built form that would depart immensely from the form expected by the established planning controls and as a result will be incompatible with the desired future character of the precinct and negatively impact adjacent buildings and spaces for sunlight.
121. The proposal fails to satisfy the key planning controls in the Georges River Local Environmental Plan including Clause 4.3 Height of Buildings development standard as well as clause 4.4 and 4.4 B relating to Floor Space Ratio. Insufficient environmental planning grounds have been demonstrated to contravene the height control and no justification or planning grounds were presented for the floorspace exceedance under Clause 4.4. The modification marginally improves current approved commercial floor area requirements against clause 4.4B, although still deficient.
122. The application fails to consider the impact of the additional height at the site and its potential impact on the nearby heritage items.
123. The application fails to consider or address the GRDCP controls 8.2.6.4 eastern Bookend Precinct.
124. The application is recommended for refusal.