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2.1 How to use this Plan

STEP 1 → Verify if this DCP applies to your development:

Check the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and Sections 3.1 Exempt Development and 3.2 Complying Development of *Hurstville Local Environmental Plan 2012* and see whether your development can be classified as complying or exempt, or if you need to lodge a development application. The classification of developments is explained in Section 2.3 Types of Development.

If you need to lodge a Development Application (DA), then this DCP applies to your development and you should move to STEP 2.

Note:

It is important that you refer to the Building & Development Section on Council's website www.hurstville.nsw.gov.au to find detailed information on how to prepare a development application, development application checklists and the assessment process. You can also telephone Council's Customer Service Centre on (02) 9330 6222 and request assistance from the Duty Planner.

You may also refer to Section 2.5 What Information Do I Need to Provide with a Development Application for general guidance.

STEP 2 → Verify Council's public notification requirements:

Refer to Section 2.4 Neighbour Notification and Advertising of Development Applications to understand when Council will need to notify neighbouring properties and/or advertise your development.

STEP 3 → Understand the strategic context:

Understand and apply the information contained within Section 3 Strategic Context. This section provides an overview of the policy documents guiding development within the Hurstville City Centre. These include the *Hurstville City Centre Concept Masterplan 2004*, the draft *Regional Plan (Our Greater Sydney 2056)*, the draft *Revised South District Plan*, the draft *Hurstville City Centre Urban Design Strategy* the *Hurstville LEP 2012*, and the *Hurstville City Centre Transport Management and Accessibility Plan* (TMAP Report, 2013).

STEP 4 → Identify the precinct:

The Hurstville City Centre is divided into 6 precincts. The boundaries of these precincts are defined in Section 4 Hurstville City Centre Precincts. Each precinct within the Hurstville City Centre have specific identified characteristics, desired future character and land use principles applying to it.

STEP 5 → For Residential, Commercial and Mixed Use Development:

Understand and apply Section 5 Specific Controls for Residential, Commercial and Mixed Use Development (also refer to Section 6 Site Planning Considerations). This section contains controls and guidance on site analysis and planning, built form character principles and built form controls such as site amalgamation, building setbacks, landscape design and car parking rates.

STEP 6 → For all development:

Understand and apply Section 6 Site Planning Considerations. This section contains guidelines relating to the Public Domain (landscaping (street trees), solar access, signage, etc.), Environmental Management (energy efficiency and conservation, water management, waste minimisation and management, etc.), development of or in the vicinity of heritage items and preservation of trees and vegetation.

STEP 7 → For any other development:

Understand and apply Section 7 Controls for Other Development Types (also refer to Section 6 Site Planning Considerations). This section contains controls and guidelines relating to extended trading hours, commercial use of public footways, child care centres and restricted premises.

STEP 8 → Verify the definition of any words or terms you are unsure of:

You can find the definitions of terms in the *Hurstville LEP 2012 – Dictionary*.

2.2 Pre-Application Consultation

For every development application in the City Centre applicants are required to demonstrate that along with Council's planning controls, consideration has been given to the unique attributes of the site, the adjoining development and the public domain.

To demonstrate that proper planning process has been undertaken in the formulation of a development proposal, a formal Pre-Application Consultation (PAC) should be undertaken with Council officers.

These meetings are a service offered to potential applicants to ensure an awareness of the relevant standards, codes and policies which a proposed development will be assessed against. A pre-application consultation will provide comprehensive early advice which will assist applicants to decide whether or not to proceed with a proposed development.

A formal pre-application consultation is strongly recommended for the following types of development in the Hurstville City Centre:

- The construction of any new building.
- Any major change of use e.g. a change of use of a whole office building to retail or recreation use.
- Child Care Centres.
- Places of Worship.
- Any work exceeding \$1 million in value.
- Any development that results in a non-compliance with Council's development controls.

A pre-application consultation represents a valuable information-sharing opportunity to identify any issues that may arise to avoid delays, unnecessary financial loss and refusal of an application.

More information regarding these meetings can be found on Council's website <https://www.georgesriver.nsw.gov.au/>

2.3 Types of Development

2.3.1 Aim of this Section

The primary aim of this section is to provide supplementary guidance on the different types of development and assessment procedures.

2.3.2 What are the Types of Development?

Development of land includes but is not limited to:

- The use of land (includes changing the use of an existing building);
- The subdivision of land;
- The erection of a building;
- The carrying out of a work (such as residential alterations and additions, commercial fit-outs);
- The demolition of a building or work.

There are three main categories of development:

- Exempt development;
- Complying development; and
- Development where a development application is required.

Exempt Development

Exempt Development is a category for minor development with minimal environmental impact (such as some types of fences, driveways, awnings and the like). Exempt development does not require Council approval, provided it meets all the specified restrictions listed on the relevant legislation (such as location, size, materials, etc.) according to the type of development.

The *State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008* applies across the State, lists development types that are classified as exempt development and provides the corresponding requirements. Part 3 Exempt and Complying Development of Hurstville LEP 2012 contains provisions for additional development types which are not covered by the SEPP.

Complying Development

Complying development is a category of development that can be addressed by specific pre-determined development standards or requirements. A Complying Development Certificate must be obtained stating that the proposal satisfies the requirements for complying development and in the case of a development involving the erection of a building, identifying the classification of the building in accordance with the Building Code of Australia (BCA). You may apply to either Council or an accredited certifier for a Complying Development Certificate. An application may be made by the owner of the land, or by any other person with the owner's consent.

The *SEPP (Exempt and Complying Development Codes) 2008* applies across the State, lists development types that are classified as complying development and provides the correspondent

requirements. Part 3 Exempt and Complying Development of Hurstville LEP 2012 contains provisions for additional development types which are not covered by the SEPP.

Complying development on land can only be carried out upon receipt of and in accordance with the Complying Development Certificate, in accordance with any provisions of an environmental planning instrument or other legislation, codes and regulations that apply to the complying development and after appropriate fees and bonds have been paid.

Development Applications

All other development will require a development application to be lodged with Council and will be subject to the provisions of the *Hurstville LEP 2012*, relevant State Environmental Planning Policies (SEPPs), and this DCP.

Note:

Refer to the Building & Development Section on Council's website to find detailed information on exempt and complying development, how to prepare a development application, development application checklists and the assessment process. You can also telephone Council's Customer Service Centre on (02) 9330 6222 and request assistance from the Duty Planner.

2.3.3 Exempt and Complying Development

2.3.3.1 How to Determine if My Development Is Classified Exempt or Complying?

STEP 1 → Is My Development Exempt Development?

- SEPP Exempt and Complying Development Codes: Check this SEPP first. Your development must comply with the definition of exempt development, all general requirements and requirements specific to the development type listed on the Exempt Development Codes.

SEPP (Exempt and Complying Development Codes) 2008:
<http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+572+2008+cd+0+N>

- Hurstville LEP 2012*: Check the additional exempt development provisions on *Hurstville LEP 2012*. Your development must comply with all the requirements listed on Section 3.1 Exempt Development and all requirements for the specific development type listed on Schedule 2 Exempt Development of *Hurstville LEP 2012*.

If your development is not exempt development, move to STEP 2.

STEP 2 → Is My Development Complying Development?

- SEPP Exempt and Complying Development: Check this SEPP first. Your development must comply with the definition of complying development, all general requirements and requirements specific to the development type listed

on the corresponding Development Codes.

- *Hurstville LEP 2012*: Check any additional complying development provisions on *Hurstville LEP 2012*. Your development must comply with any requirements listed on Section 3.2 Complying Development and all requirements for the specific development type listed on Schedule 3 Complying Development of *Hurstville LEP 2012*.

If your development is complying development you will need to obtain a Complying Development Certificate either from Hurstville City Council or from an Accredited Certifier. If your development is not complying development, move to STEP 3.

Note:

Exempt and Complying development provisions do not apply to all allotments in the Hurstville Local Government Area. For example, sites of heritage significance may be excluded. For your development to be classified as either exempt or complying development, it will need to comply with ALL the specified requirements, conditions and standards. If it does not, a development application will need to be submitted for Council's approval. Please refer to the SEPP Exempt and Complying Development and *Hurstville LEP 2012* to understand all restrictions that apply to your site or development.

STEP 3 → You Need to Lodge a Development Application

Refer to the Building & Development Section on Council's website to find detailed information on how to prepare a development application, development application checklists and the assessment process. You can also telephone Council's Customer Service Centre on (02) 9330 6222 and request assistance from the Duty Planner.

Important:

Should any doubt exist as to whether a particular activity requires approval, consultation should be arranged with Council officers prior to any work commencing.

If your development can be classified as either exempt or complying, you are also advised to:

- Consult a building surveyor (accredited under the *Environmental Planning & Assessment Act 1979*) to ensure that works will comply with the *Building Code of Australia* and any relevant Australian Standards;
- Consult a structural engineer (who is a Corporate Member of the Institute of Engineers) where any activity may impact upon the structural stability of any structure; and
- Irrespective of this plan, ensure that you comply with all relevant Acts and Regulations.

2.4 Neighbour Notification & Advertising of Development Applications

In accordance with the recommendation of the Department of Planning, Industry and Environment, Neighbour Notification needs to be in accordance with the provisions of Council's Community Engagement Strategy 2018-2028 (CES). Please use the following link to access the CES:

https://www.georgesriver.nsw.gov.au/StGeorge/media/Documents/Council/Governance/Codes%20and%20Policies/Community_Engagement_Strategy_-_Adopted_October_2019.pdf

2.5 What Information Do I Need to Provide with a Development Application?

The information you need to supply to Council with your Development Application (DA) will vary depending on the proposal. It is important that you refer to the detailed information available on the Development Application Section under Building & Development on Council's website www.georgesriver.nsw.gov.au to understand the assessment process, how to prepare a development application and to verify on the development application checklists the detailed information requirements according to the type of development proposed. You can also telephone Council's Customer Service Centre on (02) 9330 6222 and request assistance from the Duty Planner.

Note:

Items marked with 🚩 are required for all types of Development Application. Other documents, including but not limited to those listed below may also be required depending on the type of development proposed. As each development is unique, to make a proper assessment Council may require further information after the application is lodged. Understanding and complying with all requirements upfront and/or seeking professional advice will help you submit a high quality Development Application with complete information and avoid delays to the processing time.

Development Application Forms 🚩

The DA form is required to be completed and signed by the applicant and all relevant property owners (if more than one property owner).

Development Application Fees 🚩

The lodgement of the DA will only be accepted if the prescribed Development Application fees are in accordance with Council's adopted Fees & Charges.

Consent of Land Owners 🚩

The consent and full details of ALL owners (individuals and companies) of land subject to the DA is to be provided on the Development Application Form.

Political Donations 🚩

If anyone with a financial interest in the application has made a political donation or gift then a Political Donations and Gifts Disclosure Statement is to be completed and submitted with the DA. This form is available on Council's website.

Cost of Development 🚩

An accurate contract price or estimate including GST on commercial valuation of works to be undertaken is to be provided with the DA.

Statement of Environmental Effects (SEE) 🚩

The SEE is a written report that can be prepared by yourself or by a town planner or other suitably qualified professional acting on your behalf. The statement must:

- Outline the full nature of your proposed development;
- Explain how the proposed development addresses and complies with the relevant environmental planning instruments (such as the Hurstville LEP 2012, SEPPs) and this DCP; and
- Identify the potential impacts of the development and the features that have been incorporated into the design to protect the environment.

If the project is expected to have a significant impact on the environment and is classified as a “designated development”, an Environmental Impact Statement (EIS) prepared by a suitably qualified and experienced professional shall be submitted instead.

Site and Context Analysis Plan ↻

The Site Analysis and Context Analysis (drawing and text) must contain information, where appropriate, about the site and its surrounds, including:

- Site:
 - Site dimensions (length and width);
 - Topography (spot levels and/or contours);
 - North point;
 - Natural drainage;
 - Any contaminated soils or filled areas;
 - Services (easements, connections for drainage and utility services);
 - Existing vegetation (location, height, spread of established tree species);
 - Micro-climates (orientation of prevailing winds);
 - Location of: buildings and other structures, heritage features and items, fences, property boundaries, pedestrian and vehicular access;
 - Views to and from the site; and
 - Overshadowing by neighbouring structures;
- Surrounds:
 - Neighbouring buildings (location, height, use);
 - Privacy (adjoining private open spaces, living rooms, and windows overlooking the site, particularly those within 9m of the site; location of any facing doors and/or windows);
 - Walls built to the site’s boundary (location, height, materials);
 - Difference in levels between the site and adjacent properties at their boundaries;
 - Views and solar access enjoyed by neighbouring properties;
 - Major trees on adjacent properties, particularly those within 9 metres of the site;
 - Street frontage features (poles, trees, kerb crossovers, bus stops, other services);
 - The built form and character of adjacent development (architectural character, front fencing, garden styles);
 - Heritage features of surrounding locality and landscape;
 - Community facilities and public open space (location, use);
 - Adjoining bushland or environmentally sensitive land;

- If on bushfire prone land the bushfire hazard (bushland or vegetation that could threaten properties in a bushfire) and
- Sources of nuisance (flight paths, noisy roads, significant noise sources, polluting operations).

The site analysis must be accompanied by a written statement (that may be supported with additional drawings) explaining how the design of the proposed development has regard to the site analysis, and explaining how the design of the proposed development has regard to the principles set out in the Guidelines and Controls in this DCP.

Architectural Plans

Architectural plans must be dimensioned and prepared according to the required scale and print size and include:

- Floor plans showing:
 - Layout plans of all floors, including any basement or rooftop levels.
- Sections
- Elevations
- Site plan, including the following information:
 - The north point;
 - Lot and Deposited Plan number(s);
 - Site dimensions;
 - Location of any easements and/or rights of carriageway;
 - Existing contours and proposed finished contour levels;
 - Location of driveways, vehicle parking and manoeuvring areas, proposed driveway crossings, footpath (existing and proposed);
 - Location of trees/vegetation;
 - Location of existing and proposed drainage pipelines and services;
 - Building setback dimensions off each property boundary; and
 - Details of proposed cut and fill works.

It is recommended that plans for all forms of residential development and large-scale commercial office, retail or industrial type developments be prepared by a registered architect or designer.

Waste Management Plan

Required for all applications involving any demolition or construction, the plan must outline the proposed method of waste storage and disposal during these phases of the development.

Stormwater Management Plan

Required for the majority of applications involving new development or alterations and additions to existing development. The plan must detail the method of stormwater drainage from the site and identify the proposed location and approximate volume of any on-site stormwater detention.

In some instances an overland flow study may be required to justify the method of stormwater management proposed and to assess possible impact on adjoining properties.

Erosion and Sediment Control Plan

Required for all development applications involving site works, the plan should include the location of the property boundaries and adjoining roads and the location and type of all proposed erosion and sediment control measures.

BASIX Certificate

Required for any residential component of all new development, a BASIX certificate can be obtained via an on-line assessment tool that analyses data about the site and proposed design and determines how the development scores against targets for energy and water usage. The certificate will be obtained only if it is considered the home is satisfactorily designed to use less potable water and to be responsible for fewer greenhouse gas emissions.

Shadow Diagrams

Required for residential, commercial and mixed used developments of two or more storeys or any type of development where Council is of the opinion that shadow analysis is required to determine any potential overshadowing impact upon any adjoining land use. As a minimum, shadow diagrams should show shadows generated by the proposed development at 9.00 am, 12 midday and 3.00 pm on 21 June (mid-winter), and 22 December (mid-summer).

Photomontage/3D Model

For any development over three stories in height a photomontage/3D model must be provided showing the proposed building and its relationship with surrounding buildings and open spaces.

Landscape Concept Plan

Required for the majority of development. The plan must be prepared by a qualified landscape architect and include all data required for a site plan plus complete detail of proposed vegetation to be used in the development, hard landscape features, surface treatments, surface and sub-surface drainage, irrigation systems, maintenance schedule and measures to minimise crime risk.

Schedule of External Finishes

Required for certain types of development, must show all proposed external colours and building materials.

Reflectivity Study

Council may require the submission of a Reflectivity Study prepared by a suitably qualified consultant.

Transport and Parking Assessment Study

A Transport and Parking Assessment Study is a technical investigation into the transport and safety issues that might arise from a development. The study also assesses the transport related impacts on the surrounding transportation network that are generated by a development and how those impacts are to be managed. Development types requiring a Transport and Parking Assessment Study are identified in a table contained in Section 5.4.4.1 Vehicle Parking Rates. Further information is also contained in Section 5.4.2 Transport, Traffic and Parking Studies.

Construction Traffic Management Plan (CTMP)

Council may require a CTMP at the construction phase as a condition of consent. A CTMP is a practical response to ensuring that demolition and construction works do not adversely impact on the public domain or vehicular and pedestrian movements in an area. For more information see Section 5.4.2 Transport, Traffic and Parking Studies.

Travel Plans

Travel Plans (TP) are a site-specific plan which provides details to visitors/workers on how to access that site by walking, cycling or public transport and form a key action in the Metropolitan Plan for Sydney 2036. For more information see Section 5.4.3 Sustainable Transport.

Heritage Conservation Management Plan

Required when the property is listed as an item of environmental heritage; or is within a heritage conservation area and/or is in vicinity of a heritage item. The plan must be prepared by a suitably qualified and experienced heritage consultant and must address the relevant heritage provisions, ensuring that the significance and integrity of heritage items is retained and that the curtilage of such heritage items and their relationship with surrounding developments and the streetscape is also considered.

Arborist Report and Tree Survey Plan

Required when a proposed development may affect certain trees or other vegetation on either the subject site or upon a neighbouring property. May also be required when the applicant requests removal or maintenance of vegetation (e.g. pruning of branches and roots) as part of the development application.

Remediation Plan

Required if land is contained or potentially contaminated as per SEPP 55 – Remediation of Land.

Noise and Vibration Reports

2.5 What Information Do I Need to Provide with a Development Application?

Development with a residential component adjacent to railway lines and busy roads requires a noise and vibration report prepared in accordance with the Department of Planning's "Development near Rail Corridors and Busy Roads Interim Guideline" (2008). Further information can be found at Section 5.3.6 Visual Privacy, Acoustic and Vibration Amenity.

Wind Impact Assessment

A Wind Impact Assessment is to be submitted with the Development Application for all buildings greater than 32 metres in height. For buildings over 50 metres in height, results of a wind tunnel test are to be included in the Wind Effects Report.

2.6 Compliance with the Plan

Within each Section or topic of relevance you will find a combination of the items below:

- **Aims:** Identify the reasons why a particular Section of the DCP was created.
- **Objectives:** For each Section or topic of relevance, objectives will clearly state what Council seeks to achieve once the Controls or the Performance Criteria are met.
- **Controls:** Are specific, prescriptive measures required for achieving the desired objectives.
- **Performance Criteria:** Identify how a development should perform so that the desired outcomes can be achieved.
- **Design Solutions:** Indicate how the development can achieve the desired performance and objectives.

There may be circumstances when it is appropriate to allow flexibility in the application of the Controls in this DCP where strict compliance with the controls is considered unreasonable or unnecessary and variations to the controls may produce better development outcomes for particular sites. Variation to development controls will only be considered where applicants have provided a written submission for each variation (included within the Statement of Environmental Effects – see Section 2.5 What Information Do I Need to Provide with a Development Application) that must clearly:

- Identify the development control to be varied and the general and/or specific objectives of that control;
- Justify why the specific controls of the DCP do not make appropriate provisions with regard to the subject DA;
- Demonstrate that the variation meets all the objectives of this DCP and does not result in any adverse impacts on surrounding properties or the environment.

Council gives no assurance that it will permit any variations to the development controls as specified in this DCP.

Note:

Because every site is unique, compliance with the Controls, Performance Criteria and Design Solutions does not guarantee approval of an application. The Objectives must be achieved in each case. Each application will be considered on its merits and within the guidelines of this DCP.

2.7 Post-Approval Compliance and Enforcement

Hurstville City Council takes a proactive stance investigating breaches of its planning controls including Local Environmental Plans, Development Control Plans, and its development and building requirements. This includes the investigation of allegations regarding the unauthorised and inappropriate use and development of any land within Hurstville LGA.

Development compliance issues may include:

- Site works conducted without a development consent where consent is required including external changes to a property, earthworks, tree removal, demolition and extensions carried out without the required consent from Council or a Private Certifying Authority (PCA);
- Building works that are inconsistent with the approved development consent or approved plans for example changes to wall heights, increases in floor area, changes to window location and changes to materials and finishes;
- Illegal use of property (no approval) or use inconsistent with an approved development consent for example where a prohibited activity or use may be operating, non-compliance with hours of operation, breaches to regulations such as Swimming Pool, Health and Food premises legislation;
- Changes of use without approval or works on heritage listed items without development approval.

Unauthorised building work takes many forms and can range from very minor technical breaches which cause little or no environmental harm, to blatant environmental law breaches for projects that would ordinarily not receive development approval.

There are a number of remedies and enforcement options available to Council depending upon the circumstances of the case and seriousness of the non-compliance to Council's planning controls and breaches to State Government legislation and regulations.

Council has discretion in deciding whether to take enforcement action on the basis of the available evidence and individual circumstances. At the conclusion of an investigation, Council may decide to:

- Take no action;
- Counsel an alleged offender;
- Issue a formal letter of warning;
- Issue Notices and Orders to either cease or demolish unauthorised activity/work, or require remediation work;
- Issue a Penalty Infringement Notice (PIN);
- Commence civil or criminal enforcement proceedings.

Council will exercise discretion when deciding how to deal with unauthorised work, taking into account the evidence, cost to the community of any action, circumstances of the individual case, environmental harm, public policy and legal precedent.

Hurstville City Council is strongly opposed to unlawful activity at any time, and under any circumstances. Council's Enforcement Policy and Private Principal Certifying Authority (PCA) Complaint Policy provide guidelines for the exercise of enforcement powers and deal primarily with building and development matters.