

## Statement of Environmental Effects

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DEMOLITION OF EXISTING STRUCTURES, TREE REMOVAL AND CONSTRUCTION OF A FOUR (4) STOREY RESIDENTIAL FLAT BUILDING COMPLEX UNDER THE AFFORDABLE RENTAL HOUSING SEPP 2009 CONTAINING 72 UNITS OVER BASEMENT PARKING FOR 83 VEHICLES AT 824 -834 FOREST ROAD, PEAKHURST



*Prepared by:* Think Planners  
*Document Date:* 19 December 2018  
*Consent Authority:* Georges River Council LPP

**QUALITY ASSURANCE**

**PROJECT:** Statement of Environmental Effects– 4 Storey Residential Flat Building  
**ARCHITECT:** Zhinar Architects  
**ADDRESS:** 824 – 834 Forest Road, Peakhurst  
**COUNCIL:** Georges River  
**AUTHOR:** Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
14 November 2018	Draft Issue for Circulation	Draft	BD	JW
19 December 2018	DA Lodgement Issue	Final	BD	JW

<i>Integrated Development (under S91 of the EP&amp;A Act). Does the development require approvals under any of the following legislation?</i>	
<i>Fisheries Management Act 1994</i>	<i>No</i>
<i>Heritage Act 1977</i>	<i>No</i>
<i>Mine Subsidence Act 1992</i>	<i>No</i>
<i>Mining Act 1992</i>	<i>No</i>
<i>National Parks and Wildlife Act 1974</i>	<i>No</i>
<i>Petroleum (Onshore) Act 1991</i>	<i>No</i>
<i>Protection of the Environment Operations Act 1997</i>	<i>No</i>
<i>Roads Act 1993</i>	<i>No</i>
<i>Rural Fires Act 1997</i>	<i>No</i>
<i>Water Management Act 2000</i>	<i>No</i>
<i>Does the Development Require Concurrence?</i>	
<i>Clause 4.6 Variation (PLEP 2011)</i>	<i>No</i>
<i>SEPP 64- Advertising and Signage</i>	<i>No</i>
<i>SEPP 71 – Coastal Protection</i>	<i>No</i>
<i>SEPP (Infrastructure) 2007</i>	<i>No</i>
<i>SEPP (Major Development) 2005</i>	<i>No</i>
<i>SREP (Sydney Harbour Catchment) 2005</i>	<i>No</i>

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## Executive Summary

This Statement of Environmental Effects is submitted to Georges River Council in support of a Crown Development Application for tree removal and the construction of a four (4) storey 'Residential Flat Building' complex under the Affordable Rental Housing SEPP 2009. The proposal comprises of two separate buildings and contains a total of 72 residential units, and 83 carparking spaces within a basement at 824 – 834 Forest Road, Peakhurst.

The development incorporates the following dwelling mix:

- 24 x 1 bedroom units;
- 42 x 2 bedroom units; and
- 6 x 3 bedroom units.

This proposal takes advantage of the maximum available floor space bonus under the ARH SEPP through the dedication of 37.8% of the proposed GFA to social and affordable housing. As part of the commitments made by the developer for the site, ten social dwellings will be delivered to the NSW Land and Housing Corporation and managed by a Community Housing Provider (CHP). A further 19 affordable apartments will also be provided and operated by a CHP for a period of 10 years from the issue of the occupation certificate. The development has a Capital Investment Value of \$15,692,823.

This application is part of the NSW Government's Communities plus programme with the Land and Housing Corporation partnering with the private sector to fast track the redevelopment of some sites in NSW. This development will assist with delivering future directions for Social Housing in NSW by providing a new mixed community where social housing blends in with private and affordable housing, with better access to transport and employment, improved community facilities and open spaces.

The development site is a regular shaped mid block land parcel with a frontage to Forest Road of approximately 99m, and once consolidated will have a total site area of 4,071m<sup>2</sup>. The site is located on the northern side of Forest Road approximately 33m east of the intersection of Pearce Avenue and Forest Road. The site adjoins a local neighbour shopping precinct on its eastern boundary with a service station located to the west of the site. The site is situated close to bus stop with regular services to Lugarno, Hurstville and Parramatta.

The development seeks to utilise the land in accordance with the R4 zoning and to take advantage of its proximity to Hurstville and a large employment precinct on the southern side of Forest Road. The development provides an attractive frontage to Forest Road and is consistent with the emerging tone, scale and character of the subject area.

A pre-lodgement meeting was held with Council staff on 26 July 2018 and the design has been further refined as a result of this input.

This Statement of Environmental Effects has been prepared in accordance with the requirements of both the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. The development

This Statement of Environmental Effects addresses the relevant heads of consideration listed under section 4.15 of the EP&A Act 1979 and provides an assessment of the relevant environmental planning instruments and development control plan that apply to the proposal, including State Environmental Planning Policy 65 -Design Quality of Residential Apartment Developments, State Environmental Planning Policy (Affordable Housing) 2009, Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan No. 1.011).

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, and that the proposal represents an appropriate use of well located land; Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.

This development application (DA) is made on behalf of the Crown, and is therefore considered to be a Crown DA. In accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act), a consent authority must not refuse its consent to a Crown DA, except with the approval of the Minister.

## 1. Site and Surrounds

The subject site is legally known as lots 267 -272 in DP 36537 but commonly known as 824 - 834 Forest Road, Peakhurst.

The development site is a regular shaped mid block land parcel with a frontage to Forest Road of approximately 99m, and once consolidated will have a total site area of 4,071m<sup>2</sup>. The site is located on the northern side of Forest Road approximately 33m east of the intersection of Pearce Avenue and Forest Road. The site falls to the rear and an easement to drain stormwater has been provided to Peake Parade. The site adjoins a local neighbour shopping precinct on its eastern boundary with a Metro service station located to the west of the site.

As illustrated on the site analysis plan prepared by Zhinar architects the site is located within 250m of Peakhurst Park and 600m of Peakhurst Public School.

Forest Road is a six lane arterial road in front of the site and the site is also located in close proximity to bus stop with regular services to Lugarno, Hurstville and Parramatta.

The existing development of the site is 6 single storey dwellings and associated outbuildings, setback from the street and is surrounded by a landscaping as illustrated by Photographs 1 and 2 below.

**Photograph 1:** Eastern portion of the site as viewed from Forest Road.



**Photograph 2:** : Western portion of the site as viewed from Forest Road.



The area is located within a precinct that is undergoing a transition from low density dwellings to three and four storey residential flat buildings. The aerial photo below provides context to the development site.



**Figure 1:** Aerial Photograph of Site (Six maps 2018)

The development site is zoned R4 -High Density Residential under the provisions of the Hurstville Local Environmental Plan 2012 as illustrated by Council’s zoning map extract below:

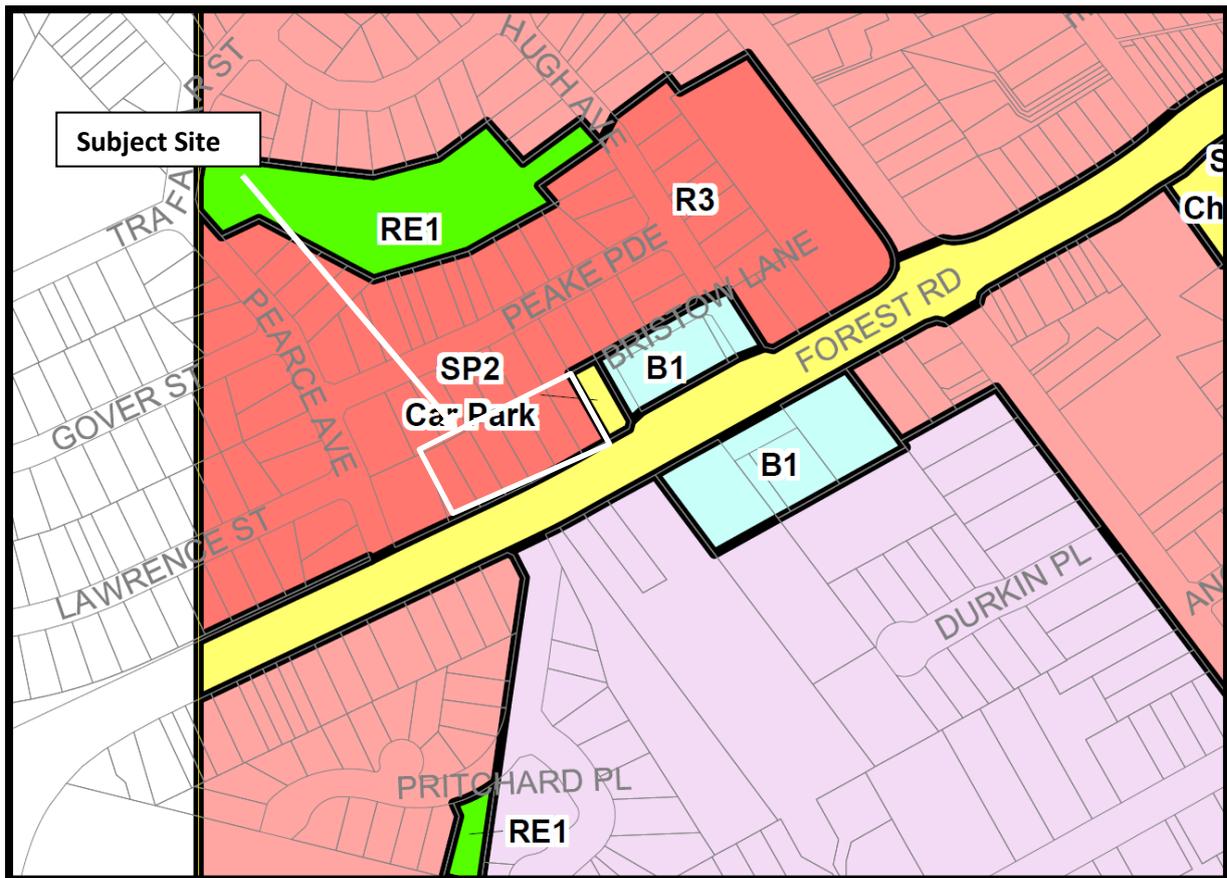


Figure 2: Zoning Map Extract (Source Hurstville LEP Map Sheet LZN\_005)

‘Residential Flat Buildings’ are permissible with consent within the R4 zone and the subject site is permitted a maximum building height of 12m and an FSR of 1.1. It is noted that the development utilises the bonus FSR provisions in the SEPP and has an FSR of 1.38:1.

The proposed high density development is consistent with the principles of urban consolidation which seeks to ensure the efficient use of land by providing higher density development at strategic locations. The development seeks to utilise the land in accordance with the zoning and take advantage of its proximity to public transport and services.

The proposal is consistent with the emerging high density character of the precinct, with many surrounding properties recently being redeveloped. Photographs are provided on the following pages that give context to the locality and also the relationship of the development site with adjoining developments.

**Photograph 3:** Showing adjoining neighbourhood shopping centre at 802 Forest Road, Peakhurst.



**Photograph 4:** Showing the adjoining Service station at 836 Forest Road, Peakhurst.



**Photograph 5:** Showing the adjacent commercial and residential dwellings located opposite the site as viewed from Forest Road.



## Pre-Lodgement Comments

A Pre-Lodgement meeting was held with Council staff on 6 September 2018. A table that indicates how the development has responded to the main feedback given at the Council staff pre-lodgement is provided below:

Council comment	Response
<p><b>Variation to Hurstville LEP and Hurstville Local Government Area Wide DCP No 1</b> – The proposal seeks Council comment in relation to a proposed departure from the maximum permitted 12m height requirement. Council will only consider a variation to the overall height if it can be demonstrated that the Clause 4.6 submission satisfies all the required areas of consideration under both Clause 4.6 of the LEP and addressed the latest published directions of the Land and Environment Court in relation to the consideration of submissions under Clause 4.6.</p> <p>In addition to this, Council is highly unlikely to support a variation to the LEP where any neighbouring property experiences a negative impact as a result of the LEP variation. This should also be taken into account in the 4.6 submission.</p> <p>In addition to this the proposal also exceeds the maximum permitted 3 storey height requirement for residential flat buildings under the Hurstville DCP No 1. The SEE lodged in support of the DA must provide strong justification demonstrating how the proposal satisfies the objectives of the 3 storey height requirement.</p>	<p>The development site is part of Land and Housing Corporation's Communities Plus Neighbourhood Program and this development seeks to increase social and affordable housing on the site in accordance with the Future Directions for Social Housing in NSW Strategy.</p> <p>The development utilises the bonus floorspace provisions in the ARHSEPP. The most appropriate way to accommodate this additional FSR is through a partial fourth level.</p> <p>The partial recessed nature of the upper level ensures that the bulk and scale of the building does not unduly dominate the emerging high density built form that is predominantly 3 storeys in scale.</p>
<p>The proposal requires the removal of approximately 30 trees on site that require development consent for removal. Prior to finalising the plans it is recommended that the proposal be amended to allow preservation of two (2) significant trees on the site.</p>	<p>As outlined in the accompanying arborist report, the proposal has been refined to ensure the retention of the two significant trees.</p>
<p>The Statement of Environmental Effects lodged with the Development Application must demonstrate that the proposal complies in full with the requirements of the SEPP if the proposed floor space ratio credit is to be applied for the site.</p>	<p>Details of how the proposal satisfies the requirements of the ARHSEPP is provided in part 3 of this report.</p> <p>It is noted that the proposal utilises the floor space ratio bonus available through ARH SEPP.</p>

	Based on the GFA dedicated to affordable housing, an additional 0.378 of FSR is permitted. A detailed breakdown of the bonus calculations are set out in the accompanying architectural drawings.
<p><b>Potential Contamination</b> – The subject site is located adjacent to a car wash/petrol station. As such a preliminary site audit prepared by a suitably qualified contamination expert must be submitted with the proposal. Should this audit recommend the preparation of a detailed site investigation, this report must be submitted in support of any Development Application.</p>	<p>Due to the potential for contamination to have migrated from the adjoins commercial landuses, a detailed stage 2 Environmental Investigation has been carried out on the site. This included 11 boreholes. The site investigation concludes that:</p> <p><i>The results of the chemical analyses indicate that the site does not present a risk to human health or the environment in a ‘residential with garden accessible soil’ setting.</i></p>
<p><b>Tree removal and retention</b> – The application results in the removal of all trees on the site. Council’s Tree Management Officer has undertaken a visual assessment of the trees on the site and has recommended that the following trees must be retained and a Tree Protection Zone (TPZ) must be established for these trees:</p> <p>(a) <i>Tristanopsis laurina</i> (T1) – Council street tree. This tree has a required TPZ of 3.6m.  (b) <i>Lophostemon confertus</i> (T2) - located in the rear yard of No. 834 Forest Road. This tree has a required TPZ of 6m.  (c) <i>Melaleuca quinquenervia</i> (T3) – located in the rear yard of No. 828 Forest Road. Required TPZ 7.2m.</p>	<p>The proposal has been refined to ensure the retention of the two significant trees.</p>
<p><b>Drainage</b> – The proposal will be required to drain by gravity to Council’s storm water system. In this regard, an easement to drain water will be required. A separate development application for pipe works within the drainage easement will be required to be approved and constructed prior to commencement of any works on the subject site.</p>	<p>As illustrated o the accompanying stormwater plans, an easement to drain water has been granted over the downstream property at Lot 279 in 36537.(7 Peake Parade, Peakhurst). This ensures that the development can be legally drained via gravity into Council’s drainage network</p>

**Georges River Design Review Panel.**

The application was also considered by the Georges River Design Review panel at its meeting on 6 September 2018. The following table summarises the main issues discussed at this meeting.

Council comment	Response
Following an inspection of the site and an assessment of the plans and information provided the DRP indicated that the proposal is generally satisfactory in terms of context, scale, built form, density and aesthetics but have raised the following issues with the proposal	The general support of the development concept is noted.
The driveway access to the site is directly adjacent to that of the adjacent service station and this could be problematic. The DRP suggest the driveway access could be relocated to the eastern end of the site	Having regards to the topography of the site and in particular the need to provide for garbage collection on site, the driveway for the site has been retained adjacent to the western boundary of the site. The traffic report that accompanies this development application and prepared by Varga Traffic confirms that the access point is satisfactory and should not result in unacceptable conflicts with vehicles exiting the Metro service station.
The two (2) entrances to the unit blocks should be made more welcoming. Consideration should be given to providing a forecourt and place for people to meet. The private open space of Units A10 and B09 are not well positioned in relation to the building entrances.	The design of the building has been refined and additional landscaping has been provided adjacent to the two main pedestrian entries from Forest Road. This improves the pedestrian entrance sequence to the development whilst maintaining the privacy to the units adjacent to these entry points.
The configuration of several units appears to be highly problematic e.g. A19, A29, B17 and B27, and should be reviewed in detailed planning. It would be desirable to locate all disabled persons car spaces in closer proximity to the lifts.	<p>The internal planning of the complex has been refined with the internal floorplans of these units being more logical and improving their amenity for future residents.</p> <p>The majority of disabled car parking spaces are now provided in closer proximity to the two lift cores.</p>
The means of garbage collection requires further consideration due to RMS prohibition of collection from the street and limited basement head room as it currently stands.	The head height to the basement has now been increased and an SRV Garbage vehicle will now be able to access the portion of the basement that contains garbage room and associated loading bay.

	This ensures that the RMS concerns are appropriately addressed.
In relation to housing diversity, a mix of one (1) bedroom and two (2) bedroom adaptable units should be provided. A mix of social affordable and private is proposed which is to be commended.	The development provides a mix of 1 and 2 bedroom adaptable units.

## 2. Description of Proposal

This Crown Development Application seeks approval for tree removal and the construction of a four (4) storey '*Residential Flat Building*' complex under the Affordable Rental Housing SEPP 2009. The proposal comprises the construction of two separate buildings and contains a total of 72 residential units and 83 carparking spaces within a basement at 824 – 834 Forest Road, Peakhurst.

### Unit Mix

The development incorporates the following dwelling mix:

- 24 x 1 bedroom units;
- 42 x 2 bedroom units; and
- 6 x 3 bedroom units.

This proposal takes advantage of the maximum available floor space bonus under the ARH SEPP through the dedication of 37.8% of the proposed GFA to social and affordable housing. As part of the commitments made by the developer for the site, ten social dwellings will be delivered to the NSW Land and Housing Corporation and managed by a Community Housing Provider (CHP). A further 19 affordable apartments will also be provided and operated by a CHP for a period of 10 years from the issue of the occupation certificate.

### Vehicular access and Parking

The development provides a single level of basement parking that is accessed from a new double width driveway from the western edge of the site.

The development provides:

- 72 resident spaces including 8 disabled spaces; and
- 11 visitor spaces.

As Forest Road is a 6 lane arterial road with a raised median strip dividing each carriageway, access to the site is restricted to left in and left out.

A brief description of the various aspects of the development is provided below:

Level	Inclusions
Basement Level	72 Residential spaces including 8 accessible car parking spaces.
	Residential storage space.
	Double width Vehicular ramp to Forest Road
	Bin Storage Room
	Loading Bay to facilitate garbage collection
	2 x lift cores and stair wells.
	Mechanical room.
Ground Level	Pedestrian access to the site is provided via three main pathways from Forest Road. The pathways connect to the two lobbies and the central common open space area between the buildings.
	Individual and separate access is provided to the 6 units that front Forest Road.
	Ground level Communal Open Space
	Substation and Hydrant booster assembly.
	Each unit is provided with a kitchen, laundry, living area, dining area and courtyard that are generally accessed from living areas.
	8 x 1 bedroom units with courtyards.
	9 x 2 bedroom units with courtyards
	2 x 3 bedroom units with courtyards
	2 x lobby area with lift core and stair well.
	Level 1
7 x 1 bedroom units with balcony	
12 x 2 bedroom units with balcony.	
1 x 3 bedroom unit with balcony.	
2 x lobby area with lift core and stair well.	
Level 2	Each unit is provided with a kitchen, laundry, living area, dining area and balconies that are generally accessed from living areas.
	7 x 1 bedroom units with balcony (2 adaptable).
	12 x 2 bedroom units with balcony.
	1 x 3 bedroom unit with balcony.
	2 x lobby area with lift core and stair well.
Level 3	Each unit is provided with a kitchen, laundry, living area, dining area and balconies that are generally accessed from living areas.
	2 x 1 bedroom units with balcony
	9x 2 bedroom units with balcony.
	2 x 3 bedroom units with balcony.
	2 x lobby area with lift core and stair well each.

The following plans and technical reports are submitted to Council to assist with its assessment of the Development Application.

DOCUMENT	PREPARED BY
<b>Architectural Drawings</b>	Zhinar Architects
<b>SEPP 65 Design Statement</b>	Zhinar Architects
<b>Site Survey</b>	Public Works Authority
<b>Stage 2 Environmental Investigation</b>	Dirt Doctors
<b>Landscape Plan</b>	Paul Scrivener Landscape Architect
<b>Quantity Surveyors Report</b>	Quantex
<b>Hydraulic Drawings</b>	Quantum Engineers
<b>Acoustic Report</b>	Rodney Stevens Acoustics
<b>Traffic Report</b>	Varga Traffic Planning
<b>Arborist Report</b>	Horticultural Management Services
<b>Waste Management Plan</b>	Dickens Solutions
<b>Basix Certificate</b>	Gradwell Consulting
<b>Accessibility Access Report</b>	Vista access architects
<b>GFA calculation Letter</b>	ATS Land and Engineering Surveyors

## Key Controls

### Statutory Controls

The relevant Statutory Planning Controls include: -

- State Environmental Planning Policy BASIX;
- State Environmental Planning Policy No. 55 – Contaminated Land;
- State Environmental Planning Policy No. 65-Design Quality of Residential Apartment Developments;
- State Environmental Planning Policy (Affordable Housing) 2009;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- Greater Metropolitan Regional Environmental Plan (GMREP) No.2 Georges River Catchment (Deemed SEPP);
- State Environmental Planning Policy (Infrastructure);and
- Hurstville Local Environmental Plan 2012

### Policy Controls

The applicable policy control documents are: -

- Hurstville Development Control Plan No.1; and
- The Apartment Design Guide

### 3. Consideration of Planning Controls

A summary of the compliance of the proposal with the relevant planning controls is provided below.

#### State Environmental Planning Policy BASIX

Introduced on 1 July 2004, BASIX is an integral part of the NSW planning system. It assists in reducing potable water consumption and greenhouse gas emissions from new homes built in NSW.

The application has been assessed and is accompanied by a complying BASIX certificate that demonstrates how the apartments will utilise 40% less energy and water than a typical apartment pre Basix.

#### State Environmental Planning Policy No. 55 – Contaminated Land

Clause 7 of SEPP 55 provides:

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

Given the historical use of the site for residential purposes, land contamination is not likely. However the site western boundary adjoins a service station at 836 Forest Road, Peakhurst, and there is potential for migration from this service station. Accordingly a phase 2 contamination report has been prepared and accompanies this development application.

The stage 2 investigation involved 11 boreholes and the site investigation concludes that

*The results of the chemical analyses indicate that the site does not present a risk to human health or the environment in a 'residential with garden accessible soil' setting.*

Given this, further investigation and reporting under SEPP 55 is not considered necessary and Council can be satisfied that the provisions of Clause 7 of the SEPP are satisfied. If any contaminated material or suspected contaminated material is unearthed during the construction process, then actions consistent with the legislative requirements and guideline document will be undertaken.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) was introduced in August 2017. This SEPP seeks to protect the biodiversity values of trees and other vegetation

in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

This application seeks Council consent for the removal of 14 trees as identified in the attached arborist report. It is highlighted that no significant vegetation is to be impacted as part of the proposal.

The proposal provides landscaping embellishing work including the planting of 30 trees that will grow to a height of between 5m and 20m that will improve and enhance the subject site than what currently exists and will positively contribute to the cohesiveness and visual appreciation of the area whilst provides relief from the built form and softening the impact of the development.

**State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide**

The development application is accompanied by a design verification statement prepared Ian Conry of Zhar Architects (Registered Architect NSW 8317), verifying that he has directed and designed the proposal, and that the design quality principles set out in Part 2 of the SEPP are achieved for the residential flat development.

A description of compliance with the applicable development facets and guidelines such as setbacks, building heights etc. is provided in the local planning controls discussion and tables below. An assessment against the relevant objectives and design guidelines contained in parts 3 and 4 of the Apartment Design Guide can be found below, noting that a number of these provisions are embodied within the Hurstville Local Environmental Plan 2012 and supporting Hurstville Development Control Plan 2012.

Clause 6A of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide for the following matters set out in parts 3 and 4 of the guide:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

The SEPP states that if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which clause 6A applies, those provisions are of no effect.

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
<b>Part 3 – Siting the Development</b>			

3A Site Analysis	Appendix 1 of the ADG	Provided	Yes
3B Orientation	<p>Building to define the street, by facing it and incorporating direct access from the street</p> <p>Where an adjoining building does not currently receive 2 hours of sunlight in midwinter, solar access should not be further reduced by &gt; 20%</p> <p>4 hours of solar access should be retained to solar collectors on neighbouring buildings</p>	<p>The proposed residential flat building complex has been designed to address Forest Road. Passive surveillance opportunities are provided from primary living areas and balconies that overlook these public interfaces.</p> <p>Not applicable</p> <p>Adjoining properties do not contain solar collectors</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>
3C Public Domain Interface	<p>Terraces, balconies should have direct street entry, where appropriate.</p> <p>Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided</p> <p>Substations, pump rooms, garbage storage rooms and other service rooms should be located in the basement carpark or out of view</p>	<p>Direct access is provided to the 7 ground floor units that front Forest Road</p> <p>Appropriate mailboxes are capable of being provided.</p> <p>A garbage storage room is provided in the basement and given this will not dominate the view from the street. An indicative location for the Substation is indicated on the architectural plans as being within the front setback. This is a requirement of the service provider and accordingly the substation is unable to be located in the basement.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

3D Communal and Public Open Space	<u>Design Criteria:</u>		
	Communal open space has a minimum area equal to 25% of the site	1017.75.m <sup>2</sup> required. The proposal has provided 1,121.5m <sup>2</sup> or 27.5%	Yes
	50% of the principal COS should receive 2 hours of sunlight between 9am and 3pm	50% of the proposed COS area will receive adequate solar access (minimum 2 hours) in mid winter.	Yes
	<u>Design Guidelines:</u> Minimum dimension of 3m	The majority of the common open space area has a width > 3m	Yes
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies	Proposal ensures that direct, equitable access in line with relevant Australian Standard is provided to communal open space areas from common circulation areas, entries and lobbies.	Yes
	Where communal open space cannot be provided at ground level, it should be provided on a podium or roof	The common open space is provided at ground level.	N/A
Facilities are provided within communal open spaces and common spaces for a range of age groups, incorporating some of the following elements: <ul style="list-style-type: none"> <li>• seating for individual or groups</li> <li>• barbecue areas</li> <li>• play equipment or play area</li> <li>• swimming pools, gyms, tennis courts or common rooms</li> </ul>	The common open space area incorporates seating areas, bbq's and informal play areas. Given this a suitable level of amenity will be provided to future residents.	Yes	
Communal open space and the public domain should be readily visible from habitable room	Ground level apartments have been provided with courtyard fencing to maintain privacy. The proposed apartments on the upper levels	Yes	

	<p>and private open space areas while maintaining privacy</p> <p>Common open space should be well connected with public street along at least one edge.</p>	<p>have been designed with the orientation of balconies and windows to maximise passive surveillance to the communal open space areas and to the public domain.</p> <p>The communal open space connects to Forest Road via the central spine.</p>	Yes
3E Deep Soil Zones	<p><u>Design Criteria:</u> A deep soil zone equivalent to 7% of the site area must be provided</p> <p><u>Design Guidelines:</u> On some sites, it may be possible to provide larger deep soil zones:</p> <ul style="list-style-type: none"> <li>• 10% of the site as deep soil on sites with an area of 650m<sup>2</sup>- 1,500m<sup>2</sup></li> <li>• 10% of the site as deep soil on sites greater than 1,500m<sup>2</sup></li> </ul>	<p>284.9m<sup>2</sup> required and a deep soil area of 964.79m<sup>2</sup> or 23.% of the site is provided. Complies.</p> <p>Complies as 23.6% of the site provided as deep soil.</p>	<p>Yes</p> <p>Yes</p>
3F Visual Privacy  Building Separation Up to 4 storeys (up to 12m)	<p><u>Design Criteria:</u> 12m between habitable rooms (6m)</p>	<p>The development provides a setback of between 6m -9m to its eastern side boundary its rear boundary.</p> <p>A setback of approximately 5.5m setback is provided to a portion of the western boundary setback. Despite the departure, given that the site adjoins a service station and that the development is primarily designed to address the front and rear of the site, the development will not result in unacceptable privacy impacts to the adjoining</p>	Yes

		property, in the event that it is redeveloped for residential purposes.	
3G Pedestrian Access and Entries	Building entries should be clearly identifiable and communal entries should be clearly distinguished from private areas	The building provides clearly distinguishable entry points to the lobbies from Forest Road.	Yes
3H Vehicle Access	Car park access should be integrated with the building's overall façade  Car park entry and access should be located on secondary streets or lanes where available	The access point to the basement is appropriately integrated into the buildings design.  N/A	Yes  N/A
3J Carparking	<u>Design Criteria:</u> Carparking for sites within 800m of a railway station or light rail stop can provide parking at the rate of: <b>&gt;20 units</b> <u>Metropolitan Sub-Regional Centres:</u> 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking)  <u>Design Guidelines:</u> Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas	N/A  N/A  The proposal provides eight appropriate undercover and secure bicycle parking spaces within the basement level	N/A  N/A  Yes
<b>Part 4 – Designing the Building</b>			
4A Solar Access	<u>Design Criteria:</u>		Yes

	<p>Living rooms and private open space of at least 70% of units to receive 2 Hours Solar Access between 9am and 3pm Mid-Winter</p> <p>A maximum of 15% of apartments receive no direct sunlight between 9am and 3pm Mid-Winter</p>	<p>52 of the 72 units or 72.2% of units achieve the required 2 hours of solar access at mid-winter.</p> <p>9 of the 72 units of 12.5% of the units receive no solar access in mid winter.</p>	<p>Yes</p>
4B Natural Ventilation	<p><u>Design Criteria:</u></p> <p>60% of Units are cross ventilated in a building up to 9 storeys</p> <p>Overall width of a cross over or cross through apartment is &lt; 18m</p> <p><u>Design Guidelines:</u> The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	<p>47 of the 72 units or 65.2% of units are naturally cross ventilated.</p> <p>&lt; 18m</p> <p>Development has a mix of dual aspect apartments and corner apartments. See attached architectural plans for detail.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4C Ceiling Height	<p><u>Design Criteria:</u></p> <p>2.7m for habitable and 2.4m for non-habitable.</p>	<p>Complies</p> <p>Complies</p>	<p>Yes</p>
4D Unit Sizes	<p><u>Design Criteria:</u></p> <p>Studio 35m<sup>2</sup> 1 bed 50m<sup>2</sup> 2 bed 70m<sup>2</sup> 3 bed 90m<sup>2</sup></p> <p>+ 5m<sup>2</sup> for each unit with more than 1 bathroom.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10%</p> <p><u>Design Guidelines:</u></p>	<p>All units comply with many units exceeding. Where additional bathrooms have been provided unit sizes have been increased by at least 5m<sup>2</sup>.</p> <p>Every habitable room is provided with a window.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>Habitable Room Depths</p> <p>Bedroom sizes Master Other</p> <p>Living rooms/dining areas have a minimum width of: 3.6m 4m</p> <p>Open Plan Layouts that include a living, dining room and kitchen.</p>	<p>Limited to 2.5m x Ceiling Height</p> <p>10m<sup>2</sup> 9m<sup>2</sup></p> <p>Studio/1 br 2br/ 3br</p> <p>8m to a window</p>	<p>Despite the noncompliance with objective 4D-2, figure 4D.3 indicates that an 8.1m depth (3 x ceiling height) is okay for open plan apartments.</p> <p>Complies Complies</p> <p>Complies Complies</p> <p>Complies given unit depths and design layouts.</p>	<p>Yes Yes</p> <p>Yes Yes</p> <p>Yes</p>
<p>4E Private Open Space</p> <p>Balcony Sizes 1 bed 2 bed 3 bed</p> <p>Ground level/ podium apartments</p>	<p><u>Design Criteria:</u></p> <p>8m<sup>2</sup> &amp; 2m depth 10m<sup>2</sup> &amp; 2m depth 12m<sup>2</sup> &amp; 2.4m depth</p> <p>15m<sup>2</sup> &amp; 3m depth</p>	<p>Complies Complies Complies</p> <p>Minimum 25m<sup>2</sup></p>	<p>Yes Yes Yes</p> <p>Yes</p>
<p>4F Common Circulation and Spaces</p> <p>Common Circulation Units per Plate</p> <p>Corridors &gt; 12m</p>	<p><u>Design Criteria:</u></p> <p>8-12 Units per Plate</p> <p>Are articulated</p>	<p>A Lift core is to serve a maximum of 10 units per plate.</p> <p>Corridors are articulated and have access to natural light.</p>	<p>Yes</p> <p>Yes</p>
<p>4G Storage</p>	<p>1 bed 6m<sup>3</sup> 2 bed 8m<sup>3</sup> 3 bed 10m<sup>3</sup></p>	<p>The proposal provides: Complies Complies Complies</p>	<p>Yes</p>

	Min 50% of required storage is within the apartment	Storage is provided within the basement/ground floor and within the units themselves.  The proposed development is considered to offer storage space that aligns with the provisions of the ADG.	
4H Acoustic Privacy	Adequate building separation is provided within the development and from neighboring buildings/adjacent uses  Windows and door openings are generally orientated away from noise source  Noisy areas within buildings including building enters and corridors should be located next to or above each other and quieter areas next to or above quieter areas.	Development has provided adequate separation from neighbor buildings/properties in-line with 3F Visual Privacy – design criteria above.  Where appropriate and possible windows and door openings are orientated away from noise sources.  The application is designed to create different ‘zones’ with more active areas clustered together and more passive areas also clustered together to maximize acoustic privacy and take advantage of the lot orientation.	Yes  Yes  Yes
4K Apartment Mix	A variety of apartment types is provided	A diversity of apartments is proposed as follows: <ul style="list-style-type: none"> <li>- 24 x 1 bedroom units;</li> <li>- 42 x 2 bedroom units; and</li> <li>- 6 x 3 bedroom units.</li> </ul> <p>The proposed unit mix will offer a variety of housing choice. The proposal is designed with a mix of units to provide a variety of housing choices that responds to market demand, noting that the bedroom numbers and size of units are varied that will provide for a range of sizes to meet the needs of occupants and also provide different pricing points for the alternative sizes which will contribute to affordability.</p>	Yes
4M Facades	Building facades should be well resolved with an	The proposed facades are well articulated with a mixture of	Yes

	appropriate scale and proportion to the streetscape and human scale	vertical and horizontal features including windows, projecting walls and balconies, framed elements and fixed timber louvers.  Overall the proposed facade is considered a quality design outcome that is compatible with other comparable modern RFB within the locality.	
4O Landscape Design  Site Area  850m <sup>2</sup> to 1500m <sup>2</sup>  >1500m <sup>2</sup>	1 large tree or 2 medium trees per 90m <sup>2</sup> of DSZ  1 large tree or 2 medium trees per 80m <sup>2</sup> of DSZ	Consistent as per landscaping plan.	Yes
4Q Universal Design  20% of the total apartments	Achieve Liveable House Guidelines silver level universal design features	Fifteen of the 72 apartments or 20.8 % contain the seven design features required to achieve a silver level of universal design.	Yes
4U Energy Efficiency		The application is accompanied by a BASIX certificate indicating energy efficiency for each residential unit provided.  Furthermore, it is noted that 72% of units achieve the minimum 2 hours of solar access at mid-winter and over 65% units achieve natural ventilation.	Yes
4V Water Management and Conservation	Reduce mains consumption and reduce the quantity of storm water runoff.	The application is accompanied by a BASIX certificate indicating water efficiency for each residential unit provided.	Yes

4W Waste Management	Supply WMP	Provided	Yes
	Allocate storage area	Appropriate waste storage areas are provided.	Yes
4X Building Maintenance	To ensure long life and ease of maintenance for the development.	The proposed material is considered durable which may be easily cleaned.	Yes

### State Environmental Planning Policy (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 was introduced in July 2009 as a response to the ongoing issue of housing affordability within NSW. This section of the Statement addresses the relevant provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

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The aims of Statement Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) are:

- (a) to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

This proposal complies with these aims as it:

- Provides an opportunity for the creation of 29 affordable housing dwellings;

- Ensures that key workers in the Peakhurst area can access affordable housing; and
- Facilitates the creation of useable housing that meets the demands for this market.

### Part 2 New Affordable Rental Housing: Division 1 In-Fill Affordable Housing

#### *Clause 10- Development to which Division Applies*

The SEPP applies as residential flat buildings are permitted within the R3 Zone with consent under Hurstville Local Environmental Plan 2012 and the development site is within an accessible area.

In the case of this development site an accessible area, means land that is within:

*(c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the [Passenger Transport Act 1990](#)) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday*

The site is located within 110m walking distance of a bus stop for the M91 Parramatta to Hurstville Metrobus that provides the required service frequency on weekdays and weekends.

#### *Clause 13- Floor Space Ratios (FSR)*

Hurstville LEP indicates that the site can have a maximum FSR of 1:1. Clause 13 2(a)(i) indicates that a floor space bonus of 0.37.8:1 can be utilised if 37.8% of the gross floor area is used for affordable housing. Plans submitted with the development application illustrate that 29 apartment that equates to 37.8% of the total gross floor area will be affordable dwellings.

It is also noted that the entire site is owned by the NSW Land and Housing Corporation.

The SEPP states that:

**affordable housing** means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

*(1) In this Policy, a household is taken to be a very low income household, low income household or moderate income household if the household:*

*(a) has a gross income that is less than 120 per cent of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or*

*(b) is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme.*

- (2) *In this Policy, residential development is taken to be for the purposes of affordable housing if the development is on land owned by the Land and Housing Corporation.*

As the site is owned by the NSW Land and Housing Corporation and seeks approval for residential development, the development benefits from the maximum bonus FSR of 0.5:1.

*Clause 14- Standards that cannot be used to refuse consent*

<b>Control</b>	<b>Numerical Requirement</b>	<b>Proposed Development</b>	<b>Complies</b>
Site Area	450m <sup>2</sup>	4,072m <sup>2</sup>	Yes
Landscaped Area	30% of site area	Required 1017.7m <sup>2</sup> . The proposal has a total of 1398m <sup>2</sup> (34.3%)	Yes
Deep Soil Zones	15% of site area	610.65m <sup>2</sup> required and a deep soil area of 964.79m <sup>2</sup> or 23.6% of the site is provided. Complies.	Yes
Solar Access	3 hours to 70% of dwellings between 9am and 3pm at mid-winter	52 of the 72 units or 72.2% of units receives 2 hours of solar access at mid-winter.	Yes
Parking at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,	24 x 1 Bed: 0.5 spaces (12 req) 42x2 Bed: 1 spaces (42 req) 6 x3 Bed: 1.5 spaces (9 req)  63 spaces required in total.	63 spaces required, and 87 spaces provided	Complies
Dwelling Size	1 Bed: 50m <sup>2</sup> 2 Bed: 70m <sup>2</sup> 3 Bed: 95m <sup>2</sup>	1 Bed: >50m <sup>2</sup> 2 Bed: >70m <sup>2</sup> 3 Bed: >95m <sup>2</sup>	Complies Complies Complies

*Clause 15- Design Requirements & Clause 16- Continued Application of SEPP 65*

The proposal involves a residential flat building and therefore the reference to the Seniors Living Policy: Urban Design Guidelines for Infill Development is not relevant to the current proposal. As noted by Clause 16 the provisions of SEPP 65 continue to apply to the development and the provisions of SEPP 65 are addressed previously in this statement and the accompanying Design Verification Statement prepared by Zhinar Architects.

*Clause 16A- Character of Local Area*

The design ensures compatibility with the local area as outlined in the planning principle established in *Project Venture Developments Pty Ltd V Pittwater Council*. Of particular relevance to the current proposal is the recent decision in *Moscaritolo v Ryde City Council* where Senior Commissioner Brown outlined, in relation to a proposal under the ARH SEPP, at [18] that:

*I accept that any assessment of the proposed development against the character of the local area should include an assessment of existing building forms and also the character envisaged by the forms of development contemplated.*

Future character is a consideration, noting that with the current demand for housing within Sydney suburbs within close proximity to essential services and public transportation, it is expected that the remaining stock of low density housing stock is likely to be redeveloped for higher densities in the medium term. A detailed discussion against the planning principle is provided below.

In accordance with the Planning Principle set out in *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* the following tests apply in determining whether development is compatible with surrounding development:

*24 Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.*

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

These questions will be dealt with in turn however it is important to note that as set out in the planning principle '*Compatibility is... different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve*'. Therefore it can be seen that it is not necessary that the development adopt the same built form, scale, and appearance as surrounding developments.

In terms of the physical impacts of development the following points are made:

- The development has been designed to minimise overshadowing of adjoining properties. Refer to attached Shadow Diagrams for detail.
- Privacy impacts are mitigated through the provision of appropriate building separation, window placement (offset windows), landscape embellishment works and the treatment to balconies to mitigate privacy impacts to adjoining properties as far as practicable. It is also noted that the side boundaries adjoin a service station and a carpark for a neighbourhood shopping centre, which are not considered to be sensitive interfaces.
- Noise impacts arising from the proposal are limited to traffic movements. Given the location and design of the basement entry it is not anticipated that the level of noise generated will substantially impact on adjoining properties.
- The development proposal being an infill development does not result in the constrained development potential of the adjoining properties or impact on any existing view corridors, noting that the subject site has been designed to present a suitable form of development in the locality.

Therefore it can be seen that the physical impacts of the proposal are acceptable.

The planning principle establishes that the three (3) key elements that define urban character are building height, setbacks, and landscaping. In this regard the following comments are made:

#### Height

- The proposed 4 storey residential flat building is consistent with the emerging building heights for the wider precinct although above the 3 storey height envisioned for the site. The partial 4<sup>th</sup> storey will not unduly dominate the streetscape and provides architectural interest to the building.

#### Setbacks

- The development has appropriate setbacks that facilitate the provision of deep rooted landscaping around the perimeter of the site and ensures that the development presents as a Residential Flat building complex in a landscaped setting.
- The proposed building will sit comfortably in the streetscape. The spatial sequencing of the proposed built form is consistent with the setbacks of the existing dwellings along Forest Road. The proposal will also be consistent with the existing streetscape rhythm but in cognisance of the site's existing context, appropriate setbacks and separation distances are proposed to ensure the proposal will not create any adverse amenity, visual or privacy impacts on adjoining properties.

#### Landscaping

- The landscape concept provides for deep soil and landscape embellishment works along the site's boundaries to incorporate a garden setting and to both maintain and enhance

the levels of privacy and amenity enjoyed by existing residents of the area and for future residents of the proposal. The proposed landscaping will help to soften the built form of the proposed development and reduce the visual bulk and mass of the building and this will help the proposal to integrate with the site's context.

- A variety of plant species are proposed including small sized canopy trees, shrubs and hedge plantings, and groundcovers.

Based on the foregoing discussion it is considered that the development will exist in harmony with future development in the vicinity of the site and as such is worthy of support by Council as the development is compatible with the desired character of the locality.

*Clause 17- Must be used for Affordable Housing for 10 Years*

It is anticipated that conditions of consent will reinforce that the nominated 29 dwellings must be used as affordable dwellings for a period of not less than 10 years from the issue of the Occupation Certificate for the development.

**Greater Metropolitan Regional Environmental Plan (GMREP) No.2 Georges River Catchment (Deemed SEPP)**

The subject site is subject to the broad planning principles contained within the GMREP. The Aims and Objectives and broad Planning Principles must be considered and achieved, where possible, in the carrying out of development within the catchment. The relevant aims and objectives include:

- (a) 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,*
- (b) to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- (c) to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
- (d) to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*
- (e) (Repealed)*
- (f) to provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.*

The proposed development does not detract from the above listed aims and objectives given the nature of the development and the environmental safeguards proposed, including the drainage concept to be formulated and erosion and sediment controls that will be in place throughout the construction phase of the development.

### Hurstville Local Environmental Plan 2012

As shown on the zoning map extract below the development site is zoned R3 Medium Density under the provisions of the Hurstville LEP 2012.

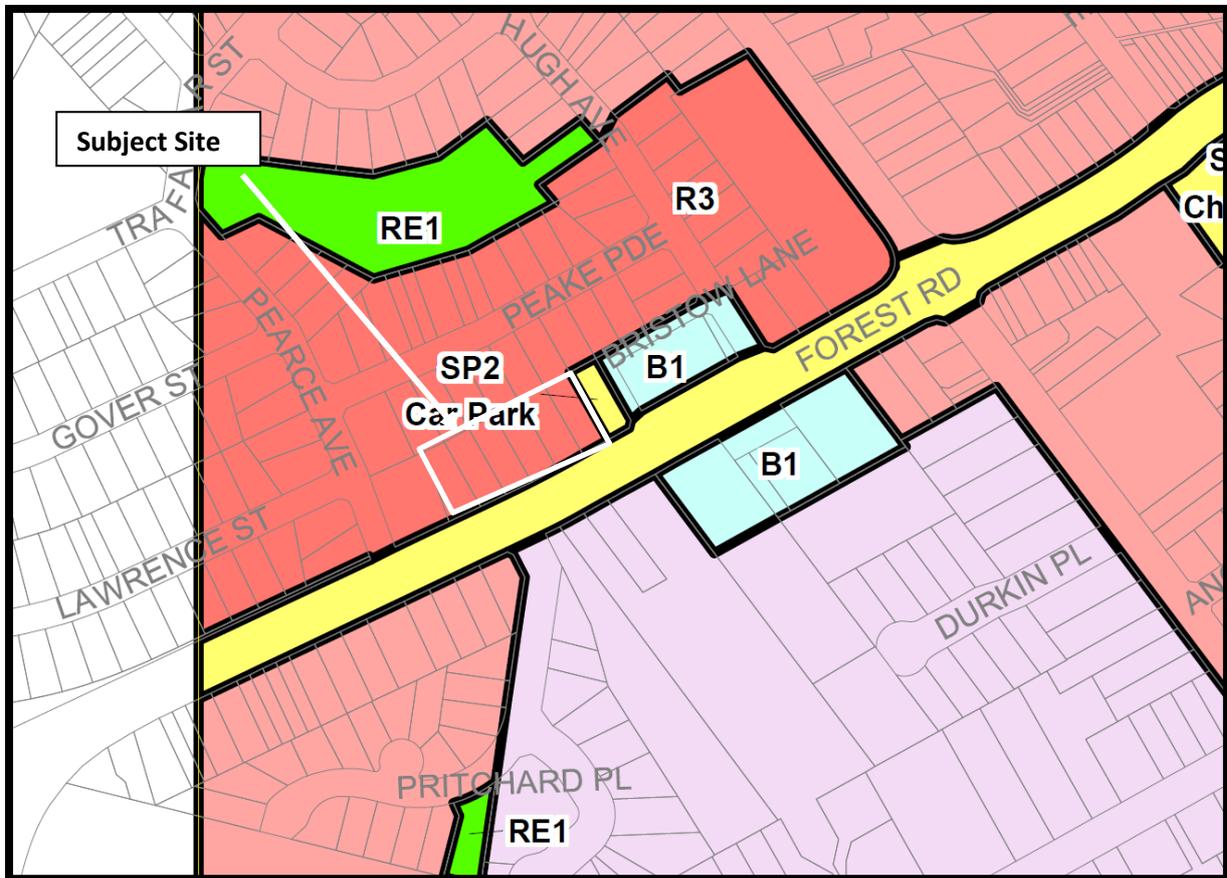


Figure 4: Zoning Map Extract (Source Hurstville LEP Map Sheet LZN\_005)

*Residential Flat Buildings* are permissible with consent within the R3 zone and the proposal is consistent with the definition contained within the LEP:

**Residential Flat Building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The development proposal is also consistent with the prescribed zone objectives, which are stipulated as:

- To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

- To provide for a range of home business activities, where such activities are not likely to adversely affect the surrounding residential amenity.

The proposal is consistent with the zone objectives and provides for attractive buildings that provides an appropriate address to Forest Road and will contribute towards increasing the housing stock of the locality. The site is well located and is located within proximity to essential services, public transportation and recreation opportunities.

The table below provides detail on the development standards relevant to the current proposal as well as other relevant LEP provisions.

<b>Hurstville Local Environmental Plan 2012</b>			
<b>Clause</b>	<b>Control</b>	<b>Comment</b>	<b>Complies</b>
Zoning	R3 - Medium Density Residential	A residential flat building is permissible with Council Consent within the R3 - Medium Density Residential Zone.	YES
<b>Part 2 Permitted or Prohibited Development</b>			
2.3	Zone Objectives and Land Use Table	The proposal is consistent with the zone objectives of the R3 Zone. The site is currently underutilised in terms of its full zoning potential. The proposal will appropriately fulfil the subject site's zoning potential and will increase housing stock within Rydalmere. Furthermore, the proposal provides an attractive building that aims to set the design standard and the tone and scale for future character and build form of the subject area.	YES
2.6	Subdivision	No subdivision is proposed.	YES
2.7	Demolition Requires Consent	This application does not seek approval to demolish the buildings on the site. This is likely to occur as a part 5 approval by the NSW Land and Housing Corporation.	N/A
<b>Part 4 Principal Development Standards</b>			
4.3	Height of Buildings- 12m	A maximum building height of 12m is identified for the site under Hurstville Local Environmental Plan 2012 Height of Buildings Map Sheet HOB_005.  The maximum building height is 13.76m to the top of the lift overruns that exceeds this control. Refer to Appendix A that contains a 4.6 variation request.	Variation- Clause 4.6 Request –

4.4	Floor Space Ratio	<p>A maximum floor space ratio of 1:1 is identified for the site under Hurstville Local Environmental Plan 2012 Floor Space Ratio Map Sheet FSR_005.</p> <p>The development proposes an FSR of 1.37:1 noting the bonus FSR of up to 0.5:1 provided through the affordable housing SEPP.</p>	YES – ARH 2009
<b>Part 5 Miscellaneous Provisions</b>			
5.10	Heritage Conservation	<p>The site is not identified as containing a heritage item or as being located within a heritage conservation area.</p> <p>There is an identified heritage item at 800 Forest road, but given the distance to this item, the development is not considered to unduly impact on the curtilage of this item.</p>	YES
6.1	Acid sulfate soils	The site is not identified as potentially containing Acid Sulphate Soils.	N/A
6.2	Riparian Land and Watercourses	The site is not located within riparian land and watercourse Not applicable.	N/A
6.3	Limited Development on Foreshore Area	The subject site is not located not within close proximity of the foreshore area. Not applicable.	N/A
6.4	Foreshore Scenic Protection Area	The subject site is not located not a foreshore scenic protection area. Not applicable.	N/A
6.5	Gross Floor Areas of Dwellings in Residential Zones	The clause only applies to 'dwelling houses' and not to apartments.	N/A
6.6	Active street frontages	Not relevant to the development application.	N/A
6.7	Essential services	The development site is appropriately serviced in terms of access to potable water, sewer, electricity, and access to a public road.	YES

### Hurstville Development Control Plan No 1 (Amendment 6)

All relevant Council controls have been considered in the following compliance table, noting Hurstville DCP No. 2 only applies to the Hurstville City Centre.

Hurstville Development Control Plan 1 – Compliance Table			
Clause	Controls	Comment	Complies
<b>Part 3.0 General Planning Considerations</b>			
3.1	Car Parking	<p>The car parking area will be serviced via a driveway that will be accessible from Forest Road.</p> <p>The development adjoins a carwash and it is considered that residents of the complex are likely to utilise this or similar facilities rather than a carwash bay in a basement.</p> <p>The development provides all car parking spaces within a basement. Accordingly spaces will not be visible from the street.</p> <p>Proposed units will provide casual surveillance opportunities for the proposed visitor car parking spaces on site.</p> <p>The proposed driveway and parking arrangement is to be appropriately integrated into the proposal and is consistent with existing, surrounding development. It is considered that the proposal provides an appropriate outcome on site that provides adequate parking arrangements as well as ensuring the safe and efficient movement of vehicular and pedestrian traffic.</p> <p>Vehicles can enter and exit the site in a forward direction and access ways and car parking spaces are to be appropriately dimensioned in accordance with Council controls and will permit the safe movement and parking of vehicles on site. See attached plans for detail.</p> <p>It is considered that the vehicular access and exit points are clearly defined and provide for the safe and efficient movement of vehicular traffic on site and entering and exiting the site. The proposed parking area and ancillary driveway will not contribute to the creation of traffic hazards.</p>	YES

3.3	Access and Mobility	<p>It is highlighted that appropriate access is provided to, from and within the site for those with disability. See attached plans.</p> <p>The development contains 8 adaptable dwellings and 15 liveable units as outlined in the access report that accompanies this development application.</p>	YES
3.4	Crime Prevention through Environmental Design	<p>The proposed development incorporates an active façade that will permit casual surveillance of Forest Road as well as common areas of the proposal.</p> <p>The proposal incorporates open space and landscaped areas that will contribute to activity and natural surveillance of the area. The proposed landscaping and fencing is appropriate when considering CPTED principles and will not permit easy concealment of intruders.</p> <p>The proposal incorporates design elements including clearly defined and controlled access points as well as clearly defined public and private spaces in order to minimise opportunity for criminal activity.</p> <p>The proposal incorporates built elements and landscaping that clearly distinguishes between the public and private domain. Clear entry points are proposed, that are easily read by resident, visitor and passer by alike. It is considered that the proposal does not impact on amenity or the streetscape of the area but is in context with development and street presentation of surrounding development.</p> <p>The proposed development is appropriate and provides measures, built elements, landscaping and design features that are consistent with CPTED principles.</p>	YES
3.5	Landscaping	The subject site is within a well-established residential area, having historically been used for residential purposes. The subject site contains a number of trees and this application seeks Council consent for the removal of a number of small to medium	YES

		<p>sized trees on site as identified in the attached plans.</p> <p>It is noted that appropriate replacement plantings are provided as part of the landscaping of the site that is to be undertaken in accordance with the accompanying Landscape Plan.</p>	
3.7	Stormwater	<p>It is considered that the proposed development will not adversely affect or impact upon drainage, stormwater flows or flooding patterns in the area. All stormwater is to be appropriately managed. The proposed development incorporates Water Sensitive Urban Design (WSUD) principles that seek to minimise and manage the impact of stormwater on site and within the area.</p> <p>The proposed development</p>	YES
<b>Part 4. Specific Controls for Residential Development</b>			
4.1	<p>Multiple Dwelling &amp; Residential Flat Buildings</p> <p>This chapter applies to development for the purposes of a Residential Flat Building on land included within the R3 Medium Density Residential zone.</p> <p>For the following matters, this DCP adopts the design criteria of the Apartment Design Guide (ADG):</p> <ul style="list-style-type: none"> <li>Visual privacy</li> <li>Solar and daylight access</li> <li>Common circulation and spaces</li> <li>Apartment size and layout</li> <li>Ceiling heights</li> <li>Private open space and balconies</li> <li>Natural ventilation</li> <li>Storage.</li> </ul>	<p>Noted</p> <p><u>Neighbourhood Character</u> A Site Analysis has been prepared for the proposal and is attached as part of this application.</p>	<p>N/A</p> <p>YES</p>

	<p>Where there is a conflict between this DCP and the ADG, to the extent of the inconsistency, the ADG prevails.</p> <p>a. is compatible with the existing or desired future character of the area  b. creates human scale streetscapes  c. creates functional and high amenity internal spaces  d. enables adequate solar access to the main living areas and principal private open space  e. facilitates penetration of desirable natural breezes  f. facilitates view sharing</p> <p>The maximum building height is in accordance with the Hurstville LEP 2012 and 3 storeys.</p> <p>The natural ground level is not excavated more than 0.5m for the finished ground floor level.</p>	<p>It is noted that frontage width of the site is approximately 99m and larger than the 24m frontage required to develop an RFB as stipulated by the DCP.</p> <p>Furthermore, the proposal will not result in isolating adjoining sites as the adjoining sites have either been developed already or remain capable of redevelopment given their size and allotment configuration.</p> <p>The development has been designed after consideration of the emerging character of the area. The scale, and design is considered compatible with the character of the locality.</p> <p>The development has adopted a flat roof form to present a more contemporary form.</p> <p><u>Building Height</u>  The development proposes a four storey building. The majority of the development complies with the envelope control with encroachments on the upper level that is appropriate given the context of the site and noting that the development needs to appropriately accommodate the additional floorspace permitted by the ARHSEPP. The fourth level does not discernibly increase perceived bulk and scale and the design of the roof form ensures that solar access to adjoining properties is maintained.</p> <p><u>Excavation</u>  Plans accompanying this development application demonstrate general compliance with this.</p>	<p>Variation</p> <p>Variation</p>
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	<p>The maximum excavation for any building's finished ground floor level facing a public street is 0.5m below natural ground level.</p> <p>The minimum setback to a primary or secondary street is 6m.</p> <p>An articulation zone allowing for lightweight elements such as eaves, sun-hoods, blade walls, battens and the like may intrude up to 1m within a road boundary setback for a maximum of 25% of the horizontal distance of the total facade.</p> <p>The minimum amount of landscaped open space is 20% of the site area.</p> <p>The minimum dimension of landscaped open space is 2m in any direction.</p> <p>Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.</p>	<p>Having regards to the topography of the site, a portion of the site in the south eastern corner to block B is proposed to be approximately 1m, however is limited to the corner of the building.</p> <p>Give the sites 98.08m frontage and the minor extent of the departure, it is considered that the development appropriately addresses and will activate Forest road.</p> <p><u>Setbacks</u> Development proposes a front setback of 6m and as such complies with minimum front setback of 6m under the DCP.</p> <p>Encroachments of up to 1m for balconies and architectural elements are proposed.</p> <p><u>Car Parking</u> Carparking is provided in accordance with the requirements of the ARHSEPP.</p> <p><u>Landscaped Open Space</u> The development proposes 1398m<sup>2</sup> of landscaping that equates to 34.3% of the site. All areas of landscaping are greater than 2m.</p> <p><u>Solar Access</u> Given the orientation of the site and the adjoining landuses, no adjoining dwellings will be overshadowed by the development.</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
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		<p><u>Noise</u></p> <p>An acoustic report accompanies the development application and confirms that subject to glazing that an appropriate level of amenity will be provided to future residents.</p> <p><u>Streetscape</u></p> <p>The development appropriately interacts with the street with clear access points provided for both pedestrians and vehicles. The development provides for the passive surveillance of Forest road.</p> <p><u>Stormwater</u></p> <p>The proposed development appropriately addresses the unique characteristics of the site and will allow for the efficient management of stormwater. The proposal incorporates appropriate setbacks landscaping and deep soil zones that will permit stormwater penetration and will reduce runoff and the impact of stormwater on site and in the area.</p> <p><u>Site Facilities</u></p> <p>The development site is appropriately serviced in terms of access to potable water, reticulated sewer, electricity, and access to a public road. Appropriate drainage measures are proposed as part of the development.</p>	<p>YES</p> <p>YES</p> <p>YES</p>
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## 4. Conclusion

Following a review of the relevant planning controls, it is concluded that the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents.

Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and taking into account the absence of adverse amenity, environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.

This development application (DA) is made on behalf of the Crown, and is therefore considered to be a Crown DA. In accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act), a consent authority must not refuse its consent to a Crown DA, except with the approval of the Minister.

## 5. Appendix A: Clause 4.6 Variation Request: Height of Buildings

As outlined in this statement, the development seeks to vary the 12m height control that applies. A portion of the upper level of the development and lift overruns protrude above the height limit by up to 1.76m and has a maximum height of 13.76m.

Accordingly a 4.6 submission is required to be provided to vary this development standard.

This request addresses several recent Land and Environment Court cases including, *Micaul Holdings Pty Ltd v Randwick City Council*, *Moskovich v Waverley Council* and *Initial Action Pty Ltd v Woollahra Municipal Council*.

The key tests or requirements arising from the above judgements is that:

- The consent authority be satisfied the proposed development will be in the public interest because it is “consistent with” the objectives of the development standard and zone is not a requirement to “achieve” those objectives. It is a requirement that the development be compatible with the objectives, rather than having to ‘achieve’ the objectives;
- Establishing that ‘compliance with the standard is unreasonable or unnecessary in the circumstances of the case’ does not always require the applicant to show that the relevant objectives of the standard are achieved by the proposal (Wehbe “test” 1). Other methods are available as per the previous 5 tests applying to SEPP 1, set out in *Wehbe v Pittwater*;
- When pursuing a clause 4.6 variation request it is appropriate to demonstrate *that there are sufficient environmental planning grounds to justify contravening the development standard*, and
- The proposal is required to be in ‘the public interest’.

It is important to note that the Chief Judge of the Land and environment court in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) has further clarified the correct approach to the consideration of clause 4.6 requests including that the clause does not require that a development that contravenes a development standard must have a *neutral or better* environmental planning outcome than one that does not.

An extract of this judgment is provided below:

*Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.*

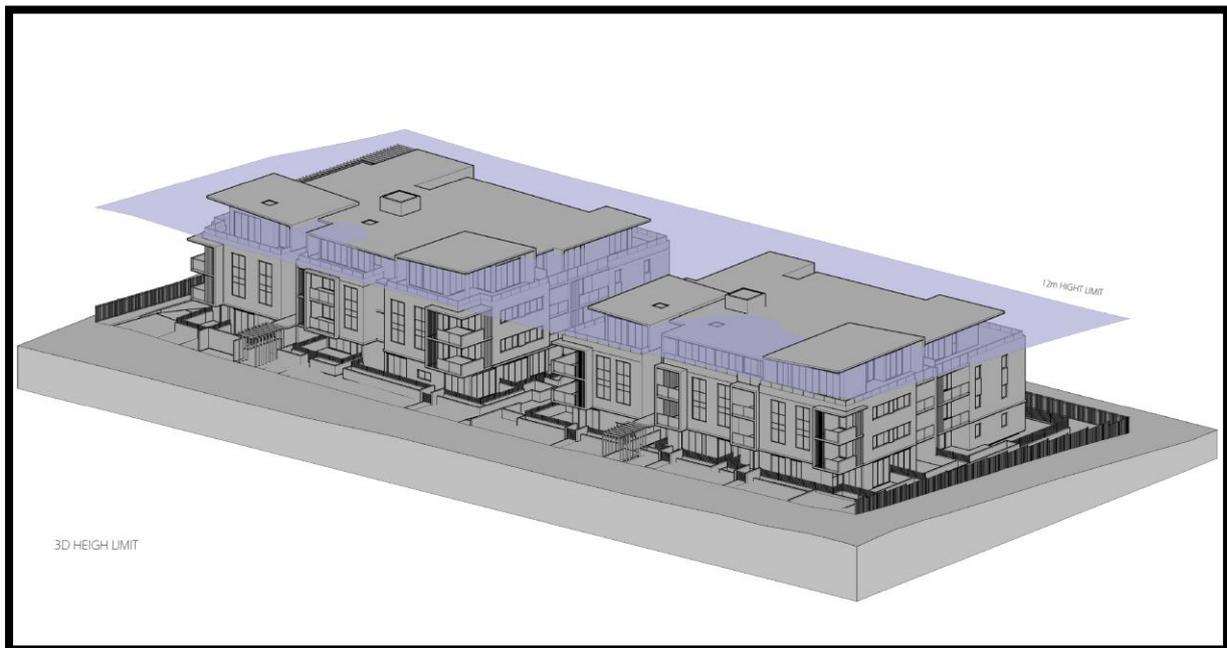
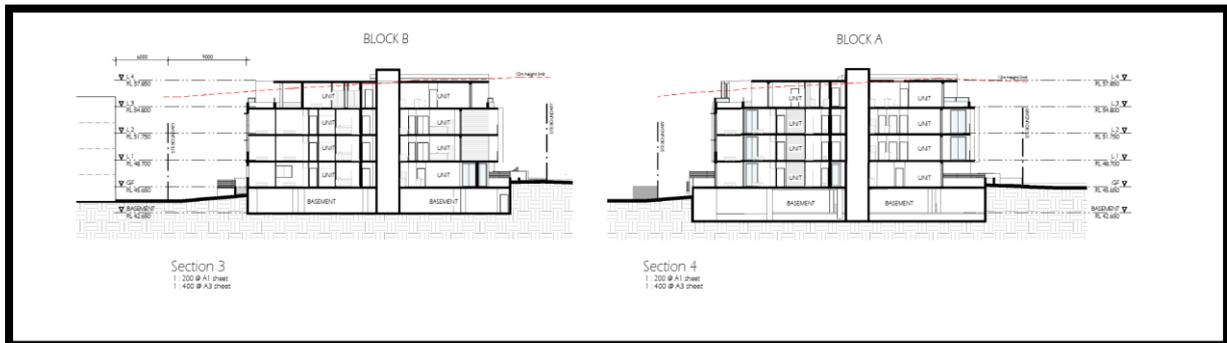
In relation to the current proposal the keys are:

- Demonstrating that the development remains consistent with the objectives of the height standard;
- Demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard;
- Demonstrating consistency with the R3 zoning; and
- Satisfying the relevant provisions of Clause 4.6.

These matters are addressed below, noting that the proposal has a bulk and scale that is consistent with the emerging built form in this release area.

## CLAUSE 4.6 VARIATION: BUILDING HEIGHT

As addressed previously within this statement and as evident in the elevation extract below and the architectural plans submitted with the application, the proposed development will comprise a three to four storey residential flat building that predominantly complies with the permitted maximum 12m building height. However as illustrated below portions of the building and the two lift overrun exceed the 12m control. A portion of the ceiling of the upper level exceeds the height control by 450mm or 3.75%. The lift overrun has a height of 13.76m and exceeds the control by 1.76m or 14.6%.



Extract: Section B

The non-compliance stems from the provision of 29 affordable dwellings that allows the development to exceed the FSR of 1:1 for the site contained in HLEP 2012. Council's Building envelope controls of height, FSR and setbacks are designed to accommodate a residential flat building with an FSR of 1:1. This development has an allowable FSR of 1.5:1 under the ARHSEPP, with the development proposing an FSR of 1.378 and the additional floor space is

most appropriately accommodated by breaching the building envelope controls in terms of height rather than encroaching to side boundaries which will generate impacts in terms of visual and acoustic privacy.

Clause 4.6 of the Hurstville Local Environmental Plan 2012 provides that development consent may be granted for development even though the development would contravene a development standard. This is, provided that the relevant provisions of the clause are addressed, in particular subclause 3-5 which provide:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
  
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) the consent authority is satisfied that:*
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) the concurrence of the Secretary has been obtained.*
  
- (5) In deciding whether to grant concurrence, the Secretary must consider:*
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) the public benefit of maintaining the development standard, and*
  - (c) any other matters required to be taken into consideration by the secretary before granting concurrence.*

Each of these provisions are addressed in turn below.

#### **Clause 4.6(3)**

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case given the fact that the underlying objectives of the control are achieved.

The objectives of the building height development standard are stated as:

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

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

The current development proposal exceeds the maximum building height due to design measures to accommodate the bonus floor space provided by the ARHSEPP. However, despite the non-compliance with the numerical control the proposal remains consistent with the objectives based on the following:

- a) The proposed non-compliance is contained in a recessed upper level that will not impact on the adjoining residential properties to the north.
- b) The fourth level that exceeds the height control will not further disrupt views from adjoining properties;
- c) The orientation of the site ensures that it does not result in any additional unacceptable overshadowing of adjoining properties;
- d) The additional storey faces a place of worship. Given that this is not a sensitive interface and noting that the development complies with Council's setback controls the additional level does not unduly reduce the level of privacy on the adjoining site to the east. Adequate separation is also afforded in the event that the Church site is redeveloped;
- e) The partial fourth level will add architectural interest to the proposed building and contributes towards the articulation of the built form;
- f) The non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors;
- g) The proposal is not located within a low-density area and the proposal represents an appropriate built form on the site.

- h) The proposed development complies with other key planning controls applying to the proposal including, landscape, deep soil zones and communal open space.
- i) The non-compliance appropriately accommodates the provision of additional FSR on the site and assists with achieving the objectives of the ARHSEPP 2009.

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

#### **Clause 4.6(4)**

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest, as it remains consistent with the objectives of the building height control. In addition the proposal is consistent with the objectives of the R3 zone, being:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that a high level of residential amenity is achieved and maintained.*
- *To provide for a range of home business activities, where such activities are not likely to adversely affect the surrounding residential amenity*

The proposal is in the public interest contributes to the housing needs of the community within a high density residential environment in a location that is close to a major transport node and services and employment opportunities in the Peakhurst Precinct. The development also increases the mix of housing in an accessible location. The proposal also ensures that the medium density nature of the zone is realised.

It is understood that the concurrence of the Secretary can be assumed in the current circumstances.

#### **Clause 4.6(5)**

As addressed, it is understood that the concurrence of the Secretary may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and

- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality given the departure is site specific and does not result in unreasonable amenity impacts to adjoining properties.

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal will not have any adverse effect on the surrounding locality, which is emerging to be characterised by residential development of comparable character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council 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 on a R3 zoned site and provide for a range of dwelling stock and different pricing points to be provided to future residents of this precinct in an accessible location and in proximity to employment opportunities.

The objection is well founded and taking into account the absence of adverse environmental, social or economic impacts, it is requested that Council and the planning panel support the development proposal.