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| <b>Panel Reference</b>                            | <b>PPSSSH-57</b>  |
| <b>DA Number</b>                                  | DA2021/0024   |
| <b>LGA</b>  | Georges River Council   |
| <b>Proposed Development</b>                       | Demolition works and construction of a mixed use development comprising retail and shop top housing.  |
| <b>Street Address</b>                             | 1-3 Wright Street and 108-124 Forest Road, Hurstville   |
| <b>Applicant/Owner</b>                            | Applicant – Tony Polvere<br>Owner – Shanghai Lihua Hurstville Pty Ltd   |
| <b>Date of DA lodgement</b>                       | 22 January 2021   |
| <b>Number of Submissions</b>                      | One (1) Submission  |
| <b>Recommendation</b>                             | That the application be approved for the reasons in this report.  |
| <b>Regional Development Criteria (Schedule 7)</b> | Regionally significant development is defined in Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> .<br><br>The proposed development is classified as “Regional” development as it has a Capital Investment Value (CIV) of over \$30 million.<br><br>The CIV of the project is \$86,390,853 Incl. GST  |
| <b>List of all relevant s4.15(1)(a) matters</b>   | <ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</li> <li>• State Environmental Planning Policy (Building and Sustainability Index: 2004)</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>• Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment</li> </ul> |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• Hurstville Local Environmental Plan 2012</li> <li>• Draft State Environmental Planning Policy – Remediation of Land</li> <li>• Draft State Environmental Planning Policy – Environment</li> <li>• Draft Georges River Local Environmental Plan 2020</li> <li>• Hurstville Development Control Plan No. 2 – Hurstville City Centre – Amendment 10</li> </ul>   |
| <b>List all documents submitted with this report for the Panel's consideration</b> | <ul style="list-style-type: none"> <li>• Statement of Environmental Effects</li> <li>• Clause 4.6 Variation Request – height of buildings</li> <li>• Registered survey</li> <li>• Architectural plans</li> <li>• Landscape Plan</li> <li>• Stormwater Plans</li> <li>• Traffic and Parking Assessment report</li> <li>• SEPP 65 Design Verification Statement</li> <li>• Remediation Action Plan</li> <li>• Public Domain Plan</li> <li>• Urban Design Peer Review</li> <li>• Survey height and FSR verification</li> <li>• ADG Compliance Table</li> <li>• Waste Management Plan</li> </ul> |
| <b>Report prepared by</b>  | Senior Development Assessment Officer  |
| <b>Report date</b>   | September 2021   |

|   |            |
|---|------------|
| <b>Summary of matters for consideration under Section 4.15</b><br><br>Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?   | <b>Yes</b> |
| <b>Legislative clauses requiring consent authority satisfaction</b><br><br>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 summarised, in the Executive Summary of the assessment report? | <b>Yes</b> |

|   |   |
|---|---|
| <b>Clause 4.6 Exceptions to development standards</b><br><br>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? | <b>Yes – Clause 4.3 height of buildings</b> |
| <b>Special Infrastructure Contributions</b><br><br>Does the DA require Special Infrastructure Contributions conditions (under s7.24)?   | <b>Not Applicable</b>                       |
| <b>Conditions</b><br><br>Have draft conditions been provided to the applicant for comment?  | <b>Yes</b>                                  |

## Executive Summary

### *The Proposal*

Council received a development application (DA2021/0024) seeking consent for demolition of existing structures and construction of a mixed use development comprising retail and shop top housing.

The proposal satisfies the definition of regionally significant development pursuant to Clause 2 of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposal has a Capital Investment Value (CIV) of \$86,390,853 Incl. GST confirmed in a Detailed Cost Report. Since the CIV exceeds \$30 million for general development, the application is to be determined by the Sydney South Planning Panel ('the Panel').

A briefing to the Panel was held on 29 April 2021, during which key issues were discussed including commercial floor space, building height, urban design, active street frontages and ADG compliance. These issues have been resolved through the submission of amended plans and additional information.

### *Site and locality*

The site has three street frontages to Forest Road, Hudson Street and Wright Street and has a total site area of 5,407sqm. The subject site is legally described as Lots 1, 54 and 55 in DP 78322, Lot 1 in DP75572 and Lot 531 in DP777334.

Existing development on the site consists of a number of buildings, including:

- Two storey commercial building at 124 Forest Road;
- Single storey commercial premises at 112 Forest Road;

- Single storey mechanic workshop at 108 Forest Road;
- Single storey dwelling house at 1 Wright Street; and
- Vacant site at 3 Wright Street.

The immediate locality is characterised by a mix of residential and commercial development, of varying age, density and height. The land on the north-eastern side of Hudson Street is occupied by a vehicle sales yard. The land immediately north of the site at Nos. 5-7 Wright Street is occupied by a three storey residential flat building. The land immediately north-west of the site at No. 12 Hudson Street is occupied by a four storey residential flat building.

The surrounding locality on the southern side of Forest Road is dominated by more recently constructed multi level mixed use developments.

### ***Planning Controls***

The following planning controls are applicable to the site and have been considered in this report:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building and Sustainability Index: 2004)
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Sydney Regional Environmental Plan No 2 – Georges River Catchment
- Hurstville Local Environmental Plan 2012
- Draft State Environmental Planning Policy – Remediation of Land
- Draft Environment State Environmental Planning Policy
- Draft Georges River Local Environmental Plan 2020
- Hurstville Development Control Plan No. 2 Hurstville City Centre (Amendment No. 10)

The proposal generally complies with the provisions of these policies and a detailed assessment of the proposal against the provisions of these policies is provided in this report.

### ***Hurstville LEP 2012 & Hurstville DCP No. 2***

The site is zoned B4 Mixed Use pursuant to the provisions of the *Hurstville Local Environmental Plan 2012* ('HLEP 2012'). The proposal is for a mixed use development which is permissible with consent in the B4 zone as *commercial premises, retail premises* and shop top housing.

The site has a split height limit of 34.5m and 46.5m pursuant to Clause 4.3 of the HLEP 2012. The proposal seeks a variation of 1.2m for Building A and 3.3m for Building B. There is no floor space proposed above the maximum height limit, with the variation containing lift overruns and plant enclosures. A Clause 4.6 variation request has been submitted with the application and is considered to be well founded.

The maximum floor space ratio (FSR) for the site is 4:1 in accordance with Clause 4.4(2) of the HLEP 2012. The proposal involves a total gross floor area of 21,657m<sup>2</sup>, resulting in a total FSR of 4:1. The proposal complies with the maximum permissible FSR for the site.

The proposal is also considered to be generally consistent with the applicable controls of the Hurstville DCP No. 2. A detailed assessment of the proposal against the relevant controls is contained in this report. The proposal is considered to be an acceptable urban design and planning outcome for the site and generally satisfies the applicable provisions contained within the DCP.

### **VPA**

There is an executed Planning Agreement (VPA) between Georges River Council, Shanghai Hurstville Pty Ltd (Developer) and SLH 108 Pty Ltd (Developer) that applies to 108, 112 and 124 Forest Road and 1 and 3 Wright Street, Hurstville. The VPA was executed on 26 March 2018.

The VPA contains two obligations, a monetary contribution of \$3,775,750 and the dedication of land for a public road. The contribution has been paid and the land dedication is shown on the plans submitted with this application.

### ***Submissions***

The application was notified to owners and occupiers in the immediate locality in accordance with the provisions of the Hurstville DCP. In response, one (1) submission was received, which has been considered in this report, and relate to concerns about the scale of the proposal and impacts on traffic and parking. The issues are considered to be adequately addressed in the report and conditions.

### ***Conclusion and Recommendation***

Having regard to the matters for consideration in Section 4.15 of the *EP&A Act* and following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA2021/0024 is recommended for approval subject to the conditions contained in this report.

## **Full Report**

### **Background**

A brief history of the proposal is outlined below, starting with the pre-lodgement meeting and the actions of the consent authority and Panel throughout the assessment of this application.

### Pre-lodgement application

The proposal was the subject of a Pre-lodgement Application (PRE2020/0076) to Council, with the design of the proposal being similar to the current application. The pre-lodgement advice issued by Council provided general comments on the following:

- Bulk and scale
- Streetscape and contextual fit
- Land dedication
- Commercial floor space
- Pedestrian links
- Communal open space
- Apartment size
- Traffic/vehicle manoeuvrability
- Privacy
- Building entry and way finding
- Safety
- Ventilation

The applicant was advised as part of this Pre-Lodgement advice to seek Pre DA urban design comments, which they did not take up.

The application was subsequently lodged with Council on 22 January 2021.

### Sydney South Planning Panel

Following the lodgement of the application, the proposal was referred to the Panel at a briefing held on 29 April 2021. The following key issues were discussed and required further resolution:

- VPA enables increased height and FSR
- Site has split height (46.5m and 34.5m) and FSR (4:1) across the site. Exceeds height controls
- Commercial floor space is required on this site and there is shortfall (cl 4.6 submitted) however consideration of commercial uses on upper levels should be explored.
- Active street frontages require direct entries from the street to activate it.
- Site specific DCP controls need to be more fully explored:
  - Setbacks
  - Tower alignment
  - Through site links to publicly accessible open space

- A public domain plan
- Non-compliance with SEPP 65 ADG.
  - Lack of communal open space needs resolution
  - Apartment layouts/dimensions required
  - Balcony sizes, layouts and usability to be addressed
  - Building separation (not 9m) and visual privacy to be addressed
- Resolution of the following issues:
  - Traffic
  - Detailed site investigation report (SEPP55)
  - Drainage and stormwater
  - Waste management

Following the briefing meeting and internal referral comments from council staff, the applicant was requested to submit additional information and amended plans in relation to the following aspects of the development in correspondence from Council dated 22 June 2020:

- Planning matters: ADG, LEP and DCP compliance;
- Urban Design matters;
- Updated survey plan;
- Engineering matters: stormwater management and overland flow, access driveway design, intersection analysis, parking layout, loading and unloading and public domain plans.
- Site contamination;
- Waste Management; and
- Landscape design.

In response, the applicant submitted amended plans and additional information to address each issue in correspondence dated 30 July 2021, summarised as follows:

- Provision of ramp entries to three Level 1 tenancies;
- Additional Level 1 tenancy on Hudson Street;
- Revised loading dock design;
- Amended communal open area;
- Reduction in total number of units by 6 units;
- Additional retail tenancy on Level 2;
- Increased setback to Wright St neighbouring property to 12m at Levels 5 to 11;
- Unit and basement layout changes.

This additional and amended information was accepted by Council pursuant to Section 55 of the *Environmental Planning and Assessment Regulation 2000* ('the Regulations') and is assessed as the proposal in this report.

## **Site and Locality**





- Single storey dwelling house at 1 Wright Street; and
- Vacant site at 3 Wright Street.

Photos of the existing development on the site are provided below.



*Figure 2 No. 1 Wright Street*



*Figure 3 View of the site from Forest Road looking north-west*



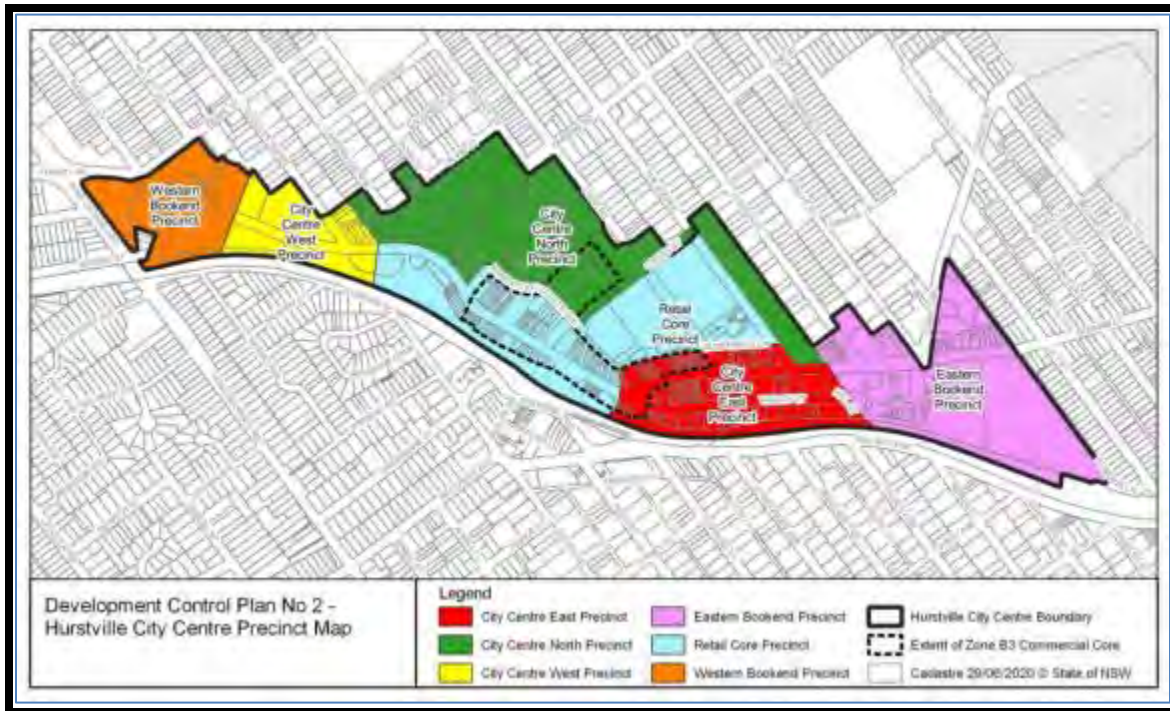
*Figure 4 View of the site from Forest Road looking north*

## **Surrounding Development**

The site is located within the Hurstville City Centre, within the *Eastern Bookend Precinct* (shown pink in Figure 5). The immediate locality is characterised by a mix of residential and commercial development, of varying age, density and height. The land on the north-eastern side of Hudson Street is occupied by a vehicle sales yard (Figure 6). The land immediately north of the site at Nos. 5-7 Wright Street is occupied by a three storey residential flat building (Figure 7). The land immediately north-west of the site at No. 12 Hudson Street is occupied by a four storey residential flat building (Figure 8).

The surrounding locality on the southern side of Forest Road is dominated by more recently constructed multi level mixed use developments as shown in Figures 9, 10 and 11. Two large developments on the opposite side of Forest Road also have approval but are yet to begin construction, one on the corner of Forest Road and Hill Street (Figure 12) and one on the corner of Forest Road and Durham Street (Figure 13).





*Figure 5 Hurstville City Centre precinct map*



*Figure 6 Development opposite the site on Wright Street*



*Figure 7 Nos. 5-7 Wright Street (north of the site)*



*Figure 8 Nos. 6-12 Hudson Street (north-west of the site)*





*Figure 9 Development on the southern side of Forest Road*



*Figure 10 Development on the southern side of Forest Road*





***Figure 11 Development on the southern side of Forest Road***



***Figure 12 Approved development on the corner of Forest Road and Hill Street (opposite the site)***



*Figure 13 Approved development on the corner of Forest Road and Durham Street*

## Voluntary Planning Agreement

There is an executed Planning Agreement (VPA) between Georges River Council, Shanghai Hurstville Pty Ltd (Developer) and SLH 108 Pty Ltd (Developer) that applies to 108, 112 and 124 Forest Road and 1 and 3 Wright Street, Hurstville. The VPA was executed on 26 March 2018.

### VPA Obligations

The VPA contains two obligations, a monetary contribution of \$3,775,750 and the dedication of land for a public road. The table below summarises the obligations under the VPA and relevant clauses.

| Item/Contribution         | Public Purpose                       | Manner & Extent   | Timing  | Relevant VPA Clauses                  | Status              |
|---------------------------|--------------------------------------|---|---|---------------------------------------|---------------------|
| <b>Dedication of land</b> | Expansion and upgrade of public land | Approximately 196m <sup>2</sup> of land along Forest Road boundary, | - Within 3 months after the issue of the first Construction | <b>Clause 11<br/>Schedule 1 and 2</b> | <b>Outstanding.</b> |

|   |   |  |   |   |  |
|---|---|--|---|---|--|
|   |   | including land at Hudson Street and Wright Street at the Intersection with Forest Road as shown in Schedule 2. | Certificate for the first Development Application for the Development; or<br>- Within 5 years from the gazettal of the Instrument Change (gazettal date - 28 February 2019);<br><br>whichever occurs first. |   |  |
| <b>Payment of monetary contribution</b> | Provision of public facilities including public infrastructure amenities and services | \$3,775,750 adjusted annually by the increase or decrease in CPI index over the preceding 12 month period      | Within 28 days of gazettal of The Instrument Change.  | <b>Clause 10</b><br><br><b>Schedule 1</b> | <b>The Developer paid Council the contribution in March 2019 in accordance with the VPA.</b> |

In relation to the land dedication, clause 11 states:

*(a) A Development Contribution comprising the dedication of land is made for the purposes of this Agreement when:*

- i. A deposited plan, which has been approved by Council (such approval not to be unreasonably withheld) is registered in the register of plans held with the Register General that dedicates land as a public road (including a temporary public road) under the Roads Act 1993 or creates a public reserve of drainage reserve under the Local Government Act 1993; or*
- ii. The Council is given:*



- A. *an instrument in registrable form under the Real Property Act 1990 duly executed by the Developer as transferor that is effective to the transfer the title to the land to the Council when executed by the Council as transferee and registered,*
  - B. *the written consent to the registration of the transfer of any person whose consent is required to that registration; and*
  - C. *a written undertaking from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.*
- (b) *The Developer is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.*
- (c) *The Developer is to ensure that land dedication to the Council under this Deed is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except as otherwise agreed in writing by the Council.*
- (d) *If, having used all reasonable endeavours, the Developer cannot ensure that land to be dedicated to the Council under this Deed is free from all encumbrances and affectations, the Developer may request that Council agree to accept the land subject to those encumbrances and affectations, but the Council may withhold its agreement in its absolute discretion.*
- (e) *If the Council withholds approval to any encumbrances and affectations under clause 11(d) and the Developer cannot dedicate the land free from those encumbrances and affectations, then the Council will compulsorily acquire the land and clause 14 will apply to the acquisition.*

The Architectural Plans (dated 30/07/2021) and specifically the 'Boundary Alignment and Land Dedication Plan' (DA43), show the 2 metre dedication zone and new property boundary along the Forest Road frontage. The figures below provides the dedication plan from Schedule 2 of the VPA and the Boundary Alignment and Land Dedication Plan (Sheet DA43 dated 30/7/21).

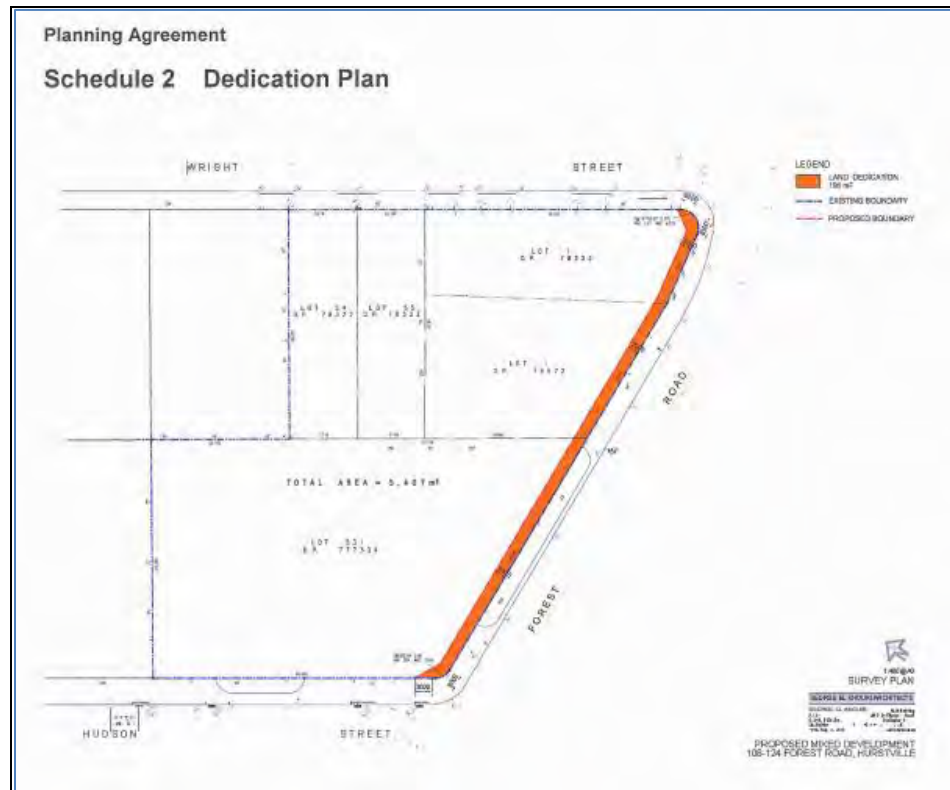


Figure 14 Dedication plan from VPA



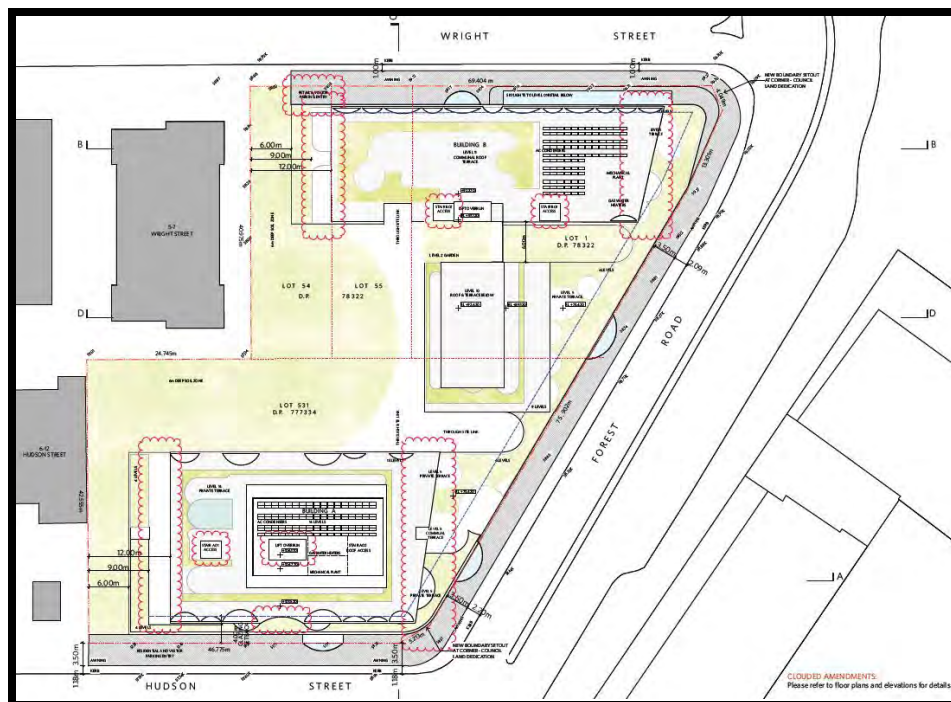
Figure 15 Boundary Alignment and Land Dedication Plan (Sheet DA43)

## The Proposal

The proposal involves demolition of all existing structures and construction of a mixed use development, comprising three levels of basement parking, communal open space on the ground floor, commercial tenancies on the ground and first floor, and 213 residential apartments on Levels 1 to 14. A montage and site plan are provided in the figures below.



*Figure 16 Photomontage of the proposal looking north-east from Forest Road*



*Figure 17 Proposed Site Plan*

Specifically, the proposal includes the following:

- Demolition of all existing structures and lot consolidation;
- Construction of a fourteen (14) storey mixed use development:
  - Basement car parking consisting of three (3) levels containing a total of 233 car parking spaces (54 retail spaces and 179 residential/visitor spaces), residential storage, bicycle and motorbike parking, waste storerooms and service areas;
  - Level 1 (ground floor) contains:
    - Nine (9) commercial tenancies;
    - Two residential lobbies (Lobby A from Hudson Street and Lobby B from Wright Street);
    - Loading dock accessed from Hudson Street;
    - Three through site links, one each from Hudson Street, Forest Road and Wright Street;
    - Communal open space; and
    - Vehicular access from Wright Street and Hudson Street.
  - The upper levels of the proposal contain residential apartments as follows:

| Level      | Building A<br>(Forest and Hudson) | Building B<br>(Wright and Forest)                              |
|------------|-----------------------------------|--|
| <b>2</b>   | 1B x 2<br>2B x 8<br>3B x 2        | 1B x 0<br>2B x 8<br>3B x 1<br>Retail tenancy<br>(R10 – 501sqm) |
| <b>3-4</b> | 1B x 2<br>2B x 8<br>3B x 2        | 1B x 1<br>2B x 10<br>3B x 2                                    |
| <b>5</b>   | 1B x 1<br>2B x 5                  | 1B x 4<br>2B x 6   |

| Level              | Building A<br>(Forest and Hudson) | Building B<br>(Wright and Forest)              |
|--------------------|-----------------------------------|--|
|                    | 3B x 2<br>89sqm communal terrace  | 3B x 1   |
| <b>6-9</b>         | 1B x 3<br>2B x 5<br>3B x 1        | 1B x 4<br>2B x 6<br>3B x 1                     |
| <b>10</b>          | 1B x 3<br>2B x 5<br>3B x 1        | 1B x 3<br>2B x 3<br>3B x 2                     |
| <b>11-13</b>       | 1B x 3<br>2B x 5<br>3B x 1        | Communal roof terrace on<br>Level 11<br>365sqm |
| <b>14</b>          | 3B penthouse                      | -  |
| <b>Total</b>       | 117                               | 96   |
| <b>Grand total</b> | 213 units                         |  |

### Vehicle Access and Servicing

Car parking is proposed within three (3) levels of basement parking, which also includes storage areas and service areas for both the residential and commercial uses. Vehicular access is proposed from Hudson Street and from Wright Street. Car parking is proposed as follows:

- Retail spaces – 54 spaces (Basement 1);
- Residential spaces – 179 (Basement 2 and 3);
- Total car parking spaces –233 spaces.

The buildings contain residential waste chutes on each floor to transport waste to the waste rooms on Basement Level 1. Residential waste removal will be through a private contractor.

Commercial waste is stored in two waste rooms in Basement 1 (Building B) and Level 1 (Building A) and removal from site will be through a private contractor.

### Landscaping

Landscaping is proposed as a deep soil zone along the northern site boundaries and landscaping over the basement in the communal open space area at ground level. Planting is also proposed on podium levels on Levels 2, 3, 5, 10, 11 and 14.

### **Statutory framework**

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

The proposal has been assessed and considered against the provisions of Section 4.15 of the EP&A Act) the objects of the EP&A Act, and the principles of ecologically sustainable development as follows:

#### **Objects of the EP&A Act**

The consent authority is required to consider the objects pursuant to Section 1.3 of the EP&A Act when making decisions under the Act. The objects of the EP&A Act are assessed in the table below and it is considered that the proposal complies with all objects.

| <b>Objects of the EP&amp;A Act</b>   | <b>Proposal</b>  | <b>Comply</b> |
|--|--|---------------|
| <b><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></b>       | The proposal is urban infill development of residential apartments above ground and first floor retail tenancies within the Hurstville City Centre that is currently in transition from low scale commercial uses to high density mixed uses. The provision of additional housing and commercial floor space in the locality is desirable. | Yes           |
| <b><i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment</i></b> | The proposal has been designed having regard to the principles of ESD, particularly in relation to energy efficiency of the proposed apartments which comply with the of all BASIX commitments.  | Yes           |
| <b><i>(c) to promote the orderly and economic use and development of land</i></b>  | The proposal has been designed to satisfy the key planning objectives for this site and the built form as proposed is considered to reflect the desired future character for   | Yes           |

| Objects of the EP&A Act  | Proposal   | Comply |
|--|--|--------|
|  | development within the locality and for this precinct.   |        |
| <b><i>(d) to promote the delivery and maintenance of affordable housing</i></b>  | The proposal does not include affordable housing, however a suitable mix of 1, 2 and 3 bedrooms units is proposed in a well serviced and accessible location.  | Yes    |
| <b><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></b> | <p>The site is located within an urban area which almost entirely consists of impermeable surfaces and existing development. There are no known threatened species or other significant vegetation located on the site or other significant species mapped within the site or its immediate vicinity.</p> <p>The proposal provides enhanced landscaping within the setbacks adjoining existing residential development as well as podium and rooftop communal areas.</p> | Yes    |
| <b><i>(f) to promote the sustainable management of built and cultural heritage</i></b>   | The site does not contain any local or state heritage items and is not located within a Heritage Conservation Area. The site however, is located in the vicinity of two (2) locally listed heritage items. Council's Heritage Advisor believes that the proposal will not have an adverse impact on the heritage significance of the identified heritage items in the vicinity of the site.  | Yes    |
| <b><i>(g) to promote good design and amenity of the built environment</i></b>  | <p>This report assesses the proposal's design and amenity against State Environmental Planning Policy 65, the Apartment Design Guide Guidelines and Hurstville DCP No.2.</p> <p>The amended design is considered to satisfactorily address the key development and design controls.</p>  | Yes    |
| <b><i>(h) to promote the proper construction and maintenance of</i></b>  | The proposal will achieve this objective by complying with the recommended consent conditions  | Yes    |

| <b>Objects of the EP&amp;A Act</b>   | <b>Proposal</b>  | <b>Comply</b> |
|--|--|---------------|
| <b><i>buildings, including the protection of the health and safety of their occupants</i></b>  | relating to the construction phase of the development.   |               |
| <b><i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i></b> | The proposal is a regionally significant development as the CIV exceeds \$30 million and therefore the Sydney South Planning Panel is the consent authority. The proposal is considered to satisfactorily address the local planning issues. | Yes           |
| <b><i>(j) to provide increased opportunity for community participation in environmental planning and assessment</i></b>  | The application was notified to adjoining owners in accordance with the HDCP. One submission was received and is discussed in this report.   | Yes           |

#### **Section 4.15 Assessment**

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

**(a) *the provisions of:***

- (i) *any environmental planning instrument; and***
- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and***
- (iii) *any development control plan, and***
- (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and the regulations (to the extent that they prescribe matters for the purposes of this paragraph),***

***that apply to the land to which the development application relates,***



The following environmental planning instruments, proposed instruments and development control plans apply to the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy No 55 – Remediation of Land;*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;*
- *State Environmental Planning Policy (Building and Sustainability Index: 2004);*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
- *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*
- *Draft Georges River Local Environmental Plan 2020.*
- *Draft State Environmental Planning Policy – Remediation of Land;*
- *Draft Environment State Environmental Planning Policy;*
- *Draft Design and Places SEPP;*
- *Hurstville Local Environmental Plan 2012;*
- *Hurstville Development Control Plan No. 2 (Amendment 10); and*
- *Georges River Interim Policy Development Control Plan 2020.*

The provisions of these planning matters are considered below.

### **Environmental Planning Instruments (S4.15(1)(a)(i))**

#### ***State Environmental Planning Policy – State and Regional Development 2011 ('SRD SEPP')***

*State Environmental Planning Policy (State and Regional Development) 2011 ('SRD SEPP')* applies to the proposal as it identifies if development is regionally significant development, among other types of development. In this case, pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 of Schedule 7 of the SRD SEPP as it has a CIV of more than \$30 million. As such, the Sydney South Planning Panel is the consent authority for the application.

#### ***State Environmental Planning Policy No. 55 – Contamination of Land***

The provisions of *State Environmental Planning Policy 55 - Remediation of Land ('SEPP 55')* have been considered in the assessment of the development application. Clause 7 of SEPP 55 requires the consent authority to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The application is accompanied by a Detailed Site Investigation ('DSI') dated 5 May 2020 prepared by Aargus, and a Remediation Action Plan prepared by Aargus dated 10 June 2021. Proposed remediation at the site will be classified as a Category 2

remediation, with remedial work to commence upon approval of the RAP. The RAP states: *“It is considered that the site will be rendered suitable for the redevelopment into a thirteen storey mixed commercial / residential building including a three-level basement carpark and a deep soil landscaping area subject to the implementation of remediation and validation works in accordance with this RAP.”*

The proposed RAP and consideration of SEPP 55 is considered satisfactory subject to the recommended conditions of consent. The proposal is considered to have satisfactorily considered SEPP 55.

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

*State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Building* ('SEPP 65') aims to improve the design quality of residential apartment development in New South Wales. This Policy applies to the proposal pursuant to Clause 4, as the proposed building in Stage 2 satisfies the criteria for a new residential flat building as it comprises at least 3 storeys and contains at least 4 or more dwellings.

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

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

These matters are considered in further detail below.

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

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

The proposal generally satisfies these controls, as outlined below.

Clause 30(2) requires the consent authority to consider prior to granting consent whether the application has demonstrated that adequate regard has been given to the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria. As outlined below, the proposal has adequately addressed

these requirements and is found to be satisfactory, subject to design change conditions in relation to façade treatment to be addressed prior to the issue of a Construction Certificate.

### *Urban Design Review*

Council engaged GMU Urban Design and Architecture to review the proposal and provide comment in relation to the design quality principles of the SEPP. Those comments were provided to the applicant in the letter requesting amendments and additional information in June 2021. In summary:

“ *Based on the review, we consider that the current proposed development has presented several issues relating to its contextual fit, perceived bulk and scale, amenity issues resulting from the internal layout design and deep floor plates as well as the façade design.*”

The GMU comments are attached to this report at Annexure A. These comments were provided to the applicant in July and a number of concerns addressed were in the amended plans (current set of plans that form the basis of this assessment report). The applicant engaged SJB to provide a peer review of those comments, and they were submitted with the amended plans and additional information in July 2021. The Peer Review is attached to this report at Annexure B.

The review of the urban design qualities of the proposal by GMU raises concerns with the façade treatment and human-scale relationship of the podium building. The review recommended alternative treatments to introduce more vertical elements into the podium building to improve streetscape presentation and reduce the mass of the building, as well as simplification of the façade treatment, which proposes a tiled façade in green, yellow and white for the podium, and grey concrete finish and cladding for the tower elements. Greater variation in façade composition was recommended and a simplification of the colour scheme to better reflect the context of the site.

Design change conditions to address the verticality and façade treatment were considered however Council is of the opinion that the proposal is a suitable response to the Masterplan for the site and provides density in close proximity to public transport options and general retail services and will assist in the renewal of the eastern gateway to the Hurstville City Centre, and the imposition of conditions would not result in a substantially better urban design outcome for the site.

| Principle   | Design Response   |
|---|---|
| <p><b>Context and Neighbourhood character</b></p> <p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p> | <p>The mixed use nature of the proposed development responds to the Materplan for this site the design of the buildings will sit comfortably in the local context, which is undergoing intensification to high density development.</p>   |
| <p><b>Built Form and Scale</b></p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>The appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>   | <p>The proposal complies with the commercial and residential floor space controls applicable to the site and generally complies with the maximum height controls for the site. The minor breach of the height controls is supported and well founded in this case, and is addressed later in this report.</p> |
| <p><b>Density</b></p> <p><i>Good design achieves a high level of amenity for residents and each apartment,</i></p>  | <p>The proposal complies with the maximum FSR for the site and results in apartments with good amenity on a site located within walking distance of public transport</p>  |

| Principle   | Design Response   |
|---|---|
| <p><i>resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>   | <p>options.</p>   |
| <p><b>Sustainability</b></p> <p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p>   | <p>The proposal is BASIX compliant and complies with the deep soil, solar access and natural ventilation requirements of the ADG.</p>   |
| <p><b>Landscape</b></p> <p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></p> | <p>The proposal provides 12% of the site as deep soil landscaped area, which exceeds the minimum 7% required by the ADG.</p> <p>The landscape design provides ground and podium level landscaped areas and provides additional site and street trees.</p> |

| Principle   | Design Response  |
|---|--|
| <p><i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.</i></p>  |  |
| <p><b>Amenity</b></p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>  | <p>The proposal results in good internal amenity for each apartment and complies with the ADG separation distances to ensure the amenity of neighbours is protected.</p> <p>Each unit complies with minimum internal and private open space areas and room dimensions.</p> |
| <p><b>Safety</b></p> <p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p> | <p>The proposed building layouts ensure the safety and security of occupants, visitors and staff are maximized. The ground level has been suitably designed for separation between commercial and residential uses.</p>  |
| <p><b>Housing Diversity and Social Interaction</b></p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well designed apartment developments</i></p>   | <p>The unit mix includes:</p> <p>1B x 54 units (25%)<br/> 2B x 128 units (60%)<br/> 3B x 31 units (15%)</p> <p>A variety of units layouts are provided including 21 adaptable units and 43</p>   |

| Principle  | Design Response  |
|--|--|
| <p><i>respond to social context by providing housing and facilities to suit the existing and future social mix.</i></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>   | universal living units.  |
| <p><b>Aesthetics</b></p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p> | The built form is a suitable response to the Masterplan for the site and the wider context of the locality as it undergoes transition from low to high density mixed uses. |

### *Design Quality Principles*

In relation to Clause 28(2)(b), a *Design Verification* has been submitted with the application prepared by Registered Architect Neil Durbach (Nominated Architect No.5850) detailing compliance with the design quality principles and in satisfaction of Clause 50(1A) and (1AB) of the EP&A Act. The proposal is considered to be generally consistent with the design quality principles as outlined above in the table above.

### *Apartment Design Guide*

The ADG aims to achieve better design and planning for residential apartment development, by providing benchmarks for designing and assessing these developments. The relevant controls and principles of the ADG are considered in the context of the proposal in the table below. The proposal complies in full with the ADG.

| ADG - DESIGN CRITERIA                             | PROPOSAL              | COMPLIES |
|---|-----------------------|----------|
| <b><u>Communal and Public Open Space (3D)</u></b> |                       |          |
| <b>Communal open space has a</b>                  | The proposal provides | Yes      |

| ADG - DESIGN CRITERIA  |  |                   | PROPOSAL   | COMPLIES                             |
|--|--|-------------------|--|--------------------------------------|
| minimum area equal to 25% of the site (1,351.75m <sup>2</sup> ).   |  |                   | 1,490m <sup>2</sup> (27%) of the site as communal open space at ground, podium and rooftop levels.   |                                      |
| Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)   |  |                   | The communal open space is located on the ground, podium and roof and therefore receives good solar access throughout the day in mid-winter.                           | Yes                                  |
| Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions  |  |                   | Achieved.  | Yes                                  |
| Located on a podium or roof if it can't be located on ground level   |  |                   | Located on the ground, podium and roof.  | Yes                                  |
| <b><u>Deep Soil Zones (3E)</u></b><br><br>Deep soil zones are to meet the following minimum requirements:  |  |                   | Site area is >1,500m <sup>2</sup> = 6m min dimensions.<br><br>The deep soil area along the northern site boundaries is 6m wide.<br><br>657sqm or 12% of the site area. | Yes                                  |
|  | Site Area                                | Minimum Dimension | Deep Soil Zone (% of site area)  |                                      |
|  | 650m <sup>2</sup> to 1,500m <sup>2</sup> | 3m                | 7%   |                                      |
|  | Greater than 1500m <sup>2</sup>          | 6m                |  |                                      |
| <b><u>Visual Privacy (3F)</u></b><br><br>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: |  |                   | Levels 1 -4: 6m<br><br>Level 5: 9m – 12m<br><br>Levels 6 – 14: 12m<br><br>Between buildings: 6m  | Yes<br><br>Yes<br><br>Yes<br><br>Yes |



| ADG - DESIGN CRITERIA   |                               |                     | PROPOSAL   | COMPLIES |
|---|-------------------------------|---------------------|--|----------|
| Building Height   | Habitable Rooms and Balconies | Non-habitable rooms |  |          |
| Up to 12m (4 storeys)   | 6m                            | 3m                  |  |          |
| 12m – 25m (5-8 storeys)   | 9m                            | 4.5m                |  |          |
| Over 25m (9+ storeys)   | 12m                           | 6m                  |  |          |
| <p><b>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see Figure 3F.2).</b></p> <p><b>Gallery access circulation should be treated as habitable spaces when measuring privacy separation distances between neighbouring properties.</b></p> |                               |                     |  |          |
| <b><u>Pedestrian Access and Entries (3G)</u></b>  |                               |                     |  |          |
| Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge   |                               |                     | Multiple entries are provided to all street frontages, including residential and retail lobbies and through links. | Yes      |
| Building entries and pedestrian access connects to and addresses the public domain  |                               |                     | Complies.  | Yes      |
| The design of ground floors and underground car parks minimise level changes along pathways and entries   |                               |                     | Ramps and stair access is provided to all lobbies and through links.   | Yes      |
| Pedestrian links should be direct,  |                               |                     | Complies.  | Yes      |

| ADG - DESIGN CRITERIA   | PROPOSAL  | COMPLIES              |
|---|---|-----------------------|
| have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate  |   |                       |
| <p><b><u>Vehicle Access (3H)</u></b></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p> <p>Car park entry and access should be located on secondary streets or lanes where available</p>   | <p>Separate pedestrian and vehicle access is providing to the building from Forest Road, Wright Street and Hudson Street.</p> <p>Car park access is from Wright Street and Hudson Street. No vehicle entry or exit is proposed to Forest Road.</p>  | <p>Yes</p> <p>Yes</p> |
| <p><b><u>Bicycle and car parking (3J)</u></b></p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p> | <p><i>Required parking:</i><br/> <math>0.4 \text{ spaces} \times 54 \text{ (1B)} = 22 \text{ spaces}</math><br/> <math>0.7 \text{ spaces} \times 128 \text{ (2B)} = 90 \text{ spaces}</math><br/> <math>1.2 \text{ spaces} \times 31 \text{ (2B)} = 37 \text{ spaces}</math></p> <p><i>Proposed parking:</i><br/> Residential: 149<br/> Visitor: 30<br/> Total: 179</p> | <p>Yes</p>            |
| <p><b><u>Solar Access and Daylight (4A)</u></b></p> <p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2</p>  | <p>151 of 213 units (71%) receive greater than 2 hours.</p>   | <p>Yes</p>            |

| ADG - DESIGN CRITERIA  | PROPOSAL   | COMPLIES                         |
|--|--|----------------------------------|
| <p>hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter (max 7.5 units)</p>  | <p>28 of 213 units (13%) receive no solar access</p>   | <p>Yes</p>                       |
| <p><b><u>Natural Ventilation (4B)</u></b></p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</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> | <p>101 of 213 units (60%) are naturally cross ventilated.</p> <p>All proposed apartments comply.</p> <p>4, 8, 9 or 10 units per each level are dual aspect units.</p>      | <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| <p><b><u>Ceiling Height (4C)</u></b></p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> <li>• Habitable Rooms – 2.7 metres</li> <li>• Non-habitable rooms – 2.4 metres</li> </ul>  | <p>The minimum ceiling heights comprise:</p> <ul style="list-style-type: none"> <li>▪ Ground floor retail – Min. 3.6 metres</li> <li>▪ Residential – 2.8 metres</li> </ul> | <p>Yes</p>                       |
| <p><b><u>Apartment Layout (4D)</u></b></p> <p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> <li>• Studio - 35m<sup>2</sup></li> <li>• 1 Bedroom - 50m<sup>2</sup></li> </ul>  | <p>All apartments meet minimum internal sizes.</p>   | <p>Yes</p>                       |

| ADG - DESIGN CRITERIA   | PROPOSAL  | COMPLIES |
|---|---|----------|
| <ul style="list-style-type: none"> <li>• 2 Bedroom - 70m<sup>2</sup></li> <li>• 3 Bedroom - 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> | Two bathroom units provide the additional 5m <sup>2</sup> .   | Yes      |
| A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each  | There are no 4 bedroom units proposed.  | NA       |
| Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms   | Each habitable room has a suitably sized window.  | Yes      |
| Master bedrooms have a minimum area of 10m <sup>2</sup> & other bedrooms 9m <sup>2</sup> (excluding wardrobe space).  | The master bedroom is a minimum of 10m <sup>2</sup> and the second bedroom minimum of 9m <sup>2</sup> . | Yes      |
| Bedrooms have a minimum dimension of 3m (excluding wardrobe space).   | Each bedroom has a minimum dimension of 3 metres (refer to plans).                                      | Yes      |
| <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>  | Min width of living areas is achieved.  | Yes      |
| The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts   | All of the proposed units are a minimum width of 4 metres and do not comprise deep, narrow units.       | Yes      |

| ADG - DESIGN CRITERIA  | PROPOSAL  | COMPLIES |
|--|---|----------|
| Habitable room depths are limited to a maximum of 2.5 x the ceiling height (6.75m).  | All rooms are compliant.  | Yes      |
| In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.   | All units are compliant.  | Yes      |
| <b><u>Private Open Space and Balconies (4E)</u></b>  |   |          |
| All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> <li>• Studio - 4m<sup>2</sup></li> <li>• 1 Bedroom - 8m<sup>2</sup> (Min depth 2m)</li> <li>• 2 Bedroom - 10m<sup>2</sup> (Min depth 2m)</li> <li>• 3 Bedroom - 12m<sup>2</sup> (Min depth 2.4m)</li> </ul> | All units have at least one balcony meeting the requires dimension and area controls. | Yes      |
| Minimum balcony depth contributing to the balcony area is 1m.  | Complies.   | Yes      |
| 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 15m <sup>2</sup> and a minimum depth of 3m.  | No ground level units proposed.   | Yes      |
| <b><u>Common Circulation Space (4F)</u></b>  |   |          |
| The maximum number of apartments off a circulation core on a single level is eight.  | Building A – 3 lifts/14 storeys = 39 units  | Yes      |
| For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40   | Building B – 2 lifts/10 storeys = 48 units  | Yes      |
| <b><u>Storage (4G)</u></b>   |   |          |
| In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:   | All units are provided with the required areas of storage within the unit and         | Yes      |

| ADG - DESIGN CRITERIA  | PROPOSAL   | COMPLIES              |
|--|--|-----------------------|
| <ul style="list-style-type: none"> <li>• Studio - 4m<sup>3</sup></li> <li>• 1 Bedroom - 6m<sup>3</sup></li> <li>• 2 Bedroom - 8m<sup>3</sup></li> <li>• 3 Bedroom - 10m<sup>3</sup></li> </ul> <p>At least 50% of the required storage is to be located within the apartment.</p>  | the basement parking areas.  |                       |
| <p><b><u>Acoustic Privacy (4H)</u></b></p> <p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>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 next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p> | <p>An Acoustic report has been prepared for the application and concludes that subject to recommendations the proposal can comply with the relevant guidelines for noise from the road. The apartment layouts allow for like areas to be grouped together with the noisy areas adjoining the stairwells being bathroom areas.</p> <p>Circulation areas such as corridors and stairs adjoin bathroom and kitchen areas, while bedrooms generally adjoin bedrooms.</p> | <p>Yes</p> <p>Yes</p> |
| <p><b><u>Noise Pollution (4J)</u></b></p> <p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> <li>• physical separation between buildings and the noise or pollution source</li> <li>• residential uses are located perpendicular to the noise source and where possible buffered by other uses</li> <li>• buildings should respond to</li> </ul>  | An Acoustic report has been prepared for the application and concludes that subject to recommendations the proposal can comply with the relevant guidelines for noise from the road.   | Yes                   |

| ADG - DESIGN CRITERIA   | PROPOSAL  | COMPLIES              |
|---|---|-----------------------|
| <p>both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer</p> <ul style="list-style-type: none"> <li>landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry</li> </ul>  |   |                       |
| <p><b><u>Apartment Mix (4K)</u></b></p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>The apartment mix is distributed to suitable locations within the building.</p>  | <p>A mix of 1B, 2B and 3B units are proposed.</p> <p>Achieved.</p>  | <p>Yes</p> <p>Yes</p> |
| <p><b><u>Facades (4M)</u></b></p> <p>Building facades provide visual interest along the street while respecting the character of the local area</p> <p>Design solutions for front building facades may include:</p> <ul style="list-style-type: none"> <li>a composition of varied building elements</li> <li>a defined base, middle and top of buildings</li> <li>revealing and concealing certain elements</li> <li>changes in texture, material, detail and colour to modify the prominence of elements</li> </ul> | <p>Visual interest is created in the facades by varying the design between the proposed buildings. Design change conditions are recommended to address the façade treatment by way of material and colour selection and introducing more vertical elements to the podium to reduce building mass.</p> <p>A composition of building elements is provided as well as a defined base (street level retail) and residential towers above.</p> | <p>Yes</p> <p>Yes</p> |

| ADG - DESIGN CRITERIA   | PROPOSAL  | COMPLIES   |
|---|---|--|
| <b>Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</b>  | Design change conditions are recommended as mentioned above.  | To be conditioned  |
| <b>Building entries should be clearly defined</b>   | Building entries are well defined.  | Yes  |
| <p data-bbox="186 577 446 609"><b><u>Roof Design (4N)</u></b></p> <p data-bbox="186 640 763 756"><b>Roof treatments are integrated into the building design and positively respond to the street</b></p> <p data-bbox="186 1050 763 1197"><b>Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations</b></p> <p data-bbox="186 1491 763 1564"><b>Roof design incorporates sustainability features</b></p> | <p data-bbox="787 640 1193 1018">The simple flat roof line is compatible with other similar flat roof buildings in the streetscape. The lift overrun is located in the central portion of the roof ensuing there is minimal visual impact on the area. centralised within the building.</p> <p data-bbox="787 1050 1193 1449">The proposed roof incorporates communal open space for residents of the building with a good level of solar access throughout the day in mid-winter. Perimeter planting ensures overlooking opportunities from the roof top to adjoining buildings is minimised.</p> <p data-bbox="787 1491 1193 1627">The proposed roof allows for additional landscaping opportunities on the site and complies with BASIX.</p> | <p data-bbox="1291 640 1347 672">Yes</p> <p data-bbox="1291 1050 1347 1081">Yes</p> <p data-bbox="1291 1491 1347 1522">Yes</p> |
| <p data-bbox="186 1638 544 1669"><b><u>Landscape Design (4O)</u></b></p> <p data-bbox="186 1711 763 1785"><b>Landscape design is viable and sustainable.</b></p>  | <p data-bbox="787 1711 1193 1890">The proposed landscape design provides for additional street tree planting as well as podium planting and within rooftop</p>  | <p data-bbox="1291 1711 1347 1743">Yes</p>   |



| ADG - DESIGN CRITERIA   | PROPOSAL   | COMPLIES           |
|---|--|--------------------|
| <p><b>Landscape design contributes to the streetscape and amenity</b></p>   | <p>communal open space areas. Deep soil landscaping is proposed along the northern boundaries of the site having a width of 6m. Combined, these areas contribute to a viable and sustainable landscape design.</p> <p>The landscape design is of a high quality and suitable for the city centre location of the site.</p> |                    |
| <p><b><u>Planting on Structures (4P)</u></b></p> <p><b>Appropriate soil profiles are provided<br/>Plant growth is optimised with appropriate selection and maintenance<br/>Planting on structures contributes to the quality and amenity of communal and public open spaces</b></p> | <p>The proposal provides for landscaping on podium planters which are satisfactory and assist in the overall design of the proposal.</p>   | <p>Yes</p>         |
| <p><b><u>Universal Design (4Q)</u></b></p> <p><b>Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs. Benchmark of 20% liveable dwellings.</b></p>  | <p>43 universal units (20%)<br/>21 adaptable units (10%)</p>   | <p>Yes<br/>Yes</p> |
| <p><b><u>Mixed Use (4S)</u></b></p> <p><b>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement</b></p>   | <p>Mixed use is proposed with retail active frontages on the ground floor which provides casual surveillance for the residential apartments and encourages pedestrian activity in the area.</p>  | <p>Yes</p>         |
| <p><b><u>Awnings and Signage (4T)</u></b></p> <p><b>Awnings are well located and complement and integrate with the</b></p>  | <p>An awning is proposed at ground level over the retail</p>   | <p>Yes</p>         |

| ADG - DESIGN CRITERIA   | PROPOSAL   | COMPLIES |
|---|--|----------|
| <p>building design</p> <p>Awnings should be located over building entries for building address and public domain amenity</p>  | frontages and entry areas.   |          |
| <p><b><u>Energy Efficiency (4U)</u></b></p> <p>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</p>         | <p>The proposal has a good orientation to the north for the vast majority of the units and provides for good natural ventilation to all units. The proposal results in the development exceeding the BASIX target for energy efficiency.</p> | Yes      |
| <p><b><u>Water Management and Conservation (4V)</u></b></p> <p>Potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design.</p>   | <p>Stormwater is to be managed through an on-site detention system, with the water discharging to Hudson Street. Council's Engineers have reviewed the plans and raised no objection, subject to conditions of consent.</p>                  | Yes      |
| <p><b><u>Waste Management (4W)</u></b></p> <p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling</p> | <p>Two adequately sized bin store rooms are proposed on Basement Level 1 and waste chutes are provided on each floor.</p>  | Yes      |
| <p><b><u>Building Maintenance (4X)</u></b></p> <p>Building design detail provides protection from weathering<br/>Systems and access enable ease of maintenance<br/>Material selection reduces ongoing</p>   | <p>Suitable materials and finishes are proposed including tiling, smooth concrete, cladding, metal balustrades and glass.</p>  | Yes      |

| ADG - DESIGN CRITERIA | PROPOSAL | COMPLIES |
|-----------------------|----------|----------|
| maintenance costs     |          |          |

### ***State Environmental Planning Policy – Building Sustainability Index BASIX– 2004***

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

The application is accompanied by BASIX Certificate No.115965 prepared by Windtech Consultants dated 3 August 2021 committing to environmental sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

### ***State Environmental Planning Policy (Infrastructure) 2007***

*State Environmental Planning Policy (Infrastructure) 2007* ('the Infrastructure SEPP') aims to identify matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

#### ***Clause 45 - Determination of development applications—other development***

This Clause provides controls relating to development which is likely to affect an electricity transmission or distribution network. Clause 45(1)(a) requires written notice be given to the electricity supply authority for comment relating to potential safety risks of the proposal and take those comments into consideration for proposals which include excavation within 2 metres of a electricity distribution pole.

Written notice was given to Ausgrid with a response received which stated that Ausgrid did not have any objections to the proposed development subject to conditions. These comments have been included as recommended conditions.

#### ***Clause 104 – Traffic-generating development***

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services, now *Transport for NSW* ('TfNSW') for comment based on the type, capacity or location of the proposal. In this instance, the proposal meets these criteria (more than 200 car spaces with access to a road) and accordingly, a referral to the TfNSW is required. TfNSW did not have any objections to the proposed development

subject to conditions which have been included as recommended conditions in this report.

The proposal is consistent with the Infrastructure SEPP.

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

The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation SEPP applies to clearing of:

- a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
- b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP. The proposal does not require the removal of any significant trees from the site.

The consultant Arborist (engaged by Council) has reviewed all the relevant documentation and plans and has concurred with the proposed landscaping outcome. Conditions are recommended to ensure protection of the existing trees on the adjoining site and ensure that the landscaping is implemented during construction in accordance with the proposed plans.

***Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment***

The *Greater Metropolitan Regional Environmental Plan No 2 — Georges River Catchment* ('Georges River REP') aims to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment. The site is within the area affected by the Plan and generally applies to proposals which may have an adverse impact on the catchment.

The proposed use is generally in accordance with the aims of this Plan in that best practice water management techniques will be utilised which reduces potential water pollution from the site within the catchment. All stormwater from the development will be managed by the proposed stormwater system and will be treated in accordance with

Council's Water Management Policy and would therefore satisfy the relevant provisions of the Plan. Stormwater is to be gravity fed to Hudson Street and Council's Development Engineers have not raised any issues with the proposed method of stormwater disposal subject to the imposition of standard conditions which have been recommended to be imposed.

Clause 7 of the Policy requires that when a Council determines a development application that the planning principles of the Policy are to be applied. These planning principles contain both general (Clause 8) and specific (Clause 9) matters. The proposal is considered to be consistent with these principles as the proposal, including the disposal of stormwater, is considered to be consistent with the Council's requirements for the disposal of stormwater in the catchment.

Clause 11 of the Georges River REP includes a Planning control table which deals with development defined in that table. The proposal does not fall within the scope of the Planning Control Table. The proposal is considered to be consistent with this Policy.

### **Proposed Instruments (S4.15(1)(a)(ii))**

#### ***Draft Georges River Local Environmental Plan 2020***

The Local Planning Panel considered the report on the outcomes of the Public Exhibition and Finalisation of Georges River Local Environmental Plan 2020 (DLEP2020) on 25 and 26 June 2020. In relation to this development site the zoning, height and floor space ratio are unchanged.

Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.

In this regard, the provisions have no determining weight as a result of proposed operation of Clause "1.8A Savings provisions relating to development applications" of the Draft Plan which provides "*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*"

At the time of writing this report the Draft LEP was yet to be gazetted.

#### ***Draft State Environmental Planning Policy – Remediation of Land***

The draft *Remediation of Land SEPP* will replace SEPP 55 when gazetted and will include the following additional requirements:

- To require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant
- To categorise remediation work based on the scale, risk and complexity of the work

- To require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council.

The proposed changes will deliver the following improvements:

- reduce the risks associated with remediation projects
- encourage proponents to better consider and plan remediation work
- better protect the community from unnecessary risks, disturbance and inconvenience
- ensure there is consistent regulation of contaminated land and facilitate enforcement of long-term environmental management plans.

The overarching objective of SEPP 55 is to promote the remediation of contaminated land to reduce the risk of potential harm to human health or the environment, which remains relevant and will be replicated in the new SEPP. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. In this way, the accompanying Contamination reports and Remediation Action Plan adequately addresses the requirements of both SEPP 55 and the Draft Remediation of Land SEPP. Relevant conditions are recommended to be imposed as outlined in the assessment under SEPP 55 in this report. The proposal is consistent with this draft instrument.

### ***Draft Environment SEPP***

A draft *State Environmental Planning Policy (Environment)* for the protection and management of the natural environment is proposed. The Draft Environment SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property and seeks to combine seven existing SEPPs into a simple, modern and accessible instrument. These environmental policies will be accessible in one location, and updated to reflect changes that have occurred since the creation of the original policies.

The site is affected by the Georges River REP, with the changes to this Policy being largely to remove some duplication between the Georges River REP and the Standard Instrument LEPs, Ministerial Directions and other SEPPs which now apply in the catchments. There are no draft provisions of this policy which would affect the proposal. Accordingly, the proposal is not inconsistent with this policy.

### ***Draft Design and Place SEPP***

The Draft Design and Plan SEPP will repeal and replace SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index: BASIX) 2004. The explanation of intended effect of the draft SEPP was publicly exhibited in February/March 2021. Following submissions of the EIE the draft SEPP will be on public exhibition in late 2021.

## Local Environmental Plan

### Hurstville Local Environmental Plan 2012

#### *Zoning & Permissibility*

The site is zoned B4 Mixed Use under the provisions of the *Hurstville Local Environmental Plan 2012* (“HLEP”). The zoning is illustrated in the following figure.

Permissible uses in the B4 zone include *commercial premises*, *shop top housing* and *any other development not specified in item 2 or 4* (among other uses).



*Figure 18 Extract of LEP zoning map (site edged red)*

Definitions relevant to the proposal include (pursuant to the Dictionary to HLEP 2012):

**commercial premises** means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

**business premises** means a building or place at or on which—

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or  
 (b) a service is provided directly to members of the public on a regular basis,  
 and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

**Note**—Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**Note**—Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**Note**—Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

In this way, the proposal is permissible on the site.

The objectives of the B4 Mixed Use zone are:

- To provide a mixture of compatible land uses.



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

The proposal is considered to be consistent with these zone objectives given:

- The proposal will provide numerous retail spaces for a range of retail, business uses that will serve the local community;
- The proposed commercial and retail spaces will encourage employment opportunities in this accessible location given the proximity of Hurstville railway station;
- The proposal will allow for greater use of public transport and encourage walking and cycling by being located in close proximity to train and bus services as well as being located in an area well serviced by footpaths and other pedestrian facilities.
- The proposed units will provide for the housing needs of the community within a medium density residential environment and will provide a variety of housing types comprising one, two and three bedroom apartments in an accessible area.

There are numerous standards and controls of HLEP 2012 which are relevant to the proposal, which are outlined in the following table. The proposal is generally consistent with these controls, with the exception of the height of building development standard which is considered below.

### ***Consideration of Hurstville LEP 2012***

| Applicable LEP Clause            | Development Standards                       | Development Proposal                                 | Complies  |
|----------------------------------|---|--|---|
| <b>4.3 – Height of Buildings</b> | 46.5m – 124 Forest Rd                       | 47.7m  | No  |
|                                  | 34.5m – 1-3 Wright St and 108-112 Forest Rd | 37.8m  | No  |
|                                  |   | The applicant has submitted a 4.6 variation request. | Further consideration is required, see discussion below |

| Applicable LEP Clause                          | Development Standards   | Development Proposal  | Complies |
|--|---|---|----------|
| <b>4.4 Floor Space Ratio</b>                   | 4:1 (21,660sqm)   | 4:1 (21,657sqm)   | Yes      |
| <b>4.4A Non-residential floor space ratios</b> | <p>(1B) Despite clause 4.4, development consent must not be granted for development on the following land unless the non-residential floor space ratio is at least 0.5:1—</p> <p>(a) .....</p> <p>(b) .....</p> <p>(c) 108 Forest Road, Hurstville, being Lot 1, DP 78322,</p> <p>(d) 112 Forest Road, Hurstville, being Lot 1, DP 75572,</p> <p>(e) 124 Forest Road, Hurstville, being Lot 531, DP 777334,</p> <p>(f) 1 and 3 Wright Street, Hurstville, being Lots 55 and 54, DP 78322, respectively,</p> | The proposed FSR of commercial uses is 0.5:1 (2,701sqm).  | Yes      |
| <b>6.6 Active street frontages</b>             | (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is   | The proposal includes retail tenancies on the ground floor of each frontage. Direct access to three of the tenancies is provided by way of a ramp inside the tenancy, | Yes      |

| Applicable LEP Clause | Development Standards  | Development Proposal  | Complies |
|-----------------------|--|---|----------|
|                       | satisfied that the building will have an active street frontage after its erection or change of use. | the others are accessed via retail lobbies or site through links. |          |

### **Exception to Development Standards**

#### **Detailed assessment of variation to Clause 4.3 Height of Buildings**

The objectives of Clause 4.6 are as follows:

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

The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The Hurstville Local Environmental Plan 2012 (HLEP) identifies two maximum height limits for the site of 34.5m and 46.5m as shown in the following figure.

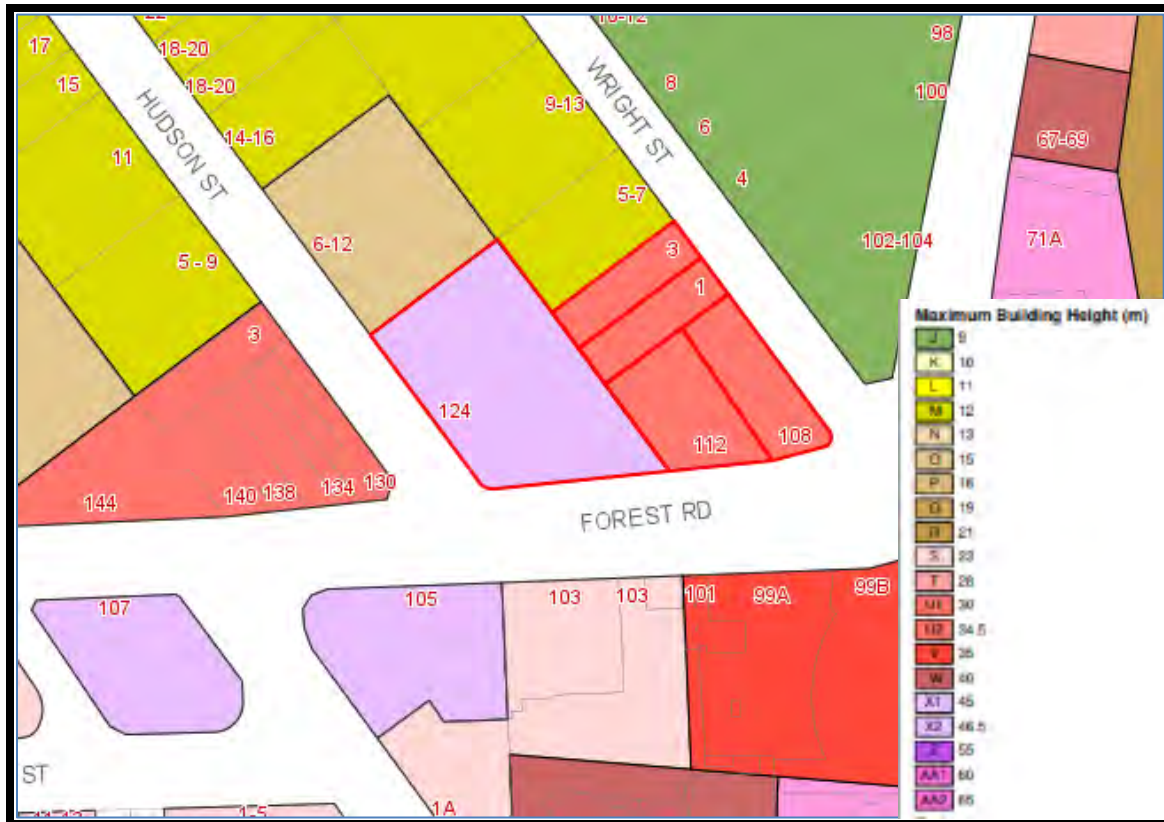


Figure 19 Height of buildings map (HLEP2012)

Each tower of the proposed development will exceed the height as follows:

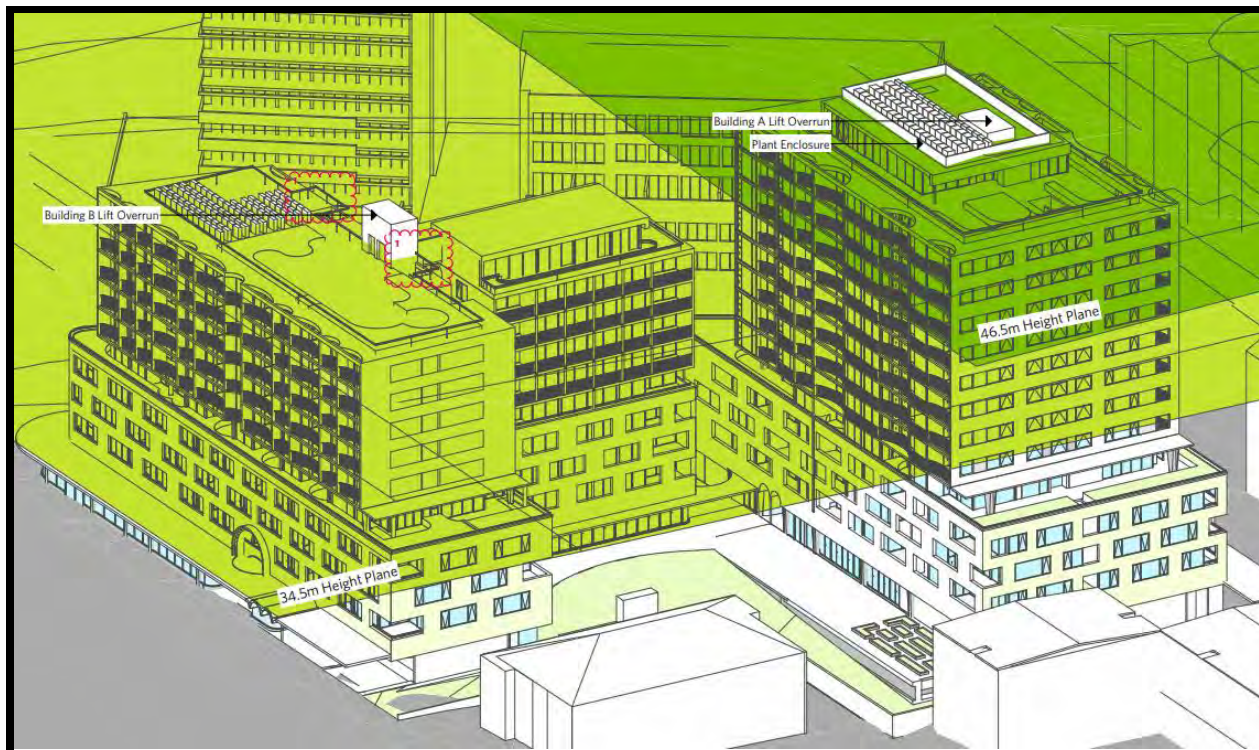
- Building A – 1.2m above the 46.5m height limit (shaded purple in HOB map).

The area of non-compliance for Building A relates to the lift overrun and plant enclosure and represents a variation of 2.6%.

- Building B – 3.3m above the 34.5m height limit (shaded red in HOB map).

The area of non-compliance for Building B relates to the lift overrun and rooftop plant and represent a variation of 9.6%.

The following figure is a height blanket diagram indicating the extent of non-compliance.



**Figure 20 Height blanket diagram showing non-compliance**

Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the HLEP. An assessment of the proposed height against the survey plan levels was conducted to indicate the Applicant's calculations are generally accurate.

Clause 4.6(3) states that:

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

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

To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of HLEP. The Clause 4.6 request for variation is assessed as follows:

***Is the planning control in question a development standard?***

Height of Buildings control under Clause 4.3 of the HLEP 2012 is a development standard. The maximum permissible heights are 34.5m and 46.5m.

***What are the underlying objectives of the development standard?***

The objectives of Height of Buildings standard under Clause 4.3 of HLEP 2012 are:

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

***Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))***

There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ set out ways of establishing that compliance with a development standard is unreasonable or unnecessary.

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation:

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The Clause 4.6 Statement was prepared in consideration of the recent court cases and their judgements.

Applicants comment:

Strict compliance with this standard is considered unreasonable or unnecessary in the circumstances of this case because strict adherence to the standard will not result in a development that is anymore consistent with the desired future built form character of the locality.

Land and Environment Court cases dealing with applications to vary development standards resulted in the Court setting out a 'five part test' for consent authorities to

consider when assessing an application to vary a standard and to determine whether the objection to the development standard is well founded and compliance is unreasonable or unnecessary. Table 1 provides an assessment of the matters in the 'five part test'.



Table 1 – Consistency with 5-part test

| Five Part Test  | Comments   |
|---|--|
| <ul style="list-style-type: none"> <li>The objectives of the standard are achieved notwithstanding non-compliance with the standard.</li> </ul> | <p>The relevant objectives of the Building Height standard are</p> <ul style="list-style-type: none"> <li>(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,</li> <li>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes,</li> <li>(c) to minimise the adverse impact of development on heritage items,</li> <li>(d) to nominate heights that will provide a transition in built form and land use intensity,</li> <li>(e) to establish maximum building heights that achieve appropriate urban form consistent with the major centre status of the Hurstville City Centre,</li> <li>(f) to facilitate an appropriate transition between the existing character of areas or localities that are not undergoing, and are not likely to undergo, a substantial transformation,</li> <li>(g) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.</li> </ul> <p>The relevant objectives of the standard are achieved notwithstanding non-compliance with the standard because:</p> <ul style="list-style-type: none"> <li>- the non-compliances are very minor and less than 10% (ie 2.6% and 9.6%).</li> <li>- The non-compliances only apply to lift over runs and plant enclosures located on the roof and do not apply to the principal built form that is generally perceived as the building height (ie number of storeys).</li> </ul> |



|   |   |
|---|---|
|   | <ul style="list-style-type: none"> <li>- Because of the minor nature of the lift overrun in terms of size and location, any reduction in the height of the lift overrun will result in strict compliance with the Building height standard but will not impact on, or improve, the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views (ie unreasonable and unnecessary).</li> </ul> |
| <ul style="list-style-type: none"> <li>• The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.</li> </ul>   | N/A   |
| <ul style="list-style-type: none"> <li>• The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.</li> </ul>   | N/A   |
| <ul style="list-style-type: none"> <li>• The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.</li> </ul>                                      | N/A   |
| <ul style="list-style-type: none"> <li>• The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.</li> </ul> | N/A   |

***Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify contravening the standard***

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, overlooking or view loss.

The sections of the building that breach the height limit do not contain habitable spaces that contribute to gross floor area, the rooftop areas accessible by residents are below the height limit and given the height of the towers and location of the non-compliant elements of the rooftop structures, no additional overshadowing will be evident on adjacent properties.

**Applicants Comment:**

There are sufficient environmental planning grounds to justify contravening the Building Height development standard.

Notwithstanding the non-compliance with building height, the proposed development will:

1. achieve a high level of amenity for future occupants particularly in relation to providing equitable access to the rooftop common open space;
2. not result in additional impacts on both the natural and built environments;
3. not result in detrimental social or economic impacts; and
4. be in the public interest because it will improve the general amenity of development in the locality.

Approval of the non-compliance will not impact on the proposals ability to;

5. achieve an appropriate balance between development and management of the environment that will be ecologically sustainable, socially equitable and economically viable;
6. minimising adverse impacts of development;
7. protect and enhance the amenity of residents;
8. protect and enhance the natural and built environment; and
9. meet the future housing needs of the population of the LGA.

***Clause 4.6(4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out***

Clause 4.6(4) states that:

*“Development consent must not be granted for development that contravenes a development standard unless:*

- (a) the consent authority is satisfied that:*
  - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,”*

Applicants Comment:

Assessment of the first matter in the ‘five part test’, Table 1 confirms the proposed development will be in the public interest because it is consistent with the objectives of the Building Height standard.

In assessing a development’s consistency with the zone objectives, Commissioner Brown in *Antoniades Architects Pty Ltd v Canada Bay City Council* [2014] NSWLEC 1019, took the following approach:

*The guiding principle, then, is that a development will be generally consistent with the objectives, if it is not antipathetic to them. It is not necessary to show that the development promotes or is ancillary to those objectives, nor even that it is compatible.*

With this in mind, the proposed development is considered to be consistent with the relevant B4 zone objectives as detailed in [Table 2](#).

Table 2 – Consistency with objectives of B4 zone

| Zone objective  | Comments  |
|---|---|
| To provide a mixture of compatible land uses.   | <p>Proposal provides for a mix of residential and retail land uses as part of a shop top housing development.</p> <p>These uses are considered to be compatible and will make a significant contribution to the vitality of the Hurstville City Centre.</p> |
| To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. | The proposed mixed use development is located in an area that is accessible to trains stations, shopping, schools and public open space that will encourage public transport patronage and encourage walking and cycling.                                   |
| To allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level.                               | Development provides for development of 219 residential apartments in the Hurstville City Centre while providing active retail spaces on the ground level.  |

The proposal meets the objectives of the standard 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,*

Officer Comment: The site and surrounding land is zoned B4 Mixed Use, R3 Medium Density Residential and B2 Local Centre given the location of the site at the eastern most end of the City Centre precinct. Maximum permissible heights of the surrounding zones range from 9m to 65m. The proposal is consistent with the future character of the locality in terms of scale and height. The built form transitions in height towards the adjoining properties with lower permissible heights.

*(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes,*

Officer Comment: This objective relates to considering the amenity impacts associated with the non-compliance. In terms of visual impact the structures are centrally located which reduces their visual appearance from the immediately adjoining streetscapes, if they could be seen at all due to the height of the buildings.

The objective seeks to “minimise” the visual impact, it is not requiring it to be eliminated or totally negated, and as such seeing the structure is not a reason for refusal, it’s the impact of the visual interference of this structure that is to be controlled. The breach relates to rooftop structures which will not be highly visible or an intrusive element given the scale and proportions of the building. It will not be visible from immediately adjoining properties or the streetscapes given that it is centrally located. There will be no adverse impacts in terms of overshadowing or overlooking to adjoining properties from the part of the building where the height is exceeded due to the location of the breach centrally on the site and given the area of the breach does not contain habitable spaces.

*(c) to minimise the adverse impact of development on heritage items,*

Officer Comment: The proposal will not impact on any items of heritage significance.

*(d) to nominate heights that will provide a transition in built form and land use intensity,*

Officer Comment: The site and surrounding land is zoned B4 Mixed Use, R3 Medium Density Residential and B2 Local Centre given the location of the site at the eastern most end of the City Centre precinct. Maximum permissible heights of the surrounding zones range from 9m to 65m.

The proposal is consistent with the future character of the locality in terms of scale and height. The built form transitions in height towards the adjoining properties with lower permissible heights.

*(e) to establish maximum building heights that achieve appropriate urban form consistent with the major centre status of the Hurstville City Centre,*

Officer Comment:

*(f) to facilitate an appropriate transition between the existing character of areas or localities that are not undergoing, and are not likely to undergo, a substantial transformation,*

Officer Comment: The site and surrounding land is zoned B4 Mixed Use, R3 Medium Density Residential and B2 Local Centre given the location of the site at the eastern most end of the City Centre precinct. Maximum permissible heights of the surrounding zones range from 9m to 65m.

The proposal is consistent with the future character of the locality in terms of scale and height. The built form transitions in height towards the adjoining properties with lower permissible heights. The areas of non-compliance are centrally located and will not adversely impact the surrounding properties that are unlikely to undergo a substantial transformation as they are already developed to their maximum potential.

*(g) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.*

Officer Comment: There will be no adverse impacts in terms of overshadowing or overlooking to adjoining properties or the public domain from the encroaching elements as they do not contain habitable spaces and are located centrally within each building such that the shadow cast by the non-compliant elements is negligible with the shadow cast by the building that comply with the height limits.

The exceedance of the control generally satisfies the objectives of the zone for the following reasons:

- *To provide a mixture of compatible land uses.*

The proposal includes retail tenancies and residential accommodation to meet this objective.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The site is located 750m walking distance to Hurstville railway station and bus stops on Forest Road. The provision of a mix of retail and residential uses in this location will maximise the use of public transport.

- *To allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level.*

The proposed uses include retail tenancies at ground level and on the first floor of part of Building B, the middle building. Residential accommodation is proposed on the upper levels of all buildings.

The proposal meets all objectives of the B4 Mixed Use zone.

The area of non-compliance is considered to be reasonable and will not establish an undesirable precedent. It will not have any adverse impacts on the surrounding locality, which is emerging which is characterised by mixed commercial and residential development of comparable character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. The Panel is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The public benefit of the variation is that it will appropriately facilitate the provision of medium density housing and commercial tenancy space on a B4 zoned site and provide for a range of housing stock and commercial floor space. It is noted that in Initial Action

Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome resulting from the non-compliance.

The second matter was in cl 4.6(3)(b), where the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

In this case the proposal seeks to establish the preferred and appropriate design and built form outcome for this site with the building complying in large with the height standard. There will be no adverse amenity or visual impacts generated by the variation and the proposal satisfies the objectives of the zone and the development standard. In this case the justification to vary the height control is considered to be a reasonable and well-founded request.

***Clause 4.6(b) the concurrence of the Secretary has been obtained.***

Concurrence from the Secretary has been obtained and can be assumed in this case.


It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 4.3 building height control).

**Development Control Plan (S4.15(1)(a)(iii))**

**Hurstville Development Control Plan No. 2 (Amendment 10)**

The *Hurstville Development Control Plan No. 2 (Amendment 10)* ('HDCP') applies to the site, specifically Chapter 8. These relevant controls of the HDCP are considered below in the context of the proposal.



| Applicable DCP Controls   | DCP Provisions | Development Provisions  | Complies |
|---|----------------|---|----------|
| <b>8.1.2.2. Concept Master Plan</b>   |                |   |          |
| <p>A Concept Master Plan (refer to Figure 2) was prepared for the site as part of the assessment of the Planning Proposal which informed HLEP 2012 (Amendment No.13) and provides general guidance on the overall form of development on the site.</p>  <p>Figure 2: Concept Master Plan</p>  |                | <p>The proposal is generally consistent with the Concept Master Plan.</p> | Yes      |
| <p>Council will consider alternative schemes subject to compliance with the HLEP 2012, State Environmental Planning Policy No.65 Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide, NSW Department of Planning and Environment (ADG), other sections of DCP No. 2 – Hurstville City Centre as well as the key features listed below being provided:</p> <ul style="list-style-type: none"> <li>• dedication of land to Council along the Forest Road frontage;</li> <li>• pedestrian linkages between Wright Street, Forest Road and Hudson Street;</li> </ul> |                | Not required.   | NA       |

| Applicable DCP Controls  | DCP Provisions | Development Provisions  | Complies                                    |
|--|----------------|---|---|
| <ul style="list-style-type: none"> <li>• a central landscaped area; and</li> <li>• active street frontages with commercial uses occupying the ground floor and comprising a minimum FSR of 0.5:1.</li> </ul>   |                | <p>2m dedication provided.</p> <p>Linkages provided.</p> <p>Central landscaped area proposed.</p> <p>Ground and first floor commercial tenancies total 2,701sqm.</p>  | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| <b>8.1.3.1 Land Dedication</b>   |                |   |   |
| <p>a) Development of the site will include a dedication to Georges River Council of a strip of land of approximately 196m<sup>2</sup> and 2m wide along the Forest Road boundary, including land at Hudson Street and Wright Street at the intersection with Forest Road, for the purpose of widening Forest Road as detailed in the Planning Agreement applying to the site and as shown in Figure 3.</p> <p>b) No permanent structure may be built above or below this area of land.</p> |                | <p>The plans indicate a 2m wide dedication in accordance with the control.</p> <p>The only element proposed over this area is an awning. Given this provides public benefit via weather protection, this is accepted as the clause is considered to relate to basement and habitable floor space as opposed to awnings.</p> | <p>Yes</p> <p>No – but acceptable.</p>      |

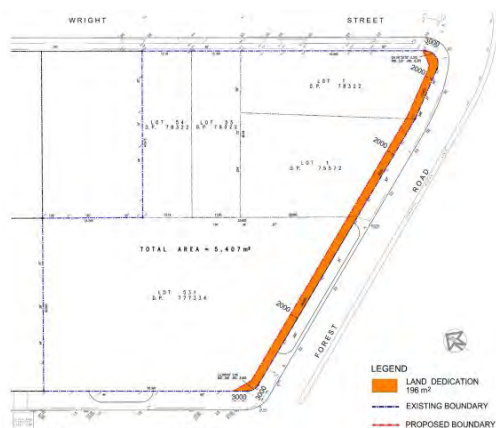


Figure 3: Land Dedication

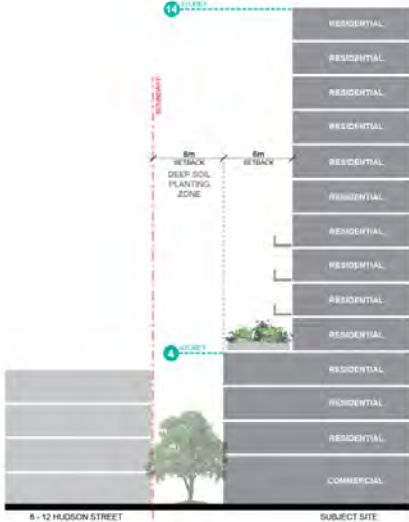
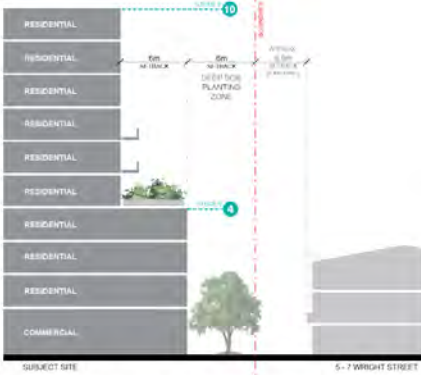
| Applicable DCP Controls  | DCP Provisions | Development Provisions   | Complies |
|--|----------------|--|----------|
| <b>8.1.3.2 Built Form and Setbacks</b>   |                |  |          |
| a) Development shall display a built form comprising a maximum 15m high (4 storeys) podium built to the street frontage with the upper levels of buildings set back at least 4m on Forest Road and a minimum of 3m on Wright and Hudson Streets. |                | 4 storey podium complies.  | Yes      |
|  |                | Upper levels:  |          |
|  |                | Forest Rd – 4m with the exception of a point encroachment – refer to discussion below. | No       |
|  |                | Hudson/Wright – 3m   | Yes      |


#### Discussion on Forest Road setback of tower buildings:

The DCP control requires a setback of 4m to the upper level/tower buildings from the Forest Road boundary. The proposal predominantly complies, with the exception of a single point encroachment at Level 5-9 in Building B as shown in the figure below:



Figure 21 4m setback non-compliance (Source SJB Peer Review, July 2021)


| Applicable<br>DCP Controls   | DCP Provisions  | Development<br>Provisions  | Complies |
|--|---|--|----------|
| This minor non-compliance is supported as the building overall will read from both the public and private domain, as a consistent, albeit it staggered, setback at the upper levels and despite the numerical non-compliance the proposal achieves the objectives of the control which include a modulated and articulated façade, a defined street edge and suitable spatial proportions. |   |  |          |
| b) Development shall provide an appropriate transition in height and density to the adjoining R3 Medium Density Residential area along Hudson and Wright Streets to provide a comfortable pedestrian environment (Refer to Figures 4 and 5).   |  <p>Figure 4: Hudson Street transition to adjoining residential development</p> | <p><i>Required setbacks:</i><br/><i>Hudson: 6m/12m</i><br/><i>Wright: 6m/12m</i></p> <p>The proposal provides 6m for the 4 storey podium and 12m to the upper levels for both Hudson St and Wright St.</p> | Yes      |
|  <p>Figure 5: Wright Street transition to adjoining residential development</p>   |   |  |          |

| Applicable DCP Controls  | DCP Provisions  | Development Provisions                | Complies |
|--|---|---------------------------------------|----------|
| <p>c) Define the street edge by building the podium to the street frontage (Refer to Figure 6).</p> <div></div> <p>Figure 6: Forest Road frontage</p>  | <p>The podium is built to the street edge at ground level, with levels 2, 3 and 4 to the street edge on Forest Rd but setback 2.75m on Wright Street and 1.1m on Hudson Street to better align with the existing residential developments on Hudson and Wright Streets.</p> | <p>Yes – suitable design response</p> |          |
| <p>d) Building layout and setbacks are to be in accordance with SEPP 65 and the ADG.</p> <p>Note: Refer to Figure 5.3.3: Indicative Building Floor to Ceiling heights in Section 5.3 Built Form Controls of this DCP.</p>  | <p>Complies.</p>  | <p>Yes</p>                            |          |
| <p>e) All residential apartments are to be insulated and to have Impact Isolation between floors to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). An Acoustic Report is to be submitted with the Development Application to ensure that the above</p> | <p>Condition imposed.</p>   | <p>Yes</p>                            |          |


| Applicable DCP Controls  | DCP Provisions   | Development Provisions | Complies |
|--|--|------------------------|----------|
| standards have been achieved.  |  |                        |          |
| 8.1.3.3 Façade Treatment and Street Corners  |  |                        |          |
| a) Building facades must be articulated and employ materials and finishes that enhance and complement the streetscape character.   | Conditions recommended for improved façade treatments.   | To be conditioned      |          |
| b) Street corners must be given prominence by a change in building articulation, materials, color, form or height.   | The design of the building ensure the street corners are made prominent through the podium height and orientation of the towers above.                 | Yes                    |          |
| 8.1.3.4 Pedestrian Access and the Public Domain  |  |                        |          |
| a) All pedestrian links are to have appropriate levels of illumination.  | A condition has been recommended.  | Yes                    |          |
| b) Provide high quality accessible routes to public and semi-public areas of the building and the site, including major entries, lobbies, communal open space, site facilities, parking areas and pedestrian pathways. | Four site through-links are proposed as well as separate retail and residential lobbies.   | Yes                    |          |
| c) The design of through site links is to ensure that a clear and safe path that is unobstructed by parking and services is available for pedestrians at all times.  | All through-links are straight and unobstructed. Security gates are proposed for afterhours to restrict public access to the open space area at night. | Yes                    |          |
| d) Separate and clearly distinguish between public and private pedestrian  | Private and public access are  | Yes                    |          |

| Applicable DCP Controls   | DCP Provisions | Development Provisions   | Complies |
|---|----------------|--|----------|
| accessways and vehicle accessways and utilise consistent paving treatments throughout the site.   |                | distinguishable – lobbies and throughlinks.  |          |
| e) The through-site links from Forest Road to the landscaped central area is to have a clear width of a minimum 4.5m and a minimum clear height of 1.5 times the width or 6m, whichever is greater.   |                | The Forest Road through-link is 6m wide.   | Yes      |
| f) The landscaped public open space on the ground level is to provide the opportunity to be used in a variety of ways over different times of the day, week and year.   |                | The area can be used by residents as open space (communal garden, BBQs, playground), by customers as outdoor dining. | Yes      |
| g) A public domain plan is to be submitted with the Development Application detailing public domain improvements adjacent to the subject site, including footpaths, street tree planting and street furniture.  |                | Submitted and conditions imposed for a S138 application for works on public land.                                    | Yes      |
| h) The existing above ground electricity and telecommunication cables within the road reserve and within the site area are to be replaced, at the applicant's expense, by underground cables and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. |                | A condition of consent has been imposed.   | Yes      |
| <b>8.1.3.5 Active Street Frontages</b>  |                |  |          |
| a) Active street frontages are to be provided along Hudson Street, Forest Road and Wright Street in accordance with the HLEP 2012 Active Street Frontage Map (the "ASF Map") (refer to extract in Figure 7).  |                | Active street frontages are provided to all streets.   | Yes      |



| Applicable DCP Controls  | DCP Provisions | Development Provisions   | Complies                                    |
|--|----------------|--|---|
| <p>Note: The ASF Map will be amended as part of the Planning Proposal for the subject site.</p>  <p>Figure 7: Extract from proposed Active Street Frontages Map</p> <p>b) Active street frontages are to contribute to the liveliness and vitality of streets by:</p> <ul style="list-style-type: none"> <li>• maximising entries and display windows to commercial premises or other uses that provide pedestrian interest and interaction;</li> <li>• providing a high standard of finish and appropriate level of architectural detail for shopfronts; and</li> <li>• providing elements of visual interest (minimising blank walls), such as display cases, or creative use of materials where fire escapes, service doors, equipment hatches and other services are provided.</li> </ul> <p>c) Generally, a minimum of 70% of the ground floor frontage is to be transparent glazing with a predominantly unobstructed view from the adjacent footpath to at least a depth of 6m within the building.</p> <p>d) Active frontages are to be designed with the ground floor level at the same level as the footpath.</p> |                | <p>Full height glass windows are proposed and direct entry to some tenancies is provided via internal ramps and other tenancies are accessed via through links or lobbies.</p> <p>Visual interest is provided through arched entryways, columns and through links.</p> <p>The frontages are predominantly glazed and visibility into the building and through links is unobstructed.</p> <p>The site is affected by overland flow so there are changes in floor levels, but internal ramps are provided to</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

| Applicable DCP Controls  | DCP Provisions | Development Provisions   | Complies                             |
|--|----------------|--|--------------------------------------|
| e) Security grilles may only be fitted internally behind the shopfront and are to be fully retractable and at least 50% transparent when closed.   |                | some tenancies and all lobbies and through links.<br><br>Not required.   | NA                                   |
| <b>8.1.3.6 Open Space and Landscaping</b>  |                |  |                                      |
| a) A landscaped public open space is to be provided generally in the location shown in Figure 8 and is to include:<br><br><ul style="list-style-type: none"> <li>• 6m wide deep soil landscaped screening along the interface with residential properties to the west;</li> <li>• north facing central landscaped common area;</li> <li>• street tree planting and provision of street furniture in accordance with the Hurstville City Centre Public Domain Plan 2007.</li> </ul> |                | Open space is provided at ground level which is accessible to the public and residents during the day and restricted to residents only after-hours.<br><br>Complies.<br><br>Complies.<br><br>Complies. | Yes<br><br>Yes<br><br>Yes<br><br>Yes |

| Applicable DCP Controls  | DCP Provisions  | Development Provisions  | Complies   |
|--|---|---|--|
|  <p>Figure 8: Public Open Space and Landscaping</p> | <p>b) Landscape design is to be in scale with the development and should relate to building form; facilitate storm water infiltration through the use of permeable surfaces; and be easily maintained.</p> <p>c) Landscaping is to ensure amenity of private and publicly accessible open spaces and solar efficiency of apartments by providing shade from the sun and shelter from the wind, including the use of deciduous trees for shading of windows and open space areas in summer and allowing solar access in winter.</p> <p>d) Deep soil planting is to be provided in accordance with the ADG and incorporated in the landscaped central common area – the deep soil area should not be above the basement parking.</p> <p>e) Communal open spaces are to be provided in accordance with the ADG above the podium level.</p> <p>f) Planting, seating and play equipment is to be provided in the communal open</p> | <p>Complies.</p> <p>Complies.</p> <p>The deep soil area complies with the ADG control and is provided in a continuous 6m wide area along the northern site boundaries. Communal open space is provided at ground level, podium levels and rooftop.</p> <p>Complies.</p> <p>Provided and complies.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

| Applicable DCP Controls   | DCP Provisions | Development Provisions  | Complies |
|---|----------------|---|----------|
| spaces.   |                |   |          |
| g) All applications are to include a landscaping plan for all landscaped areas prepared by a qualified landscape designer. The landscaping plan should demonstrate that there is no conflict with the location of services on the site and any deep soil planting area. |                |   |          |
| <b>8.1.3.7 On-Site Parking</b>  |                |   |          |
| a) Car parking provision and design is to be in accordance with Section 5.4 Transport, Traffic, Parking and Access of this DCP.   |                | The proposal complies with the Metropolitan Regional Centre parking rates – refer to ADG compliance table.                        | Yes      |
| b) Parking for the development is to be off the street and accommodated underground.  |                |   |          |
| c) All loading and unloading of goods is to be accommodated within the property and off the public roads, including garbage pickup.   |                | Complies – a loading dock is provided on the ground level.  | Yes      |
| d) All vehicles are to enter and leave the site in a forward direction at all times.  |                | Complies.   | Yes      |
| e) All the designs for all the levels of the basement car park are to adhere to the latest edition of relevant AS/NZS 2890.1, 2890.2 and 2890.6.  |                | Complies.   | Yes      |
| f) Safe and secure access is to be provided for building users, direct access to residential apartments and convenient access to customers /staff of the commercial uses.   |                | Retail and residential uses are provided with separate lobbies and security gates are located at entry to the through-site links. | Yes      |
| g) Ventilation grilles or screening devices   |                | Not required.   | NA       |

| Applicable DCP Controls   | DCP Provisions | Development Provisions   | Complies |
|---|----------------|--|----------|
| of car park openings are to be integrated into the overall façade and landscape design of the development.  |                |  |          |
| <b>8.1.3.8 Vehicle Access</b>   |                |  |          |
| a) Vehicular access to the site is to be provided in accordance with Section 5.4 Transport, Traffic, Parking and Access of this DCP.  |                | Complies.  | Yes      |
| b) Vehicle access to the site is to be located off Hudson Street.   |                | Access is provided from Wright Street and Hudson Street.   | Yes      |
| c) The appearance of car parking and service vehicle entries are to be improved by screening and locating garbage collection, loading/unloading and servicing areas within the basement of the development. Refer to Section 6.2.2 Waste Minimisation and Management of this DCP. |                | The loading dock, service areas and waste storage areas are suitably located and not visible from the public domain. | Yes      |
| d) Vehicle access to the site is to be setback a minimum of 6m from the neighbouring residential properties to provide for a landscaping buffer as shown above in Figure 8.   |                | Both driveways are located at least 6m from the side boundaries with landscaping between the boundary and building.  | Yes      |

### Georges River Interim Policy Development Control Plan 2020

The *Georges River Interim Policy Development Control Plan 2020* was approved by Council on 24 June 2019 and is effective from 22 July 2019 ('the Interim Policy'). The aim of the Interim Policy is to address current inconsistencies in development controls arising from the amalgamation of Kogarah and Hurstville Councils. The Interim Policy is a public document used by Development Assessment planners in their assessment of residential DAs and will ensure that assessment is consistent across the LGA.

The Interim Policy came into effect on 22 July 2019 and shall be considered in the assessment of all applications from this date. The proposal is not considered to be inconsistent with these provisions.

The provisions of this Interim Policy for the current proposal relate most closely to residential flat buildings as follows:

- Site frontage – 20 metres (site complies)
- Height – the LEP controls relating to maximum height will prevail, over DCP controls relating to height in storeys (refer to LEP and CI 4.6 assessment);
- Private and communal open space and solar access – ADG (SEPP 65) controls prevail over the DCP (refer to the ADG assessment); and
- Parking – Metropolitan regional centre rates apply (refer to the ADG assessment).

The proposal is consistent with the Interim Policy.

#### **Planning Agreements (S4.15(1)(a)(iia))**

There is an executed Planning Agreement (VPA) between Georges River Council, Shanghai Hurstville Pty Ltd (Developer) and SLH 108 Pty Ltd (Developer) that applies to 108, 112 and 124 Forest Road and 1 and 3 Wright Street, Hurstville. The VPA was executed on 26 March 2018.

The VPA contains two obligations, a monetary contribution of \$3,775,750 and the dedication of land for a public road. The contribution has been paid and the land dedication is shown on the plans submitted with this application.

#### **The Regulations (S4.15(1)(a)(iv))**

Clause 92 of the Regulations contains additional matters that the consent authority must consider, which include, in the case of a development application for the demolition of a building, the provisions of AS 2601. Relevant conditions have been recommended to be imposed on any consent issued for compliance with this Australian Standard.

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

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

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed development is unlikely to result in adverse impacts to the built environment. Design change conditions are recommended to improve the façade treatment of the building to create a positive contribution to the streetscape and enhance the public domain.
- Access and traffic – The proposal has been considered having regard to access, car parking and traffic generation in the accompanying Traffic Report and by

Council's engineers and Transport for NSW. The proposal is considered to be satisfactory in this regard.

- Public Domain – The proposal will not impede pedestrian access in the area and will not impinge on any public areas. The proposal will enhance the public domain by providing additional activation of the public domain along Hudson Street, Wright Street and Forest Road. A condition of consent has been included for a Public Domain Plan to be prepared and submitted to Council as part of the s138 application after consent is granted.
- Utilities – All utilities are available at the site.
- Heritage – The site does not contain any heritage items and is not located within a Heritage Conservation Area. Heritage items are located in the vicinity of the site, which have been considered in this assessment. There will be no adverse impacts on nearby heritage items as a result of the proposal.
- Natural environment – The proposed development is unlikely to result in adverse impacts to the natural environment as no significant trees are proposed for removal and additional landscaping is proposed at ground and podium levels and on the rooftop communal open space areas. Relevant conditions have been recommended to be imposed to ensure there are minimal environmental impacts arising from the proposal.
- Social and economic impact – The proposal will improve the social and economic environment of the locality through better utilisation of the site. The economic benefits of the proposal include additional employment opportunities, better activation of the city centre, and the provision of additional land for retail uses. Improved longer term viability and the sustainability of the commercial centre of Hurstville and additional jobs in the construction phase of the development are further economic benefits of the proposed development. The proposal will also provide additional housing accommodation in the area in an accessible location and will therefore have social benefits to the locality.
- Site design and internal design – The proposal is appropriately set out on the site to allow for manoeuvring of vehicles on and off the site and minimises adverse impacts on adjoining properties during the proposed works.
- Construction – Construction will be undertaken in accordance with the construction management plan and relevant conditions have been recommended be imposed on any consent.
- Cumulative impacts – The proposal will not result in any adverse cumulative impacts.



Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

***(c) the suitability of the site for the development,***

The site has no impediments that would preclude it from being suitable for the proposed development. The site is zoned to permit residential and commercial development. Furthermore, the site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposal.

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

The application was notified to immediately adjoining properties for a 14 day from 11 February to 25 February 2021. Notification procedures were conducted in accordance with HDCP. One (1) submission was received, which raised the following issues:

*Issue: High rise development is out of character for Wright Street*

*Comment:* The site has specific planning controls that allow a greater height and floor space than properties in Wright Street. To address the change in permissible heights between the site and adjoining property in Wright Street, the proposal is setback for the lower four storeys by 6m to the side boundary and 9m – 12m at the upper levels, which complies with the site specific controls for the site.

*Issue: Overdevelopment will result in more traffic*

*Comment:* The proposal has been assessed by Council's Senior Traffic Engineer and Transport for NSW and no concerns are raised with respect to traffic generation.

*Issue: Overdevelopment will result in less parking in Wright Street*

*Comment:* The proposal includes the required number of parking spaces for the retail tenancies and residential apartments.

***(e) the public interest.***

The proposal generally satisfies the relevant planning controls and is generally consistent with the objects of the EP&A Act and accordingly is considered to be in the Public interest. The development will not significantly adversely affect the amenity of immediately adjoining properties and will not negatively affect the character and nature of the neighbourhood.

Having regard to its size, shape, topography, vegetation and relationship to adjoining developments, the site does not contain any impediments that would preclude it or compromise its suitability for the intended land use as proposed.

The proposal provides additional housing accommodation and retail floor space in a well serviced location and in this way is consistent with the public interest.

### **Environmental Planning and Assessment Regulations 2000 (EP&A) Regs 2000**

The proposed development satisfies the relevant matters for consideration for development under the Regulations.

### **Development Contributions**

The proposed development requires payment of development contributions which have been levied accordingly as outlined in the table below and the conditions at the end of this report.

| <b>Contribution</b>   | <b>Amount</b>          |
|---|------------------------|
| Hurstville Section 94 Development Contributions Plan 2012 - Residential (Community Facilities)                  | \$ 389,966.04          |
| Hurstville Section 94 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain) | \$ 2,757,306.88        |
| <b>Total</b>  | <b>\$ 3,147,272.92</b> |

### **REFERRALS**

The application was referred to the following internal staff:

- Design Engineer
- Land information
- Consultant Arborist
- Drainage Engineer
- Development Engineer
- Traffic Engineer
- Environmental Health Officer
- Waste Officer
- Strategic Planner
- Urban Designer

No objections were raised to the proposal and conditions of consent were provided from all technical input staff.

Design change conditions are recommended in relation to the façade treatment of the buildings and have been discussed earlier in this report.

### **External Referrals**

The application was referred to the following external government agencies:

- Ausgrid
- Sydney Airport Corporation/CASA
- NSW Police
- Transport for NSW

No objections were raised to the proposal and conditions of consent were provided and are included in this report.

### **CONCLUSION**

The application has been assessed having regard to the Matters for Consideration under Clause 4.15 of the *Environmental Planning and Assessment Act 1979*, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.

The application seeks approval for demolition works and construction of a mixed use development comprising retail and shop top housing.

The proposed development application was lodged on the 22 January 2021 with a capital investment value of \$86,390,853 which classifies the development as Regionally significant. Therefore, the Sydney South Regional Planning Panel is the consent authority.

The proposal has been designed to satisfy the key provisions of the relevant planning controls including the, State Environmental Planning Policy 65 – Design Guide of Residential Apartment Development and the Apartment Design Guide and the Hurstville Local Environmental Plan 2012. While there are some areas of some non-compliance, it is considered that the proposed built form and design is satisfactory and a good planning outcome is achieved for the site and locality.

The proposal has been assessed against the provisions of the Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan No. 2.

The proposal satisfies the key planning controls in the Hurstville Local Environmental Plan apart from Clause 4.3 Height of buildings. A Clause 4.6 Statement has been submitted with the application justifying the variation in this case is considered to be

unreasonable and unnecessary in the circumstances of this case and sufficient environmental planning grounds have been demonstrated to contravene the control in this instance.

The proposed development design satisfies the objectives of both the height of buildings control and the zone objectives for the site and the Clause 4.6 Statement and is considered to be well founded and in the public interest as there will not be any direct or adverse environmental impacts generated by the variation sought.

The development has been assessed against the requirements of the relevant planning instruments and development control plans and is generally consistent with those requirements. Following detailed assessment it is considered that Development Application No DA2021/0024 be approved subject to the conditions following this report.

## **DETERMINATION AND STATEMENT OF REASONS**

### **Statement of Reasons**

The reasons for this recommendation are:

- The proposed development meets the objectives of the relevant environmental planning instruments and development control plans.
- The requested variation to the height limit are well founded.
- The proposal has been designed to generally satisfy the key provisions of the Apartment Design Guide (ADG).
- The proposed design has been sensitively considered to be consistent with the anticipated, desired future character for development in this area.
- The proposal aims to provide a high-quality building that will establish a positive urban design, architectural and planning precedent in the area including the provision of street edge retail and through-links and internal space accessible to the public.
- The proposal provide density in a location well serviced by public transport and general retail services and will assist in the renewal of the eastern gateway to the Hurstville City Centre.

### **Determination**

THAT Sydney South Planning Panel support the request for variation under Clause 4.6 of Hurstville Local Environmental Plan 2012, in relation to the height of the buildings (Clause 4.3) as the variations sought are considered to be well founded and in the public interest as there will not be any direct or adverse environmental impacts generated by the variation sought.

THAT Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, as amended, the Sydney South Planning Panel determine DA2021/0024 for demolition works and construction of a mixed use development comprising retail and shop top housing on Lots 1, 54 and 55 in DP 78322, Lot 1 in DP75572 and Lot 531 in DP777334 on land known as 1-3 Wright Street and 108-124 Forest Road, Hurstville should be approved subject to the conditions referenced below.

## **SPECIFIC DEVELOPMENT CONDITIONS**

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### **Development Details**

1. **Fit-out of retail premises** - No approval is granted for the use or fit-out of the retail premises. Separate Development Consent for the use and fit-out is required prior to the occupation of the retail component of the development.
2. **Signage** - A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other applicable environmental planning instrument.
3. **Voluntary Planning Agreement** - Pursuant to section 4.17(1) of the *Environmental Planning and Assessment Act 1979*, the terms of the planning agreement entered into between Georges River Council, Shanghai Lihua Hurstville Pty Ltd and SLH 108 Pty Ltd dated 26 March 2018 (as amended from time to time), being the planning agreement that was entered into in connection with the application made by Shanghai Lihua Hurstville Pty and SLH 108 Pty Ltd to Georges River Council dated 4 December 2014 relating to planning proposal PP2014/0004 and Hurstville Local Environmental Plan 2012 (Amendment No 13) for the purpose of the making of the development application the subject of this consent, must be complied with.
4. **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

| <b>Description</b> | <b>Reference No.</b> | <b>Date</b> | <b>Revision</b> | <b>Prepared by</b>   |
|--------------------|----------------------|-------------|-----------------|----------------------|
| Cover Page         | DA01                 | 30/7/2021   | 2               | Durbach Block Jagers |
| Site Analysis Plan | DA02                 | 30/7/2021   | 2               | Durbach Block Jagers |
| Site Plan          | DA03                 | 30/7/2021   | 2               | Durbach Block Jagers |

|                                      |      |           |   |                      |
|--------------------------------------|------|-----------|---|----------------------|
| Floor Plan Level 01                  | DA06 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Level 02                  | DA07 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Level 03-04               | DA08 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Level 05                  | DA09 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Level 06-09               | DA10 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Level 10                  | DA11 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Level 11-13               | DA12 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Level 14                  | DA13 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Basement 01               | DA14 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Basement 02               | DA15 | 30/7/2021 | 2 | Durbach Block Jagers |
| Floor Plan Basement 03               | DA16 | 30/7/2021 | 2 | Durbach Block Jagers |
| Elevation Forest Rd (South)          | DA17 | 30/7/2021 | 2 | Durbach Block Jagers |
| Elevation Hudson Street (South West) | DA18 | 30/7/2021 | 2 | Durbach Block Jagers |
| Elevation Courtyard (North West)     | DA19 | 30/7/2021 | 2 | Durbach Block Jagers |
| Elevation Wright Street (North East) | DA20 | 30/7/2021 | 2 | Durbach Block Jagers |
| Section A-A                          | DA21 | 30/7/2021 | 2 | Durbach Block Jagers |
| Section B-B                          | DA22 | 30/7/2021 | 2 | Durbach Block Jagers |
| Section C-C                          | DA23 | 30/7/2021 | 2 | Durbach Block Jagers |
| Section D-D                          | DA24 | 30/7/2021 | 2 | Durbach Block Jagers |
| Adaptable Apartments – Sheet 1       | DA37 | 30/7/2021 | 2 | Durbach Block Jagers |
| Adaptable                            | DA38 | 30/7/2021 | 2 | Durbach Block        |

|   |             |           |   |                            |
|---|-------------|-----------|---|----------------------------|
| Apartments – Sheet 2                        |             |           |   | Jaggers                    |
| Adaptable Apartments – Sheet 3              | DA39        | 30/7/2021 | 2 | Durbach Block Jaggers      |
| Adaptable Apartments – Sheet 4              | DA40        | 30/7/2021 | 2 | Durbach Block Jaggers      |
| Boundary Alignment and Land Dedication Plan | DA43        | 30/7/2021 | 2 | Durbach Block Jaggers      |
| Landscape Plan                              | Sheets 1-37 | July 2021 | - | TCL Landscape Architecture |

#### Plans/Reports relied on:

|                                       |                       |           |   |                       |
|---------------------------------------|-----------------------|-----------|---|-----------------------|
| Stormwater Management Plans           | C-3528 Sheets 2, 3, 4 | 4/7/2021  | 5 | Kozarovski & Partners |
| Traffic and Parking Impact Assessment | 2126493               | July 2021 |   | GHD                   |
| DTS Section J Report                  | WC016-04F03           | 5/8/2021  | 1 | Windtech              |

#### Separate Approvals Required Under Other Legislation

5. **Vehicular Crossing - Minor Development** - Constructing a vehicular crossing and/or footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the issue of the Construction Certificate.

To apply for approval, complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website: [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)

Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

Please note, that an approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's Specification for



Vehicular Crossings and Associated Works prior to the issue of the Occupation Certificate.

## 6. **AUSGRID**

### **Overhead Powerlines**

There are existing overhead electricity network assets in Wright Street and Hudson Street.

Safework NSW Document - Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, [www.ausgrid.com.au](http://www.ausgrid.com.au) <<http://www.ausgrid.com.au/>>

Based on the design of the development provided, it is expected that the “as constructed” minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

### **Underground Cables**

There are existing underground electricity network assets in Wright Street and Hudson Street.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the 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.

Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

### **Substation**

There are existing electricity substation assets Within the Proposed Site.

There is an existing kiosk (May be Chamber) style electricity substation that may be impacted by the proposed construction. Subsidence and vibration must be minimised at the substation site. The use of ground anchors under a substation is generally not permitted due to the presence of underground cabling and earthing conductors which may be more than 10m deep. A further area of exclusion may be required in some.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non- ignitable blast resisting barrier.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ - 100 kHz) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid's Network Standard 143.

7. **Building - Hoarding Application** - Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the Local Government Act 1993 <<http://www.legislation.nsw.gov.au/>> and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act 1993 <<http://www.legislation.nsw.gov.au/>> and Section 138 of the Roads Act 1993 <<http://www.legislation.nsw.gov.au/>>:

- a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
  - b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
  - c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) <<http://www.georgesriver.nsw.gov.au/>>) before the commencement of work; and
  - d) Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.
8. **Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - In the event that the excavation associated with the basement car park is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the Local Government Act 1993 <<http://www.legislation.nsw.gov.au/>> and the Roads Act 1993 <<http://www.legislation.nsw.gov.au/>> for approval, prior to commencement of those works. The following details must be submitted.

- a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
- c) Documentary evidence of such insurance cover to the value of \$20 million.
- d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of [\$50,000].  
The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

9. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993 -** Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";
- (i) Digging up or disturbing the surface of a public road (eg Opening the road

for the purpose of connections to utility providers);

- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

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

The relevant Application Forms for these activities can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

10. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

#### **Requirements of Concurrence, Integrated & Other Government Authorities**

11. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
12. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).
13. **Connection to the network will be required prior to the release of any Occupation Certificate** - Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre before commencement of work.
14. **Electricity Supply to development** – All existing overhead power lines within or at the immediate street frontage to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable

to relocate the power line underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilised at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant.

**15. NSW Roads and Maritime Services**

- (a) All vehicles shall enter and exit the site in a forward direction.
- (b) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018. Parking restrictions may be required to maintain the required sight distances at the driveway.
- (c) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- (d) Bicycle Parking should be provided in accordance with AS2890.3.
- (e) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- (f) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the surrounding state road network during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

**16. NSW Police -** Due to the nature of the development, identified crime risks and issues, the following conditions are imposed on the development consent:

- Installation of CCTV cameras within and around the development
  - the system must record continuously at all times
  - recordings must be in a digital format and at a minimum of ten frames per second (10 fps)
  - any recorded image must specify the time and date of the recorded image
  - the systems cameras must cover the following areas:
    - All entry and exit points on the premises
    - The footpath immediately adjacent to the premises
    - All publicly accessible areas (other than toilets) within the premises.
    - Throughout the underground car park to monitor activities around these areas
  - all recordings made by the CCTV system to be kept for at least 30 days

- Lighting which complies with the Australian Standard – lighting must be installed in and around the property to increase visibility during the hours of darkness.
- The mailboxes should be located in a secure or residents only area of the building. This will increase the visibility of the area and decrease the opportunity for mail theft which often results in Frauds and Identity theft.

Further to those general conditions:

- The development applicant provides a Closed-Circuit Television Plan.
- Strict adherence to the provided 'Crime Risk Assessment Report'.

17. **Road Noise** - The site is affected by noise from Forest Road. An Acoustic Report prepared by a suitably qualified acoustic consultant shall be submitted demonstrating that the development has been designed with measures of acoustic attenuation to meet the internal noise levels specified in Clause 102 of State Environmental Planning Policy (Infrastructure) 2007 <<http://www.legislation.nsw.gov.au/>>.

The measures of acoustic attenuation shall be reflected on the Construction Certificate plans.

18. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
19. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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



The Notice of requirements must be submitted prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

20. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> must be submitted to the PCA prior to the issue of the Occupation Certificate.

### **Prior to the Issue of a Construction Certificate**

21. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
- b) 5-7 Wright Street, Hurstville.
- c) 12 Hudson Street, Hurstville.

The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

22. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
23. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion & Sediment Control Plan

- (b) Removal or disturbance of vegetation and topsoil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with Managing Urban Stormwater – Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

24. **Compliance with Flood Management Requirements** - The proposed design involves building a significant structure within an active overland flow area. In order to ensure floodwater is not redirected into neighbouring lots and ensuring adequate clearance is maintained under the car park floor slab will be required. Hence, the development shall be designed to comply with following requirements are incorporated in the final design plans and all documents together shall be submitted to the satisfaction of the Principal Certifying Authority and Council with the application for the Construction Certificate.

- a) The minimum habitable floor levels RL in mAHD shall be set as per Flood Map Information prepared by Kozarovski & Partners, Drawing No. C-3528 - 01, Issue 4, dated 23/06/2021.
- b) The minimum basement ramp crest level shall be set at RL 57.73mAHD.
- c) The use of flood compatible construction materials along with waterproofing construction method to detailed and submitted.
- d) All electrical services, wirings, switches and similar vulnerable electrical switchgear/appliances must be located above RL 26.90mAHD.

25. **On-site Stormwater Detention (OSD tank, Rain Water Tank and First Flush Tank) and Rain Garden** - The submitted Concept Stormwater and OSD/Rain Water Tank/First Flush Plans prepared by Kozarovski & Partners with reference number ***“Stormwater Drainage Plans – 108-124 Forest Road Hurstville”, Drawing No. C-3528, Sheets 02, 03 & 04, Issue 5***, dated 04/07/2021 has been assessed as a concept plan only and no detailed assessment of the design has been undertaken. Final detailed plans of the drainage system, prepared by a Kozarovski & Partners engaged professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

- a) All stormwater shall be drained in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- b) Stormwater drainage detail plans including pipe sizes, type, grade, length, invert levels, dimensions, types of drainage pits, twin rainwater tanks details with OSD capability prepared by a professional design engineer (Concept Plan prepared by Kozarovski & Partners) who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- c) A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) must be submitted with the Construction Certificate application.
- d) A minimum 154.0 cubic metre OSD volume (with additional 42 cubic metre rain water tank and 30 cubic metre first flush tank) is to be provided in accordance with the submitted Stormwater Concept Plan.
- e) A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

- f) A design certificate shall be submitted from the drainage designer (Kozarovski & Partners) including final Drainage Design Plans to Council for approval prior to issue of Construction Certificate.
  - g) A qualified consulting Structural Engineer with currently valid NER certificate of registration (with name & signature on all design plans) being used to construct all Tanks related reinforced concrete work, structural beams, columns & other structural support members. All structural design details and a structural design certificate are to be submitted to the Principal Certifying Authority for approval prior to the issue of construction certificate
26. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that shows:
- a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
  - b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
  - c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

d) Basement Ramp hump crest level at the front entry to the basement shall be minimum 57.73mAHD.

27. **Structural details** - Engineer's details prepared by a qualified consulting Structural Engineer with currently valid NER certificate of registration (with name & signature on all design plans) being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to the issue of construction certificate.

A copy shall be forwarded to Council where Council is not the PCA.

28. **Stormwater Drainage Application** - This Development Consent does not give approval to undertake works on public infrastructure. A separate approval of a Stormwater Drainage Application is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 to undertake:

- (a) Stormwater and ancillary works in the road reserve. This includes connections to council and proposed pits and pipe works along Hudson Street.
- (b) Stormwater and ancillary to public infrastructure on private land.

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The Application Form for this activity can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

29. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$271,147.50.**
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$160.00
- c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will review the dilapidation report and the

Works-As-Executed Drawings (if applicable) and inspect the public works.

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

30. **Access for Persons with a Disability** - Access and sanitary facilities for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.
31. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
32. **Construction Traffic Management Plan [Large Developments only]** - A Construction Traffic Management Plan detailing:
  - (a) construction vehicle routes;
  - (b) anticipated number of trucks per day;
  - (c) hours of construction;
  - (d) Access arrangements; and
  - (e) Proposed traffic measures to minimise impacts of construction vehicles

must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
33. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.
34. **Contaminated Land – Site Validation Report** - A Site Validation Report prepared by the certified Contaminated Land Consultant in accordance with the

State Environmental Planning Policy No. 55 – Remediation of Land must be submitted to the Principle Certifying Authority and Council if Council is not the Principle Certifying Authority. Council must accept and acknowledge the receipt of the Site Validation Report prior to the issue of any Construction Certificate.

The Site Validation Report must include:

- a) A notice of completion of remediation works;
- b) Details of site management requirements (if any)
- c) A clear statement on the suitability of the proposed site use.

35. **Contaminated Land – Site Audit Statement** - To ensure that the Detailed Site Investigation (DSI) has been completed appropriately and any Remedial Action Plan (RAP) proposed for the site will result in the land being made suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 must be submitted to Council.

The SAS must clearly demonstrate that the Detailed Site Investigation (DSI) and Remedial Action Plan (RAP), required to be prepared, has been completed in accordance with the NSW guidelines, and that the land can be made suitable for the proposed use by implementation of any specified Remedial Action Plan (RAP). This must be provided to Council and the accredited certifier prior to the issue of any construction certificate.

36. **Acid Sulfate Soils Management Plan** - Prior to the issue of the construction certificate, an acid sulphate soil management plan must be submitted to the Principal Certifying Authority and the Council (if the Council is not the Principal Certifying Authority) and Council has reviewed the documentation and has accepted the contamination management in writing to the applicant.

The Acid Sulfate Soils Management Plan is to be prepared by a suitably qualified Contaminated Land Consultant and must include:

- a) Site specific mitigation measures to minimise acid sulfate soil disturbance, measures relating to acid generation and acid neutralisation of soil;
- b) Management of excavated material containing acid sulfate;
- c) Measures required to neutralise the acidity of any material containing acid sulfate including groundwater; and
- d) Site specific run-off control measures for acid sulfate affected material.

37. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled Acoustical Report – DA Stage prepared by Michael Fan Chian, MAAS and dated 16 December 2021.

38. **Acoustic Report - General Operation of Premises** - The proposed use of the

premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

An Acoustic Report shall be prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority's NSW Industrial Noise Policy.

39. **Car Wash Bays** - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

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

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
- (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30

metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.

- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

41. **Public Domain Plan** – The Public Domain Plan submitted with the application has not been approved. A public domain plan prepared by a Qualified Landscape Architect in conjunction with a Civil Engineering Designer is to be submitted and approved by Council. The plan is to address the following design criteria, including but not limited to:

- (a) Street trees to be retained and new trees to be planted in accordance with the relevant Council's street tree planting Policy;
- (b) The width of the awning is to be reviewed to ensure it does not interfere with required street tree planting;
- (c) Reconfiguration and treatment of the public domain in addition to the design of new landscaping;
- (d) Expanded soil volumes within the public domain to provide for maximum space to enable root spread;
- (e) Planting of additional street trees, including the proposed species and their location (new trees shall be established and have a minimum pot size of 100L);
- (f) The removal and reinstatement of redundant driveway crossings;
- (g) Details of the public footpath, crossings and pram ramp locations to and around the proposed development;
- (h) Materials and finishes, colours, furniture, and vegetation type proposed within the Public Domain are to be consistent with the design principles specified in Council's Public Domain plans.

The public domain plan shall be prepared in accordance with Council's Urban Design and Public Domain plans. A copy of the Hurstville City Centre Urban Design Strategy, Hurstville City Centre Public Domain Plan, Kogarah North Urban Design Strategy, and the Kogarah North Precinct Public Domain Plan can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)

The installation of hostile architectural features in communal open space areas accessible to the public is not permitted; Hostile architecture includes a restriction on the design and installation of Items such as: slanted or curved benches, rocky pavements, spiked windowsills, segmented benches, street spikes, awning gaps, barred corners, street dividers, raised grate covers, tiered seating, fence grates, retractable spikes and the like.

The cost of the Public Domain works is to be borne by the Applicant.



The Public Domain Plan is to be completed to the satisfaction of the Council's Assets & Infrastructure Division delegate prior to the issuing of the Construction Certificate.

42. **NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

(i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and

(ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

43. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

Council will only accept Bank Cheque or Electronic Funds Transfer (EFT) for transaction values of \$500,000 or over. Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable).

A summary of the fees to be paid are listed below:

| Fee Type  | Fee |
|---|-----|
| <b>GENERAL FEES</b>   |     |
| Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a> |     |

|   |                 |
|---|-----------------|
| Builders Damage Deposit   | \$271,147.50    |
| Inspection Fee for Refund of Damage Deposit   | \$200.00        |
| <b>DEVELOPMENT CONTRIBUTIONS</b>  |                 |
| Hurstville Section 94 Development Contributions Plan 2012 - Residential (Community Facilities)                  | \$ 389,966.04   |
| Hurstville Section 94 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain) | \$ 2,757,306.88 |

### General Fees

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

### Development Contributions

The Section 7.11 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

#### Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

#### Timing of Payment

The contribution must be paid and receipted by Council prior to the release of the Construction Certificate.

#### Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Georges River Civic Centre, MacMahon Street, Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

44. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1159659M\_03 be implemented on the plans lodged with the application for the Construction Certificate.
45. **Required design changes** - The following changes are required to be made. The changes are to be submitted and approved by Council's Manager Development and Building and shown on the Construction Certificate plans:

- a) The Fire hydrant room and booster assembly is to be relocated adjacent to the vehicular access ramp off Hudson Street and integrated into the building's facade to provide an integrated pedestrian zone where R9, R8, Lobby A and the building entrance are separated from site services.
- 46. **Compliance with Swimming Pool Act 1992** - The alterations and additions to the dwelling house and/or the construction of the new dwelling house subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pool Regulation 2008, Building Code of Australia and/or AS 1926.1-2007 - Swimming Pool Safety. Details of compliance to be illustrated on the plans lodged with the application for the Construction Certificate.
- 47. **Swimming Pools - Use and Maintenance** - The following apply to the construction, use and maintenance of swimming pools and spas:
  - (a) no ground level may be raised or filled except where shown specifically on the approved plans;
  - (b) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
  - (c) the swimming pool must not be used for commercial or professional purposes;
  - (d) drain paved areas to the landscaped areas or a suitable lawful drainage system; and
  - (e) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners.
- 48. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
- 49. **Waste Contractors** - The applicant must provide details of the proposed contractors used for managing demolition/construction wastes to Council prior to the issue of a Construction Certificate. The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of wastes.
- 50. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by TCL Landscape Architecture Sheets 1 - 37 and dated July 2021. The landscaping must be

maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) The applicant must engage a registered and licenced nursery grower and contract grow all trees, plants, pot and bag sizes and quantities early within the build phase to ensure that all plant material, sizes and quantities are guaranteed at the time of landscape installation.
- b) The Registered Landscape Architect must witness and sign off that the purchase of all plant material, quantities and sizes has been completed, with a letter of compliance, prior to obtaining a Construction Certificate.
- c) The proposed trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan.
- d) All trees proposed upon the approved landscape plan shall comply with AS 2303 - 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
- e) For the protection of all trees, the planted trees must have installed at the time of planting, tree protection frames installed around them, made of either steel or timber and kept in place for a minimum two (2) years after installation and in accordance with Georges River Councils Street Tree Management Strategy, Masterplan.
- f) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;

51. **Tree Protection and Retention** - The recommendations outlined in the Tree Protection Plan prepared by NSW Trees, Sheets 1 - 4, Project No 21 -07, dated 02/06/21 must be implemented throughout the relevant stages of site set up, demolition, excavation construction and landscaping. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites.

The following trees shall be retained and protected:

| Tree Species                     | Location of Tree / Tree No.     | Tree Protection Zone (metres)<br>TPZ as per<br>AS4970 -2009<br>Fencing distance<br>from trunk |
|----------------------------------|---------------------------------|---|
| <i>Callistemon viminalis</i> x 3 | Within No 5 - 7 Wright St, side | 3.0m each tree  |

|                                |                                   |                |
|--------------------------------|-----------------------------------|----------------|
| <i>Viburnum tinus</i> x 3      | Within No 5 - 7 Wright St, side   | 3.5m each tree |
| <i>Elaeocarpus reticulatus</i> | Within rear of No 5 - 7 Wright St | 2.0m           |
| <i>Cinnamomum camphora</i>     | Within rear of No 5 - 7 Wright St | 2.5m           |
| <i>Eucalyptus Spp</i>          | Within rear of No 5 - 7 Wright St | 4m             |

- a) The client shall engage a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation, with a letter of engagement forwarded to the nominated PCA.
- b) A certificate of compliance letter from the AQF 5 Arborist must be forwarded to the PCA - Principal Certifying Authority, at three (3) stages being, before works, during works and once all building works have been completed, that tree protection measures have been installed and being maintained during the building process.

#### **Tree Protection Measures**

- c) All trees on Council property, subject site and adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- d) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- e) The tree protection measures must be in undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- f) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- g) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- h) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence out from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- i) The tree protection fencing must be kept in place during demolition, excavation and construction and also have a sign displaying 'Tree Protection Zone - DO NOT ENTER' attached to the fence and must also include the

- name and contact details of the Project Arborist.
- j) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
  - k) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed within the TPZ of the trees to be retained on the neighbouring site. The entire deep soil zone allocated for the subject site and location of neighbouring trees must be isolated for the entirety of the project.

#### **Excavation works near tree to be retained**

- l) Excavations around the trees to be retained on site, Councils street verge or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- m) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- n) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

#### **Tree pruning**

- a) Tree pruning required at No - 3 -5 Wright St
- b) Any necessary pruning of overhanging branches relating to any tree located within 5 - 7 Wright Street is subject to a separate tree pruning approval application prior to any works commencing and shall be conducted in accordance with - AS 4373 - 2007, *Pruning of amenity trees*, Pruning class - "S" - Selective pruning - clause 7.2.4 and completed by a minimum, AQF Level 3 Arborist.
- c) No pruning of any neighbours trees is permitted unless approval via Council and Strata Committee approval.

### **52. Tree Removal & Replacement - Tree removal**

- a) Tree removal - Permission is granted for the removal of the following trees:

| <b>Tree Species</b>             | <b>Number of trees</b> | <b>Location</b>  |
|---------------------------------|------------------------|--|
| <i>Auranticarpa rhombifolia</i> | X3                     | Within site corner of Forest Rd and Hudson St car park |
| <i>Pittosporum undulatum</i>    | X1                     | Within site  |
| <i>Cinnamomum camphora</i>      | X2                     | Within site  |
| <i>Populus nigra</i>            | X1                     | Within site  |

|                             |    |             |
|-----------------------------|----|-------------|
| <i>Plumeria acutifolia</i>  | X2 | Within site |
| <i>Lagerstroemia indica</i> | X2 | Within site |

### **General Tree Removal Requirements**

- a) All tree removal shall be carried out by a minimum certificate Level 3, Licenced and insured Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

53. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

#### **Primary Address**

- 2 Hudson Street, Hurstville NSW 2220

#### **Main Secondary Addresses**

- 3 Wright Street, Hurstville NSW 2220
- 112 Forest Road, Hurstville NSW 2220
- 118 Forest Road, Hurstville NSW 2220

#### **Unit Addresses**

- Refer to the attached list of unit addresses for the subject development

Details indicating compliance with this condition must be shown on the plans lodged with any Construction Certificate for approval.

### **Prior to the Commencement of Work (Including Demolition & Excavation)**

54. **Dilapidation Report on Public Land - Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site.

The report must include the following:

- Photographs showing the existing condition of the road pavement fronting the site,
- Photographs showing the existing condition of the kerb and gutter fronting the site,
- Photographs showing the existing condition of the footpath pavement fronting the site,

- d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) The full name and signature of the structural engineer.
- g) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the PCA and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

- 55. **Structural Engineers Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways must be submitted to the satisfaction of Council.
- 56. **Demolition & Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

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

All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015).

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au).



57. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
  - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
  - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
58. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
59. **Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
60. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- a) Set out before commencing excavation.
  - b) Floor slabs or foundation wall, before formwork or commencing brickwork.
  - c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.

- d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

- 61. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
- 62. **Contaminated Land - Prior to Undertaking Remediation Works** - Written notice must be submitted to Council's Environmental Health Officer 30 days prior to the commencement of remediation works, in accordance with clause 16 of the State Environmental Planning Policy No. 55 – Remediation of land.
- 63. **Contaminated Land – Prior to commencement any work** - Prior to the commencement of any work (including demolition and excavation) the applicant must engage an appropriately qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, to supervise and manage on site works and remediation in accordance with the:
  - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
  - c) State Environmental Planning 55 (SEPP55) – Remediation of Land; and
  - d) The Remedial Action Plan prepared by Aargus Pty Ltd, titled Remediation Action Plan and dated 10 June 2021.

64. **Contaminated Land – Dewatering of Site – Water Access Licence** - Prior to the dewatering of groundwater on the site, appropriate Water Access Licence, from the Water NSW is to be obtained.

### **During Construction**

65. **Contaminated Land - During Remediation Works** - All remediation work must be carried out in accordance with:

(a) The State Environmental Planning Policy No 55--Remediation of Land (SEPP 55);

(b) Guidelines made or approved by the NSW EPA include the:

- i. National Environment Protection (Assessment of Site Contamination) Measure 1999 (April 2013) (ASC NEPM) (as amended);
- ii. Guidelines for consultants reporting on Contaminated Sites; and
- iii. Contaminated Land Management - Guidelines for the NSW Site Auditor Scheme.

(c) The Remediation Action Plan prepared by Aargus Pty Ltd, titled Remediation Action Plan and dated 10 June 2021.

66. **Contaminated Land – Contaminants found during demolition or construction** - Any new information that identified during demolition, excavation or construction which has the potential to alter previous conclusions about site contamination and remediation, must be notified to the Principal Certifying Authority (and Council if Council is not the principal certifying authority) immediately.

All works must case and a qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, is engaged to assess and provide documentation on the management of the contamination in accordance with any relevant NSW EPA adopted guidelines.

Works on site must not recommence until such time as Council has reviewed the documentation and has accepted the contamination management in writing to the applicant.

67. **Acid Sulfate Soil Management Plan** - Prior to the commencement of any work (including demolition and excavation) the applicant must engage an appropriately qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, to supervise and manage on site works and remediation in accordance the Acid Sulfate Soil Management Plan submitted and approved as part of the Construction Certificate.

68. **Dewatering – Water Quality Requirements** - Prior to any water from the site going into Council's stormwater drainage system through the process of dewatering, a report must be provided to Council's Environmental Health Section for assessment and approval in writing.

The water discharged must meet the relevant default guideline values (DGVs) under the Australian & New Zealand Guidelines (ANZG) for Fresh & Marine Water Quality. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into Council's stormwater system.

If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to Council's stormwater must be provided in the report.

69. **Registered Surveyors Report - During Construction Works** - A report must be submitted by a Register Surveyor (signed and registration number) with construction finished level information (RL's in mAHD) to PCA and Council at each of the following applicable stages of construction:

- a) Set out before commencing excavation.
- b) The minimum basement ramp crest level shall be set at RL 57.73mAHD.
- c) A Consulting Structural Design Engineer with currently valid NER certificate of registration is to carry out inspections to certify all civil and building construction works within the Proposed Ground Floor of both dwellings are all in accordance with DA approved plans in order to ensure that habitable floor level must be set at all approved levels prior to pouring concrete.

70. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

71. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.

72. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.
73. **Development Engineering - Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
74. **Development Engineering - Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines and cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
75. **Archaeological Discovery During Excavation** -
- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
  - (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act 1974.
  - (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate;
  - (d) If the discovery is on Council's land, Council must be informed.
76. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

77. **Hours of construction for demolition and building work** - Unless authorised by Council:
- a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
78. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
79. **Swimming Pools - Filling with water** - The pool/spa shall not filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.
80. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

#### **Prior to the issue of the Occupation Certificate**

81. **Traffic Engineering**
- a) Prior To Occupation Certificate, The developer must install the pedestrian refuge Island in Hudson Street, Hurstville as per Council's approved design and specifications. The developer can enter into a contractual agreement for Council to build the pedestrian refuge on the developer's behalf by Council providing a quote for the developer to review and if accepted can pay Council to build the pedestrian refuge on the developer's behalf.
  - b) Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

- c) Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
  - d) Convex safety Mirrors to be installed where indicated on approved plans.
  - e) No vehicle larger than a Medium Rigid Vehicle (MRV) as defined in AS 2890.2: 2018 (Australian Standard for off street commercial vehicle facilities) is to be permitted to access the development for the purpose of loading or unloading of goods and/or services.
  - f) The height clearance above the loading bay is to have a clearance of 4.5m minimum with no obstruction from utility pipes or other fixtures.
  - g) All vehicles must enter and exit the development in a forward direction.
  - h) All allocated car parking spaces shall be freely available for the visitors of the proposed development.
  - i) In the instance of multi storey car park and to prevent vehicles from running over the edge of a raised platform or deck of a multi-story car park, barriers in accordance to AS2890.1:2004 section 2.4.5.3 need to be installed.
  - j) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the Australian Standards AS2890.1.
  - k) No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
  - l) All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.
82. **Flood Compliance Certification** - The flood consultant is to provide certification that works through the site have been implemented in accordance with the requirements as set out in the earlier prior to CC Condition.
83. **Restriction to User and Positive Covenant for On-Site Detention Facility and Rain Garden** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance

with Council's standard terms and restrictions which are as follows;

### **Restrictions on Use of Land**

*The registered proprietor shall not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system."*

Name of Authority having the power to release, vary or modify the Restriction referred to is Georges River Council."

### **Positive Covenants**

*1. The registered proprietor of the lot(s) hereby burdened will in respect of the system:*

- a) keep the system clean and free from silt, rubbish and debris*
- b) maintain and repair and replace at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
- c) permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
- d) comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

*2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*

- a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
- b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
  - i. any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in*



*effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*

- li. legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

84. **Maintenance Schedule – On-site Detention Facility** - A Maintenance Schedule for the proposed twin tanks on-site stormwater detention management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
85. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and submitted to the PCA prior to the issue of the Occupation Certificate:
  - (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (c) Construct any new vehicle crossings required.
  - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering and replace redundant concrete with turf.
  - (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
  - (f) Work as Executed Plans prepared jointly by the design engineer and a Registered Surveyor (signed & registration number) following completion of all site engineering works and shall be submitted to the PCA prior to the issue of the Occupation Certificate.
86. **Requirements prior to the issue of the Occupation Certificate - Driveways Works** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
  - (a) Construction of new vehicle crossings as required by this consent.

- (b) Replacement of all redundant vehicle crossing laybacks with kerb and guttering, and replacement of redundant concrete with turf in front properties (both front and rear sides).

87. **Stormwater drainage works – Works As Executed – OSD Systems and Rain Garden** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a drainage designer engineer prepared by Kozarovski & Partners engaged professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volumes as per CC approved plans as minimum for flow attenuation in accordance with the submitted calculations;
- (d) Pipe/Pits and Site Outlet invert levels and surface levels to Australian Height Datum thus complying with approved CC design plans;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits;
- (f) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink;
- (g) The Work-As-Executed plans have been jointly prepared and signed by Kozarovski & Partners engaged professional engineer specialising in hydraulic engineering and a registered surveyor certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc;

Council must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

88. **Post Construction Dilapidation report – Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
- b) 5-7 Wright Street, Hurstville.
- c) 12 Hudson Street, Hurstville.

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

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

89. **Contaminated Land – Site Validation Report (for contaminants found during demolition or construction)** - Any contaminants found during demolition or construction that requires the management of contamination, a Site Validation Report prepared by the certified Contaminated Land Consultant in accordance with the State Environmental Planning Policy No. 55 – Remediation of Land must be submitted to the Principle Certifying Authority and Council if Council is not the Principle Certifying Authority. Council must accept and acknowledge the receipt of the Site Validation Report prior to the issue of any Occupation Certificate.

The Site Validation Report must include:

- a. A notice of completion of remediation works;
- b. Details of site management requirements (if any); and
- c. clear statement on the suitability of the proposed site use.

Council will require a Site Audit Statement prior to accepting the report where:

- the site requires an Environmental Monitoring Program,
- Council is not satisfied with the report provided, and/or
- Council believes the complexity of the contamination requires an independent review.

90. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled Acoustical Report – DA Stage prepared by Michael Fan Chian, MAAS and dated 16 December 2021.
91. **Acoustic Compliance – General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be

assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority's "NSW industrial Noise Policy".

Certification must be submitted to the PCA prior to the issue of any Occupation Certificate.

## 92. **Completion of Landscape Works**

- a) All landscape works must be completed before the issue of the Final Occupation Certificate and in accordance with approved landscape plans and specifications, drawn by TCL Landscape Architecture, Sheets 1 - 37 and dated July 2021.
- b) A certificate of compliance for the planting of all trees and shrubs proposed for the site. The Registered Landscape Architect must be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA - Principal Certifying Authority.
- c) All planted trees must be protected with either steel or timber frames at the time of planting and kept in place for a minimum two (2) years after installation and in accordance with Georges River Councils Street Tree Management Strategy, Masterplan. A letter of compliance by the engaged Registered Landscape Architect must be forwarded to the PCA - Principal Certifying Authority, to form compliance.

## **Operational Conditions (Ongoing)**

- 93. **No Structures on Street Facing Roof Plane or Awning** - No solar hot water heater storage tanks, collar panels, ventilators, air conditioning units, satellite dishes and antennae or the like are to be placed on roof planes, parapets or street awnings of the building which are visible from a public street (other than rear laneways).
- 94. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).
- 95. **Maintenance of Sound Attenuation** - Sound attenuation must be maintained in accordance with the Acoustic Report titled Acoustical Report – DA Stage prepared by Michael Fan Chian, MAAS and dated 16 December 2021.
- 96. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report (Acoustical Report – DA Stage prepared by Michael Fan Chian, MAAS and dated 16 December 2021) and it's

amendments are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to 'offensive noise' as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).

97. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with *AS 4282-2019: Control of the obtrusive effects of outdoor lighting*.

98. **Lighting – General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

99. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

100. **Outdoor Smoking Area – Smoke Free Compliance** - The subject development consent issued by Council does not imply or otherwise verify compliance with the Smoke-Free Environment Act 2000 and/or the Smoke-Free Environment Regulation 2016. The applicant and/or owner of the premises should seek their own legal advice as to compliance with Act and/or Regulation if proprietors of the premises intend allowing smoking in any area of the premises, including that area subject of this consent.

101. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.

102. **Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.

103. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.

104. **Ongoing Waste Management**

a) It is the responsibility for the Site/Building Manager to maintain the waste storage areas in a hygienic, clean and tidy manner that is free of vermin.

b) A site manager or other delegated person on behalf of the

Strata/residents will be responsible for overseeing a private waste collection contractor at the site – this includes collection and servicing of all bins, and the collection and removal of all bulky waste. All waste collection services are to occur on-property and no waste or bins are to be presented in the public domain at any time.

- c) All site waste storage areas are secured with access only by cleaners and/or Building/Strata Manager to prevent illegal dumping or improper use of residential waste storage areas by commercial tenants. All bulky waste storage areas must allow for double doors to ensure that large items can be easily moved (mattresses, furniture etc).
- d) All garden organic waste materials must be removed from the site immediately after generation – there is no storage of green waste permitted on the site at any time. The Site/Building Manager will be responsible for overseeing the landscaping contractor ensuring that garden organic waste is removed and processed at a facility licensed to accept it.
- e) The Site Manager is responsible for monitoring litter bins at the developments letterbox area, and across all communal spaces and maintaining and emptying full litter bins as required.
- f) The applicant must allow adequate storage for at least two days' worth of general waste and commingled recycling on each floor.
- g) All chutes must be maintained and routinely cleaned as organized by and at expense of the Strata.
- h) The Strata/Building Manager will be responsible for coordinating cleaners to routinely rotate bins around the site as required and to maintain all waste/bin storage areas in a clean, hygienic manner.
- i) The Strata/Building Manager will be responsible for coordinating the removal of bulky waste from on the site and ensuring bulky waste removal occurs within the permitted timeframes for private waste collection services as outlined in these conditions. Bulky waste will need to be collected on one of two days per week, within the hours of 6 am – 10pm and must occur shortly after bin collection, so as to ensure the interim storage space adjacent to the turntable is not overfull with bins and bulky waste at the same time.
- j) The Strata/Building management will be responsible for ensuring priority use of the turntable is available for waste collection and they are responsible for maintaining the turntable in a manner that prevents fault or service down time.

- k) Private waste collection services must be restricted to occur no more than twice weekly, with all waste streams serviced on a maximum of two days per week. Collection services must occur between Monday-Friday each week and the hours of 6 am – 10 pm. All private waste collection services must occur entirely within the confines of private property. No bins nor bulky waste are permitted to be presented on the public kerbside at any time.
  - l) Private waste collections services are to be engaged and monitored by the Strata/Building management on behalf of residents, and funded entirely by the Strata on behalf of residents.
  - m) The commercial tenancies are limited to waste collection services between the hours of 6 am and 10 pm to minimize potential noise at neighbouring residential properties. Waste collection frequencies will be limited to a maximum of twice weekly collections of waste and recycling and all waste streams must be serviced on the same day (i.e. a maximum of two days per week whereby waste collection services are provided).
105. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
106. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
- a) All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying

plants and other operations required to maintain healthy trees, plants and turf areas.

### **Tree Protection Measures**

- b) A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.

### **Tree Replacement within subject site**

- c) If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- d) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

- 107. **Swimming Pools - Resuscitation Notice** - An expired air resuscitation warning notice complying with the Swimming Pools Act 1992 must be affixed in a prominent position adjacent to the pool.
- 108. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
- 109. **Private Swimming Pools & Spas - Pump Noise** - The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level. If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 8 pm on any Sunday or public holiday, or
- (b) before 7 am or after 8 pm on any other day.

- 110. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding,



removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

111. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

### **Operational Requirements Under the Environmental Planning & Assessment Act 1979**

112. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
113. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:

- (a) appointed a PCA for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner - Builder.

If the work is not going to be undertaken by an Owner - Builder, the applicant must:

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the Home Building Act 1989) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and
- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

An Information Pack is attached for your convenience should you wish to appoint Georges River Council as the PCA for your development.

114. **Notification Requirements of PCA** - No later than two days before the building work commences, the PCA must notify:
- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - (b) the applicant of the critical stage inspections and other inspections that are

to be carried out with respect to the building work.

115. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building.

A Notice of Commencement Form is attached for your convenience.

116. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

117. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed as the PCA, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

118. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

## Advice

119. **Review of Determination** - Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: Review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney South Planning Panel or the Land & Environment Court.

120. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
121. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
122. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)
123. **Energy Efficiency Provisions** - Should Council be appointed as the PCA, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the PCA.  
  
Energy efficiency provisions relate only to new building work or the installation of new measure. Existing building fabric and measures may not be upgraded.
124. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
125. **Site Audit Statement** - Council may require a site audit of the Detailed Site Investigation report, Remediation Action Plan, Environmental Management Plan and/or Validation Report. If requested, a Site Audit Statement (SAS) and a site audit summary report from an accredited site auditor under the *Contaminated Land Management Act 1997*, verifying the information contained in the report is to be submitted to Council.
126. **Certified Contaminated Land Consultant** - A certified Contaminated Land Consultant is a certified Environmental Practitioner (Site Contamination) (CENVP(SC)) or certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM)

Information relating to certified Contaminated Land Consultant or accredited site auditors can be found on the NSW EPA webpage: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/>

127. **Water Access Licence** - The removal of groundwater during construction may require a Water Access Licence by Water NSW. Information relating to obtaining a Water Access Licence can be found on the WaterNSW webpage: <https://www.waternsw.com.au/customer-service/water-licensing/dewatering#stay>
128. **Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Noise Policy for Industry* [https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) *Community Justice Centres—free mediation service provided by the NSW Government* ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
  - (b) *Department of Environment and Conservation NSW, Noise Policy Section web page* ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).
  - (c) *New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
  - (d) *Australian Acoustical Society—professional society of noise-related professionals* ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
  - (e) *Association of Australian Acoustical Consultants—professional society of noise related professionals* ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) *Department of Gaming and Racing -* ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
129. **Acoustic Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
- (a) *Australian Acoustical Society—professional society of noise-related professionals* ([www.acoustics.asn.au](http://www.acoustics.asn.au))
  - (b) *Association of Australian Acoustical Consultants—professional society of noise related professionals* ([www.aaac.org.au](http://www.aaac.org.au))

(c) *NSW Industrial Noise Policy – Office of Environment & Heritage*  
 ([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))

130. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
131. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
132. **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.
133. **Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.
134. **Long Service Levy** - The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

135. **Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

136. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
137. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.
- A demolition licence and/or a high risk work license may be required from SafeWork NSW (see [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au)).
138. **Register your Swimming Pool** - All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: [swimmingpoolregister.nsw.gov.au](http://swimmingpoolregister.nsw.gov.au).
139. **Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993 and/or Section 68 Local Government Act

1993:

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
- (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0\*\*\*) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new stormwater drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

NOTE: A minimum of four weeks should be allowed for assessment.

| From stamped construction Description on architectural plans   |          |          | Address Type    | Unit numbers and addresses allocated by Council             | Alternate Address can be used (if needed) |
|--|----------|----------|-----------------|---|---|
| Building   | Level    | Unit No. |                 | COMPLETE ADDRESS  |   |
| Building A   |          |          | Primary Address | 2 Hudson Street, Hurstville NSW 2220 (Primary Site Address) |   |
| Building B   |          |          | Sub Address     | 3 Wright Street, Hurstville NSW 2220                        |   |
| <i>*To ensure consistency of unit numbering within '3 Wright Street' (Building B on Plan), each level will be starting with the unit 13, for example G13, 113, 213, 313 and so on.</i> |          |          |                 |   |   |
| Basement 03  |          |          |                 | Basement Carpark 3 (B3)                                     |   |
| Basement 02  |          |          |                 | Basement Carpark 2 (B2)                                     |   |
| Basement 01  |          |          |                 | Basement Carpark 1 (B1)                                     |   |
| A  | Level 01 | R9       | Sub Address     | G01/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 01 | R8       | Sub Address     | G02/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 01 | R7       | Sub Address     | G03/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 01 | R6       | Sub Address     | G04/118 Forest Road, Hurstville NSW 2220                    | G04/2 Hudson Street, Hurstville NSW 2220  |
| B  | Level 01 | R1       | Sub Address     | G13/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 01 | R2       | Sub Address     | G14/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 01 | R3       | Sub Address     | G15/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 01 | R4       | Sub Address     | G16/112 Forest Road, Hurstville NSW 2220                    | G16/2 Hudson Street, Hurstville NSW 2220  |
| B  | Level 01 | R5       | Sub Address     | G17/112 Forest Road, Hurstville NSW 2220                    | G17/2 Hudson Street, Hurstville NSW 2220  |
| A  | Level 02 | A.02.01  | Sub Address     | 101/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.02  | Sub Address     | 102/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.03  | Sub Address     | 103/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.04  | Sub Address     | 104/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.05  | Sub Address     | 105/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.06  | Sub Address     | 106/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.07  | Sub Address     | 107/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.08  | Sub Address     | 108/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.09  | Sub Address     | 109/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.10  | Sub Address     | 110/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.11  | Sub Address     | 111/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 02 | A.02.12  | Sub Address     | 112/2 Hudson Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.01  | Sub Address     | 113/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.02  | Sub Address     | 114/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.03  | Sub Address     | 115/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.04  | Sub Address     | 116/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.05  | Sub Address     | 117/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.06  | Sub Address     | 118/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.07  | Sub Address     | 119/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | R10      | Sub Address     | 120/112 Forest Road, Hurstville NSW 2220                    | 120/3 Wright Street, Hurstville NSW 2220  |
| B  | Level 02 | B.02.09  | Sub Address     | 121/3 Wright Street, Hurstville NSW 2220                    | -   |
| B  | Level 02 | B.02.10  | Sub Address     | 122/3 Wright Street, Hurstville NSW 2220                    | -   |
| A  | Level 03 | A.03.01  | Sub Address     | 201/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 03 | A.03.02  | Sub Address     | 202/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 03 | A.03.03  | Sub Address     | 203/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 03 | A.03.04  | Sub Address     | 204/2 Hudson Street, Hurstville NSW 2220                    | -   |
| A  | Level 03 | A.03.05  | Sub Address     | 205/2 Hudson Street, Hurstville NSW 2220                    | -   |

| From stamped construction Description on architectural plans |          |                    | Address Type                     | Unit numbers and addresses allocated by Council | Alternate Address can be used (if needed) |
|--|----------|--------------------|----------------------------------|---|---|
| Building   | Level    | Unit No.           |                                  | COMPLETE ADDRESS                                |   |
| A  | Level 03 | A.03.06            | Sub Address                      | 206/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 03 | A.03.07            | Sub Address                      | 207/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 03 | A.03.08            | Sub Address                      | 208/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 03 | A.03.09            | Sub Address                      | 209/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 03 | A.03.10            | Sub Address                      | 210/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 03 | A.03.11            | Sub Address                      | 211/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 03 | A.03.12            | Sub Address                      | 212/2 Hudson Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.01            | Sub Address                      | 213/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.02            | Sub Address                      | 214/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.03            | Sub Address                      | 215/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.04            | Sub Address                      | 216/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.05            | Sub Address                      | 217/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.06            | Sub Address                      | 218/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.07            | Sub Address                      | 219/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.08            | Sub Address                      | 220/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.09            | Sub Address                      | 221/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.10            | Sub Address                      | 222/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | B.03.11            | Sub Address                      | 223/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 03 | A.03.11 (Dual Key) | Secondary Address to Sub Address | 223A/3 Wright Street, Hurstville NSW 2220       | -   |
| B  | Level 03 | A.03.11 (Dual Key) | Secondary Address to Sub Address | 223B/3 Wright Street, Hurstville NSW 2220       | -   |
| B  | Level 03 | B.03.12            | Sub Address                      | 224/3 Wright Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.01            | Sub Address                      | 301/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.02            | Sub Address                      | 302/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.03            | Sub Address                      | 303/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.04            | Sub Address                      | 304/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.05            | Sub Address                      | 305/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.06            | Sub Address                      | 306/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.07            | Sub Address                      | 307/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.08            | Sub Address                      | 308/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.09            | Sub Address                      | 309/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.10            | Sub Address                      | 310/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.11            | Sub Address                      | 311/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 04 | A.04.12            | Sub Address                      | 312/2 Hudson Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.01            | Sub Address                      | 313/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.02            | Sub Address                      | 314/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.03            | Sub Address                      | 315/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.04            | Sub Address                      | 316/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.05            | Sub Address                      | 317/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.06            | Sub Address                      | 318/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.07            | Sub Address                      | 319/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.08            | Sub Address                      | 320/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.09            | Sub Address                      | 321/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.10            | Sub Address                      | 322/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 04 | B.04.11            | Sub Address                      | 323/3 Wright Street, Hurstville NSW 2220        | -   |



| From stamped construction Description on architectural plans |          |          | Address Type | Unit numbers and addresses allocated by Council |   |
|--|----------|----------|--------------|---|---|
| Building   | Level    | Unit No. |              | COMPLETE ADDRESS                                | Alternate Address can be used (if needed) |
| A  | Level 07 | A.07.03  | Sub Address  | 603/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 07 | A.07.04  | Sub Address  | 604/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 07 | A.07.05  | Sub Address  | 605/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 07 | A.07.06  | Sub Address  | 606/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 07 | A.07.07  | Sub Address  | 607/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 07 | A.07.08  | Sub Address  | 608/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 07 | A.07.09  | Sub Address  | 609/2 Hudson Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.01  | Sub Address  | 613/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.02  | Sub Address  | 614/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.03  | Sub Address  | 615/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.04  | Sub Address  | 616/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.05  | Sub Address  | 617/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.06  | Sub Address  | 618/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.07  | Sub Address  | 619/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.08  | Sub Address  | 620/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.09  | Sub Address  | 621/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.10  | Sub Address  | 622/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 07 | B.07.11  | Sub Address  | 623/3 Wright Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.01  | Sub Address  | 701/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.02  | Sub Address  | 702/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.03  | Sub Address  | 703/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.04  | Sub Address  | 704/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.05  | Sub Address  | 705/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.06  | Sub Address  | 706/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.07  | Sub Address  | 707/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.08  | Sub Address  | 708/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 08 | A.08.09  | Sub Address  | 709/2 Hudson Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.01  | Sub Address  | 713/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.02  | Sub Address  | 714/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.03  | Sub Address  | 715/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.04  | Sub Address  | 716/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.05  | Sub Address  | 717/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.06  | Sub Address  | 718/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.07  | Sub Address  | 719/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.08  | Sub Address  | 720/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.09  | Sub Address  | 721/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.10  | Sub Address  | 722/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 08 | B.08.11  | Sub Address  | 723/3 Wright Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.01  | Sub Address  | 801/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.02  | Sub Address  | 802/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.03  | Sub Address  | 803/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.04  | Sub Address  | 804/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.05  | Sub Address  | 805/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.06  | Sub Address  | 806/2 Hudson Street, Hurstville NSW 2220        | -   |

| From stamped construction Description on architectural plans |          |                       | Address Type | Unit numbers and addresses allocated by Council | Alternate Address can be used (if needed) |
|--|----------|-----------------------|--------------|---|---|
| Building   | Level    | Unit No.              |              | COMPLETE ADDRESS                                |   |
| A  | Level 09 | A.09.07               | Sub Address  | 807/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.08               | Sub Address  | 808/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 09 | A.09.09               | Sub Address  | 809/2 Hudson Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.01               | Sub Address  | 813/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.02               | Sub Address  | 814/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.03               | Sub Address  | 815/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.04               | Sub Address  | 816/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.05               | Sub Address  | 817/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.06               | Sub Address  | 818/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.07               | Sub Address  | 819/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.08               | Sub Address  | 820/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.09               | Sub Address  | 821/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.10               | Sub Address  | 822/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 09 | B.09.11               | Sub Address  | 823/3 Wright Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.01               | Sub Address  | 901/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.02               | Sub Address  | 902/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.03               | Sub Address  | 903/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.04               | Sub Address  | 904/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.05               | Sub Address  | 905/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.06               | Sub Address  | 906/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.07               | Sub Address  | 907/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.08               | Sub Address  | 908/2 Hudson Street, Hurstville NSW 2220        | -   |
| A  | Level 10 | A.10.09               | Sub Address  | 909/2 Hudson Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.01               | Sub Address  | 913/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.02               | Sub Address  | 914/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.03               | Sub Address  | 915/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.04               | Sub Address  | 916/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.05               | Sub Address  | 917/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.06               | Sub Address  | 918/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.07               | Sub Address  | 919/3 Wright Street, Hurstville NSW 2220        | -   |
| B  | Level 10 | B.10.08 (Penthouse B) | Sub Address  | 920/3 Wright Street, Hurstville NSW 2220        | -   |
| A  | Level 11 | A.11.01               | Sub Address  | 1001/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.02               | Sub Address  | 1002/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.03               | Sub Address  | 1003/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.04               | Sub Address  | 1004/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.05               | Sub Address  | 1005/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.06               | Sub Address  | 1006/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.07               | Sub Address  | 1007/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.08               | Sub Address  | 1008/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 11 | A.11.09               | Sub Address  | 1009/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.01               | Sub Address  | 1101/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.02               | Sub Address  | 1102/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.03               | Sub Address  | 1103/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.04               | Sub Address  | 1104/2 Hudson Street, Hurstville NSW 2220       | -   |

| From stamped construction Description on architectural plans |          |                       | Address Type | Unit numbers and addresses allocated by Council | Alternate Address can be used (if needed) |
|--|----------|-----------------------|--------------|---|---|
| Building   | Level    | Unit No.              |              | COMPLETE ADDRESS                                |   |
| A  | Level 12 | A.12.05               | Sub Address  | 1105/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.06               | Sub Address  | 1106/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.07               | Sub Address  | 1107/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.08               | Sub Address  | 1108/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 12 | A.12.09               | Sub Address  | 1109/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.01               | Sub Address  | 1201/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.02               | Sub Address  | 1202/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.03               | Sub Address  | 1203/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.04               | Sub Address  | 1204/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.05               | Sub Address  | 1205/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.06               | Sub Address  | 1206/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.07               | Sub Address  | 1207/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.08               | Sub Address  | 1208/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 13 | A.13.09               | Sub Address  | 1209/2 Hudson Street, Hurstville NSW 2220       | -   |
| A  | Level 14 | A.14.01 (Penthouse A) | Sub Address  | 1301/2 Hudson Street, Hurstville NSW 2220       | -   |



## **Annexure A – GMU Urban Design Comments**

We have reviewed the received DA documentations and planning controls for 108-124 Forest Rd and 1-3 Wright St Hurstville. We also conducted a site visit to understand the existing character of the area and streetscape character. Based on the review, we consider that the current proposed development has presented several issues relating to its contextual fit, perceived bulk and scale, amenity issues resulting from the internal layout design and deep floor plates as well as the façade design.

### **Overall built form**

The context visit suggests that recent high-rise mixed-use developments in the vicinity of the site are predominantly characterised by distinct podium and tower form. Towers are generally aligned to address Forest Rd, forming a strong street definition.

The current LEP and DCP controls require active frontages to both Wright and Hudson St - 70% of the podium facades are required to be built to the Hudson St boundary and 30-70% to Wright St. However, the proposed development generally sets the podium levels back by 2.75m to Wright St and 1.1m to Hudson St. We assume the intention is to align with the adjoining residential developments to the north-west. We consider that a more responsive form could be potentially explored is to have the podium built to street corners with increased setbacks to the remaining street frontages, providing an improved corner definition and activation as well as better alignment with neighbouring developments.

We notice that the proposal has part of the Building B ground level built to the street corner but the remaining upper podium levels are set back by 2.75m from the street boundary. This results in a staggered built form which should be avoided. It provides nearly nil secondary setback to the tower above podium levels to Wright St, which does not respond to the predominant built form character of the area and presents a visually bulky form when viewed from surrounding medium/low scale residential areas. It is recommended that the upper podium levels to be aligned with the ground level footprint area to achieve a clear podium and tower form presence to Wright St.

The proposed tower setback to the common boundary is only at 9m which is 3m less than the DCP requirements. As shown in the elevation drawings, the reduced side setback may not achieve a proper scale transition to the neighbouring residential development and exacerbates. It also exacerbates the perceived bulk and scale.

The proposed tower form presents a staggered building alignment to Forest Rd with a portion of the footprint area encroaching into the required upper-level setback zone. We recommend realigning the towers to address Forest Rd and street corners to achieve a more harmonious fit to the context.

The lack of vertical articulations/indents to most of the tower and podium facades

contributes to an excessive built form when viewed from the public domain. The current design does not provide a sympathetic response to the desired 'human-scale' streetscape character. Vertical bays/indents should be incorporated into the podium and tower design to mitigate its perceived scale. The proposed archway design further exacerbates the proposal's visual bulk and is opposed to a 'human-scale' streetscape.

The proposal claims to comply with the max allowable FSR controls. However, we understand the open corridor areas and the balconies on podium levels which could be fully enclosed have not yet been calculated as part of the overall GFA achieved. If these areas were to be included, the current design will cause the proposed GFA to exceed the permissible FSR, which indicates an overdevelopment of the site.

### **Layout plan and amenity issues –**

- The street frontage to Hudson Street is predominantly occupied by loading dock area and vehicle ramp which limits the opportunity for desired passive surveillance and street activation to the public domain. We consider that alternative solutions to reduce the inactive frontage could be either incorporate the loading dock area into the basement level or relocate it to the rear of Building A where the retail suite 7 is.
- The plan suggests that the proposed commercial/retail suites are only accessible from through-site links. No direct entries from Forest Rd are indicated on the plan, which is not supported. It will result in low level of activation to the street. We also question how the proposed outdoor eating area (as shown in the photomontage) can be serviced while there are no direct entries from the streets.
- The retail/visitor parking entry from Wright St is recommended to be relocated to where the retail suite 1 is. This will help to achieve an improved active interface to the proposed through-site link and a continuous active frontage to Wright St with less conflicts between pedestrians and vehicles.
- The through-site link from Wright St to Hudson St is 4m in width with an average clear height of approx. 3m (as is measured from the section drawing). The DCP requires a min 4.5m and a clear height of 1.5xwidth of 6m whichever is greater.
- It is not clear if universal accesses directly from streets to Lobby A and B are provided.
- Carpark exhaust should be contained within the main building, not in the central landscaped area.
- Substation kiosks are recommended to be integrated into the main building design.
- The plan suggests that the proposed lift cores will be shared by retail and residential uses. Separated lift cores are recommended.
- Residential waste bin areas should be separated from commercial/retail uses.
- The proposed fire egress to lobby areas is a concern.
- The open corridor design for Building B is not supported. It results in adverse safety and security concerns and overlooking and visual privacy issues. We consider that the proposed open linkage between the 2 parts of Building B should be either fully enclosed with a more generous space achieved or a second lift core is to be provided.

- The ADG requires “no more than 12 apartments should be provided off a circulation core on a single level”. Building B has 13 units off one core on podium levels.
- Units with habitable window openings to light well spaces are not a good outcome. They received compromised outlook and daylight access, i.e., Units B.0208-0408 & 0213-0413.
- The proposed deep floor plates (up to approx. 33m at some points) leads to inefficient layout plan and associated amenity issues. A great portion of the units have narrow long internal corridors leading to the main living or bedroom areas.
- The balconies in deep configuration (approx. 4.2m in depth) plus the current podium façade design will severely limit the daylight access into the main living areas i.e., Units B.0203-0206, B0303-0306, B0403-0406.
- Study rooms that are located off main living space in an alcove area have no access to daylight and natural ventilation. Window openings should be provided.
- Snorkel bedrooms with limited outlook and access to daylight should be avoided.
- Some of the units cannot be counted as cross ventilated units as they rely on the open corridor design i.e., B.0203-1003

#### **Architectural design –**

- The proposed window openings on the podium levels with a horizontal focus further exacerbates the perceived bulk and scale of the development. More vertical bays to the podium and well-composed window patterns should be explored to achieve a more human-scaled podium development.
- The Forest Rd and north-west elevations present a poor façade composition. Vertical articulations/modulations should be explored to achieve a well-proportioned and balanced design, providing visual interest to the streetscape.
- More vertical indents to the tower facades are required to reduce its perceived scale.

## Annexure B – SJB Peer Review Urban Design Comments

The comments raised in Council's correspondence of 14 May 2021 are shown in italics, followed by our responses. Our responses have been informed by the amended architectural drawings prepared by DBJ. Where relevant, we have also considered the supporting submission and diagrams prepared by DBJ.

### 1.1 Built form - Transition and setbacks to adjoining residential development

- *The proposed tower setback to the common boundary is only at 9m which is 3m less than the DCP requirements. As shown in the elevation drawings, the reduced side setback may not achieve a proper scale transition to the neighbouring residential development and exacerbates. It also exacerbates the perceived bulk and scale.*
- *ADG Visual Privacy (Part 3F): There appear to be areas of balconies on the northern elevations that encroach the 9m setback control on Levels 10 to 13 are setback 9m rather than the 12m required. The proposal is to be amended to comply with the controls at every level.*

#### Response:

The DA has been amended to provide a 12m setback to the northern (residential) boundary from level 6 and above Building A and Building B. This ensures the habitable windows and balconies of apartments from level 6 and above are setback 12m from this boundary.

Level 5 of Building A and B has also been amended to provide a 12m setback from the building façade to the northern boundary. The balconies to the level 5 apartments are setback 9m from the northern boundary. A 3m deep landscape buffer provides additional screening and privacy to the balconies on this level.

These amendments ensure that the proposal complies with the ADG visual privacy design criteria (3F-1) relating to setbacks to adjoining property boundaries.

These amendments also ensure the proposal comply with the controls contained in Section 8.1.3.2 of the HDCP No. 2 which seeks to provide an appropriate transition in height and density to the adjoining R3 Medium Density Residential area to the north along Hudson and Wright Streets. Specifically, the amended DA complies with the following controls:

- A four (4) storey building form setback 6m from the boundary with 6-12 Hudson Street and 5-7 Wright Street; and
- A 12m setback to the boundary with 6-12 Hudson Street and 5-7 Wright for the built form above four storeys.

Having regard to the above, the amended DA resolves the issues raised by Council relating to non-compliances within Part 3F Visual Privacy of the ADG and the non-compliances with the setbacks and building transition controls contained in the HDCP No.2.

## 1.2 Built Form – Tower and podium

*The context visit suggests that recent high-rise mixed-use developments in the vicinity of the site are predominantly characterised by distinct podium and tower form. Towers are generally aligned to address Forest Rd, forming a strong street definition.*

### Response:

In our view the existing mixed use developments in the vicinity of the site, including those currently under construction, as well as recently approved projects, are characterised by a variety of built forms. Some developments have a clear podium and tower form that is conveyed through tower setbacks. While other developments define the podium and tower forms through design and changes in materiality.

The Streetscape Character Photo Study (Diagram 3) prepared by DBJ in support of the amended DA, clearly conveys the variation in podium and tower built forms in the vicinity of the site. We consider DBJ's approach to the siting and design of the tower and podium form responds to this context, as well as meeting the intent of the site specific provisions applying to the site under the HDCP No. 2.

The proposal exhibits a distinct podium and tower forms. The podium is expressed through a solid horizontal form, with glazing at the street frontage level to maximise activation. The horizontal profile is punctuated by arched openings to through-site links on Hudson and Wright Streets, and two (2) through site links from Forest Road. The archways on Forest Road are 13.5m and 13.7m in height and 6m wide, which provides a clear vertical break. Arched openings to the residential lobbies on Hudson and Wright Street provide additional vertical elements to break-up the strong horizontal form of the podium.

The Forest Road presentation comprises three distinct and visually separated towers of varying heights, above a discernible podium. The arched through-site links that puncture the podium, reinforce the sense of separation between the towers. The architectural expression of the tower facades fronting Forest Road incorporates more solid elements. This responds to the southern orientation and harsher environs of Forest Road attributed to the vehicle traffic and associated noise. Extensive landscaping of the roof-top of the podium reinforces a visual separation between the towers and podium when viewed from Forest Road.

The tower elevations to Wright and Hudson Street are articulated with curved and scooped balconies and recesses, and open balustrades. The towers exhibit strong vertical lines. The amended DA enhances the articulation to the tower façade of Building A with the introduction of a central vertical facade indent. The heavily articulated and vertical form of the towers contrasts with the solid podium form. This creates a distinctive podium and tower form.

## 1.3 Architectural design

- *The lack of vertical articulations/indents to most of the tower and podium facades contributes to an excessive built form when viewed from the public domain.*

- *The current design does not provide a sympathetic response to the desired 'humanscale' streetscape character. Vertical bays/indents should be incorporated into the podium and tower design to mitigate its perceived scale. The proposed archway design further exacerbates the proposal's visual bulk and is opposed to a 'humanscale' streetscape.*
- *The proposed window openings on the podium levels with a horizontal focus further exacerbates the perceived bulk and scale of the development. More vertical bays to the podium and well-composed window patterns should be explored to achieve a more human-scaled podium development.*
- *The Forest Rd and north-west elevations present a poor façade composition. Vertical articulations/modulations should be explored to achieve a well proportioned and balanced design, providing visual interest to the streetscape.*

### Response:

#### Podium Design

As detailed in 1.2 above, the solid, horizontal form of the podium, is key to creating discernible tower and podium elements.

Vertical breaks in the form of arched entries to the through site links and building entries, break up the massing of the podium. Both of the archways on Forest Road have been increased in height to ensure they read as full vertical breaks in the façade. As a result the podium to Forest Road is not continuous but is broken into three (3) separate elements. Similarly, the podium on Wright and Hudson Street is punctuated with arches entries to residential lobbies and the through site links.

In this regard, we consider that the podiums on all elevations incorporate discernible vertical breaks, including two (2) major vertical breaks on Forest Road, and do not result in an excessive built form when viewed from the public domain. The podium form responds to the solidity of traditional street-front retail, while incorporating continuous glazing at ground level to maximise activation and contribute to the creation of a human scale streetscape consistent with the urban design principles outlined in Section 8.1.1.4 of the HDCP No.2.

We do not agree that the archway design is opposed to a human scale streetscape. The archways provide visual interest along the streets and announce the entry to the through site links and the publicly accessible central landscaped open space.

The graded colour of the tiled podium surface, which transitions from green to white with a variety of gloss and matt finishes, also breaks up the expanse of the podiums while creating visual interest, particularly for pedestrians.

#### Tower Design

As outlined in 1.2 above, the tower elevations to Wright and Hudson Streets are articulated with curved and scooped balconies and recesses, and open balustrades. The towers exhibit



strong vertical lines. The amended DA introduces an additional central vertical indent into the Hudson Street elevation of Building A.

The Forest Road presentation consists of three (3) distinct, visually separated towers of varying height and proportions. This separation and diversity in height and form breaks up the massing of the towers' forms when viewed from Forest Road. The tower facades are narrower than the longer- framed facades facing Wright and Hudson Streets.

The composition of each of the façades varies but is more restrained than the facades of Wright and Hudson Streets. A greater portion of solid elements is incorporated into the facades which is a direct response of the southern orientation and the need to minimise the number of south facing apartments. Vertical articulation is provided through materials and window configurations. Large format panels, vertically aligned with staggered horizontal joints help to emphasise the verticality of the façades. Centrally located arched openings also provide vertical elements. The vertical articulation of the Forest Road façade is appropriate, given the variation in height, form and proportions that is evident across each of the three (3) towers.

#### 1.4 Built form – Setbacks to Forest Road

*HDCP No. 2 - The upper level setback to Forest Road breaches the minimum 4m on the corner of Forest Road and Hudson Street*

*The proposed tower form presents a staggered building alignment to Forest Rd with a portion of the footprint area encroaching into the required upper-level setback zone. We recommend realigning the towers to address Forest Rd and street corners to achieve a more harmonious fit to the context.*

#### Response:

The following diagram prepared by DBJ illustrates the minor nature of the encroachment into the 4m tower setback applying to Forest Road. The encroachments are represented by the pink shading and are described below:

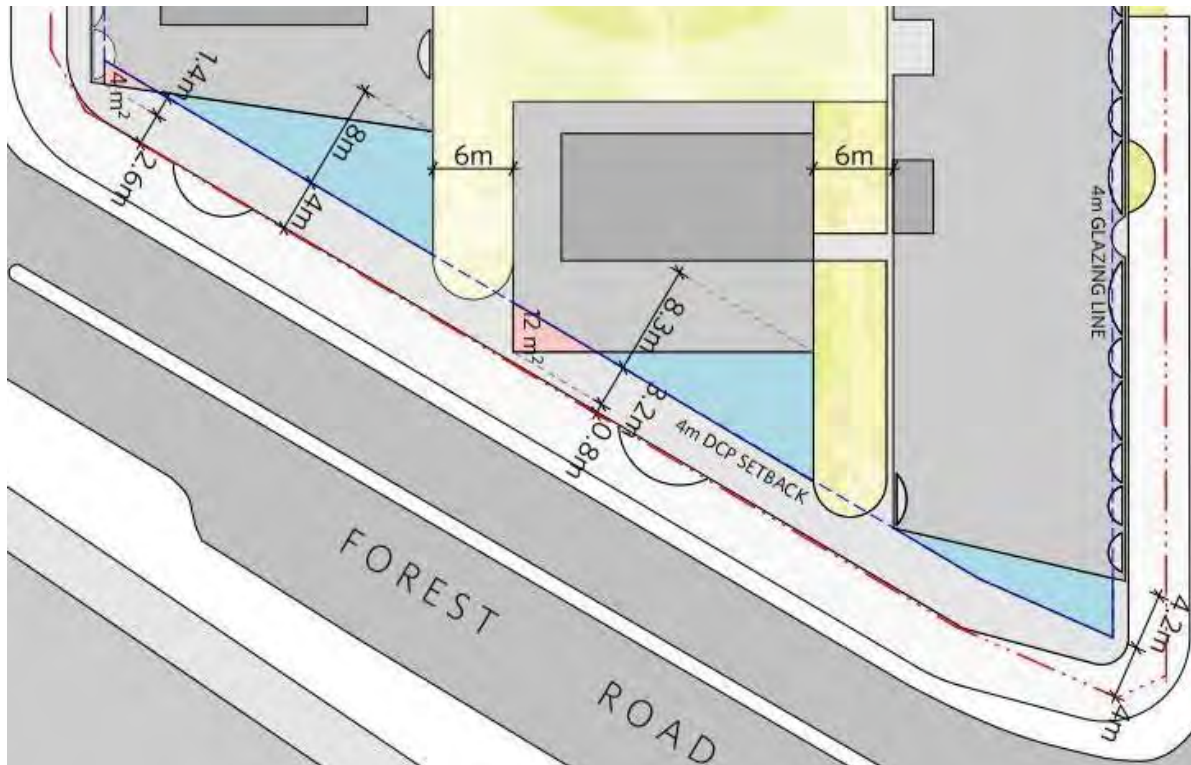
- A small portion of the south-western edge of Building A tower encroaches into the 4m setback by 1.4m at the corner with Hudson Street; and
- The corner of the central tower of Building B tower encroaches into the 4m setback by 3.2m, towards the centre of the site.

The encroachments are negligible and will be indiscernible given the towers are predominantly setback in excess of 4m. Tower A is setback up to 12m and the two towers forms of Building B have maximum setbacks of 8.2m and 12.3m. In this regard, the alignment of the proposed towers to Forest Road provides a larger setback on average than the minimum 4m setback required by the HDCP No. 2.

With the exception of the minor encroachments outlined above, the staggered tower alignment to Forest Road provides a predominant tower setback in excess of the minimum

4m required by the DCP. The staggered alignment reduces overshadowing to the East Quarter development directly opposite the site on the southern side of Forest Road.

Aligning the buildings with Forest Road, would also diminish the perception of the three (3) and separate tower forms, and would increase the bulk and scale of the development from Forest Road.



It is noted that consistent with the HDCP No. 2, the podium to Forest Road has a maximum height of four (4) storeys and is built to the street frontage.

#### 1.5 Built form – Setbacks to Hudson Street and Wright Street

*The current LEP and DCP controls require active frontages to both Wright and Hudson St - 70% of the podium facades are required to be built to the Hudson St boundary and 30-70% to Wright St. However, the proposed development generally sets the podium levels back by 2.75m to Wright St and 1.1m to Hudson St. We assume the intention is to align with the adjoining residential developments to the north-west. We consider that a more responsive form could be potentially explored is to have the podium built to street corners with increased setbacks to the remaining street frontages, providing an improved corner definition and activation as well as better alignment with neighbouring developments.*

*We notice that the proposal has part of the Building B ground level built to the street corner but the remaining upper podium levels are set back by 2.75m from the street boundary. This results in a staggered built form which should be avoided. It provides nearly nil secondary*

*setback to the tower above podium levels to Wright St, which does not respond to the predominant built form character of the area and presents a visually bulky form when viewed from surrounding medium/low scale residential areas. It is recommended that the upper podium levels to be aligned with the ground level footprint area to achieve a clear podium and tower form presence to Wright St.*

The amended proposal complies with the active frontage provisions of the HLEP 2012 as detailed in Section below. The HDCP No. 2 requires that podiums up to a maximum of four (4) storeys (15m) are built to street frontage along Hudson and Wright Streets. The upper levels of the building are required to be setback a minimum of 3m.

### Wright Street

The podium to Wright Street has a predominant setback of 2.75m from the street boundary. The exception to this is the ground level, which has a zero alignment to 33m (48%) of the frontage. The ground level setback is increased to 2.75m for the remaining retail frontage. It is important to note that 79% of the frontage is activated within retail tenancies, lobbies and through site links.

The podium setback to Wright Street is appropriate as it ensures the majority of the ground level has zero alignment to define the street and maximise activation, consistent with the HDCP No. 2. The increased setback to the remaining third of the ground frontage provides a transition to the setbacks of the adjoining residential development on Wright Street and residential character further north along the street.

The increased setback to the upper levels of the podium also provides greater separation to the development on the opposite side of Wright Street and allows more sunlight to penetrate the podium apartments fronting Wright Street.

The proposal provides a variable 3m to 4m tower setback to Wright Street which complies with minimum 3m tower setback required under the HDCP. The variable tower setback is heavily articulated with curves and scallops to create a development that is visually interesting and distinctive, consistent with the urban design principles contained in Section 8.1.1.4 the HDCP No.2 (b).

The podium setbacks do not result in an undesirable staggered built form to Wright Street. For reasons detailed in Section 1.2 and 1.3 above, we do not agree that increased setbacks to the upper three levels of the podium and the proposed tower alignment presents a visually bulky form. The amended proposal incorporates additional vertical indentations and architectural elements to emphasise a distinct podium and tower form that responds to the varied character of the surrounding built form.

### Hudson Street

The DA has been amended to provide a zero alignment to the ground level fronting Hudson Street. This ensures 31.8m (62%) of the Hudson Street frontage is occupied by retail

premises and a residential lobby with zero setback and is consistent with the HDCP No. 2. The remainder of the frontage is occupied by the required through site links, landscaped setbacks and vehicle access.

The three (3) levels of the podium above ground are setback 1.1m to align with the adjoining four (4) storey residential building at 6-12 Hudson Street. This step in the podium responds to the siting of the adjoining residential development, while ensuring the ground level reinforces the street edge and maximises activation. In this regard, the proposal is consistent with the HDCP No. 2, including the urban design principles outlined in 8.1.1.4 which seeks to ensure the built form outcome provides a transition to the adjoining sites and while defining the street edge.

A variable 3m to 4m tower setback is also provided to Hudson Street which complies with minimum 3m tower setback required under the HDCP No. 2. Like Wright Street, this tower setback is also articulated with curves and scallops to create visual interest when viewed from Hudson Street, consistent with the HDCP No. 2 urban design principles (Section 81.1.4 (b)).

#### 1.6 Active Frontages

- *Hurstville LEP - Pursuant to Clause 6.6 an active street frontage is required to Forest Road, Hudson Street and Wright Street. The proposal does not provide any active street frontages as direct street level access to the ground floor commercial tenancies is not provided. The proposal is to be amended to comply.*
- *The plan suggests that the proposed commercial/retail suites are only accessible from through-site links. No direct entries from Forest Rd are indicated on the plan, which is not supported. It will result in low level of activation to the street. We also question how the proposed outdoor eating area (as shown in the photomontage) can be serviced while there are no direct entries from the streets.*

#### Response:

It is noted that the active street frontage provisions of the HLEP 2012 apply to Forest Road and Hudson Street and only a small section at the corner of Wright Street where it intersects with Forest Road.

Notwithstanding, the amended proposal provides active frontages to Forest Road, Wright Street and Hudson Street in accordance with HLEP 2012, with the provision of commercial retail tenancies on the ground floor facing each street. Consistent with subclause 6.6(4) of the HLEP 2012, the only sections of the street frontage that do not accommodate retail premises include those areas required for vehicle access, residential lobbies and fire egress.

The HDCP No. 2 requires active frontages to all three (3) streets, including Wright Street. The flood affectation of the site has impacted on the opportunity to provide direct, level access from the existing footpaths to the ground level tenancies as required by the HDCP. Level access is provided from the through site links and internal spaces.

In response to Council's comments and to ensure consistency with the active street frontage provisions of the HLEP 2012 and the site specific provisions of the HDCP No.2, the proposal has been amended to include ramps within the tenancies to facilitate access from the streets. This maximise activation along Forest Road, Hudson and Wright Streets, within the constraints imposed by the existing flood affectation.

- *The street frontage to Hudson Street is predominantly occupied by loading dock area and vehicle ramp which limits the opportunity for desired passive surveillance and street activation to the public domain. We consider that alternative solutions to reduce the inactive frontage could be either incorporate the loading dock area into the basement level or relocate it to the rear of Building A where the retail suite 7 is.*
- *The retail/visitor parking entry from Wright St is recommended to be relocated to where the retail suite 1 is. This will help to achieve an improved active interface to the proposed through-site link and a continuous active frontage to Wright St with less conflicts between pedestrians and vehicles.*

### Response:

The proposal has been amended to combine the loading dock and vehicle entry on Hudson Street. This has increased the amount of commercial retail tenancy frontage to the street to maximise activation.

The retail and visitor parking entry on Wright Street has been relocated in line with Council's recommendation, to increase the continuous active frontage along Wright Street. The through site link is flanked by commercial retail tenancies to facilitate maximum opportunities for activation of the link.

## 1.7 Layout and amenity

We note that the DA incorporates the following amendments and additional information in response to Council's miscellaneous comments relating to layout and amenity and to improve the satisfaction with the objectives, design guidance and criteria of the ADG:

- The common circulation corridor with Building A open at both ends from levels 5 to 12 to maximise sunlight, daylight and natural ventilation.
- Building B has been modified to ensure there are a maximum of 12 apartments on the podium level 3 and 4. Podium level 2 has nine (9) apartments.
- Additional details have been included on the drawings to demonstrate that the proposal satisfies the design criteria relating to minimum apartment sizes, room sizes and dimensions.
- A total of 1,490m<sup>2</sup> of communal open space is provided which exceeds 25% of the site area, as stipulated in the design criteria. This is comprised of:
  - Communal picnic area and playground at level 1 (ground) with an area of 1,036m<sup>2</sup>
  - Communal terrace on the level 5 podium with an area of 89m<sup>2</sup>
  - Roof-top communal terrace on Building B with an area of 365m<sup>2</sup>

Consistent with the design criteria, in excess of 50% of the communal open space receives a minimum of 2 hours of sunlight between 9am and 3pm.