

<b>JRPP No.</b>	<b>Item (2009SYW001)</b>
<b>DA No:</b>	<b>JRPP-09-1574</b>
<b>Proposed Development:</b>	<b>20 Storey Residential/Commercial Building over 6 levels of Basement Car Parking</b>
<b>Development Type:</b>	<b>“Regional Development” – Capital Investment Value &gt;\$10 million</b>
<b>Lodgement Date:</b>	<b>8 July 2009</b>
<b>Land/Address:</b>	<b>Lots 89 &amp; 90, DP 11157, H/N 29-31 Second Ave, Blacktown</b>
<b>Land Zoning:</b>	<b>3(b) Special Business pursuant to Blacktown LEP 1988</b>
<b>Value Of Development:</b>	<b>\$25 million</b>
<b>Applicant:</b>	<b>Better Buildings Pty Ltd</b>
<b>Report Author:</b>	<b>Rebecca Gordon, Town Planner</b>
<b>Instructing Officers:</b>	<b>Judith Portelli, Manager Development Services &amp; Administration and Glennys James, Director City Strategy and Development</b>
<b>Date Submitted to JRPP:</b>	<b>12 August 2010</b>



*Figure 1. Photomontage of the proposed development (Source: Design Cubicle Architectural Solutions)*

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## ASSESSMENT REPORT

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## 1 Executive Summary

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- 1.1 Blacktown City Council is in receipt of a Development Application (DA) from Better Buildings Pty Limited for the construction of a 20 storey mixed-use commercial/residential high rise building over 6 levels of basement car parking at Lots 89 & 90, DP 11157, H/N 29-31 Second Avenue, Blacktown. The proposed development has a Capital Investment Value of \$25 million.
- 1.2 The DA, in its amended form, includes a total of 168 residential units comprising 42 x 1 bedroom units, 114 x 2 bedroom units and 12 x 3 bedroom units, over 19 levels. The proposal also includes 209sq.m of commercial floor space at ground level and an additional 481sq.m of commercial floor space at the first floor level (i.e. 690sq.m in total). In addition to the commercial tenancy, the ground level includes the residential lobby, central garbage room, loading bay and service areas. The proposal also provides for 2,707sq.m outdoor/recreational space. This includes a 227sq.m indoor private gymnasium and 561sq.m of outdoor recreation area at the ground level, outdoor recreation areas, barbeque facilities and children's playground at the first and second podiums (657sq.m and 608sq.m respectively), and 654sq.m of common open space on the roof top. A total of 286 car parking spaces are proposed over the 6 basement levels, while vehicular access to the development is proposed off Second Avenue.
- 1.3 The application seeks to supersede a previous consent for a 15 storey residential/commercial building over the same site (DA-03-3879), which was approved by Council at its Ordinary Meeting held on 4 February 2004. The revised proposal maintains the currently approved building footprint and design envelope, but increases the height of the development from 15 storeys to 20 storeys with associated additional basement car parking. The applicant has obtained a Construction Certificate and undertaken initial site works thereby preserving the current consent. The approved development, however, has not proceeded beyond initial site works due to economic circumstances. The applicant has advised that the current DA will provide the economy of scale required to enable the development to be constructed.
- 1.4 The proposed development constitutes 'Regional Development' requiring referral to a Joint Regional Planning Panel (JRPP) as it has a Capital Investment Value of more than \$10M. As such, while Council is responsible for the assessment of the DA, determination of the Application will now be made by the Sydney West JRPP. This report is forwarded to the Panel accordingly.
- 1.5 The Blacktown Centre was recognised in the 2005 Metropolitan Strategy (Metropolitan Strategy - City of Cities: A Plan for Sydney's Future) as a "major centre". The Metropolitan Strategy is supported by detailed draft regional and subregional strategies. The subsequent draft 2007 North West Subregional Strategy recognised the potential role of the Blacktown Centre as a "Regional City".
- 1.6 The Blacktown City 2025 vision document provides the strategic framework to guide Council into the future, with confidence that it will create a Regional City that current and future generations will be proud of. One of the "Trigger Projects" within the BC 2025 vision is "Becoming a Regional City". In March 2010 the NSW Premier released the Metropolitan Strategy Review: Sydney Towards 2036, Discussion Paper, as the beginning of the formal public consultation process to review the Metropolitan Strategy. Council made a detailed submission to that Review at the end of May 2010, building a case for and requesting Government recognition of Blacktown as a Regional City.
- 1.7 Council is substantially through the process of finalising its strategic baseline documents that will inform the new City-wide Comprehensive Local Environmental Plan, based upon the Standard Instrument, in replacement of Blacktown LEP 1988. Major strategic background studies are being finalised at the present time, for consideration and adoption by Council at the end of

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2010. It is intended that the integrated strategic planning framework for the City Centre which is being prepared will contribute to the achievement of the vision of Blacktown as a Regional City. However, the resultant recommended new zoning provisions for the entire City area will remain Confidential until such time as the Department of Planning has endorsed the Comprehensive LEP and it is able to be placed on public exhibition during 2011. On this basis there is no option but to assess this application on the basis of the current zoning and development controls in BLEP 1988 and Blacktown DCP 2006 respectively.

- 1.8 As part of the assessment process, the DA was referred to various internal sections of Council and to the Sydney Regional Development Advisory Committee (SRDAC) and Blacktown Police for consideration. Given no response was received from the Blacktown Police Local Area Command, it is assumed they have no objections or development requirements in relation to the proposal. Council's Traffic Section and the SRDAC/RTA have raised no objections to the proposal on traffic or parking grounds. The Traffic Assessment submitted with the Application has also confirmed that the proposed development will not have any unacceptable traffic implications in terms of road network capacity, and that the development will be acceptable in terms of traffic generation. The RTA, however, believes that the cumulative effect of high rise residential/commercial developments within the northern part of the CBD warrants the provision of a separate right-turn bay in Third Avenue to facilitate right-turn movements into Prince Street. Given that these works have already been identified within a Section 94 Contributions Plan (CP No. 16) and the development will be levied the applicable Contribution, it is believed that such works cannot be imposed on the developer.
- 1.9 Council's Development & Drainage Engineers, Building Surveyors and Environmental Health Unit (EHU) have raised no objection to the proposed development subject to appropriate conditions being imposed on any consent. Council's Waste Services Section has also raised no objections provided that a private contractor is used for the waste collection services. While Council's Commercial Centres Planner has expressed a desire to see more commercial floor space within the development, the proposed increase in commercial floor space (i.e. from equivalent to 10.5% of the site area to now being approximately 34% of the site area) is considered acceptable in the absence of any minimum requirements within Council's LEP or DCP. Byrnes PDM Consultants, who were engaged by the applicant to undertake a 'Review of Adequacy of Commercial Floor Space' Report, have also concluded that the proposal incorporates adequate commercial floor space and is appropriate for its location within the Blacktown Town Centre.
- 1.10 Following receipt of the DA, the proposal was notified to over 300 adjoining and nearby property owners and occupiers, and was advertised in the local newspapers for a period of 14 days from 29 July 2009 to 12 August 2009. As a result of this process, only 1 submission objecting to the proposal was received from the adjoining Serbian Orthodox Church.
- 1.11 The objections raised are mainly on the grounds of increased traffic generation and the potential for future occupants to object to the bell ringing activities undertaken on the church site. It is believed, however, that the grounds for objection cannot be used as a reason to prevent redevelopment of the site and are not considered sufficient enough to warrant refusal of the application. As indicated above, the proposed development will be acceptable in terms of traffic generation. In relation to the noise issues, Council's EHU has suggested that any 'offensive noise' aspects of the religious activities could be abated through acoustical modifications (essentially trapping the noise within the church building). Alternatively, it is recommended by Council Officers to the Panel that suitable conditions be imposed on any consent, requiring that double glazing be installed to those residential units facing the Church site. This would help to increase residents' internal amenity and therefore may help to reduce the chance of complaint. While these methods would help to reduce internal noise, it is recognized that activities carried out externally to the church building may be impossible to modify to achieve compliance with

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the Protection of the Environment Operations Act 1997 (POEO Act). In these instances the only option would be to cease the activity or to allow the POEO Act to be breached. The Acoustic Assessment undertaken by Heggies Pty Limited was unable to provide any further recommendations given that there is currently no numerical criteria or guidelines in NSW relating to Church bell ringing noise emissions.

- 1.12 The subject site is zoned 3(b) Special Business pursuant to Blacktown Local Environmental Plan (BLEP) 1988. The proposed development is permissible in the zone with development consent. Apart from a minor variation to the private balcony dimensions for 16% of the units (i.e. 27 out of 168 units), the proposed development fully complies with Council's Development Control Plan (DCP) and the "interim" controls for mixed-use development in the Precinct that were adopted by Council in 2006. In this regard the proposal fully complies with the maximum height restrictions, setback requirements, overshadowing, common open space and car parking requirements of the DCP and is considered satisfactory with regard to relevant matters such as siting and design, built form, bulk and scale, privacy, access, traffic impact, parking, stormwater drainage and the like. The proposed development has also been assessed against the relevant matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, including suitability of the site and the public interest, and is considered satisfactory. Overall, it is believed that the applicant has developed a design solution which appropriately responds to the desired future character of the CBD area.
- 1.13 The proposal is consistent with the objectives of State Environmental Planning Policy (SEPP) 65 and satisfactorily achieves the 10 'design quality principles' listed under Part 2 of the SEPP. Council Officers have also assessed the application against the design guidelines provided within the Residential Flat Design Code (RFDC). Whilst not strictly meeting the numerical standards of the RFDC, it is believed that the proposed development does meet its intent. Council Officers also believe that the proposal, in its current layout, has design merit and should be supported despite the minor non-compliances. To insist on full compliance with the RFDC guidelines in this instance would alter the appearance, shape and layout of the building and would ultimately compromise the design of the building. Furthermore, it is noted that the numerical standards in the RFDC are guidelines only and therefore a minor variation should not warrant refusal of the application.
- 1.14 Following concerns that this form of development, however, would prevent adjoining and nearby sites from achieving full compliance with SEPP 65 in the future, Council engaged Cox Richardson to undertake an environmental and built form assessment of the proposal. Specifically, Cox Richardson was requested to provide advice in terms of whether approval of the development would allow an equitable (not necessarily the same) amount of development on the immediate adjoining site and whether any amendments should be considered to ensure this could be achieved. The Review indicates that the main area of concern is the separation between the proposed development and the future buildings on the immediately adjoining sites. Under the RFDC a 24m building separation is recommended for buildings over 8 storeys. However, Cox Richardson has recommended that the building width for the upper levels (i.e. levels 9 to 20) be reduced from a maximum of nearly 27m to a maximum of 22m.
- 1.15 In response, the applicant has pointed out that there is already a consent over the subject site (i.e. DA-03-3879) which has approved the proposed reduced setbacks. The current DA seeks to retain the same building footprint and design envelope, with the addition of 5 floors in height. The applicant has also prepared a plan which clearly demonstrates that the recommended 22m building width does not necessarily result in a better designed development. A redesign in accordance with the recommendation would result in a development with a larger building footprint and would result in a more bulky design with less articulation. The variation being sought is also considered extremely minor given that, in the very worst case scenario, the

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separation between buildings would be 21.625m instead of the recommended 24m. For these reasons, it is recommended that the proposal be supported in its current form.

- 1.16 In light of the above, it is recommended that the proposed 20 storey mixed commercial/residential development be approved subject to appropriate conditions as documented at Attachment 3 of this report.

## **2 Broader Strategic Context and Location**

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- 2.1 The subject site is located within the Blacktown CBD which is classified as a “Major Centre” under the *Sydney Metropolitan Strategy* and as having the potential to be “an emerging Regional City” under the *draft North West Subregional Strategy*.
- 2.2 The Blacktown CBD is located around a railway station and 2 metropolitan railway lines and includes a large retail and commercial precinct. The main retail hub is the Westpoint shopping centre. The shopping centre and CBD area also provide a variety of entertainment outlets for all ages including AMF Bowling, Blacktown RSL, Blacktown Worker’s Club, and Hoyts Cinemas.
- 2.3 In addition to the retailing and entertainment facilities, the CBD also ‘houses’ a number of civic buildings and services including a police station, library, courthouse, the Department of Education and Training (DET), Blacktown TAFE, the Department of Community Services (DOCS), Housing NSW, Medicare Australia, the NRMA, Australia Post, Blacktown Youth Services Association, and the Police Citizen’s Youth Club. The Blacktown District Hospital is also located just on the boundary of the centre. Alpha Park, on the south-western edge of the CBD, provides a generous open space within easy walking distance. There is also a large open space area, including the Blacktown Showground and Francis Park, to the north-west.
- 2.4 The Blacktown CBD area is defined by the Blacktown “ring road” formed by Sunnyholt Road, Third Avenue, Balmoral Street and Newton Road. The railway corridor bisects the CBD into 2 areas known as the “Northern Precinct” and the “Southern Precinct”.

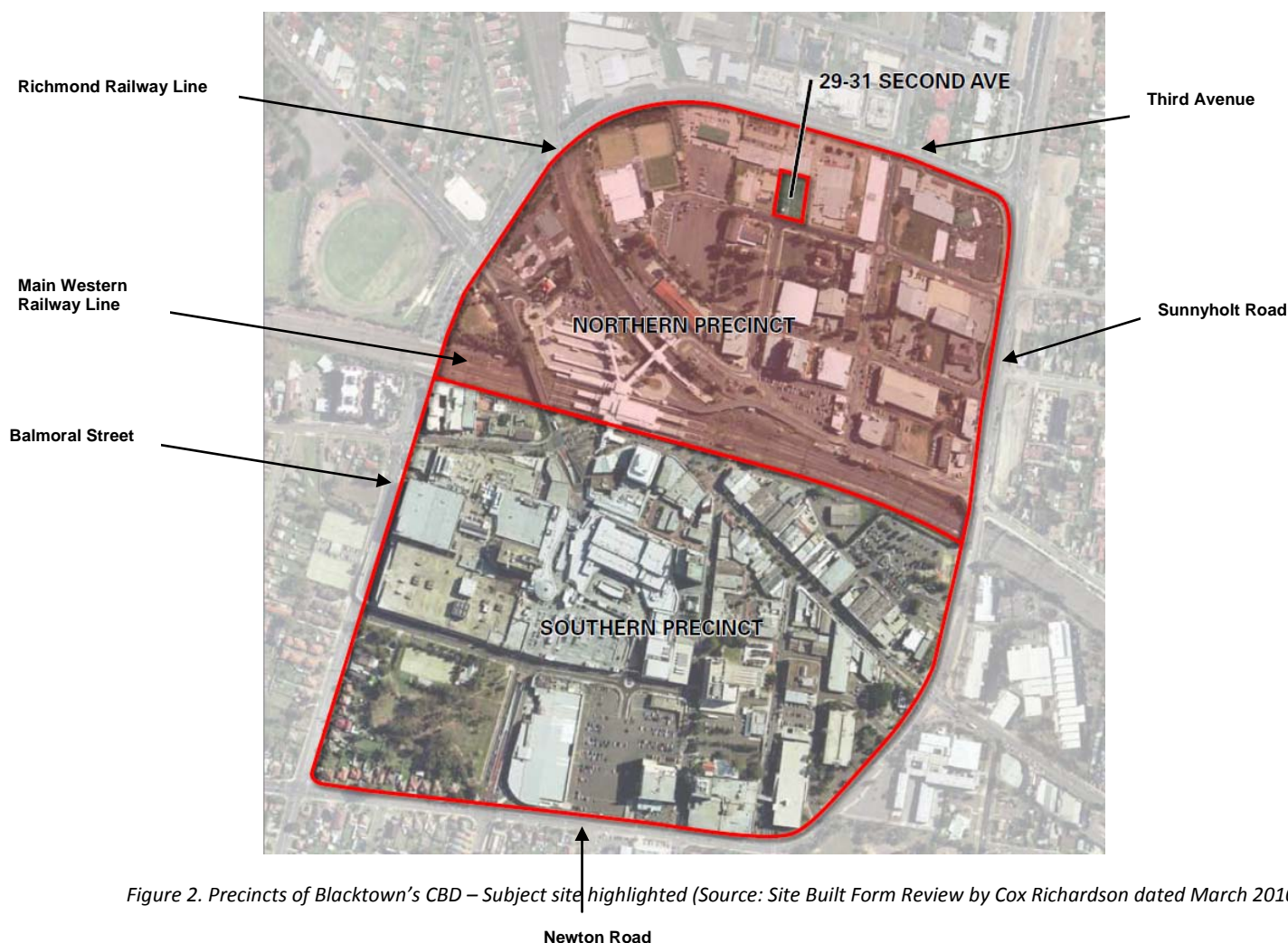


Figure 2. Precincts of Blacktown's CBD – Subject site highlighted (Source: Site Built Form Review by Cox Richardson dated March 2010)

- 2.5 The Blacktown Centre was recognised in the 2005 Metropolitan Strategy (*Metropolitan Strategy - City of Cities: A Plan for Sydney's Future*) as a "major centre". The Metropolitan Strategy is a broad strategic framework document that outlines a vision for Sydney over the next 25 years, and the challenges and directions required to achieve the vision.
- 2.6 The Metropolitan Strategy is supported by detailed draft regional and subregional strategies. The subsequent draft North West Subregional Strategy, released by the Department of Planning in December 2007, recognised the potential role of the Blacktown Centre as follows:  
*"the various attributes of the centre ... indicate that **Blacktown Town Centre may have capacity to emerge as a second Regional City of the North West Subregion over the next 25 years.**"*
- 2.7 There are 13 local government areas making up Greater Western Sydney that are required to share the 1 million additional population of the region. Blacktown, which already has the highest population in the State at around 300,000, is planning to add 200,000 additional people by 2036. Blacktown has the bulk of the North West Growth Centre which is expected to house 125,000 in its share, leaving 75,000 for infill and urban renewal.
- 2.8 Council is preparing to accommodate this number within the catchment of its 10 existing railway stations and their associated centres. As most of these centres are origin stations, there is a need to strengthen Blacktown's 2 key destination centres, Blacktown and Mount Druitt. To this end Council believes it is essential that the State Government recognises the crucial role these



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centres will play in providing jobs, services, shopping and recreation facilities for the expected population of 500,000. The best indicator of the Government's realisation of Blacktown's important role is to nominate Blacktown as a 'Regional City'. The Blacktown Regional City will serve the largest and fastest growing LGA in the Sydney Region and allow Blacktown Council, together with the State Government, to actively promote the City as a major employment destination, particularly for the workforce of Greater Western Sydney.

2.9 The draft North West Subregional Strategy stated that:

*"Blacktown is a Major Centre with a large and growing catchment. It is a focal point for subregional road and public transport networks, located at the junction of the Main Western and Richmond Branch Rail Lines .....*

*Blacktown local government area is the fastest-growing in NSW, and considerable further growth in the population of the centre's catchment is expected in coming years .....*

***The various attributes of the centre indicate that Blacktown Town Centre may have the capacity to emerge as a Regional City. Blacktown Council will need to demonstrate that it has planned for a strong commercial core which can provide capacity for the development of a commercial office market."***

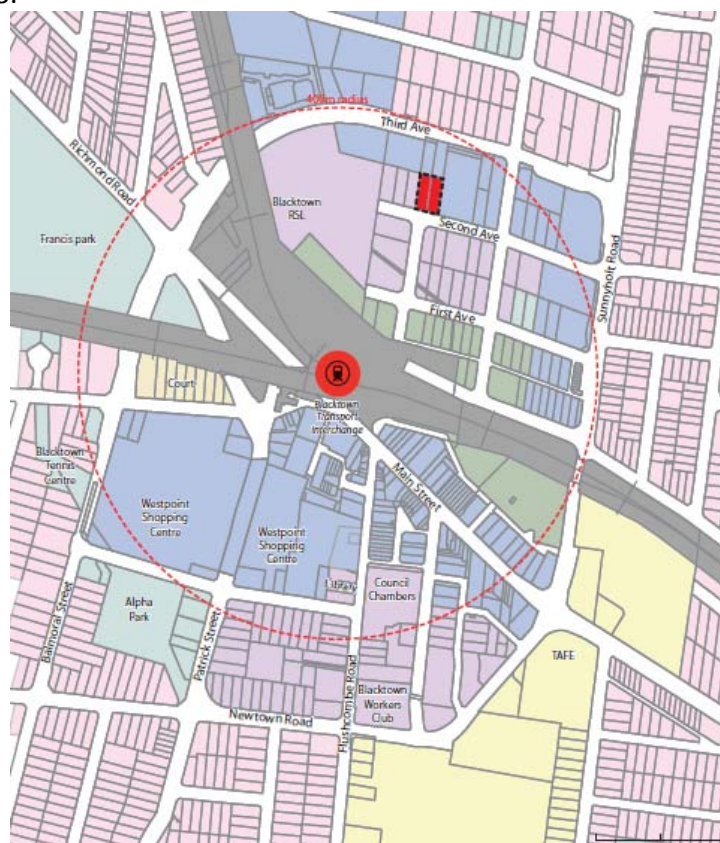
2.10 The *Blacktown City 2025* vision document provides the strategic framework to guide Council into the future, with confidence that it will create a Regional City that current and future generations will be proud of. One of the "Trigger Projects" within the BC 2025 vision is "*Becoming a Regional City*". In March 2010 the NSW Premier released the *Metropolitan Strategy Review: Sydney Towards 2036, Discussion Paper*, as the beginning of the formal public consultation process to review the Metropolitan Strategy. Council made a detailed submission to that Review at the end of May 2010, building a case for and requesting Government recognition of Blacktown as a Regional City.

2.11 Council is substantially through the process of finalising its strategic baseline documents that will inform the new City-wide Comprehensive Local Environmental Plan, based upon the Standard Instrument, in replacement of Blacktown LEP 1988. Major strategic background studies are being finalised at the present time, for consideration and adoption by Council at the end of 2010. However, the resultant recommended new zoning provisions for the entire City area will remain Confidential until such time as the Department of Planning has endorsed the Comprehensive LEP and it is able to be placed on public exhibition during 2011.

2.12 To achieve this timetable, Council has engaged Cox Richardson to undertake some of this work. They are working with Council on developing a Masterplan and Development Controls for the Blacktown Centre and surrounding precincts. It is intended that this integrated strategic planning framework for the City Centre will contribute to the achievement of the vision of Blacktown as a Regional City. It would of course be optimum if this work was finalised and adopted by Council and publicly available so that it could inform the current Development Application for the Second Avenue site. However this is unfortunately not possible as finalisation is some time away. On this basis there is no option but to assess this application on the basis of the current zoning and development controls in BLEP 1988 and Blacktown DCP 2006 respectively. It may well be that the future zoning and building form regime for this part of the City may be substantially different, however the application can only be judged based on parameters in place at the time of determination.



- 2.13 The “Northern Precinct” of the Blacktown CBD comprises all land on the northern side of the railway line, north of the laneway between First Avenue and George Street and up to the Third Avenue inner ring road (being the northern boundary of the Blacktown CBD). It incorporates underdeveloped 3(a) and 3(b) zoned land, 6(a) Public Open Space and commuter parking areas. The area is characterised by a mix of commercial, retail (including bulky goods retailing along Third Avenue), community and limited residential uses. Over the last decade several high rise mixed-use residential developments have been approved in the “Northern Precinct”, but the only one to have proceeded to construction is an 8 storey residential/mixed-use building in First Avenue. The Blacktown RSL Club site occupies the north-west quadrant of the precinct and includes a large area of at-grade parking.
- 2.14 The “Northern Precinct” is regarded as the logical future extension of the CBD, retained within the boundaries of the inner ring road. The precinct has significant capacity for improvement, given:
- the redevelopment potential of a number of underdeveloped and neglected properties;
  - the current lack of visual cohesion or a dominant character type means that the precinct has the capacity to better “absorb” or integrate new buildings that could “set the tone” for how the precinct will be renewed; and
  - the appeal of the precinct in terms of its accessibility (i.e. proximity to Blacktown bus/rail interchange and future commuter car parking, access to Sunnyholt Road and the CBD ring road).
- 2.15 The subject development site is located within the “Northern Precinct” on the northern side of Second Avenue opposite the intersection with Boys Avenue. The subject site is located 250m west of Sunnyholt Road and 300m north of the Main Western Railway line, and is within easy walking distance of the main shopping areas. The subject site is identified on the plans at Figures 2 and 3.



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*Figure 3. The Structure of Blacktown – Key Land Uses and Landmarks (Source: Site Built Form Review by Cox Richardson dated March 2010.)*

### **3 Site Description and Locality**

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- 3.1 The subject development site comprises 2 allotments, known as Lots 89 and 90 in DP 11157, H/N 29-31 Second Avenue, Blacktown. The development site is regular in configuration and has a frontage of 36.6 metres to Second Avenue, a depth of 55 metres and a rear boundary dimension of 36.7 metres. The total area of the land is 1,985sq.m.
- 3.2 The subject site has frontage to and enjoys vehicular access from Second Avenue. It also has a slight crossfall from the eastern boundary to the south-western corner, enabling stormwater to be directed to Council's drainage system in Second Avenue. The dwelling previously located on the site was approved for demolition in November 2002. The site is currently vacant, containing no structures or significant vegetation.
- 3.3 Immediately to the west of the subject site is the Serbian Orthodox Church. The Church is sited 6m from the common boundary and has its only entrance on the western facade (away from the subject site). The Church also has no windows or other openings facing the subject site. To the rear of the Church is a part single/part double storey building sited 2m from the common boundary, while to the west of the Church is the Blacktown RSL Club site.
- 3.4 A 2 storey commercial building, which has frontage to Third Avenue, adjoins the eastern boundary. The building is currently occupied by Subway and Officeworks. Although the commercial complex addresses Third Avenue, a driveway runs adjacent to the common boundary to provide access between Third Avenue and Second Avenue.

- 3.5 Immediately to the north of the site is a 2 storey warehouse. The building is constructed on the boundary and addresses the subject site with a blank wall. A 2 storey building housing the Police Citizens Youth Club is located immediately to the south-west on the opposite side of Second Avenue.



Figure 4. Aerial Photo of Subject Site and its Surrounds and Location of Objector (Source: Blacktown City Council)

- 3.6 The Second Avenue streetscape is characterised by a mix of commercial, light industrial and retail land uses. The older buildings are predominantly of 2-3 storey construction and lack uniformity in building design. There are also a small number of single storey detached dwellings, which have fallen into a state of disrepair. The closest residential properties are located on Second Avenue to the south of the development site. The growth and expansion of the Blacktown City Centre has seen many of the detached dwellings in the area demolished and replaced with lower scale residential flat development and commercial land uses.
- 3.7 The subject site is zoned 3(b) Special Business pursuant to Blacktown Local Environmental Plan (BLEP) 1988 as shown in Figure 5 below. The purpose of the 3(b) Special Business zone in 1988, located on the northern outskirts of the CBD, was to cater specifically for the future expansion of the Centre by providing land on the fringe for support development. This zone is designated to accommodate uses such as commercial offices, light industrial activities and business support services. Only limited retailing activities are currently permitted in the 3(b) zone to ensure that land uses in these zones do not compete directly with adjoining retailing within the 3(a) zone. Both the 3(a) and 3(b) zones also permit all forms of housing with development consent.



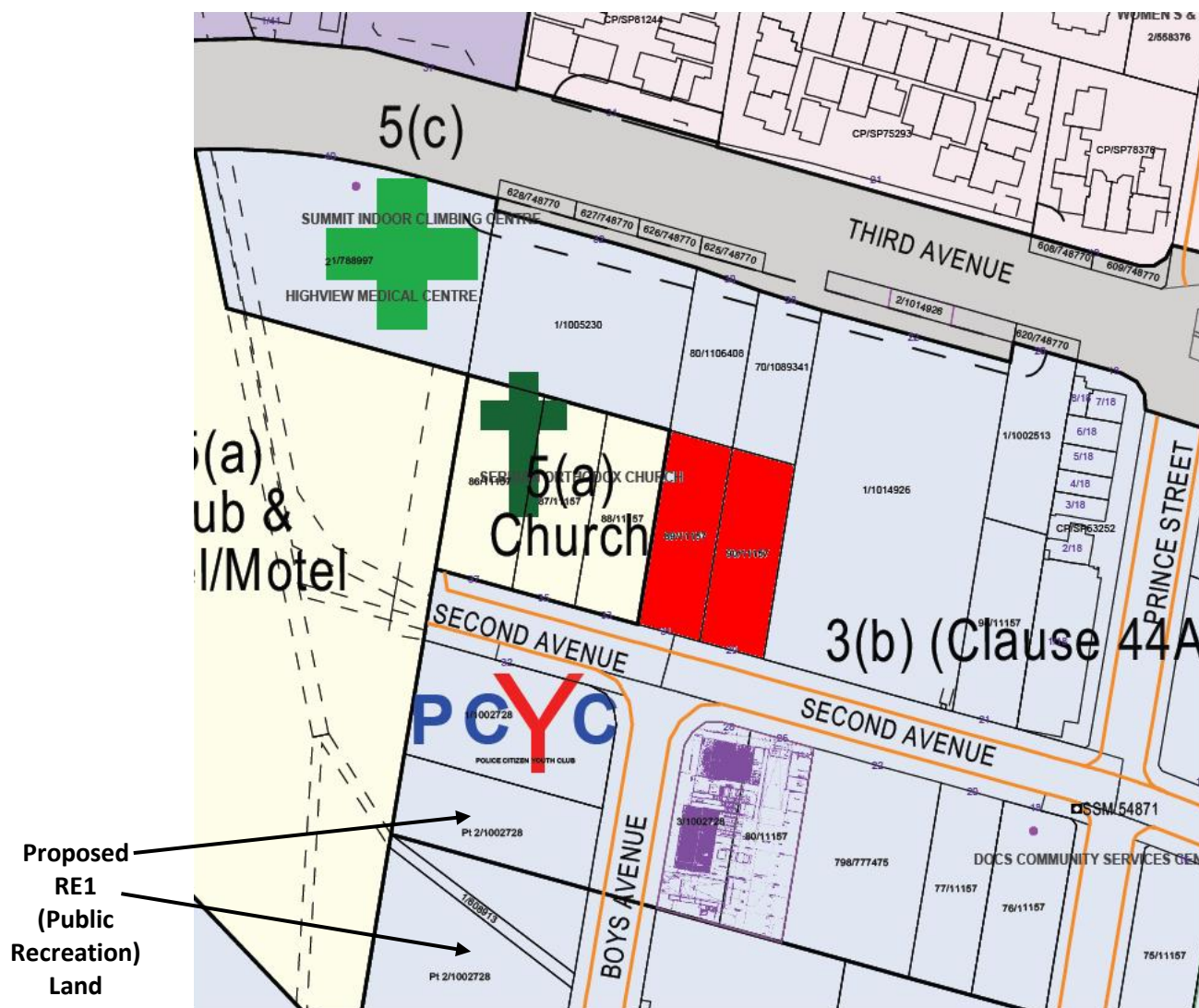


Figure 5. Zoning Plan (Source: Blacktown Local Environmental Plan 1988)

## 4 History and Current Use of the Site

- 4.1 Following the adoption of the Blacktown City Centre Urban Design Master Plan (UDMP) in December 2001, there was significant interest in the City Centre for mixed-use, high rise commercial/residential development. Council was supportive of this type of development, provided the standard of development met Council's expectations and the provisions of State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Development.
- 4.2 Between 2001 and 2006 a total of 13 Development Applications (DAs) were approved in the Blacktown CBD for mixed-use, high-rise commercial/residential development. The developments ranged in height from 8-27 storeys. Eight (8) of these DAs were for sites in the “Northern Precinct”. This included an approval for a 15 storey mixed-use development over the subject site. Details of the 8 approvals are provided in Table 1 below.

Address	Development	No. Residential Units	Determination
42 First Ave	DA-01-1568 2 towers of 10 storeys and 25 storeys	202	Approved 21/12/01
24-28 First Ave	DA-01-3212 8 storeys	52	Approved 13/02/02
20 Second Ave	DA-02-5551 9-11 storeys	30	Approved 12/10/04
18-22 First Ave	DA-03-3353 27 storeys	121	Approved 26/5/04
29-31 Second Ave	DA-03-3879 15 storeys	116	Approved 17/2/04
26-28 Second Ave	DA-03-3935 13-18 storeys	115	Approved 27/5/04
10 Third Ave	DA-03-4848 9 storeys	71	Approved 22/3/05
27 First Ave	DA-05-1746 18-25 storeys	190	Approved 25/10/05

TABLE 1: Summary of DA Approvals for Mixed-Use/High-Rise in the “Northern Precinct”

- 4.3 The remaining 5 DAs were located in the “Southern Precinct” of the Blacktown CBD. Of the 8 DAs approved in the “Northern Precinct”, only 1 has been constructed. This is the 8 storey residential/mixed-use building in First Avenue. The 15 storey approval granted over the subject site has also been acted upon. In this regard, the applicant has obtained a Construction Certificate and undertaken initial site works thereby preserving the consent. It is understood, however, that the remaining 6 approvals have now lapsed.
- 4.4 As indicated above, the subject site benefits from a previous development consent for the construction of a high-rise mixed-use (predominantly residential) development. The current approval for a 15-storey mixed-use development comprising 116 residential units, a ground floor commercial tenancy and 179 car parking spaces over 3 basement levels was granted by Council on 17 February 2004 (i.e. DA-03-3879). The approved development, however, has not proceeded beyond initial site works due to economic circumstances. The site was therefore fenced and has essentially remained vacant.
- 4.5 The new proposal, which is the subject of this report, seeks to construct a 20 storey mixed-use development comprising 168 residential units, ground floor and first floor commercial tenancies and 286 car parking spaces over 6 basement levels.
- 4.6 Following the significant interest in the City Centre for mixed-use, high rise commercial/residential development and the approval of a number of DAs, Council recognised that there was a need to effectively control the changing character of development in the Blacktown CBD. To do this, Council resolved at its Ordinary Meeting, held on 26 May 2004 that a report be brought to Council in relation to a policy on height controls for high-rise buildings proposed for the “Northern Precinct” of the Blacktown CBD and their inclusion in Blacktown Development Control Plan (BDCP) 1992.

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- 4.7 In this regard, all mixed-use Development Applications in the CBD (including all 8 DAs approved in the “Northern Precinct” up to that point) had been assessed on their merits having regard for the controls under Part C of Blacktown Development Control Plan (BDCP) 1992 that relate to residential flat development in the 2(c) Residential zone. It was recognised, however, that these controls were not an appropriate or effective means of guiding development in the CBD, as they were designed for lower-scale apartment development in Residential Zones. It was expected that the Blacktown City Centre would become a more urbanised environment over time and, as such, required specific controls to reflect that character. An “interim” set of development controls for mixed-use residential development in the Blacktown CBD was therefore adopted in March 2006 and included within BDCP 2006.
- 4.8 It was intended that the DCP controls would be an “interim” measure only, to provide some level of guidance to the community. The intention was that these controls would be replaced by a more detailed and comprehensive CBD Strategy, which would provide a blueprint for the future growth of the Centre in line with Metropolitan Strategy objectives. While the “interim” controls have not yet been updated, it should be noted that the current zoning and development controls are currently under review as part of Council’s new Standard Instrument LEP for the City of Blacktown.
- 4.9 This is not to say that the “interim” controls are arbitrary, rather the height controls proposed at the time were developed having regard to the provisions of the UDMP as well as work undertaken in regard to development proposals received and the adopted Section 94 Plan for the Northern Precinct. It was never intended, however, that the “interim” controls would be applied in the long term. They do, however, provide a “broad based” planning approach to the CBD and enable Council to more effectively control the changing character of development in the CBD on an interim basis.

## **5 The Proposal**

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- 5.1 Blacktown City Council is in receipt of a Development Application (DA) from Better Buildings Pty Limited for the construction of a 20 storey mixed-use commercial/residential high rise building over 6 levels of basement car parking. A separate application will be required for the strata subdivision of the units. The proposed development has a Capital Investment Value of \$25 million.
- 5.2 The application seeks to supersede a previous DA for a 15 storey residential/commercial building over the same site (DA-03-3879) which was endorsed for approval by Council at its Ordinary Meeting held on 4 February 2004. The revised proposal maintains the currently approved building footprint and design envelope, but increases the height of the development from 15 storeys to 20 storeys with associated additional basement car parking. The applicant has advised that the proposed development will provide the economy of scale required to enable the development to be constructed.
- 5.3 The plans originally submitted to Council as part of the current DA provided for a total of 173 residential units comprising 47 x 1 bedroom units, 114 x 2 bedroom units and 12 x 3 bedroom units, over 19 levels. The proposal also included 209sq.m of commercial floor space at ground level and a total of 286 basement car parking spaces over 6 levels.
- 5.4 As a result of concerns raised by Council Officers in relation to the adequacy of the commercial floor space and the amount of available common open space for residential occupants, the applicant amended the plans to delete 5 residential units, enlarge the private balconies, and convert the rooftop terrace to common open space.

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- 5.5 The DA in its amended form includes a total of 168 units, including 42 x 1 bedroom units, 114 x 2 bedroom units and 12 x 3 bedroom units, over 19 levels. An additional 481sq.m of commercial floor space (i.e. 690sq.m in total) has replaced the 5 first floor units. In addition to the 209sq.m commercial tenancy, the ground level will include the residential lobby, central garbage room, loading bay and service areas. The amended proposal also provides for 2,707sq.m outdoor/recreational space. This includes a 227sq.m indoor private gymnasium and 561sq.m of outdoor recreation space at the ground level, outdoor recreation areas, barbeque facilities and children's playground at the first and second podiums (657sq.m and 608sq.m respectively), and 654sq.m of common open space on the rooftop.
- 5.6 A total of 286 car parking spaces have been retained over the 6 basement levels. Each car space is accessible and has been designed so that vehicles can enter and leave in a forward direction. Measures will be put in place to ensure there is a clear segregation between the residential and non-residential parking spaces. Bicycle racks will also be provided in the basement car parking areas. Vehicle access to the development is proposed via a 6.0m wide driveway onto Second Avenue at the western end of the site.
- 5.7 The following is a breakdown of the proposed development:

#### Basement Car Parking Levels

- There are 6 basement car parking levels providing a total of 286 car parking spaces. Bicycle racks have also been provided within the basement levels.
- Disabled spaces have been nominated and the car parking layout has been designed to comply with the relevant Australian Standards.
- Lift access is provided to all levels of the building including the basement levels.
- Provision has been made within the basements for ancillary plant and store areas as required to service the building.

#### Ground Floor

- A commercial suite having a floor area of 209sq.m.
- Entry and foyer to the residential apartments.
- Lift and stair access to the residential apartments.
- Driveway access to the basement parking levels.
- Loading bay, substation and plant rooms.
- Body corporate office.
- Communal landscaped open space area of 561sq.m.
- A 227sq.m resident gym/recreation room.
- Garbage storage area.

#### Level 2

- A commercial tenancy having a total floor area of 481sq.m.
- 3 x 2 bed residential units.
- Communal landscaped resident recreation area of 657sq.m.

#### Level 3

- 6 x 2 bed units.
- Communal landscaped resident recreation area of 608sq.m.

#### Levels 4 - 9

- 7 x 1 bed (42 total).
- 4 x 2 bed (24 total).



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#### Levels 10 - 18

- 9 x 2 bed (81 total).

#### Level 19 & 20

- 6 x 3 bed (12 total).

#### Roof Level

- 654sq.m of communal resident recreation space.

- 5.8 Each residential unit has a functional floor plan consisting of 1-3 bedrooms, kitchen, living areas and internal laundry area. The private balconies have been designed as an extension of the living areas and are large enough to accommodate a table and chairs.
- 5.9 All vehicular access is proposed off Second Avenue. A loading bay is located at ground level to accommodate garbage collection, while courier and visitor parking is provided at the first basement level. Bicycle parking is available at basement levels 2-6.
- 5.10 The proposed building is located on a north-south axis. The side and rear facades have been curved to maximise northern exposure and cross ventilation. The curvilinear facades and recessed balconies also help to reduce the overall bulk and scale of the building when viewed from street level. The building presents a high level of architectural individuality and will assist in presenting a positive image of Blacktown as a Major Centre of regional status.
- 5.11 Aesthetically, the building is visually interesting and incorporates appropriate articulation and quality external treatments. The 2 storey podium and residential tower portion will be painted in an off-white colour. The balustrades, doors and windows will be provided with grey powder-coated aluminium frames and the glazing will be grey tinted glass. A coloured photomontage and schedule of external finishes is included at Figure 6.
- 5.12 The proposed nature (land use breakdown) and height of the development is consistent with Council's current zoning and development controls applying to this part of the City Centre. A full assessment of the proposal is provided under Section 12 of this report, while the Development Application plans can be found at Attachment 1.



Figure 6. Photomontage of the Development and Schedule of External Finishes (Source: Design Cubicle Architectural Solutions.)

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## 6 Development Plans

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- 6.1 The proposed Development Plans are reproduced at Attachment 1 to this report.

## 7 Planning Controls

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- 7.1 The planning controls that relate to the proposed development are as follows:

**a. State Environmental Planning Policy (Major Development) 2005**

SEPP (Major Development) 2005 identifies development classified as 'regional development', requiring referral to a Joint Regional Planning Panel (JRPP) for determination on the basis of the criteria listed within Clause 13B. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value of more than \$10M in accordance with Clause 13B(1)(a) of the SEPP. As such, while Council is responsible for the assessment of the DA, determination of the Application will now be made by the Sydney West Joint Regional Planning Panel and not by Council.

**b. State Environmental Planning Policy No. 65 & the Residential Flat Design Code**

State Environmental Planning Policy No. 65 (SEPP 65) – *Design Quality of Residential Flat Development* was gazetted on 26 July 2002 and applies to the assessment of Development Applications for residential flat buildings of 3 or more storeys in height and containing at least 4 dwellings. In the same year the State Government also released the *Residential Flat Design Code* (RFDC). The SEPP primarily aims to improve the design quality of residential flat development and states that residential flat development is to have regard to the publication *Residential Flat Design Code* (a publication of the Department of Planning, September 2002).

Part 2 of the SEPP outlines 10 'design quality principles' for residential flat development. The design quality principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merit of proposed solutions. In accordance with Clause 50(1A) of the Environmental Planning and Assessment Regulation (EP&A Regulation) 2000 the Application has been accompanied by a design verification from a qualified designer, verifying that he/she designed the residential flat development and that the design quality principles set out in Part 2 of SEPP 65 have been achieved.

The SEPP also outlines the procedures for establishing a 'design review panel'. The function of a design review panel is to give specific independent design advice on a Development Application for residential flat development and, in particular, to give advice on the design quality of residential flat development when evaluated in accordance with the 10 'design quality principles' listed under Part 2 of the SEPP. It should be noted, however, that Blacktown City Council does not have a 'design review panel' in place. The proposal, however, has been assessed by an Independent Consultant. The comments and recommendations of the consultant are discussed in detail under Section 13 of this Report.

As part of the submission requirements for any residential flat development, the DA must provide an explanation of the design in terms of the 10 'design quality principles'. In determining a DA, a consent authority must take into consideration the design quality of the residential flat development when evaluated in accordance with the 10 'design quality principles' set out in Part 2 of the SEPP. The 10 design principles are listed below, together with Town Planning comments thereon.

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**i. Principle 1: Context**

*Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.*

The subject site falls within a precinct that is characterised by a diverse range of land uses. The Second Avenue streetscape is currently characterised by a mix of commercial, light industrial and retail activities. The existing buildings are predominantly 2-3 storeys in height and lack uniformity in building design. A number of detached dwelling houses are also found in Second Avenue. Many of these, however, are in a state of disrepair. The growth and expansion of the Blacktown City Centre has seen many of the dwellings in the precinct demolished and replaced with low-rise residential flat buildings and commercial land uses.

The subject site forms part of the CBD "Northern Precinct" and is situated within convenient distance of the Westpoint shopping centre and entertainment facilities. Additionally, a large variety of key functions and services have been located within the area surrounding the precinct, including parks, social clubs, schools, TAFE, places of worship and medical facilities, including Blacktown Hospital. The site is also well serviced by public transport, being within convenient walking distance of Blacktown railway station (approximately 300m) and bus routes on Sunnyholt Road (approximately 350m)

Over the last decade there has been a strong interest in high rise residential development within the northern part of the Blacktown CBD. While only 1 mixed-use high rise has been constructed to date, it is recognised that the Northern Precinct is in a transition period. In approving any development, therefore, Council must ensure that the building reflects the desired future character of the area. This is essential given that any approval will set the benchmark for future development in the area.

The desired future character of the area is largely determined by the current planning controls applying under the LEP and the provisions of the "interim" DCP. The circumstances of the locality are such that a transition in development form will eventuate in the short to medium term. The proposed development has been designed in accordance with the provisions of Council's planning instruments so as to ensure an appropriate design solution is derived to reflect the desired future character of the precinct.

The building is well designed, has architectural integrity and will contribute to the future quality and identity of the area. The site's close proximity to services and facilities, and good public transport, also makes this a highly desirable redevelopment area. The proposed development also establishes an appropriate built form to guide further redevelopment in the precinct.

**ii. Principle 2: Scale**

*Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.*

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The proposed development is consistent with the scale of other high rise developments approved by Council in the Northern Precinct during the period of 2001-2006. The proposed development also complies with the 20 storey height limit within the DCP and therefore with the scale of future development envisaged in the area at the time of adoption of the DCP. The proposed building is suitably proportioned and well designed to justify its height.

Whilst the surrounding area may take some time to change, the applicant has tried to create a design which complements the neighbouring properties in their current form. Whilst overall the height of the building is much greater than those surrounding it, the building has been broken up into 2 components (i.e. the platform and the residential tower). By limiting the platform to 2 storeys in height, the applicant has aimed to reduce the perceivable bulk of the building. The 2 storey podium also provides a link between the proposed building scale and the surrounding properties.

The applicant has also aimed to lessen the impact of the building in relation to its surroundings, through the articulation of the built form. In this regard the design comprises a curved building footprint rather than one of hard edges. It is believed that the curvilinear shape of the building assists in lessening the visual impact and perceived bulk of the building. Additionally, the use of continuous balconies stretching around each level of the proposal helps to emphasise the horizontal nature to the building, rather than the vertical one. This in turn also assists in lessening the perceived bulk and scale of the building.

**iii. Principle 3: Built Form**

*Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

Substantial architectural treatment has been included to provide a development which is aesthetically pleasing and provides an acceptable level of internal amenity. The entrance point is on the southern side of the site, and is highlighted by a glazed doorway and a large glazed awning stretching across the full frontage of the southern facade. The 2 storey podium is of a comparable bulk and scale to the surrounding buildings, and helps the proposed development to fit in more sympathetically with the existing streetscape. The glass awning and podium complement an established horizontal line along the street. In addition, the balconies on each level of the building help to reduce the scale and bulk of the design by emphasising the horizontal elements. The curved shape of the residential tower has also been designed in such a way as to lessen the visual impact of having such a large development. Some vertical elements (i.e. louvers and blade walls), however, have been used sparingly to help accentuate the overall identity of the building.

The internal room layouts have been designed to achieve a high level of residential amenity and to minimise the impact of noise and pollution. The applicant has indicated that "the façade has a variety of elements to reflect a visually 'softer' presentation, to lessen the impact of the building, and to maximize apartments' exposure to the sun and views. This composition makes the development fit into the urban landscape setting whilst maintaining its contextual uniqueness and importance".

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The development has also been provided with setbacks and open space areas which comply with the minimum requirements of the DCP and ensure that the development maintains an appropriate built form.

**iv. Principle 4: Density**

*Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.*

Under the provisions of Blacktown LEP 1988 and BDCP 2006 there are no requirements for site densities in terms of floor space ratios (FSRs) or site coverage. Instead, compliance with the open space, car parking, height and setbacks controls of the DCP generally determine the maximum density achievable on a site. An assessment of the DA against the requirements of BDCP 2006 is provided under Section 12 of this report. Apart from a minor variation to the dimensions of some of the private balconies, the proposal fully complies with the numerical requirements of the DCP.

The density of the proposed development fits in with the objectives of Council's planning instrument and controls which aim to cater for an increasing population through the expansion of the CBD. The density proposed is compatible with the evolving future character of the area and can be comfortably accommodated on the site. Given the proposed massing and well articulated building form, it is believed that the density achieved will be appropriate for the site.

The proposed density is also considered sustainable given the proximity of current infrastructure and services, including recreation facilities, support services and employment opportunities. The site is also located in easy walking distances of both bus and train services.

**v. Principle 5: Resource, energy and water efficiency**

*Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.*

The proposal is designed to at least achieve, or in many cases better, the BASIX and Energy Rating guidelines specified by the rating software. In addition to the orientation and exposure of the proposal, the choice of appliances and fixtures will greatly enhance the sustainability of the proposal with regard to energy and water consumption.

The main podium level runs on the north-south axis so as to gain as much sunlight as possible. The proposal has also been designed so that each unit receives maximum natural light, energy and ventilation. This has been achieved through the manipulation of orientation, using open planning conducive to assisting with cross-flow ventilation and through various design elements such as balcony and window orientation. In particular, the proposal provides:

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- On-site detention of run-off from paved areas to reduce peak flows.
  - The majority of the units will be provided with at least 3 hours of solar access, achieved through either the northern aspect or east-west orientation.
  - Natural cross-flow ventilation provided through the articulation of the built form. In particular, through the design of the balconies, blade walls and glazed elements at different angles, the development is able to create areas of varying pressure at different points on the building, leading to a natural flow of air from one pressure level to another.

The submitted Waste Management Plan (WMP) also details measures to maximise recycling during the construction and operational phases of the development. A condition will be imposed on any consent requiring evidence that the WMP has been implemented.

**vi. Principle 6: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.*

The landscape design will be integrated with the proposed building, creating niches of high aesthetic quality on the development site, which additionally will bring a high level of amenity for the future occupants of the development. In this regard, the proposal provides an indoor gymnasium and garden area at ground level, quality, useable common open space areas at the podium levels, and common recreation space on the rooftop. The podiums/roof levels are accessible by lift, have been segregated from private areas to ensure residents' privacy is maintained, and receive good solar access. These areas also include seating, barbeque facilities and children's play equipment to encourage social interaction and provide an increased level of amenity for residents.

The podium levels contribute to the overall design of the building. These spaces create interest through their layout and design (e.g. planter box shapes and changes in level), and include the use of natural vegetation. The landscape zone along the sidewalk (i.e. planter boxes and street trees) in front of the development will also soften the front facade of the podium, contribute to the overall streetscape and create a buffer between the development and the street.

**vii. Principle 7: Amenity**

*Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.*



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The proposed design provides favourable levels of internal amenity to future residents. The layout of apartments is spatially adequate, functional and well organised, and generally promotes good visual and acoustic privacy. Where required, the applicant has indicated that double glazing or the like will be provided.

The design principles utilised for this proposal include solar access and sun shading, natural cross-flow ventilation, and efficient yet spacious layouts to provide a high quality of life for all residents. Unit sizes have been coordinated to provide spatial arrangements appropriate for current living standards, and each unit is provided with an adequate outdoor private open space in the form of a balcony or terrace that is directly accessible from the internal living areas. Adequate storage areas have also been provided within each apartment and in the form of basement storage cubicles. Bicycle racks have been provided within the basement carpark for use by residents and visitors to the site.

Visual privacy has been achieved through the careful orientation of all unit. Acoustic privacy has been attained by giving careful thought to the appropriate location of rooms within each unit and through various insulation techniques.

The proposed units are designed to incorporate as much natural light and cross ventilation as possible, thus improving the amenity of future residents. The balconies have been specifically designed to maximise northern exposure whilst minimising potential overlooking of adjoining apartments. As a result 117 of the 168 units (69.6%) receive at least 3 hours of solar access to their internal living areas in midwinter. The majority of units will also receive good cross-flow ventilation.

**viii. Principle 8: Safety and Security**

*Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

The building has been designed with consideration for the security and safety of both occupants of the building and adjoining public areas. In this regard the design solution affords good casual surveillance of Second Avenue and provides direct pedestrian access from the basement car parking levels into the building. With regard to the parking areas, secure access is to be maintained at all times to ensure that the parking premises are reserved solely for the occupants of the building and their visitors. Security boom gates are to be installed with access provided through an intercom system for visitors and remote control access or the like for residents.

The common recreation area will also be secured to promote resident safety and an external lighting scheme will be incorporated at ground level and to all common areas to increase the safety of those areas, especially at night.

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**ix. Principle 9: Social dimensions and housing affordability**

*Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*

While most of the units have 2 bedrooms to reflect market demand (with 114 x 2 bedroom units provided), the provision of 47 x 1 bedroom and 12 x 3 bedroom apartments provides a reasonable housing choice for the community, and satisfies the intent of this Principle.

The design also provides for 17 adaptable apartments, as required by the Building Code of Australia and the DCP, thus providing a choice of attractive living locations and facilities to persons with disabilities and their families. The design promotes easily accessible common facilities and outdoor recreation spaces, and caters towards ease of use for everyone from children right through to the elderly.

The development provides high levels of amenity to future residents and alternate housing opportunities in the locality. The apartments are diverse in design and orientation and will provide a suitable mixture of dwellings for people to choose from. The proximity of the site to support services (including medical, retail, commercial, entertainment and recreational) and public transport also adds to future occupants' quality of life.

**x. Principle 10: Aesthetics**

*Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.*

It is considered that the building design and appearance is appropriate for the CBD. The proposal has a well resolved building form and a high degree of architectural definition, with an innovative design that positively responds to the provisions of the SEPP.

The façade treatment of the building reflects contemporary architectural initiatives consistent with the objectives of this principle. The design solution also appropriately defines the base, middle and top of the building, and provides an interesting streetscape. The building has been architecturally designed and represents a desirable planning outcome for this site.

The development also proposes the use of quality finishes, which will add to the visual interest of the building. The materials and colours have been selected to give the building an identity, and to 'soften' the impact of the development's bulk and scale. The use of the colour white, coupled with a large amount of glazing in the residential tower, help give the proposal a sharp, modern look whilst not overpowering its surroundings. The feature colours used in the podium add warmth, interest and a sense of identity to the building. The overall colour scheme is designed to complement its surroundings, and to create a synergy with nearby existing structures. The combination of glazing, blade walls and feature colours and materials will also help to bring life to the facades, and will serve as a

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positive reinforcement to the urban fabric of the evolving Blacktown CBD as the years progress. Together with the soft landscaping, the hard surfaced landscaped areas of the site will contain a variety of materials and finishes, including stencil finished concrete, various pavement patterns and colours, and timber decks.

In addition to the 10 'design quality principles' listed above, SEPP 65 requires that, when assessing an application, Council must have consideration for the design guidelines provided in the Residential Flat Design Code (RFDC). The RFDC is a series of site design and building design provisions, and aims to establish a consistent minimum standard across local government areas. While it is believed that the proposed development satisfies the 10 'design quality principles' listed under Part 2 of the SEPP, it is noted that the development does not strictly comply with the recommendations of the RFDC. Development which seeks to vary from the minimum standards in the RFDC must therefore demonstrate how daylight, natural ventilation and energy efficiency can be satisfactorily achieved, or demonstrate how site constraints and orientation prohibit achievement of these standards. The main design guidelines from the RFDC are listed below, together with Town Planning comments thereon.

***xi. Solar Access***

*Living rooms and private open spaces for at least 70% of units should receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.*

To determine the amount of available sunlight to each unit, a sunlight schedule was prepared for each floor plate. In terms of the number of units achieving the minimum 3 hours required between 9.00am and 3.00pm, the plans originally allowed 107 out of 168 (i.e. 64%) of the units to achieve this figure. The applicant's sunlight schedules begin at 8.00am and end at 4.00pm, and demonstrated that whilst 70% of the units did not achieve direct sunlight between the hours specified, they did receive a minimum of 3 hours during the day. Between 8.00am and 4.00pm, 120 out of 168 units (i.e. 72%) achieved a minimum of 3 hours direct sunlight. The open space areas at the podium and rooftop levels also enjoyed virtually unrestricted solar access throughout the year.

Prior to reporting the application to the JRPP, the applicant was given an opportunity to address this non-compliance. In response, the applicant has rearranged some of the unit layouts, resulting in an additional 10 units achieving the required 3 hours of sunlight to the internal living rooms. In total, the development now achieves 69.6% compliance (i.e. 117 out of 168 units). 12 additional units can also achieve the required 3 hours sunlight starting from 8am. The proposed development is therefore considered satisfactory in terms of solar access.

***xii. Natural Cross Ventilation***

*60% of the units should be naturally cross ventilated.*

While it appears that only 71 of the units (i.e. 42.3%) are naturally cross ventilated, the applicant has argued that in this instance natural cross-flow ventilation has not been provided in the traditional sense of having 2 different openings on opposite sides of the room. Rather, the cross-flow ventilation can be achieved through the articulation of the building form. Through the design of the balconies, blade walls and glazed elements at different angles, the applicant has advised that the proposal creates areas of varying pressure at different points on the building, leading to a natural flow of air from one pressure level to another. On this basis the applicant has indicated that 100% of the units can be naturally cross ventilated.

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**xiii. South Facing Units**

*The number of single-aspect units with a southerly aspect (SW-SE) should be limited to a maximum of 10% of the total units proposed.*

The number of single aspect units with a southerly aspect is limited to 9 out of 168 units (i.e. 5.4%), which is well under the maximum 10% recommended in the RFDC.

**xiv. Depth of Units & Number of Units Accessed from a Single Corridor**

*Single-aspect units should be limited in depth to 8 metres from a window. The back of a kitchen should be no more than 8m from a window. Where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to 8.*

The maximum depth of the angle-aspect units is 10-11m from a window opening, and the back wall of the kitchens are a maximum of 9m from a window. It should be noted, however, that the proposed development maintains the previously approved building footprint and design envelope. As a result, the unit depths and distances, and indeed the entire floor plates, have remained exactly the same as those previously approved under DA-03-3879. Likewise, while levels 4-18 contain either 9 to 11 units per corridor and therefore do not comply with the recommendation of 8 units, and this was approved under the previous consent.

**xv. Distance Separation Between Buildings**

*Essentially the RFDC recommends a 24m separation between buildings, therefore assuming a 12m side boundary setback requirement.*

The proposed development provides side setbacks ranging from 6m to 16m. This matter is discussed in detail under Section 13 of this report, and in this instance the variation is considered to be satisfactory.

The amenity of the units, whilst not strictly meeting the numerical standards of the RFDC listed above, do meet its intent. It is strongly believed that the proposal in its current layout has design merit and should be supported despite the non-compliances. To insist on full compliance with the RFDC guidelines in this instance would alter the appearance, shape and layout of the building and would ultimately compromise the design of the building. Furthermore, it is noted that the numerical standards in the RFDC are guidelines only and therefore generally minor variations (as is the case here) should not warrant refusal of the application.

**c. State Environmental Planning Policy (Infrastructure) 2007**

SEPP (Infrastructure) 2007 aims to ensure the RTA is made aware of and allowed to comment on development nominated as 'traffic generating development' listed under Schedule 3 of the SEPP. The proposed development provides a parking area for more than 200 vehicles and is therefore listed under Column 2 of Schedule 3 of the SEPP. As such, the DA was required to be referred to the Sydney Regional Development Advisory Committee (SRDAC) for comment. The SRDAC comments are discussed under Section 8 "External Referrals" below. In accordance with Clause 104(4) of the SEPP, a copy of the determination will be forwarded to the RTA within 7 days after the determination is made.

The SEPP also states that where a development is for residential use and is located in or adjacent to a relevant road corridor, a consent authority must not grant consent unless it

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is satisfied that appropriate measures will be taken to ensure that the following LAeq noise levels are not exceeded:

- in any bedroom in the building – 35dB(A) at any time between 10.00 p.m. and 7.00 a.m.
- anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time.

An Acoustic Assessment, prepared by Heggies Pty Ltd (Heggies), has been submitted with the application. The assessment addresses the impact of existing road traffic noise on the amenity of the proposed residential units. Given that the maximum noise criteria in the SEPP will be exceeded, the report recommends measures to control road traffic noise intrusion to those residential units facing Second and Third Avenues which are most exposed to road traffic noise. These recommendations are proposed as **conditions** of consent. Further details regarding the Acoustic Assessment and the recommended noise attenuation measures can be found under Section 12 of this report.

**d. BASIX**

It is essential that all proposed dwellings meet the NSW Government's requirements for sustainability in terms of water and energy efficiency. The DA plans reflect the supporting BASIX Certificates. Suitable **conditions** are recommended to be imposed on any consent issued to ensure compliance with the BASIX Certificate requirements.

**e. Blacktown Local Environmental Plan (BLEP) 1988**

The subject site is zoned 3(b) Special Business pursuant to the provisions of Blacktown Local Environmental Plan (BLEP) 1988. The proposed development, being for a mixed-use development (i.e. a combination of "*commercial premises*" and "*residential flat building*"), is permissible under the zoning table with development consent.

Clause 9(3) of the LEP requires the development to be *generally consistent with* one or more of the following objectives of the 3(b) Zone:

- (a) *to ensure that identified centres are encouraged to grow to a level commensurate with the preferred hierarchy of centres for the City of Blacktown by providing sufficient land to cater for required commercial expansion and ancillary development;*
- (b) *to support general retail development of land within Zone No. 3(a) identified centres by providing land adjoining the centres for the purposes of bulky goods retail establishments;*
- (c) *to support general retail and commercial development of land within Zone No. 3(a) in identified centres by providing land for additional commercial office development in proximity to those centres; and*
- (d) *to support general retail and commercial development of land within Zone No. 3(a) in identified centres by providing land for uses which service the needs of activities carried on in those centres.*

The proposed development represents an appropriate redevelopment of an under-utilised parcel of land in the context of the CBD, and is consistent with other high rise developments previously approved in the Northern Precinct. The building has a high standard of design quality, and includes a mix of commercial and residential development to integrate with

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and complement surrounding land uses. The inclusion of residential accommodation on-site will help to support the nearby commercial centre, and the proposed commercial floor space will promote street level activity. The development proposal provides for new residential opportunities close to retail and commercial development supporting the continued development of retail and commercial activity in the 3(a) Business zone.

Given that the purpose of the 3(b) zone is primarily one of accommodating business activities that will support the adjoining centres that are zoned 3(a) General Business, Council obtained legal advice to establish whether the proposed activity was a permissible land use. While “Residential Flat Buildings” are not listed as a prohibited land use under the 3(b) zoning table, legal advice was requested to determine whether the proposal (i.e. high density residential development with a token amount of commercial development) satisfied the stated zone objectives, and therefore was permissible in the zone.

The advice received indicates that there is a reasonable argument that the development is *“generally consistent with objective (d) because the predominantly residential nature of the development will support (or at least not be antipathetic to supporting) general retail and commercial development in Zone No. 3(a) by providing housing for people that will potentially utilise those centres or be employed within them”*. There may also be an argument that the development is *“generally consistent with objective (a) because it is ancillary development of the kind contemplated by the objective”*.

It therefore follows that the development is generally consistent with one or more of the zone objectives for the 3(b) Zone [in particular objective (d)] and therefore is a permissible use with consent.

**f. Blacktown Development Control Plan (BDCP) 2006**

The proposed development is subject to the requirements contained in Blacktown Development Control Plan (BDCP) 2006. In this regard, BDCP 2006 Part A – *General Guidelines* and Part D – *Development in the Business Zones* (Section 5.3.1) have been used to assess the residential portion of the proposal. The provisions of Part A and Section 4 of Part D have been used to assess the commercial component of the development. The proposal, in terms of its compliance with the DCP, is discussed in detail under Section 12 of this report. Apart from a minor variation to the private balcony dimensions for 16% of the units (i.e. 27 out of 168 units), the proposed development fully complies with the provisions of the DCP.

**g. Blacktown Centre Urban Design Master Plan**

The Blacktown City Centre Urban Design Masterplan (UDMP) applies to the site. This Plan was exhibited and adopted by Council in 2001. An assessment in terms of the UDMP can be found under Section 12 of this report.

## **8 External Referrals**

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- 8.1 The subject Development Application was referred to the following public agencies as summarised in the table below.

Agency	Comments
Roads and Traffic Authority (RTA)	<p>The DA was referred to the Roads and Traffic Authority (RTA) on 15 July 2009 in accordance with Clause 104 of SEPP (Infrastructure) 2007. Following this, the traffic impact of the proposed development was considered by the Sydney Regional Development Advisory Committee (SRDAC) on 29 July 2009. In response, the RTA has provided the following comments:</p> <p>(a) As a result of significant increases in multi-storey residential development within the Blacktown CBD (Northern Precinct), it is understood that Council has implemented a Section 94 Contributions Plan. The intersection of Third Avenue/Prince Street operates with a poor level of service, particularly during the weekday afternoon peak. To address this concern it is recommended that the developer provide for a separate right-turn bay (minimum 50m storage) for the right-turn movement from Third Avenue (eastbound) into Prince Street (southbound). These works are to be designed to meet the RTA's requirements, and are to be endorsed by a suitably qualified and chartered Engineer prior to release of a Construction Certificate.</p> <p>(b) Standard conditions have also been recommended to address:</p> <ul style="list-style-type: none"> <li>• Car parking. In this regard, the number of spaces is to be in accordance with Council's requirements. The off-street parking associated with the proposed development must also be designed in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002 for heavy vehicles.</li> <li>• Bicycle parking and associated facilities.</li> <li>• Road traffic noise. In this regard the proposed development should be designed such that road traffic noise from Third Avenue is mitigated by durable materials.</li> </ul> <p>While the items listed under point (b) will be addressed via suitable conditions included within any consent, it is believed that point (a) is unreasonable. In this regard the works required are already identified within a Section 94 Contributions Plan (CP No. 16). For further comments in relation to this matter, please refer to the Traffic Comments under "Internal Referrals" in Section 9 of this Report.</p>
Blacktown Police Local Area Command (LAC)	<p>As part of the assessment process, Council provided the Blacktown Police Local Area Command (LAC) – Crime Prevention Officer an opportunity to view the application, undertake a 'Safer by Design' Evaluation, and provide comments on the proposal. Given that the DA was forwarded on 15 July 2009 and no response has been received to date, it is assumed that the NSW Police have no objections or requirements in relation to the proposal.</p>
Department of Planning – Joint Regional	<p>The DA was referred to the Sydney West Region Planning Panel on 10 July 2009 and was subsequently reviewed at a Briefing Meeting held on 3 September 2009. At that meeting the JRPP raised a number of issues and</p>



Planning Panel (Sydney West Region)	<p>requested that these matters be included in the Council Officers' report on the proposal. Prior to Council finalising a report and recommendation to the Panel, the applicant was therefore requested to submit an additional Environmental Report to address the issues arising from the JRPP meeting. In this regard the Environmental Report was to include:</p> <ul style="list-style-type: none"> <li>(a) A Noise Impact Assessment;</li> <li>(b) Wind Analysis;</li> <li>(c) Reflectivity Report;</li> <li>(d) An Economic Justification;</li> <li>(e) Shadow Impact Assessment; and</li> <li>(f) Further details on the proposal's compliance with the RFDC.</li> </ul> <p>Items (a) - (d) are addressed in detail within Section 12 of this report. Given that the Panel was particularly concerned with the overall cumulative impacts of this form of development, an independent consultant (Cox Richardson) was engaged by Council to look at items (e) and (f) in further detail. A summary of the consultant's findings can be found within Section 13 of this report, while a copy of the consultant's 'Site Built Form Review' is included at Attachment 2 of this report.</p>
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## 9 Internal Referrals

9.1 The subject Development Application was referred to the following internal sections of Council as summarised in the table below:

Section	Comments
Engineering & Drainage	The subject site can be adequately drained into Council's stormwater system in Second Avenue. Council's Development Services Engineers have reviewed the Development Application and the stormwater concept plans accompanying the application and have raised no objections to the proposed drainage arrangements subject to the submission of additional details prior to the release of any Construction Certificate. The DSU Engineers have therefore raised no objections to the development application and have provided appropriate conditions of consent (Enclosure 69A on Council File JRPP-09-1574).
Building	Council's Building Surveyors have reviewed the Development Application and have raised no objection to approval of the application subject to the imposition of appropriate conditions of consent (Enclosure 46A on Council File JRPP-09-1574).
Traffic	<p>The proposed development and supporting 'Traffic &amp; Parking Statement' was considered by the SRDAC on 29 July 2009. A summary of the 'Traffic &amp; Parking Statement' can be found under Section 12 of this report.</p> <p>On receipt of the RTA's comments, they were forwarded to Council's Traffic Management Services (TMS) Section for appropriate comment. In response, TMS has recommended that these matters form conditions of any consent. The legality of some of these requirements, however, is in doubt. In this regard the SRDAC's request for the provision of a right-turn facility at the</p>

	<p>intersection of Prince Street and Third Avenue is considered unreasonable. It is acknowledged that the intersection operates at a poor level of service and there is a need to upgrade the intersection, however this development alone should not be burdened with the responsibility of resolving an existing operational issue.</p> <p>Following this response, Council's Town Planning Staff reviewed the Section 94 Contributions Plan for the Blacktown CBD (Northern Precinct). It was noted that the Plan recognises a need to widen Third Avenue to create 3 lanes in each direction along the section of Third Avenue between Sunnyholt Road and approximately 250 metres west of Prince Street, and provide a right-turn bay in Third Avenue at Prince Street. The Contributions Plan has costed these works at \$3.2 million. It is estimated that the right-turn bay and associated road widening on the northern side of Third Avenue would equate to approximately \$1.5 million and it would therefore be unreasonable to impose these works on one developer. Notwithstanding this, it should be noted that, given that these works are already covered by a Section 94 Plan, no further contribution/works can be reasonably levied or imposed on the developer.</p> <p>TMS has also undertaken their own assessment and has raised no objections to the proposal. Comments made by TMS are as follows:</p> <ul style="list-style-type: none"> <li>(a) Traffic generated by the proposed development can be accommodated within the existing road network capacity.</li> <li>(b) As the proposed development was previously approved by Council and there is no significant change in the access driveway and circulation aisles, the access and parking arrangements are considered satisfactory.</li> <li>(c) The number of car parking spaces is to comply with the DCP requirements. The design of the car parking areas are to comply with AS 2890.1-2004 and AS 2890.2-2002 for commercial vehicles.</li> <li>(d) All vehicles must enter and leave the site in a forward direction.</li> <li>(e) The loading facility must be designed so that trucks do not interfere with residents' vehicles during loading/unloading operations.</li> </ul> <p>Where required, appropriate <b>conditions</b> of consent can be imposed to address these issues.</p>
Waste	<p>Council's Waste Services Section has noted that a private contractor will be used to provide waste collection services. As such, the units will not be able to access Council's household clean up service or garbage/recycling service. Other arrangements will therefore need to be made, particularly in relation to the removal of bulky goods. To address this matter, it has been recommended that appropriate <b>conditions</b> be imposed on any consent to ensure that suitable private garbage and recycling services are provided to the units. Contact details of the engaged service provider will need to be provided to Council once the development is operational.</p>

Strategic Planning	<p>As part of the assessment process, the DA was referred to Council's Commercial Centres Planner for comment. In response it was indicated that additional commercial floor space should be provided and that 209sq.m for a 20 storey building was unsatisfactory over a commercially zoned site. While Council's LEP/DCP does not specify a minimum amount of commercial floor space to be provided, it was believed that additional space should be provided at the ground/first floor levels.</p> <p>As a result, the plans were amended to delete 5 residential units and provide an additional 481sq.m of commercial floor space at the first floor level. Whilst a commercial floor area equivalent to the site area (i.e. FSR of 1:1) would be more desirable, Council's Commercial Centres Planner has noted the substantial increase in the amount of floorspace and has advised that it is acceptable in the absence of a specific LEP/DCP control. In this regard the amount of commercial floorspace has increased from approximately 10.5% of the site area to approximately 34%.</p>
Environmental Health	<p>The DA was referred to Council's Environmental Health Unit (EHU) for comment given that they would be the regulatory authority for any noise related complaints. Council's EHU advised that matters relating to noise pollution and offensive noise are dealt with by the Protection of the Environment Operations Act 1997 (POEO Act), and have provided standard operational conditions to ensure compliance with the POEO Act in terms of air pollution, offensive noise, pollution of land and/or water. The EHU have also assessed the submitted Acoustic Report and have provided standard conditions to ensure compliance with the Report's recommendations. Details of the Acoustic Report are included within Section 12 of this report.</p>
Land Projects	<p>Given that Council is a nearby property owner, the DA was referred to Council's Land Projects Committee for consideration. In this regard the land located on the corner of Boys Avenue and Second Avenue has been identified as the future main public open space area for the precinct. No objections were raised as a result of this process.</p>

## 10 Public Comment

10.1 Following receipt of the Development Application, the proposal was notified to over 300 adjoining and nearby property owners and occupiers, and was advertised in the local newspapers for a period of 14 days from 29 July 2009 to 12 August 2009. The notification process was undertaken in accordance with Blacktown Development Control Plan 2006: Part K – Notification of Development Applications. As a result of this process, only 1 submission objecting to the proposal was received from the adjoining Serbian Orthodox Church. The location of the objector's property is highlighted on the map at Figure 4. The objector's main concerns are summarised below, together with Town Planning comments thereon.

10.2 Submission 1 - The Serbian Orthodox Church of St Nicholas, H/N 33-37 Second Avenue, Blacktown

- (a) *Concerns are raised in relation to the increase in population density and the associated traffic flows.*

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### **Town Planning Comment**

- A Traffic and Parking Statement was prepared by Traffic Solutions Pty Limited and was lodged for Council's assessment and consideration. The RTA Guidelines nominate a traffic generation rate of 0.29 peak hour vehicle trips per residential unit and 2 peak hour vehicle trips for every 100sq.m of commercial floor space. Application of these traffic generation rates to the proposed development yields a traffic generation potential of approximately 62.5 vehicle trips per hour during peak periods.
  - The previous approval over the site was calculated as having an estimated traffic generation of 38 vehicle trips in the peak hours. Therefore the potential increase in traffic flows on Second Avenue is estimated to be in the order of 24.5 vehicle trips in the peak hours greater than the previous approval for the site (DA-03-3879).
  - Traffic Solutions P/L have indicated that the potential increase in flows above the previous approval are minimal and will not have a noticeable or detrimental effect on the future operation of Second Avenue or the surrounding road network.
  - The traffic implications of the development proposal primarily concern the effects that any additional traffic flows may have on the operating performance of the nearby road network. An analysis of the potential effects reveal that the Third Avenue/Prince Street and Second Avenue/Prince Street intersections will continue to operate at the same level of service currently experienced, with minimal increases in total average vehicle delay. The proposed development will therefore not have any unacceptable traffic implications in terms of road network capacity. The traffic consultant concludes that the proposed development is acceptable in terms of traffic generation.
  - Council's Traffic Management Services (TMS) Section have also noted that the capacity of the existing road network can satisfactorily accommodate the proposed traffic likely to be generated.
- (b) *The Church is also concerned that future residents will object to the ringing of the Church bells, and have requested a guarantee that they will be able to continue their religious and cultural practices. The religious activities include ringing Church bells at certain points in the Sunday Church Service which commences at 10.00am. The bells mark respect, and are also rung during other services such as funerals, christenings and weddings.*

### **Town Planning Comment**

- Given the nature of the objection, the matter was referred to Council's Environmental Health Unit (EHU) for comment given that they would be the regulatory authority for any noise related complaints. Council's Environmental Health Unit (EHU) has advised that matters relating to noise pollution and offensive noise are dealt with by the Protection of the Environment Operations Act 1997 (POEO Act). Council's EHU points out that, in relation to abating pollution, however, the POEO Act does not lend any credence to existing use rights and applies to any activity likely to create pollution irrespective of the date the activity commenced.
- It is recognised that this can prove problematic for people carrying out an activity that generates noise when the land uses or occupants of adjoining premises change. The activities undertaken by the church do have the potential to be defined as noise pollution. The applicant was therefore requested to submit an Acoustic Report

which specifically addressed this matter. Heggies Pty Ltd (Heggies) was engaged to conduct the acoustic assessment and has advised:

*“There are currently no numerical criteria or guidelines in NSW relating to Church bell ringing noise emissions. The impact of the ringing of Church bells is subjective and differs from individual to individual. Some people may not find the ringing of Church bells offensive while others may find it offensive. It is our opinion that Church bell ringing is considered acoustically insignificant and would not have a detrimental impact on the future residents of the development.”*

- Council’s EHU, however, has suggested that the ‘offensive noise’ aspects of some of the activities could be abated through acoustical modifications to the church (essentially trapping the noise within the building). It is recognised, however, that activities carried out externally to the church building (i.e. within the church grounds) may be impossible to modify to achieve compliance with the POEO Act. In these instances the only options would be to cease the activity or to allow the POEO Act to be breached.
- To address this issue, it is therefore recommended by Council Officers that suitable conditions be imposed on any consent requiring that double glazing be installed to those residential units facing the Church site. This would not only help to increase residents’ internal amenity, but may also help to reduce the chance of future complaint.

## 11 Section 79C Consideration

11.1 Consideration of the matters prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 (as amended) is summarised below:

Heads of Consideration 79C	Comment	Complies
<p><i>a. the provisions of:</i></p> <p><i>(i) any environmental planning instruments (EPI)</i></p> <p><i>(ii) any development control plan</i></p> <p><i>(iii) the regulations</i></p>	<p>The provisions of relevant EPIs relating to the proposed development are summarised under Section 7 of this Report.</p> <p>The proposal is permissible in the 3(b) Special Business zone and satisfies the zone objectives outlined under Blacktown Local Environmental Plan 1988. The proposal is also consistent with the 10 ‘design quality principles’ of SEPP No. 65.</p> <p>Blacktown Development Control Plan 2006 - Parts A &amp; D apply to the site. The proposed development is consistent with the desired future character of the Northern Precinct as expressed in the DCP, and is generally compliant with all of the numerical controls.</p> <p>A detailed assessment of the Application is provided under Section 12 of this Report.</p>	Yes

<p><i>b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality</i></p>	<p>An assessment of key issues relating to the proposed development is provided under Section 12 of this Report. It is considered that the likely impacts of the development, including traffic, parking and access, bulk and scale, overshadowing, privacy, stormwater, waste management and the like have been satisfactorily addressed.</p> <p>A thorough site analysis was undertaken to ensure that the proposed development will have minimal impacts on adjoining properties. The proposal is appropriate in respect of streetscape considerations and benefits from being sited on the northern side of the main railway line.</p> <p>The proposed development provides a high standard of living to future residents and inherent direct and “flow on” benefits to the Blacktown CBD.</p> <p>In view of the above, the proposed development will have favourable social and environmental impacts given the nature of the zone.</p>	<p>Yes</p>
<p><i>c. the suitability of the site for the development</i></p>	<p>The subject site is zoned 3(b) Special Business and permits mixed-use high rise development up to 20 storeys.</p> <p>The site has an area and configuration suited to the form of development proposed. The design solution is based on sound site analysis and responds positively to the characteristics of the site and locality.</p> <p>The site was previously used for residential purposes. Following demolition of the previous dwelling, however, the site has remained vacant. Given the previous and current use of the site, there are no concerns relating to site contamination, threatened species, aboriginal archaeology, or the like. The site is therefore considered suitable for the proposed development.</p>	<p>Yes</p>
<p><i>d. any submissions made in accordance with this Act or the regulations</i></p>	<p>As noted in Section 10 of this Report, 1 submission objecting to the proposal was received from the adjoining Serbian Orthodox Church. It is believed that the issues raised do not warrant refusal of the application and in some instances can be addressed via suitable conditions of any consent.</p>	<p>Yes</p>

<i>e. the public interest</i>	<p>No adverse matters relating to the public interest arise from the proposal. The proposal has the favourable outcome of furthering the principles of urban consolidation.</p> <p>It is in the public interest to upgrade and reinvest in the building stock in the Blacktown CBD. It is also in the public interest to provide high quality high rise development which will provide a suitable example for other developers to emulate. The proposed building will be a landmark building which will be a feature of the Blacktown townscape.</p>	Yes
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## 12 Council Assessment

12.1 An assessment of the key issues relating to the proposed development is presented below:

### 12.2 Compliance with BDCP 2006 – Part A

An assessment of the proposed development against the relevant requirements of Blacktown Development Control Plan (BDCP) 2006 *Part A – Introduction and General Guidelines* is presented below:

#### **1. Tree Preservation**

In determining a DA Council is required to consider the effect of that development on the landscape or scenic quality of the locality, and whether any trees or other vegetation on the land should be preserved. In this case the subject site is vacant and does not contain any critical habitats, significant trees or vegetation.

#### **2. Items of the Environmental Heritage**

Schedule 2 of BLEP 1988 lists certain buildings or works which are defined as “items of the environmental heritage”. There are no heritage items on the site or in proximity to the site.

#### **3. Car Parking and Access**

In accordance with the DCP, the commercial component of the development requires that parking be provided at the rate of 1 space per 30sq.m GFA, plus 1 space per 2,000sq.m GFA for courier vehicles. The residential component is to be provided with 1 space per 1 or 2 bedroom dwelling, and 2 spaces per 3 or more bedroom dwelling. Visitor parking is to be provided at the rate of 1 space per 2.5 dwellings (or part thereof).

Accordingly, a total of 272 car parking spaces are required for the development (i.e. 180 residential spaces, 68 visitor spaces, 23 commercial spaces and 1 courier space). The proposed development provides for a total of 286 spaces over 6 basement levels and therefore exceeds the minimum parking requirement by 14 spaces.

The submitted Traffic and Parking Statement prepared by Traffic Solutions Pty Limited indicates that the design of the carpark (i.e. ramp grades, ramp widths, driveway and aisle widths, parking bay sizes, etc) complies with the requirements specified under the Australian Standard. A suitable **condition** should be imposed on any consent issued to ensure that the carpark design fully complies with AS 2890.1.

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It is also noted that each space is accessible and that all vehicles can enter and leave in a forward direction. Measures will also be put in place to ensure that there is a clear segregation between the residential and non-residential parking spaces. Bicycle racks have also been provided in the basement carpark.

Vehicle access to the development is proposed via a 6.0m wide driveway onto Second Avenue at the western end of the site. The proposed driveway location will provide very good sight distance in both directions along Second Avenue.

#### **4. *Solar Access***

The shadow impacts of the development will not unreasonably impede any future residential or mixed-use development on the adjoining commercially zoned properties, given that the site lies to the north of the intersection between Second Avenue and Boys Avenue. The shadow diagrams accompanying the application (see plans under Attachment 1 of this Report) demonstrate that the bulk of shadows cast by the proposed building will be projected across the road during the winter solstice.

The curved shape of the building is highly suited for a site with a north-south axis as it maximises northern sunlight exposure. The angled fin walls and recessed balconies also assist in controlling western sun penetration in the summer period. Communal open space areas have been provided to the north-western and north-eastern sections of the site on the ground and first floor levels. These areas have been designed to receive high levels of solar penetration. Reasonable levels of solar access will also be available to the units within the development itself.

#### **5. *Crime Prevention through Environmental Design***

During the assessment process Council provided the Blacktown Police Local Area Command (LAC) with the opportunity to view the application and undertake a 'Safer by Design' Evaluation. Given that no response was received, it is assumed that the Blacktown LAC have no objections or requirements in relation to the proposal.

In order to ensure that a safe and defensible environment is created, however, Council has undertaken its own assessment. In this regard it is noted that safety and security within the development will be enhanced by the following elements:

- The proposed design provides good casual surveillance of the street and of the internal communal areas.
- Pedestrian pathways are well defined.
- Direct pedestrian access is available from the basement car parking levels into the building.
- Loading /unloading activities are segregated from areas of high pedestrian activity.
- Good passive surveillance of the car parking areas is available and secluded niches are avoided.
- Any potential entrapment points are eliminated.
- Disabled car parking spaces are located near the lift wells.
- Suitable landscaping will be provided that will not obstruct sight lines or create niches or hiding places.
- Security access and suitable lighting will be provided throughout the building, including the basement car parking levels and the communal open space areas.
- A security door will be provide to the basement parking level.
- Resident letter boxes will be located in the building's lobby area.
- Common recreation areas will be appropriately secured to promote resident safety.



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- A resident foyer/entry point has been provided that is clearly identifiable from the street.

### 12.3 **Compliance with BDCP 2006 – Part D**

The purpose of Blacktown Development Control Plan (BDCP) 2006 *Part D – Development in the Business Zones* is to provide detailed guidance for the preparation and assessment of Development Applications for sites zoned for business purposes. An assessment of the proposed development against the relevant requirements of BDCP - *Part D* is presented below.

#### **1. Chapter 2.0 – The Business Zones**

Blacktown Local Environmental Plan (LEP) 1988 contains 3 business zones, each designed for a different purpose. The purpose of the 3(b) zone is to cater specifically for the future expansion of the existing CBD by providing land on the fringe for “support development”. The Blacktown Development Control Plan 2006, in describing the purpose of the Business 3(b) zone, states:

*“This zone is designated to accommodate uses such as commercial offices, light industries and business support services. Only limited retailing activities are permitted in the 3(b) zone to ensure that land uses in these zones do not compete directly with adjoining retailing within the 3(a) zone. Retail development in the 3(b) zone is limited to:*

- (a) shops which service the daily convenience needs of workers and residents of the area; and*
- (b) shops which specialise in the retailing of bulky goods”.*

It is recommended that a specific **condition be imposed on any consent** to address this issue.

### 12.4 **Compliance with BDCP 2006 – Part D: Commercial Component Requirements**

It should be noted that the following requirements under Chapter 4: *General Guidelines for Development* relate to the commercial component of the development only. The specific controls for the residential component of the development are contained within Chapter 5: Section 5.3.1 *Residential/Mixed Use Development* and are addressed separately in Section 12.5.

#### **1. Chapter 4: Section 4.1 – Building Design and Construction**

In the sub-regional and district centres buildings should relate to the human scale and should be attractively designed. Whilst a variety of design and use of materials is encouraged, some continuity of style should be maintained within each centre.

The guidelines for design and built form have now been superseded by the detailed provisions in SEPP 65, and are discussed under Section 7.1.b. above. The application has been accompanied by details of the materials to be used in the external facades. These details are considered to be harmonious in both form and style with the intended future development in the area. A copy of the schedule of external finishes is included at Figure 6 under Section 5 above.

#### **2. Chapter 4: Section 4.3 – Building Setbacks**

There are no minimum building setback requirements for commercial development, and in some cases a zero setback may be acceptable. In assessing an application Council must take into consideration whether a building setback is required for aesthetic purposes or

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streetscape design, or to enable adequate sight distance for traffic using adjacent roads. In relation to the proposed ground floor and podium levels, a zero setback is considered appropriate and is encouraged to promote an active street frontage. Commercial uses and a covered awning have also been provided at the street level to further promote activity at the street level.

**3. Chapter 4: Section 4.4 – Landscaping**

Given that a zero setback has been provided at the ground level, there is no opportunity to provide landscaping at the street level. The streetscape, however, can be improved by the use of planter boxes, street trees, seating, paving etc within Council's footpath reserve.

The provision of these facilities is captured by Section 94 Contributions Plan (CP) No. 16. The landscape plan submitted with the DA also nominates the provision of street trees. Suitable **conditions** of any consent should be imposed to address such matters as footpath paving, street trees and payment of Section 94 contributions for Streetscape Facilities.

It is also recognised that landscaping is required and will be provided at the upper levels as required by the controls for the residential portion of the development. A detailed landscape plan has been submitted with the DA which includes common open space areas at ground level (i.e. at the rear of the site), over the 2 podium levels and at the rooftop for use by future residents. Each common open space area provides planter boxes, and at the second level these will be visible from the street. Suitable **conditions of consent** should be imposed to ensure that suitable species are planted in the planter boxes to help soften the visual appearance of the large building.

**4. Chapter 4: Section 4.5 – Pedestrian Access, Public Spaces and Open Space**

Commercial developments should aim to increase the area of public spaces and pedestrian links that are available in the business centres. Given that this site is located on the edge of the CBD and is surrounded by other commercial developments, some which are built to the boundary, pedestrian pathways and public areas are not considered necessary through this site. Public access through this site is also considered unsuitable in this instance as it may compromise the privacy and security of future residents of the development. It is noted, however, that the development does not reduce the amount of public open space or remove any important pedestrian links in the precinct.

**5. Chapter 4: Section 4.6 – Vehicular Access and Circulation**

Adequate provision must be made for vehicular access, circulation and loading/unloading operations. Vehicular access to the proposed development is via a 6m wide driveway from Second Avenue. While the DCP recommends that the parking area be provided with a separate entrance/exit given that more than 50 car spaces are provided, this is not considered necessary in this case. Ingress and egress from the site is considered satisfactory, and will not interfere with other vehicular or pedestrian movements. The potential for on-street queuing is also minimal given the nature of the proposal.

The basement carpark has been designed so that all spaces are readily accessible and so that vehicles can enter and exit the site in a forward direction. A designated parking space has also been provided for 1 courier vehicle in accordance with the requirements of the DCP.

A loading bay has been provided on the ground level which can accommodate an 8.8m long rigid truck. This bay will cater for the loading/unloading needs of commercial tenants, removalist trucks and waste/recycling collections. Council's Traffic and Waste

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Sections have advised that the access and manoeuvring areas are suitable for these operations.

To avoid possible conflict and congestion, the customer parking spaces have been separated from the residential parking spaces. The loading dock has also been suitably separated from the residential and customer parking areas, to ensure that there is no conflict with pedestrian movements.

**6. Chapter 4: Section 4.8 – Car Parking**

The proposed on-site parking is required to comply with the requirements under Part A of the DCP (i.e. in terms of minimum numbers and design). In this regard the proposed parking arrangements are considered satisfactory (see comments under point 12.2 paragraph 3. above).

The proposed development provides in excess of the minimum number of on-site car parking spaces required under the DCP and, as such, a Section 94 contribution in lieu of parking is not necessary. Suitable **conditions** should be imposed on any consent to address such matters as materials (i.e. hard stand), line marking, aisle widths, headroom clearances, signposting, lighting and bicycle parking.

**7. Chapter 4: Section 4.9 – Signs**

Tenants have not yet been nominated for the commercial tenancies. Signage details are therefore unknown at this stage. A standard **condition** should be imposed on any consent informing the developer that separate approval is required for any signage not being 'Exempt Development' under State Environmental Planning Policy (Exempt and Complying Development) 2008.

**8. Chapter 4: Section 4.10 – Solar Access**

As outlined under point 12.2 paragraph 4. above, the overshadowing impacts of the development are not considered unreasonable. In this regard the shadow impact of the development will not unreasonably impede on any adjoining or nearby properties given that the site lies to the north of the intersection between Second Avenue and Boys Avenue. The shadow diagrams submitted with the application demonstrate that the bulk of shadows cast by the proposed building will predominantly fall across Second Avenue and Boys Avenue during the winter period. The issue of internal solar access is discussed under the SEPP 65 assessment in Section 7 above.

**9. Chapter 4: Section 4.11 – Community Facilities**

Given that the development incorporates only 690sq.m of commercial floor space, it is believed that public facilities (e.g. child care centre) cannot be justified. There will also not be a large workforce at this site, and as such lunch areas, plazas, etc. are not considered necessary.

**10. Chapter 4: Section 4.12 – Residential Development**

The DCP states that residential development is seen as a desirable additional use in the business zones, adding to their diversity and enlivening the centres outside normal business hours. In larger centres, particularly in the Blacktown CBD, there exists the opportunity to incorporate residential units into a retail/commercial development. The proposed development has been designed on this basis. For an assessment of the residential component of the development, please refer to Section 12.5 below.

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## 11. **Chapter 5: Section 5.3 – Blacktown Central Business District – General Requirements**

This section provides additional requirements for the commercial component of the development. In this regard Council has adopted a parking strategy which limits the amount of on-site parking to be provided on land in certain locations within the CBD and requires all car parking to be provided on-site in other locations. The subject site is located in an area where all parking must be provided on site. As outlined under point 12.2 paragraph 3. above, the proposed on-site parking complies with the requirements under Part A of the DCP and is therefore considered satisfactory.

A further objective for development within the CBD is to improve pedestrian circulation and access to open space. In relation to this aim, Council has the following requirements:

- restrictions on height, location and setbacks of development so as to preserve solar access, increase the area for pedestrian movement along existing pedestrian routes and reduce “canyon effects”;
- consideration of the relationship of one building to another in respect to the enclosure of urban spaces, in order to avoid a “canyon” appearance, undesirable wind effects and minimisation of solar access;
- the incorporation of an awning/covered walkway over pedestrian thoroughfares. Such structures should harmonise with similar details in adjoining developments; and
- the provision of the existing and preferred locations of through-site pedestrian links.

The proposed development complies with the height restrictions and setback controls for this portion of the CBD. To provide better amenity for pedestrians, however, suitable **conditions** should be imposed on any consent to address the provision of all-weather protection (i.e. an awning) over the footpath area. A wind analysis and incremental shadow diagrams have been submitted as part of the application. Matters relating to wind effects and solar access are discussed in detail below.

The DCP details the preferred pedestrian links in the CBD (i.e. southern side of the railway line). Pedestrian desire lines, however, have not yet been established for the “Northern Precinct”. As part of the assessment process, Council’s Commercial Centres Planner was given an opportunity to comment on the design and appearance of the development. No objections have been raised in relation to the height, setbacks, solar access or pedestrian access. In this regard the proposed development will not negatively impact on future circulation patterns or the ability of pedestrians to access open space areas.

### 12.5 **Compliance with BDCP 2006 – Part D: Residential Component Requirements**

An assessment of the residential component of the development against the relevant requirements of BDCP - *Part D* is presented below. Residential development is permitted in the CBD in conjunction with retail/commercial development with development consent. In addition to the requirements detailed in Chapters 4 and 5 of the DCP (see above), the proposed mixed-use development is required to comply with the specific controls contained within Section 5.3.1 of the DCP.

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**1. Chapter 5: Section 5.3.1 – Residential/Mixed Use Development – Specific Controls**

In order for Council to effectively control the changing character of development in the CBD, it was considered necessary to develop a new framework of controls that have particular regard for mixed use development in the CBD. As such, “interim controls” were adopted in March 2006 for residential development within the Blacktown City Centre. Prior to the adoption of the “interim” controls, there were no height restrictions on development within the Blacktown City Centre and all DAs were assessed on their merits having regard for the controls under Part C of Blacktown Development Control Plan (BDCP) 1992 (now replaced by BDCP 2006) that relate to residential flat development in the 2(c) Residential Zone.

The proposed nature (land use breakdown) and height of the proposed development is consistent with Council’s current zoning and development controls applying to this part of the City Centre. Council has no Floor Space Ratios (FSRs) in place relative to the Blacktown Centre. It is noted, though, that the current zoning and development controls are under review as part of Council’s new Standard Instrument LEP for the City of Blacktown. An assessment of the proposal in terms of the current DCP requirements is presented below:

**a. Height:**

Transitional height provisions have been adopted in the “Northern Precinct”, grading from 10 storeys on the southern side of Third Avenue to higher buildings closer to public transport access and the services and facilities offered by the CBD. For land on the northern and southern side of Second Avenue, buildings can be built to a maximum height of 20 storeys. *Note:* The specific height controls relate specifically to residential/mixed-use development. There are no height limits for purely commercial or retail development.

Prior to the adoption of the “interim” DCP controls, there were no height restrictions on development within the “Northern Precinct” of the Blacktown City Centre. The adopted Urban Design Master Plan (UDMP), however, did recommend that in order to create a comfortable street scale, to reduce the bulk of buildings and to improve solar access, a 2 to 3 storey podium with higher building elements setback above should be used. The podium also assists in the articulation of the building façade and in defining the street.

The proposed development has an overall height of 20 storeys and therefore complies with the maximum height limitations of the current DCP. The development also provides a 2 storey podium as recommended by the UDMP.

The height of the building is considered satisfactory given that the building has been designed to address overshadowing and overlooking concerns. The subject site is located on the northern side of the intersection between Second Avenue and Boys Avenue, and as a result most of the shadows cast fall upon the street.

**b. Building Quality and Design:**

The building design is to have regard for the provisions of SEPP 65 – *Design Quality of Residential Flat Development* (Principles 1 - 10) and the provisions of the Residential Flat Design Code (RFDC). New development should also provide visual interest through architectural design elements, including material selection, finishes and colour, and should complement and enhance the existing streetscape. The built form should complement the character of the area and create good pedestrian environments and an attractive streetscape.

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A detailed assessment of the proposal against the 10 design principles of SEPP 65 and the provisions of the RFDC is provided under Section 7 of this report. The design proposal has a well resolved building form and architectural appearance. The design initiative promotes visually interesting facades characterised by high levels of articulation, modulation and strong horizontal and vertical elements. The bulk of the building has been substantially reduced through the curvilinear and stepped nature of the facades and through the use of recessed balconies. The recessed balconies also help to exemplify the curved nature of the façade, create visual interest and minimise the overall bulk of the building.

The development does not provide any blank facades. It is recognised, however, that at ground level there are some zero lot line walls, and therefore there will be some blank walls along the side boundaries. It is therefore recommended that suitable **conditions** should be imposed on any consent, to attempt to prevent graffiti on these walls.

The development provides a design that incorporates appropriate articulation and quality external treatments. Overall it is believed that the proposed development is appropriately designed for its CBD context and is consistent with the urban form of the Northern Precinct reflected in the current DCP.

**c. Front Setbacks:**

There is no front setback requirement for development in a City Centre context. Within the CBD a zero setback is appropriate for the ground floor and the 1 - 2 levels above (i.e. the podium). The levels above the podium, however, must be setback in order to create a comfortable street scale, reduce building bulk and provide greater solar access. Courtyards and balconies are permitted to encroach into the setback area where they add to the articulation of the façade.

The proposed development provides a zero front setback for the ground and first floor levels (i.e. the podium). The building is then setback 4.2m to the front facade (or 3m to the balconies). It is believed that the proposed front setback adds sufficient articulation to the building.

**d. Side and Rear Setbacks:**

Prior to the adoption of the “interim” controls a zero setback was permitted to the side and rear boundaries. While this was considered reasonable for the ground floor and the 1 - 2 levels of the podium above, it did present a problem for the levels above the podium. Above the podium a zero setback for high rise development is totally inappropriate as it has major implications for privacy (especially in regard to residential development) and solar access. It would also result in bulky, unattractive buildings that would have a negative impact on the streetscape and general amenity of the City Centre.

The State Government’s Residential Flat Design Code (RFDC) suggests that setbacks from the side boundaries should be increased with the increased height of the building. For example, a building separation of 24m is recommended for development 9 storeys and over. However, it was not considered that these standards would be suitable for every site in that the context of existing surrounding development should be a dominant consideration. When establishing the “interim” controls, the report to Council therefore indicated that *“it was not considered that these standards will be suitable for every site in that the context of existing*

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*surrounding development should be a dominant consideration. Further, high rise buildings typically have a much smaller building envelope than the standard Residential Flat Building development in a conventional 2(c) Residential zone. They therefore feature larger parts of the site unbuilt upon and thus consideration needs to be given to the percentage of a site which features much larger setbacks. For this reason it was considered appropriate, as an interim situation, that each development site be examined on its individual merits, it being noted that the 2(c) Residential zone setback of 6 metres should be used as an absolute minimum guideline, but with clear objectives stated within any interim controls that larger setbacks are desirable and will be strongly advocated by Council staff”.*

The DCP therefore allows a zero setback to the side and rear boundaries for the ground floor and the 1 - 2 levels above (i.e. the podium). For the levels of the building above the podium, however, the development is to be examined on its individual merits with the absolute minimum setback being 6 metres. However, in order to ensure a quality environment, especially in regard to solar access and privacy for future residents of the CBD, setbacks greater than 6 metres are highly desirable and are advocated by Council. Balcony encroachments are permitted and are to be assessed on their merits.

In regard to the proposed development, the ground/podium levels of the building are constructed to the side and rear boundaries and therefore have a zero setback. For the levels above the podium (i.e. the residential tower) the minimum side setback is 6m to the building façade and 5m to the balconies. The minimum rear setback is 9m to the building façade and 6m to the balconies. The side and rear setbacks therefore comply with the minimum requirements of the DCP. While the minimum side setbacks are 6m, it should be noted that the side setbacks actually vary quite significantly due to the curved shape of the building. In this regard the side building setbacks range from 6m to 16m.

In regard to the requirements of the RFDC and the recommended minimum assumed setback of 12m for developments over 9 storeys, please refer to the ‘Independent Assessment’ under Section 13 of this report.

**e. Minimum Allotment Size or Width of Sites:**

In order to promote the orderly and economic redevelopment of sites and to ensure that the amenity of future residents of the CBD is maximized, a development site must be at least 30m wide at the street. Notwithstanding this, development must also have regard to existing, adjacent sites which could become isolated as a consequence of development. In these instances the developer must demonstrate how those sites not incorporated in the DA could be redeveloped successfully on their own in compliance with the provisions of the DCP.

The subject site is 36m wide and therefore complies with the minimum DCP requirement. The development of these 2 sites will also not result in any adjoining site becoming isolated. In this regard the adjoining sites are approximately 50 - 55 metres in width.

**f. Common Open Space:**

Common open space for the use of all residents of the development shall be provided at the minimum rate of 42% of the sum of the following:

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40sq.m for each 1 bedroom unit;  
50sq.m for each 2 bedroom unit;  
70sq.m for each 3 bedroom (or more) unit.

The common open space may include communal facilities such as gymnasiums, swimming pools, common rooms and the like. Additionally, the DCP permits the roof space being used as part of the common open space subject to appropriate design. In order to provide usable open space for individual dwellings, the area of balconies or terraces may also be included as part of the required common open space provision, provided that the balconies have minimum dimensions of 3m x 2.5m. However, no more than 30% of the above-ground open space (balconies or terrace areas) may be included in the total calculations.

In the absence of a FSR, building envelope or density control within BDCP 2006, full compliance with the common open space control is considered essential. Compliance with the common open space provisions is also the primary means of controlling the maximum unit yield achievable over the site. Non-compliance with this control would therefore suggest that the unit yield is too high.

Council's calculations of the original set of plans indicated that there was a significant shortfall in the amount of common open space proposed on site. In addition to having insufficient common open space at the ground and podium levels, it was noted that many of the balcony areas were also "unusable" and therefore could not be included in the common open space calculations.

The applicant therefore lodged amended plans to increase the amount of common open space provided on site. To address this, the applicant reassigned the rooftop space as common open space and amended the size and dimensions of the private balconies. The revised development, comprising of 42 x 1 bedroom units, 114 x 2 bedroom units and 12 x 3 bedroom units, requires that 3,452sq.m of common open space be provided. In its revised form, the proposed development provides a total of 2,707sq.m of "common" open space. This includes:

- \* 561sq.m of common open space at the ground floor level;
- \* 227sq.m gymnasium;
- \* 657sq.m of outdoor common open space at the 1st podium level;
- \* 608sq.m of outdoor common open space at the 2<sup>nd</sup> podium level; and
- \* 654sq.m of communal open space on the rooftop.

When 30% of the "usable" balconies (i.e. 845sq.m) is added, the total amount of common open space is 3,552sq.m. The common open space on site therefore exceeds the minimum requirements of the DCP by 100sq.m.

The proposed common open space areas are well-designed, functional and easily accessible to all residents. Within a CBD environment there is some "trade-off" between the level of common open space provided on-site against the benefits such a location brings (e.g. proximity to shops, transport, recreation and community facilities). Additionally, private open space, in the form of balconies, gains added importance in the CBD context.



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The proposed development provides a resident-only gym at ground level. The provided communal open space areas are also of high quality and amenity, and enjoy good solar access enhancing the recreational experience. The design of the common recreation areas is believed to be conducive to indoor/outdoor use and are appropriate for this form of development. Landscape plans have been submitted as part of the Application. The detailed plans indicate that the common areas will be embellished with suitable shrubs and trees which complement the height, scale, design and function of the development. The podium levels have also been provided with electric barbeque facilities, permanent seating and children's play equipment. Suitable **conditions** should be imposed on any consent to ensure compliance with the submitted landscape plans.

**g. Private Open Space:**

In order to ensure an adequate level of amenity and usefulness to residents, the DCP requires that each unit be provided with a "usable" private balcony/courtyard or terrace area with minimum dimensions of 3m x 2.5m. This equates to an area of 7.5sq.m.

An assessment of the plans originally submitted to Council indicated that the proposal did not comply with this requirement. The applicant therefore increased the dimensions of the balconies to ensure that each unit would be provided with a "usable" private recreation space. This was achieved by reducing/reconfiguring the internal floor layouts. The only units that are unable to achieve the minimum dimensions are units 10, 16, 20 and 77 (and the corresponding units on the upper levels), being 27 units in total (i.e. 16% of the total units).

The non-compliance with the DCP requirement is due to the curved shape of the building. The balconies to the non-complying units, however, have been increased in size and have a minimum area of around 18sq.m. Given the unique shape of the building and that the balconies still have a large area that is conducive to recreational use, the variation is considered minor and acceptable.

**h. Lifts:**

In accordance with the requirements of the DCP, the development provides suitable access and facilities for the aged and disabled. All levels, including the basement parking levels, are serviced by dual access lifts. The communal areas are also highly accessible and conveniently located near the lifts.

**i. Site Waste Management and Minimisation:**

The proposed development must comply with the requirements of Blacktown DCP 2006 Part O – *Site Waste Management and Minimisation* in regard to minimising waste generated and disposed of during the construction phase of development. In this regard the DCP aims to maximize the reuse and recycling of building and construction materials.

In accordance with the DCP requirements, a Waste Management Plan (WMP) has been prepared and submitted as a part of the Application. The WMP indicates that large quantities of the waste material will be re-used or recycled. Appropriate **conditions** should be imposed on any consent to ensure that the measures outlined in the submitted WMP are implemented during the construction phases of the development. This includes the sorting and storage of waste and recyclable building

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materials on site for collection and disposal to appropriate disposal and recycling depots.

**j. *Design of Waste Facilities and Ongoing Management Practices:***

The submitted plans and details provide information regarding the location and design of the garbage storage rooms, the bin types and numbers, the garbage chutes, and the method and frequency of collection. Given that a private contractor will be used for the collection services, Council's Co-Ordinator Resource Recovery Policy & Planning has indicated that the units will not be able to access Council's household clean-up service, recycling service or garbage service. To address this matter, it has been recommended that appropriate **conditions** be imposed on any consent to ensure that suitable private garbage and recycling services are provided to the units. Contact details of the service provider will need to be provided to Council once the development is operational.

**k. *Development Consent:***

The DCP states that development consents issued for mixed-use development in the Blacktown CBD will be valid for a period of only 2 years from the date of issue of the consent.

Despite the requirements of the DCP, the Environmental Planning and Assessment Amendment (Development Consents) Act 2010, which commenced on 26 May 2010, states that any development consent granted after the Amending Act was assented to must be subject to the maximum 5 year lapsing period.

The Amending Act prevents a consent authority from reducing the lapsing period of any consent to less than the maximum 5 year period until 1 July 2011. Any development consent granted will therefore be valid for a 5 year period.

## **12.6 Compliance with BDCP 2006 – Part D: Detailed Precinct Plans**

### **Chapter 5: *Section 5.4 – Blacktown Central Business District***

To control and guide development in the Blacktown CBD, specific design guidelines have been formulated and are applicable for development within various precincts within the CBD. The subject site is located within "Precinct 6 – Northside Precinct ". This precinct is regarded as the logical future extension of the CBD, retained within the boundaries of the inner ring road. The precinct is physically isolated from the bulk of the CBD by the railway line, hence the incorporation in any development of functional pedestrian and visual links with the established CBD area is important. An assessment of the proposal in terms of the specific precinct requirements is presented below:

**1. *Development in the Vicinity of the 6(a) Public Recreation Zone:***

The future open space areas will provide a significant focal point for public relaxation and visual relief within the precinct. In order to enhance the public utilisation and amenity of these areas and ensure that solar access is maintained, the design of any building located adjacent to a 6(a) Public Recreation area must have appropriate setbacks, must not cause unreasonable overshadowing (i.e. at least 50% of the open space must be in full sunshine between 11am and 3pm), must provide an interesting facade to the open space boundary, and must provide appropriate pedestrian links.

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The proposed development does not immediately adjoin the existing or proposed 6(a) Public Open Space areas. It is noted, however, that all development proposals in the 'Northern Precinct' must be assessed for their shadowing and visual amenity impacts on the public open space areas.

The applicant has submitted shadow diagrams with the application. An assessment of the shadow diagrams indicates that the proposed development will partially overshadow the proposed 6(a) zoned land located on the corner of First Ave and Prince Street, at 3pm. This land, however, is not overshadowed by the proposed development during the earlier hours of the day.

The future open space land has already been resolved by Council to be zoned RE1 – Public Recreation under Council's new City-wide Comprehensive LEP based upon the Standard Instrument. The new LEP will be exhibited by Council during 2011, once all of the component zonings have been adopted by Council.

The overshadowing impacts are therefore not considered unreasonable, especially given that this future parcel of 6(a) zoned land will be used for passive recreation purposes. Further comments on this matter are provided in Section 13 of this Report.

## **2. Visual Amenity:**

Pedestrian areas must be landscaped to complement Council's CBD landscaping program. A 3m landscaped front setback shall be provided on all developments along Sunnholt Road. Buildings located along the southern boundary laneway and the railway line should ensure an interesting southern facade to the adjacent Railway and Warrick Lane Precincts upon which pedestrian links will focus.

In this regard the proposal will not have any negative visual impacts on the existing or future 6(a) zoned land, and does not adjoin Sunnholt Road or the rail corridor.

## **3. Vehicular Access and Parking:**

Due to the anticipated large traffic volumes along the Third Avenue inner ring road and Sunnholt Road and increasing commuter parking in this precinct, no access shall be permitted from proposed developments to Sunnholt Road, service road access only shall be permitted from developments to Third Avenue, and all developments within the precinct must provide all car parking on site.

In this regard the development site does not gain access from Sunnholt Road or Third Avenue. The proposed development provides all parking on site and in excess of the minimum DCP requirement.

## **12.7 Compliance with the Blacktown City Centre Urban Design Masterplan (UDMP)**

The Blacktown CBD has been identified by the State Government in the Metropolitan Strategy as a 'major centre'. Its previous designation in the predecessor documents to the Metropolitan Strategy was as a 'sub-regional centre'.

Council's DCP – Part D states that *"A sub-regional centre will accommodate major shopping facilities, including at least 1 department store, major supermarket facilities, cinemas, a wide range of speciality shops and services, branches of major banks and building societies, as well as community facilities such as libraries, baby health care centres etc. As far as possible, a diversity of uses is encouraged in these centres, including the integration of residential accommodation."*

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The Blacktown Centre Urban Design Master Plan (UDMP) was adopted by Council in 2001 as an initial measure to ensure that redevelopment in the CBD reflected the sub-regional classification. The Masterplan describes the Northern Precinct as “relatively bleak and lacking definition and character.” The precinct is currently characterised by a diverse range of land uses, including a range of commercial buildings, residential development, automotive uses, recreational facilities, entertainment facilities (including the RSL Club), vacant allotments and specialist uses including religious facilities. The Masterplan identifies the area as being suitable for redevelopment, and essentially seeks to encourage redevelopment in a manner that will define and enhance the City’s image as a central business district.

**1. Addressing and Defining the Street:**

A major provision of the Masterplan is that new buildings in the City Centre should address and define the street, with awnings over footpaths, in order to provide interest and shelter for pedestrians.

The ground floor of the development is built up to the Second Avenue frontage, with an awning over the footpath, which complies with this requirement. The residential entry point has also been strengthened to provide a distinctive design treatment, which will provide occupants with a clear, safe access point and a clear sense of address. A **condition** should be imposed on any consent requiring implementation of the awning, and its height and width to comply with the requirements of Council’s Maintenance Section. Details of the proposed materials and finishes of the awning will also need to be submitted prior to the release of any Construction Certificate.

**2. Ground Floor Active Uses:**

Another important objective of the UDMP is that the ground floor frontage should comprise active uses. The proposed development is built to the street alignment at ground level to promote an active street frontage, however, less than half of the frontage is potentially active. The remaining portion is occupied by the vehicular access point, plant rooms and various doorways. The applicant has advised that, in accordance with the Building Code of Australia (BCA), the fire egress points, driveway, and fire control/sprinkler room must be accessible from the street, and as such the design cannot be amended.

No tenancy is specified for the ground floor which is designated as commercial on the submitted plans. It would be an unreasonable restriction on trade to include a condition requiring the ground floor to be used for restaurant/café uses only, as this is a matter which is dictated by the market (Note: Retail uses/shops are prohibited in the 3(b) Business zone other than those that serve the daily convenience needs of the locality). To encourage and facilitate the use of the ground floor commercial tenancy for active uses, however, a condition could be imposed requiring the provision of plumbing services to enable the installation of a kitchen (to allow use as a restaurant).

**3. Podium Level:**

In accordance with the requirements of the Masterplan, the development has been provided with a 2 level podium which addresses the street, while the higher levels have been stepped back. In this regard the development has a distinctive bottom level, a middle section and an interesting design element on the roof.

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## 12.8 Environmental Assessment

At a status update meeting in 2009 with the Joint Regional Planning Panel (JRPP) a number of additional issues were raised which the Panel suggested should be assessed and included within the Council report. The applicant was therefore requested to submit an additional Environmental Report addressing the following matters:

### 1. **Noise Impact:**

As a result of the notification process, an objection was received from the adjoining Serbian Orthodox Church. Their main concern was that future residents of the development would object to the ringing of the Church bells. Matters relating to noise pollution and offensive noise are dealt with by the Protection of the Environment Operations Act 1997 (POEO Act). The POEO Act, however, does not lend any credence to existing land uses and applies to an activity irrespective of the date the activity commenced.

The applicant was therefore requested to submit an Acoustic Assessment to determine whether there will be any likely noise impacts from the adjoining church on the future occupants of the development, and if so what measures could be adopted within the design of the development to reduce the impacts and therefore the likelihood of complaint. The Acoustic Assessment was to be carried out in accordance with the requirements of the Department of Environment and Conservation's Environmental Noise Management – NSW Industrial Noise Policy, and was to be prepared by an appropriately qualified acoustic consultant that is a member of the Association of Australian Acoustic Consultants.

Heggies Pty Ltd (Heggies) was engaged to conduct the required Acoustic Assessment. The assessment primarily addresses the impact of existing road traffic noise on the amenity of the proposed residential development, the noise emissions from mechanical plant, sets criteria for noise emission from the development and establishes appropriate acoustic design requirements between residential dwellings.

In regard to the issue of the church bells, Heggies has indicated that *"there are currently no numerical criteria or guidelines in NSW relating to Church bell ringing noise emissions"*. Heggies has indicated: *"The impact of the ringing of Church bells is subjective and differs from individual to individual. Some people may not find the ringing of Church bells offensive while others may find it offensive. It is our opinion that Church bell ringing is considered acoustically insignificant and would not have a detrimental impact on the future residents of the development."*

Despite this advice, it should be noted that Council's Environmental Health Unit (EHU) has suggested that the 'offensive noise' aspects of some of the religious activities on site could be abated through acoustical modifications to the church (essentially trapping the noise within the building). Alternatively, it is recommended by Council Officers to the Panel that suitable conditions be imposed requiring that double glazing be installed to those residential units facing the Church site. This would help to increase residents' internal amenity and therefore may help to reduce the chance of complaint. While these methods would help to reduce internal noise, activities that are carried out externally to the church building may be impossible to modify to achieve compliance with the POEO Act. It is recognised that in these instances the only option would be to cease the activity or to allow the POEO Act to be breached.

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In regard to road traffic noise intrusion, State Environmental Planning Policy (Infrastructure) 2007 states that, where a development is for residential use and is located in or adjacent to a relevant road corridor, a consent authority must not grant consent unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- in any bedroom in the building – 35dB(A) at any time between 10.00 p.m. and 7.00 a.m.
- anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time.

A noise survey was therefore conducted and the processed data was used to determine the in-principle measures required to control road traffic noise intrusion to residential areas on the facade most exposed to road traffic noise. A review of the existing traffic noise levels indicates minor exceedance of the external noise criteria for both the day (an exceedance of up to 1 dBA) and night-time (an exceedance of up to 3 dBA).

The Acoustic Consultant has advised that it is not practical to provide effective noise mitigation measures to satisfy the specified external criteria, so has indicated that consideration should be given to satisfying the relevant internal noise criteria. To achieve this, Heggies has recommended that:

- Windows and doors on the facades facing Second and Third Avenues, as a minimum, will need to be closed to meet internal noise levels. Therefore, alternative ventilation methods which meet the ventilation requirements of the BCA and Australian Standard AS 1668.2:2002 will be required and design input should be sought from an appropriately qualified mechanical services consultant.

As a **condition** of consent mechanical ventilation should be required to be provided to the affected units, so that alternate means of ventilation are available when residents close their window and door openings. It is considered inappropriate, however, to insist that the window and door openings be closed on a permanent basis, as this would prevent residents from accessing their private balcony areas and from receiving any form of natural ventilation as required by SEPP 65.

The noise emission from any mechanical plant associated with the proposed development, such as air conditioning condensers and exhaust fans, will also need to be controlled to avoid any impact upon the acoustic amenity of the future residents. The applicant has advised that, at this stage of the project, the location and selection of mechanical plant has not been made. The Acoustic Consultant envisages, however, that the mechanical plant noise sources can be controllable by common engineering methods that may consist of:

- Judicious location
- Barriers
- Silencers
- Acoustically lined ductwork
- Acoustic louvres

It is therefore recommended that appropriate **conditions** be imposed on any consent to address this matter. In this regard, a further assessment will need to be conducted prior to release of any Construction Certificate relating to the proposal.

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In conclusion, the Acoustic Report indicates that the relevant acoustic planning criteria can be satisfied through the use of conventional means, and through appropriate conditions of consent. It is therefore believed that there will not be any unreasonable noise impacts associated with the development.

## 2. **Wind Analysis:**

The applicant was required to submit a Wind Analysis to determine whether there will be any wind effects on the proposed development, and whether the proposed development will create any negative impacts on its surroundings. The Report was to be prepared by an appropriately qualified wind consultant and was to provide recommendations to mitigate any potential wind impacts.

Heggies Pty Ltd (Heggies) was engaged to undertake the qualitative wind impact assessment. Heggies has indicated that the standard Local Government Criteria for wind impact is as follows:

- The general objective is for annual 3 second gust wind speeds to remain at or below the 16m/sec *“Walking Comfort”* criterion. The value represents a level of wind intensity which the majority of the population would find unacceptable for comfortable walking on a regular basis at any particular location. In many urban locations, either because of exposure to open water conditions or because of street *“canyon”* effects etc, the 16m/sec *“walking comfort”* level may already be currently exceeded. In such instances a new development should ideally not exacerbate existing adverse wind conditions and, wherever feasible and reasonable, ameliorate such conditions. As it is proposed to have barbecues (BBQ) and outdoor dining tables on the 2nd floor roof deck, the *“Outdoor Restaurant”* wind criterion of 10m/sec should be met at this level.

Heggies has indicated that the existing street level wind conditions in the vicinity of the site are likely to be under the 16m/sec *“walking comfort”* criterion for many prevailing wind directions given the degree of shielding afforded to the site by surrounding buildings. The existing upper level wind conditions at the site, however, are likely to exceed the 16 m/sec *“walking comfort”* criterion for stronger prevailing wind directions (e.g. south and west) given the absence of surrounding buildings of significant height.

The wind impact of the proposed development is described by examining the impact of prevailing wind conditions on all public access areas of interest within and external to the development. The areas of interest include the Second Avenue footpath, the primary entrance lobby, internal communal open space areas, seating and dining areas, the upper level units and the communal roof terrace.

In terms of the *future* wind environment with the proposed development, the following features of the development are noted as being of most significance:

- The proposed development is shielded at street levels by surrounding existing development.
- The proposed landscaping along the Second Avenue footpath and the large awning above the entry points and the footpath on Second Avenue will minimise the potential for *“downwash”* winds to occur, ie winds which impact on any facades of the development and are then deflected back towards the ground.
- The proposed communal areas feature areas recessed below floors above, which will minimise the potential for *“downwash”* winds to occur to these sheltered areas.

- The curvy shape of the building will cause the wind to accelerate and be deflected towards certain areas of the communal garden and 2nd floor roof deck.
- Due to the lack of shielding from surrounding buildings and to elevated windflows accelerating over the roof of the development, high wind conditions will occur over the communal roof terraces. Some areas have been identified as being potentially prone to winds close to or even exceeding the standard 16m/sec walking comfort criterion or 10m/sec outdoor dining criterion. Additional amelioration measures have been recommended to mitigate windflow in these areas.

Following an analysis of the expected wind impacts on the identified areas of interest, recommendations have been made for areas where winds are expected to approach or exceed the standard local government 16m/sec “walking comfort” criterion. The areas requiring wind amelioration are included in the table below. It is recommended that these recommendations form **conditions** of any consent.

Location of Interest	Wind Impact Potential	Windbreak Treatment Recommendations
Ground floor communal garden	<p>Moderate to High Winds likely to be close to 16m/s for westerly and southerly winds.</p> <p>Winds for other directions will be below 16 m/s.</p> <p>Winds likely below 16 m/s for all wind directions for areas of the communal garden that are recessed behind the floors above.</p>	<p>The high wind condition is due to windflows accelerating along the curved façades of the proposed building and impacting on the communal garden.</p> <p>The communal garden is bounded by dense, closely-spaced planting and by a 1.8m high perimeter wall which will assist in controlling horizontal windflows over these areas.</p> <p><b>Mitigation Required.</b></p> <p>For the mitigation of the accelerated windflows deflected off the building façades and flowing downwards towards the ground, consideration could be given to the provision of horizontal windbreaks (canopies, shade cloth, etc) at the timber deck area and the south side of the communal garden.</p>
First floor communal garden	<p>Moderate to High Winds likely to be close to 16m/s for most wind directions.</p> <p>Winds likely below 16 m/s for all wind directions for areas of the communal garden that are recessed behind the floors above.</p>	<p>The high wind condition is due to windflows accelerating along the curved façades of the proposed building and impacting on the communal garden.</p> <p>The communal garden is bounded by various planting and by a 1m high perimeter wall which will assist in controlling some of the horizontal windflows over these areas.</p> <p><b>Mitigation Required.</b></p> <p>For the mitigation of the accelerated horizontal windflows deflected off the building façade, consideration could be given to the provision of:</p> <ul style="list-style-type: none"> <li>• Denser and taller landscaping on the western and north-east sides of the garden.</li> </ul>



		<ul style="list-style-type: none"> <li>• Additional vertical windbreaks giving a total height of 1.5 m to the western perimeter wall or continuous 1.8 m high evergreen landscaping.</li> <li>• Horizontal windbreaks (canopies, shade cloth, etc) above the children's playground to mitigate any downwash.</li> </ul>
Second floor roof deck	<p>High Winds likely above the 10m/s dining criterion for most winds directions.</p> <p>Winds likely below 10m/s for all wind directions for areas of the roof deck that are recessed behind the floors above.</p>	<p>High wind conditions are due to north quadrant windflows accelerating along the curved façades of the proposed building and impacting on the BBQ areas on the east and west side of the roof deck. High wind conditions to the sitting areas on the south of the roof deck is due to downwash of southerly winds impacting the south façade of the building. The recessed area mitigates the downwash to the outdoor dining areas. High wind conditions from strong westerly winds due to the lack of shielding from the west and limited vertical windbreaks.</p> <p><b>Mitigation Required.</b></p> <p>Either denser and at least 1.8 m high planting or 1.8 m vertical windbreaks on the west of the roof deck and east and west corners, north to the BBQ areas. Horizontal windbreaks (canopies, shade cloth, etc) above the sitting areas on the south part of the roof deck.</p>
Upper level unit balconies	High Winds likely above the 16 m/s for westerly and southerly winds.	<p>The high wind condition is due to the lack of shielding at elevated heights.</p> <p><b>Mitigation Required.</b></p> <p>South and west balconies with partial vertical wind mitigation devices such as vertical sliding louvres or perpendicular louvres or wind screen protection (via the use of the pull-down screens) or a management plan needs to be instituted to mitigate the potential for this occurrence, eg signage on balconies, resident notices, etc.</p>
Communal roof terraces	High Winds likely to be above 16 m/s for all wind directions.	<p>High wind conditions are due to elevated windflows accelerating over the roof of the development and only modest shielding from surrounding buildings.</p> <p><b>Mitigation Required.</b></p> <p>Vertical windbreaks of at least 1.8m high surrounding the roof terraces.</p>

TABLE 2: Summary of Recommended Windbreak Treatments (Source: Wind Impact Assessment - Heggies Pty Limited, 14/10/09)

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### 3. Reflectivity:

An assessment was required to determine whether the proposal would have any negative impacts in terms of reflectivity. In this regard the assessment was to be prepared by a qualified consultant and was to determine whether there will be any adverse reflective glare from any glass surface which could impact on motorists, pedestrians or any future neighbouring building.

Heggies Pty Ltd (Heggies) was engaged to undertake the reflectivity study. The Reflectivity Analysis of the development indicates that there are no elements within the development facades that are capable of causing adverse glare events at surrounding locations for motorists (disability glare) or pedestrians (discomfort glare) under any reflection condition. This is due to the following factors:

- The development's glazing will have a reflectivity coefficient of *less than 15%*.
- The proposed building dimensions and limited number of streets affected.
- The façade design with partitioning walls and balconies limiting potential glare events.
- The facade design of the development involves a mix of materials which limit the potential to generate significant glare. The other facade materials will include concrete and louvers with minimal reflectivity.

In summary, through a combination of choice of glazing, facade design, facade orientation and surrounding thoroughfare orientation, no facades of the development will produce reflections causing either disability glare for passing motorists or unacceptable discomfort glare for passing pedestrians. It is recommended that suitable **conditions** be imposed to restrict the reflectivity coefficient to less than 15%.

#### 12.9 Economic Justification

In addition to the above Environmental Assessments, the JRPP requested that the applicant also submit an economic justification for the additional 5 floors. In this regard the Statement of Environmental Effects (SEE) states that *"The proposed development is very similar to the previously approved development essentially increasing the height of the development from 15 storeys to 20 storeys with associated additional basement car parking. It is expected that the proposed development will provide the economy of scale required to enable the development to be constructed."*

In response on behalf of the applicant, Byrnes PDM Consultants argue that the current application, from an economic point of view, does not have any relationship with any other DA approved on the site. Byrnes PDM state that the wording within the SEE should not be misconstrued as providing an economic argument or justification for the development proposal. Rather, a reasonable assumption is made in the SEE that additional yield on the site will provide the developer a greater return, that will exceed the construction costs for levels 16-20 and therefore result in a greater economic return.

An analysis of the financial viability of the 15 storey development approved on the subject site has also not been undertaken by Byrnes PDM. In this regard commercially private information that would enable the preparation of a development feasibility for the proposal has not been provided to Byrnes PDM Pty Ltd. Byrnes PDM has pointed out, however, that such information is not required for the assessment of a DA, nor is relevant pursuant to the planning controls applying to the site.

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Section 79C(b) of the Environmental Planning and Assessment Act provides as follows:

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

Byrnes PDM has therefore argued that a feasibility comparing the financial viability of the 15 storey approval to the 20 storey proposal is not a relevant matter in the assessment of the application, having regard to the Act and other planning controls that relate to the site. The EP & A Act 1979 and all relevant planning controls relating to the site do not require such economic justification for a development proposal. An economic justification for an additional 5 levels (compared to the previous approval) is therefore not considered necessary, relevant or appropriate in the circumstances. In this regard the proposal is to be considered on its individual merits, free from an economic comparison with another DA for the site.

It should be noted that the zoning and planning controls permit the proposed development. Pursuant to the provisions of BDCP 2006, a 20 storey development is permissible with planning consent. The construction of residential units in the Blacktown CBD will also result in an economic stimulus benefit.

Despite Byrnes PDM's assessment, the developer has confirmed that levels 16 - 20 of the development proposal are fundamental to the viability of the project, and has advised that these levels contribute to the overall development margin that will enable the development to proceed.

#### **12.10 Adequacy of Commercial Floorspace**

When the plans were originally submitted for Council's consideration, Council Officers were of the opinion that additional commercial floor space should be provided, and that a single 209sq.m commercial tenancy for a 20 storey building was unsatisfactory over a commercially zoned site. While Council's LEP/DCP does not specify a minimum amount of commercial floor space to be provided over the site, it was believed that additional space should be provided at the ground or first floor levels.

As a result, the applicant has replaced 5 of the first floor residential units with an additional 481sq.m of commercial floor space (i.e. 690sq.m in total). Whilst a commercial floor area equivalent to the site area (i.e. FSR of 1:1) would be more desirable, Council's Commercial Centres Planner has noted the substantial increase in the amount of floorspace and has advised that it is acceptable in the absence of an LEP/DCP control. In this regard the amount of commercial floorspace has increased from approximately 10.5% of the site area to approximately 34%.

The applicant also engaged Byrnes PDM Consultants to prepare a 'Review of Adequacy of Commercial Floor Space' report. The purpose of the report was to review the adequacy of the commercial component of the proposed development, having regard to its location in the Blacktown Commercial Centre.

Blacktown is identified in the Metropolitan Strategy as one of 4 "major centres" in the Sydney region, and one of the 2 major centres in the northwest region (the other being Castle Hill). A major centre has an important role as it is only secondary to a Regional City. In the northwest Sydney region, Penrith is the only Regional City.

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Blacktown is one of the strategic centres where there is expected to be strong employment growth with a forecast of 5,000 additional jobs over the next 25 years. The Metro Strategy has identified the area to be one of the underperforming (in terms of jobs growth over the past decade) centres. The employment target for Blacktown is 128,000 by 2031 (Employment section of the draft Subregional Strategy). An increase in commercial activity and increased opportunities to work from home within the centre will contribute to meeting the employment targets and will stimulate economic activity in the centre.

The draft Subregional Strategy forecasts that, given Blacktown's situation, Blacktown Centre has the potential to become a Regional City for Northwest Sydney over the next 25 years. For Blacktown Centre to become a Regional City, it requires a strong commercial core, higher levels of amenity, significant housing growth, and the provision a full and diverse range of services for business, Government, culture, entertainment and recreation.

Residential development is a key requirement for the future growth and evolution of the Blacktown Centre into a Regional City. The subject site is located to the northern edge of the Centre and not within the existing core commercial precinct. For this reason Byrnes PDM believe the proposal for 168 residential apartments is appropriate. They maintain that the future development of a core commercial and office building precinct is not suited to Second Avenue, rather more centrally within the Centre.

The proposal has sought to balance the needs of providing appropriate accessibility to the site and relevant services and utilities, while at the same time maximising the area for ground floor and first floor commercial use. The proposal incorporates a ground floor and first floor commercial tenancy with intended flexibility to respond to market needs and provide accommodation for commercial business as required. A number of floor plans are capable of being achieved, as is one larger open floor plan. Building such flexibility into developments is considered best practice, as the commercial area can adjust and respond to market conditions and requests.

The proposal also incorporates 2 strong and important elements that are consistent with the planning controls and planning strategy for the Blacktown Centre. The first element is the commercial floor space provided at the ground and first floors with flexible tenancy options, capable of responding to market conditions and thereby building in a greater longevity, or usefulness, to the commercial floor space. The second element is the fundamentally important introduction of additional residential development into the Centre. Residential development concentrated appropriately within town centres and around transport nodes is a fundamental need and requirement to drive Blacktown into its potential role as a Regional City.

Residential unit development also contributes to the vitality of city centres through increased activity and use of retail/commercial precincts. This is particularly important at the edges of the CBD (as is the case here), which are typically characterised by the presence of retail and commercial uses on the ground floors that are capable of only meeting low rents. The presence of residential development on the upper floors will also assist in improving the economic viability of the ground floor uses, which in turn will positively impact upon the character of the area. There is a positive economic relationship between residential unit development, particularly at the edge of CBDs, and the economic viability of retail/commercial uses in the vicinity.

Accordingly, Byrnes PDM has concluded that the proposal incorporates adequate commercial floor space and commercial elements, and is appropriate for its location in Blacktown Centre.

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#### 12.11 Traffic

A Traffic and Parking Statement was prepared by Traffic Solutions Pty Limited and was lodged for Council's assessment and consideration. The RTA Guidelines nominate a traffic generation rate of 0.29 peak hour vehicle trips per residential unit and 2 peak hour vehicle trips for every 100sq.m of commercial floor space. Application of these traffic generation rates to the proposed development yields a traffic generation potential of approximately 62.5 vehicle trips per hour during peak periods.

The previous approval over the site was calculated as having an estimated traffic generation of 38 vehicle trips in the peak hours. Therefore the potential increase in traffic flows on Second Avenue is estimated to be in the order of 24.5 vehicle trips in the peak hours greater than the previous approval for the site (DA-03-3879).

Traffic Solutions P/L have indicated that the potential increase in flows above the previous approval is minimal and will not have a noticeable or detrimental effect on the future operation of Second Avenue or the surrounding road network. The traffic implications of the development proposal primarily concern the effects that any additional traffic flows may have on the operating performance of the nearby road network. An analysis of the potential effects reveal that the Third Avenue/Prince Street and Second Avenue/Prince Street intersections will continue to operate at the same level of service currently experienced, with minimal increases in total average vehicle delay. The proposed development will therefore not have any unacceptable traffic implications in terms of road network capacity. The traffic consultant concludes that the proposed development is acceptable in terms of traffic generation.

The location of the subject site in relation to the Station will also enable future residents to "walk to work", thereby reducing car dependency. By concentrating development around such a transport node, walking and cycling will be encouraged, therefore achieving the objective of reducing air pollution levels. The proximity of the site to the Station and to bus services along Sunnyholt Road ensures that optimum public transport opportunities are available to the site.

#### 12.12 Strata Subdivision

As a **condition** of any consent, the applicant should be required to submit a separate application for the strata subdivision of the proposed residential units and commercial tenancies.

#### 12.13 Threatened Species

The subject site is highly disturbed and is clear of any trees or vegetation. An initial review indicates that further assessment under the NSW Threatened Species Conservation Act 1995 (TSC Act) is not required.

#### 12.14 Site Contamination

The subject site was previously used for residential purposes. The dwelling located on the site, however, has now been demolished and the site is surrounded by security fencing. Given that there are no signs of illegal dumping and that no change of use of the land is proposed, there is no reason to suspect that there are any site contamination issues.

#### 12.15 General Services

All services, including electricity, sewer and phone, are available to the site. It is noted, however, that 2 power poles are currently located within the proposed driveway crossing. The applicant will be required to relocate/bury the power lines and will require Integral Energy's consent prior to undertaking the work. This issue can be addressed as a **condition** of any consent.

### 12.16 Section 94 Contributions

The following Section 94 calculations have been based on the site having a road frontage of 36.575 lineal metres, the development proposing a total of 168 units and 690sq.m of commercial floor space (being 6.9 additional vehicle movements), and the population being increased by 393.2 persons.

Contribution Item	Base Amount	Updated as at August 2010
Local Road Construction	\$49,742	\$66,565
Streetscape Facilities	\$37,782	\$50,560
Traffic Management Facilities	\$217,495	\$291,052
Open Space (CP No 16)	\$190,702	\$255,197
Community Facilities	\$237,886	\$318,339
Open Space (CP No 3)	\$541,043	\$680,947
<b>TOTAL</b>	<b>\$1,274,650</b>	<b>\$1,662,660</b>

TABLE 3: Base Section 94 Contributions (Source: Blacktown City Council)

The abovementioned 'Base Amounts' refer to the unindexed base contributions payable for this application in accordance with the adopted Contributions Plans for the provision of infrastructure works to be undertaken by Council in or near the Precinct.

The updated contribution amount payable per residential unit is \$9,897 per unit, and therefore this does not trigger the State Government's recently announced Section 94 "Cap" of \$20,000 per new residential lot / unit.

It should be noted, however, that the applicant has already paid Section 94 Contributions on DA-03-3879. The contributions previously levied and paid were based on an increase in population of 289.8 persons, 212sq.m of commercial floor space, 116 units and a frontage to the site of 36.575 lineal metres. Therefore this application will need to pay Section 94 contributions only for the increased population and additional vehicle movements to be accommodated on the site.

## 13 Independent Assessment

### 13.1 Site Built Form Review by Cox Richardson

Prior to forwarding an assessment report and recommendation to the JRPP, Council Officers were requested to meet with the Panel members to provide an update on the status of the DA. During that meeting the Panel indicated that they were particularly concerned with the overall cumulative impacts of this form of development in the Northern Precinct of the CBD and requested that an addendum be provided to the original SEPP 65 Assessment, verifying whether or not approval of this proposal would prevent adjoining and nearby sites from achieving full compliance with the SEPP in the future.

- 13.2 Given the concerns raised by the JRPP on this issue, in addition to requesting the applicant to submit the requested SEPP 65 addendum, Council decided to engage an independent Consultant to undertake an environmental assessment of the proposal. Cox Richardson was therefore

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engaged by Blacktown City Council to review the current DA with regard to its built form impact, as well as any cumulative impact of potentially similarly scaled projects within the precinct.

- 13.3 It is noted that Cox Richardson is in the process of finalising a significant body of strategic context / masterplanning advice for Council for the Blacktown Centre, as a major component of Council's review of Blacktown LEP 1988, that will inform Council's new City-wide Comprehensive LEP based upon the Standard Instrument. This work is scheduled to be reported to Council on a confidential basis in late October 2010, with a view to exhibition of a draft LEP during 2011. Given that this new broader strategic work for the Centre is still under preparation, it is obviously not possible for this draft unreported preliminary work to be taken into account as part of the consideration of this DA. Cox Richardson was engaged for specific advice on this DA because of the broader and more substantive work that they are providing advice to Council on. They are thus perfectly placed to provide advice on the DA.
- 13.4 Cox Richardson's review includes an assessment of the proposal's overshadowing impacts (especially on the future Boys Avenue Public Open Space) and an overview of the proposal's general compliance with the 10 principles and rules of thumb set out in SEPP 65 and the Residential Flat Design Code (RFDC). A full discussion of the proposal's compliance with SEPP 65 and the RFDC, however, can be found in Section 7 of this report. As part of Cox Richardson's review, Council also requested that advice be provided in terms of whether the proposal would allow an equitable (not necessarily the same) amount of development on the immediate adjoining sites and whether any amendments should be considered to ensure this could be achieved.
- 13.5 The provision of suitable open space within the Northern Precinct of the Blacktown CBD will make the precinct more attractive as a place to live, work and recreate. It is therefore important that solar access of the proposed parks within the precinct is protected so that, as per the Blacktown DCP, shadows cast by adjacent developments allow at least 50% of any adjacent park to be in full sunshine between the hours of 11am and 3pm. To assess the overshadowing impact on the future Public Open Space in Boys Avenue, the applicant was therefore required to submit shadow diagrams for each hour between 9am and 3pm on 21 June. The additional diagrams were also required to clearly show a comparison between the previously approved shadow impacts (i.e. under DA-03-3879) and the shadows cast by the proposed development. In this regard the shadow diagrams were to clearly indicate what impact the additional 5 storeys will have on the surroundings.
- 13.6 A review of the incremental shadow diagrams indicates that the extent of overshadowing will be acceptable on the future public open space in Boys Avenue. Cox Richardson has confirmed that, individually, the proposal satisfies the required solar access requirements and, as such, has indicated that the overall building height (i.e. 20 storeys) is reasonable.
- 13.7 While some minor non-compliances with the RFDC have been noted in Cox Richardson's Review, the main area of concern is clearly the separation between the proposed development and the future buildings on the immediately adjoining sites. SEPP 65 and the RFDC set out building separation principles rather than setbacks. In principle the RFDC requires that building separation be adequate to admit a reasonable amount of light to habitable areas. As the buildings increase in height, so does building separation. This also contributes to achieving privacy and view sharing. The table below indicates the general rules of thumb stipulated in the RFDC.

HEIGHT	SEPARATION	ASSUMED SETBACK
4 Storeys or less		
Between habitable rooms	12m	6m
Between habitable + non-habitable	9m	4.5m
Between non-habitable	6m	3m
5 – 8 Storeys		
Between habitable rooms	18m	9m
Between habitable + non-habitable	13m	6.5m
Between non-habitable	9m	4.5m
9 Storeys +		
Between habitable rooms	24m	12m
Between habitable + non-habitable	18m	9m
Between non-habitable	12m	6m

TABLE 4: Building Separation Requirements for Residential Flat Buildings (Source: RFDC Part 01: Local Context page 28)

- 13.8 With regard to building setbacks, it is generally assumed that adjoining sites should 'share' the separation between buildings. This would mean that a typical setback would be 50% of the required separation, unless the site adjoins a street or open space, where streetscape principles would be applied. Adhering to the building separation guidelines on the subject site, however, would result in a narrow and inefficient building envelope. The 'sharing' of the recommended building separation is therefore not considered the best approach for this site.
- 13.9 In order to promote the orderly and economic redevelopment of sites and to ensure that the amenity of future residents of the CBD is maximised, Council's DCP requires that a development site be at least 30m wide at the street. The subject site is 36m wide and therefore complies with the minimum DCP requirement. Cox Richardson has determined, however, that for a site to accommodate a viable SEPP 65 compliant 20-storey residential building wholly within its boundaries, a site width of approximately 45m is required. This allows a 22m wide building (i.e. 18 metres in depth with 4m allowed for balconies) with compliant 'assumed' setbacks.
- 13.10 Although the subject site width is less than 45m, it is noted that the adjoining sites are much wider (i.e. 50m - 55m). Cox Richardson has therefore advised that if the setbacks were applied collectively across the 3 sites (i.e. the subject site and the 2 immediately adjoining sites), rather than on a site-by-site basis, each of the 3 sites could accommodate a 22 metre wide residential building of 20 storeys, with a separation of 24 metres between buildings.
- 13.11 Cox Richardson therefore concludes that an equitable (but not the same) built form outcome could be achieved if the development was amended to provide increased setbacks at the upper levels (i.e. levels 9 to 20). It is noted that, given that the subject site is narrower than its neighbours, the recommended setbacks are less than the RFDC 'rules of thumb'. But by applying the setbacks collectively, each site could accommodate reasonable development and still comply with SEPP 65. A full copy of the 'Site Built Form Review' undertaken by Cox Richardson is held at Attachment 2.



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13.12 While Council is happy with the overall height, design and appearance of the development, the findings of Cox Richardson's report indicates that the width of the site is unable to support the current development proposal which is some 27 metres wide (although this varies significantly given that the building is curved) and that the proposed building is an over-development of the site. In this regard Cox Richardson has focused on achieving an acceptable cumulative built form outcome for the entire Northern Precinct. Given Cox Richardson's recommendation required a total redesign of levels 9-20, Council went back to the applicant to give them an opportunity to respond to this matter and/or amend the development plans accordingly. The applicant was advised that the upper levels (i.e. levels 9 to 20) of the proposed development would require a redesign to reduce the maximum building width from nearly 27m to the recommended maximum width of 22m.

### **13.13 Applicant's Response to Cox Richardson's Recommendation**

In response, the applicant has stated that they foresee no issues with future proposed developments achieving full compliance with the 10 design principles outlined under SEPP 65, subject to their actual individual designs. Council Officers agree that the proposed development is unlikely to prevent the adjoining and nearby sites from achieving full compliance with the 10 design principles outlined under SEPP 65 in the future.

13.14 On the other hand, the applicant recognises that the current design will result in a non-compliance with the RFDC recommendation that buildings over 25m in height should achieve 24m of separation. In this regard the proposed development provides side setbacks ranging from 6 - 16m, rather than the approximate 12m that would be required to achieve the ideal 24m separation between buildings.

13.15 The applicant has pointed out, however, that there is already a current approval over the subject site (i.e. DA-03-3879) which permits the proposed setbacks. Clause 50 of the Environmental Planning and Assessment Regulation 2000 states that any development application that relates to residential flat development that is made on or after 1 December 2003 must be accompanied by a design verification from a qualified designer stating that he or she designed, or directed the design of, the residential flat development, and that the design quality principles set out under SEPP 65 have been achieved. Although DA-03-3879 was lodged in September 2003 and therefore did not require a design verification, an assessment of the DA determined that the application did satisfy the 10 design quality principles. DA-03-3879 was also found to be satisfactory in terms of Council's then DCP controls and, as such, conditional approval was granted.

13.16 The current DA seeks to retain the same previously approved building footprint and design envelope, with the addition of 5 floors in height. As a result the setbacks proposed are identical to those of the previously approved design. While it is recognised that this is a new DA that should be assessed on its own individual merits, it is also recognised that a 15 storey development with the currently proposed setbacks could be constructed over the site. As a result it could be argued that the variation is essentially only for levels 16 - 20.

13.17 While the RFDC recommends that an 'assumed' 12m side setback be provided, Cox Richardson has undertaken a study which justifies applying the setbacks collectively across 3 sites (i.e. the subject site and the 2 immediately adjoining sites). By doing this each site could accommodate a 22 metre wide residential building of 20 storeys, while still achieving a separation of 24 metres between buildings. This, however, would require the current design (levels 9 - 20) being reduced by approximately 5m in width.

13.18 In response to Cox Richardson’s recommendation, the applicant has prepared a plan comparing the proposed curvilinear building footprint with the recommended 22m wide rectangular building footprint. A copy of this plan is found at Figure 7 below. The plan clearly demonstrates that the recommended 22m wide building does not result in a better designed building. While Cox Richardson’s Review indicates that the “proposed building is an overdevelopment of the site”, the applicant has pointed out that a comparison between the floor area of the proposed building and the area that will be generated after applying the recommended building width reveals that the latter is larger by 53sq.m. In this regard the 22m wide building has a total surface area of 1,035sq.m, compared to the proposed building which has a total surface area of only 982sq.m.

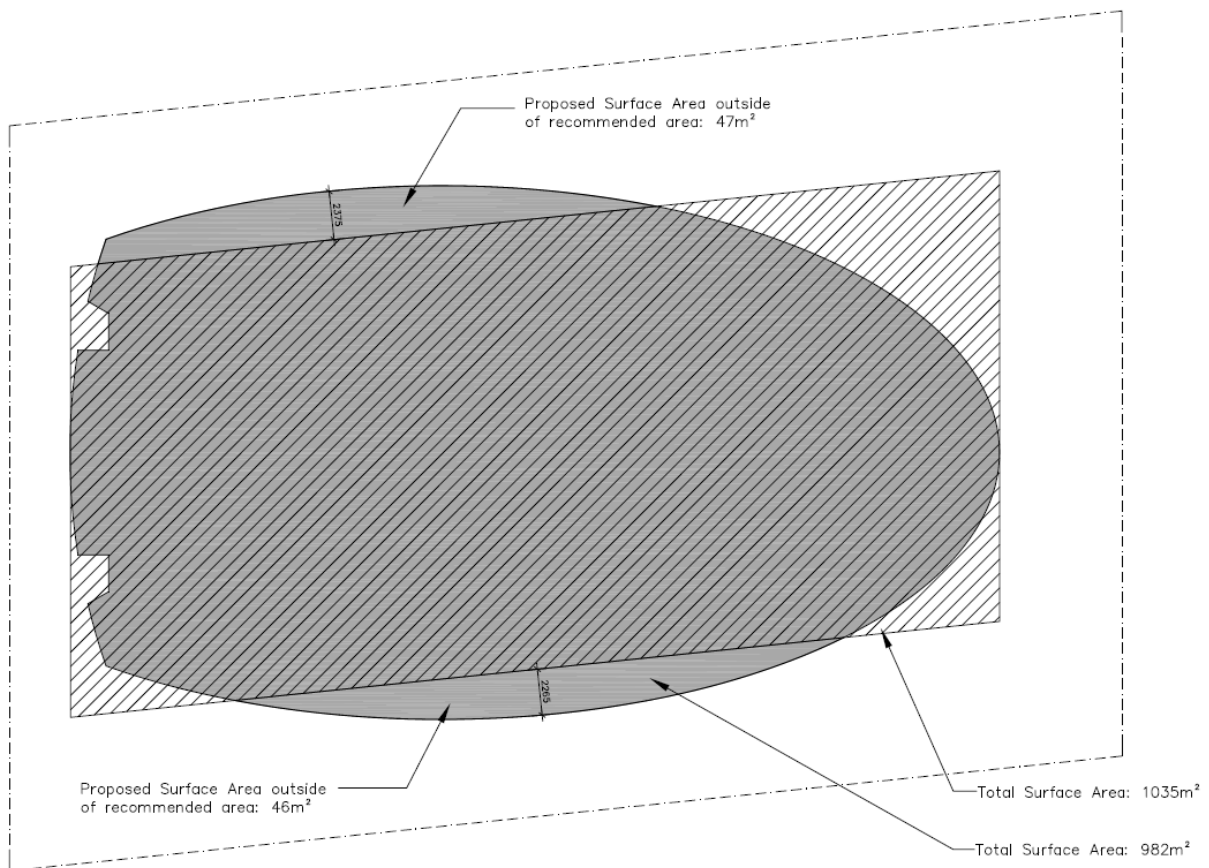


Figure 7: Surface Area Comparison of Proposed & Recommended Building Footprints (Source: Design Cubicle Architectural Solutions)

13.19 As well as having a larger building footprint, a redesign in accordance with Cox Richardson’s recommendation would result in a more bulky building with less articulation. The architectural interest of the building would also be compromised. The plan at Figure 7 also clearly demonstrates that the non-compliance is extremely minor. In the very worst case scenario, the building is seeking to reduce the recommended building separation by 2.375m. At this single point the separation between buildings would therefore be 21.625m instead of the recommended 24m.

13.20 Given that the variation does not apply to the entire length of the building and is essentially only for levels 16 - 20, and would still allow suitable separation and therefore privacy between future residents, it is believed that the variation is minor. It is also recognised that the proposed design complies with the requirements of Council’s ‘interim’ DCP, will result in a development that will have a smaller building footprint and therefore less overshadowing impacts, and is better

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articulated than the recommended 22m wide rectangular building. It is therefore believed that the proposal should be supported in its current form.

- 13.21 It should also be recognised that the development satisfies the requirements, including the 10 'design quality principles', listed within SEPP 65. The SEPP primarily aims to improve the design quality of residential flat development and states that residential flat development is to "have regard to" the RFDC. The numerical figures within the RFDC, however, are recommended guidelines only. It is therefore believed that a minor variation does not warrant refusal of the application.

## **14 General Comments**

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- 14.1 The proposed development has a Capital Investment Value of more than \$10M and therefore constitutes 'Regional Development' pursuant to Clause 13B(1)(a) of State Environmental Planning Policy (Major Development) 2005. As such, Council is responsible for the assessment of the DA, but determination of the Application is to be made by the Sydney West Joint Regional Planning Panel. This report has therefore been prepared and is forwarded to the Panel accordingly.
- 14.2 Council Officers have assessed the proposed development under the relevant heads of consideration listed under Section 79C of the Environmental Planning and Assessment Act 1979. Overall, it is considered that the proposed development is satisfactory and is unlikely to have any significant environmental, social or economic impacts on the locality or the surroundings.
- 14.3 The subject site benefits from a previous development consent for the construction of a 15 storey mixed-use development comprising 116 residential units, a ground floor commercial tenancy and 179 car parking spaces over 3 basement levels. The current approval (DA-03-3879) was granted by Council on 17 February 2004. The applicant has obtained a Construction Certificate and undertaken initial site works, thereby preserving the current consent. The approved development, however, has not proceeded beyond initial site works due to economic circumstances.
- 14.4 The new proposal, which is the subject of this report, maintains the currently approved building footprint and design envelope, but increases the height of the development from 15 storeys to 20 storeys with associated additional basement car parking. Any approval granted will supersede the previous consent. While the EP & A Act 1979 and all relevant planning controls relating to the site do not require an economic justification for the revised development proposal, the developer has confirmed that levels 16 - 20 are fundamental to the viability of the project.
- 14.5 The proposed development has been found to be generally consistent with at least one of the 3(b) Special Business Zone objectives [in particular objective (d)] and therefore is a permissible use with Development Consent. The proposal also has an acceptable level of compliance with the requirements of Blacktown Development Control Plan (DCP) 2006 – Parts A & D. Apart from a minor variation to the private balcony dimensions for 16% of the units (i.e. 27 out of 168 units), the proposed development fully complies with the provisions of Blacktown Council's DCP. In this regard the proposal fully complies with the maximum height restrictions, setback requirements, overshadowing, common open space and car parking requirements of the DCP and is considered satisfactory with regard to relevant matters such as siting and design, built form, bulk and scale, privacy, access, traffic impact, parking, stormwater drainage and the like. Overall, it is believed that the applicant has developed a design solution which appropriately responds to the desired future character of the CBD area.

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- 14.6 While Council's LEP and DCP do not specify a minimum amount of commercial floor space to be provided over the site, Council Officers were of the opinion that a single 209sq.m commercial tenancy for a 20 storey building was unsatisfactory over a site zoned for commercial purposes. As a result, the applicant has replaced 5 of the first floor residential units with an additional 481sq.m of commercial floor space (i.e. 690sq.m in total). While Council Officers would prefer to see a commercial floor area equivalent to the site area (i.e. FSR 1:1), the proposal is considered to be acceptable in the absence of any minimum planning controls. In this regard the amount of commercial floorspace has increased from approximately 10.5% of the site area to approximately 34%. Byrnes PDM Consultants, who were engaged by the applicant to undertake a 'Review of Adequacy of Commercial Floor Space' report, have also concluded that the proposal incorporates adequate commercial floor space and is appropriate for its location within the Blacktown Centre.
- 14.7 A Traffic Assessment has been submitted with the Application confirming that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. The proposed development has also been found to be acceptable in terms of traffic generation. Under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 the proposed development, however, is nominated as 'traffic generating' and therefore was referred to the Sydney Regional Development Advisory Committee (SRDAC) for comment. While the majority of matters raised in the RTA's response are recommended for inclusion as standard conditions of consent, it is considered unreasonable to request that the developer construct a separate right-turn bay for the right-turn movement from Third Avenue (eastbound) into Prince Street (southbound). In this regard these works are already identified in a Section 94 Contributions Plan for the Northern Precinct, to which the developer will be required to pay a contribution. No further contribution/works can therefore be reasonably levied or imposed on the developer.
- 14.8 At the request of the JRPP, the applicant was asked to submit an Acoustic Report, Wind Analysis and Reflectivity Report for Council's consideration. A review of these reports indicates that any potential acoustic, wind or reflectivity impacts can be controlled through appropriate conditions. It is therefore recommended that these conditions be included as part of any consent.
- 14.9 The proposal is consistent with the objectives of State Environmental Planning Policy (SEPP) No. 65 and satisfactorily achieves the 10 'design quality principles' listed under Part 2 of the SEPP. Council Officers have also assessed the application against the design guidelines provided within the Residential Flat Design Code (RFDC). Whilst not strictly meeting the numerical standards of the RFDC, it is believed that the proposed development does meet its intent. Council Officers also believe that the proposal, in its current layout, has design merit and should be supported despite the minor non-compliances. To insist on full compliance with the RFDC guidelines in this instance would alter the appearance, shape and layout of the building and would ultimately compromise the design of the building. Furthermore, it is noted that the numerical standards in the RFDC are guidelines only and therefore minor variations should not warrant refusal of the application.
- 14.10 Following concerns that this form of development would prevent adjoining and nearby sites from achieving full compliance with SEPP 65 in the future, Council decided to engage Cox Richardson to undertake an environmental assessment of the proposal. Specifically, Cox Richardson was requested to provide advice in terms of whether approval of the development would allow an equitable (not necessarily the same) amount of development on the immediate adjoining site and whether any amendments should be considered to ensure this could be achieved.

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- 14.11 Cox Richardson has confirmed that individually the proposal is acceptable in terms of overshadowing and has therefore advised that the building height (i.e. 20 storeys) is reasonable. While some minor non-compliances with the RFDC have been noted by Cox Richardson, the main area of concern is the separation between the proposed development and the future buildings on the immediately adjoining sites. After a detailed review, Cox Richardson has therefore recommended that the building width for the upper levels (i.e. levels 9 to 20) be reduced from a maximum of 27m to a maximum of 22m.
- 14.12 In response, the applicant has pointed out that there is already a consent over the subject site (i.e. DA-03-3879) which has approved the proposed setbacks. The current DA seeks to retain the same building footprint and design envelope, with the addition of 5 floors in height. While it is recognised that this is a new DA that should be assessed on its individual merits, it is also recognised that a 15 storey development with the currently proposed setbacks could be constructed over the site. As a result it could be argued that the variation is therefore only for levels 16 - 20.
- 14.13 In response to Cox Richardson's recommendation to reduce the building width by 5 metres (i.e. for levels 9 - 20 only), the applicant has prepared a plan which clearly demonstrates that the recommended 22m wide building does not necessarily result in a better development. A redesign in accordance with the recommendation would result in a development with a larger building footprint and would result in a more bulky building with less articulation. A review of Figure 7 also clearly demonstrates that the non-compliance is extremely minor. In the very worst case scenario, the building is seeking to reduce the recommended building separation by 2.375m. At this single point, the separation between buildings would therefore be 21.625m instead of the recommended 24m.
- 14.14 Given that the variation does not apply to the entire length of the building, is essentially only for levels 16 - 20, and would still allow suitable separation and therefore privacy between future residents, it is believed that the variation is minor. Furthermore, it is noted that the numerical figures within the RFDC are recommended guidelines only and, as such, a minor variation to the guidelines does not warrant refusal of the application. On this basis it is recommended that the proposal be supported in its current form.
- 14.15 As a result of the exhibition process, only one submission was received from the adjoining Serbian Orthodox Church. The objector's main concern is that the future occupants of the development will object to the bell ringing activities undertaken on the church site. It is noted that no objections, however, have been raised in relation to the design, bulk, scale or appearance of the development. While the Church fears that the bell ringing and religious activities may be the subject of future complaints, this cannot be used as a reason to prevent redevelopment of the site. Council's EHU has suggested that the 'offensive noise' aspects of some of the religious activities could be abated through acoustical modifications (essentially trapping the noise within the church building). Alternatively, it is recommended that a condition be imposed on any consent requiring that double glazing be installed to those residential units facing the Church site. This would help to increase residents' internal amenity and therefore may also help to reduce the chance of complaint.
- 14.16 Overall, the grounds for objection are not considered sufficient to warrant refusal of the application. As such, it is recommended that the proposed 20 storey mixed commercial/residential development be approved subject to appropriate conditions as documented at Attachment 3 of this report.

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## 15 Recommendation

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- (a) The Application, being a Development Application for the construction of a 20 storey mixed-use commercial/residential high rise building over 6 levels of basement car parking at Lots 89 & 90, DP 11157, H/N 29-31 Second Avenue, Blacktown, be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at Attachment 3.
- (b) The applicant and objector be advised of the Sydney West Joint Regional Planning Panel's decision.

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REBECCA GORDON  
TOWN PLANNER

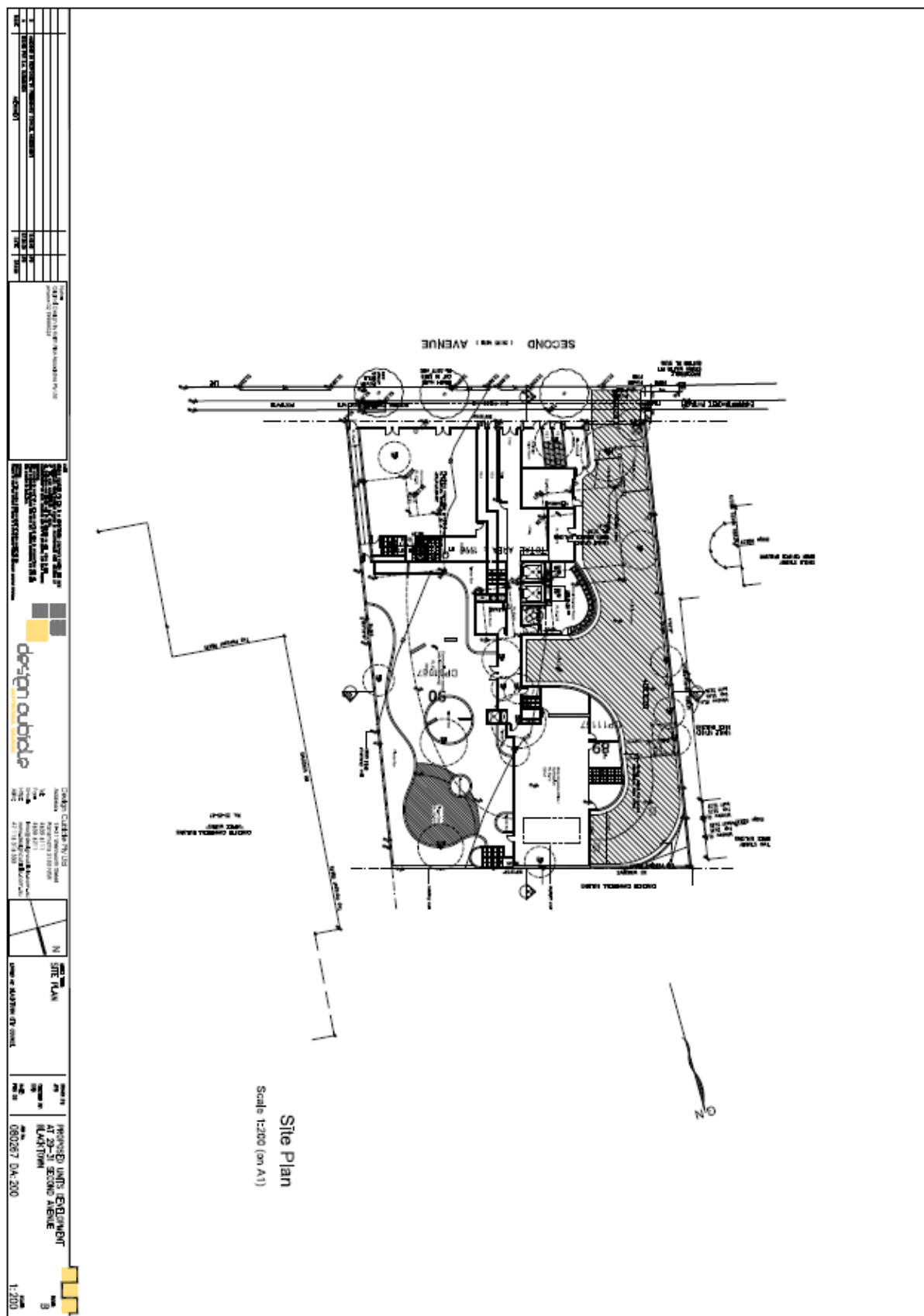
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JUDITH PORTELLI  
MANAGER DEVELOPMENT  
SERVICES & ADMINISTRATION

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GLENNYS JAMES  
DIRECTOR CITY STRATEGY & DEVELOPMENT

## Attachment 1 – Development Plans

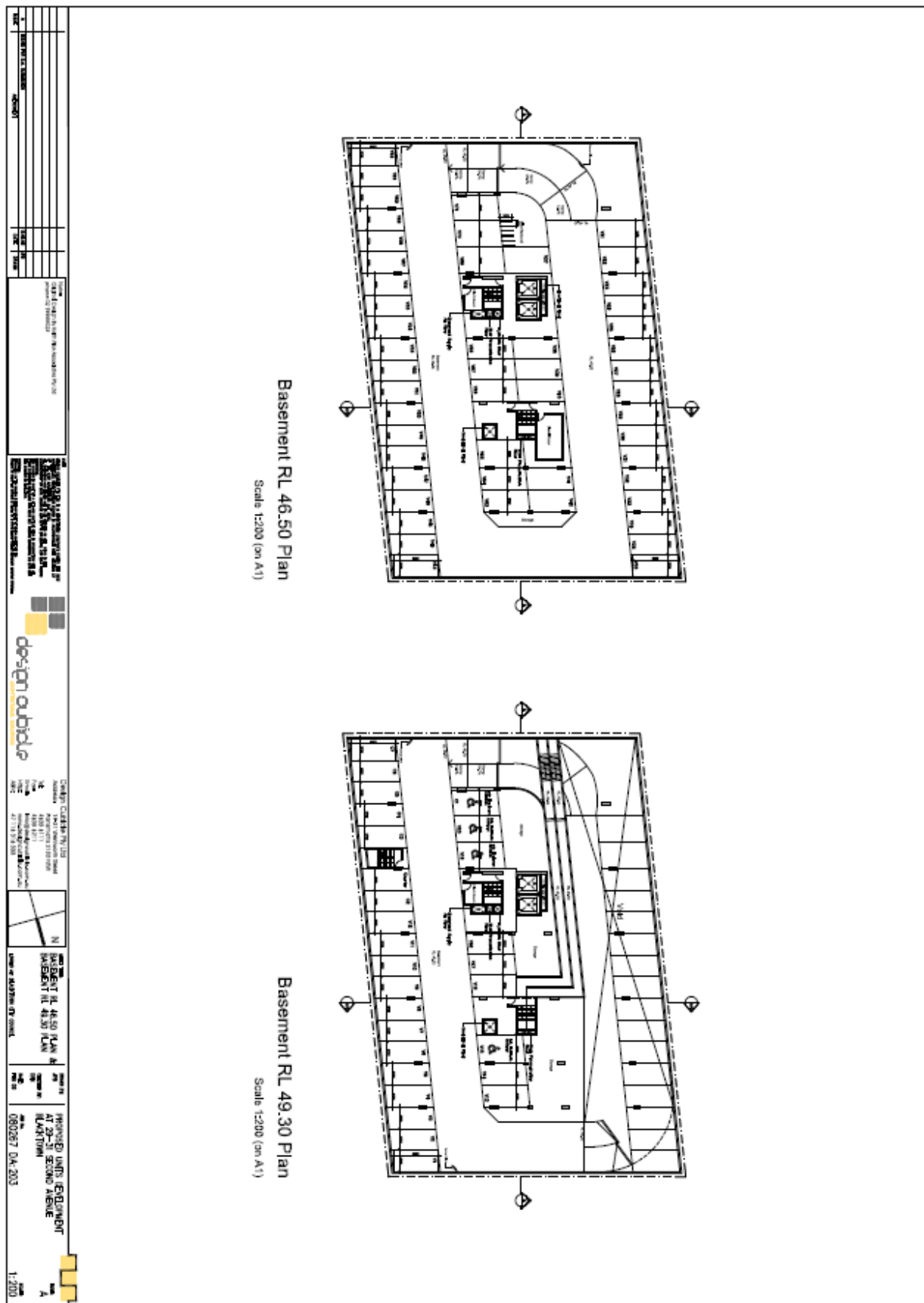


SITE PLAN

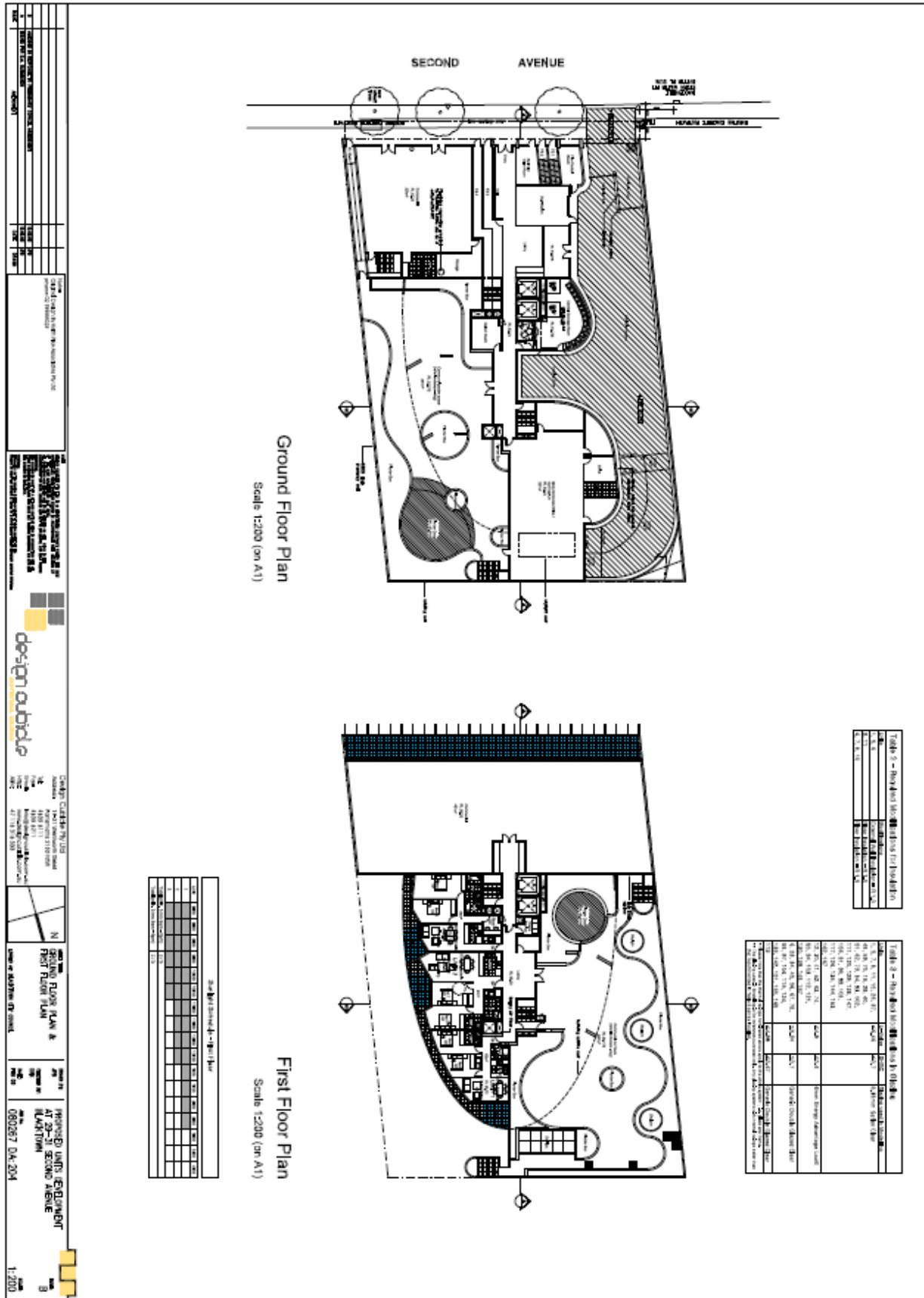


BASEMENT PLAN – Levels 3 & 4



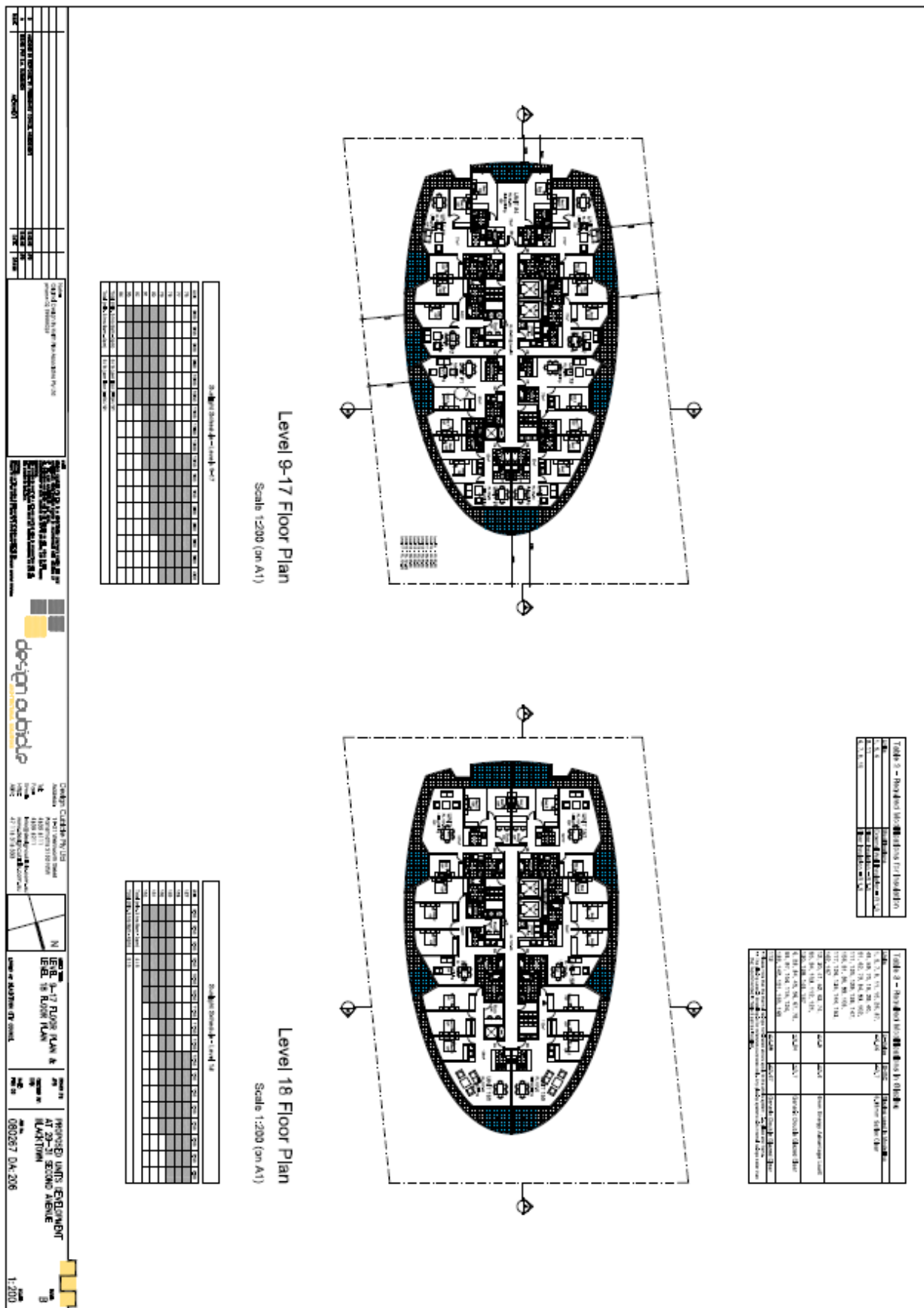


BASEMENT PLAN – Levels 1 & 2



ROUND & FIRST FLOOR PLANS

## SEOND FLOOR PLAN & LEVELS 3-8 FLOOR PLANS



LEVELS 9-17 FLOOR PLAN & LEVEL 18 FLOOR PLAN





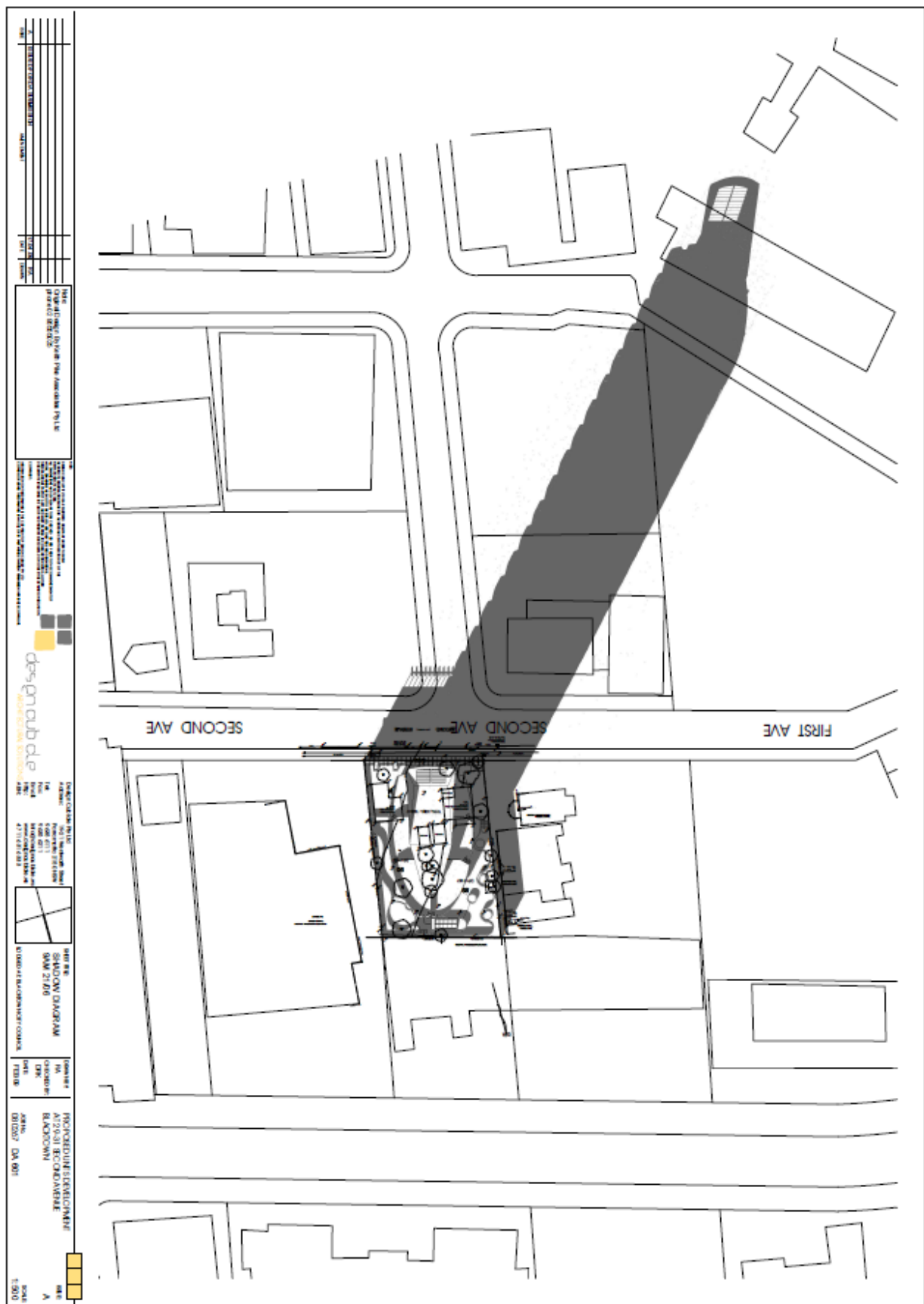




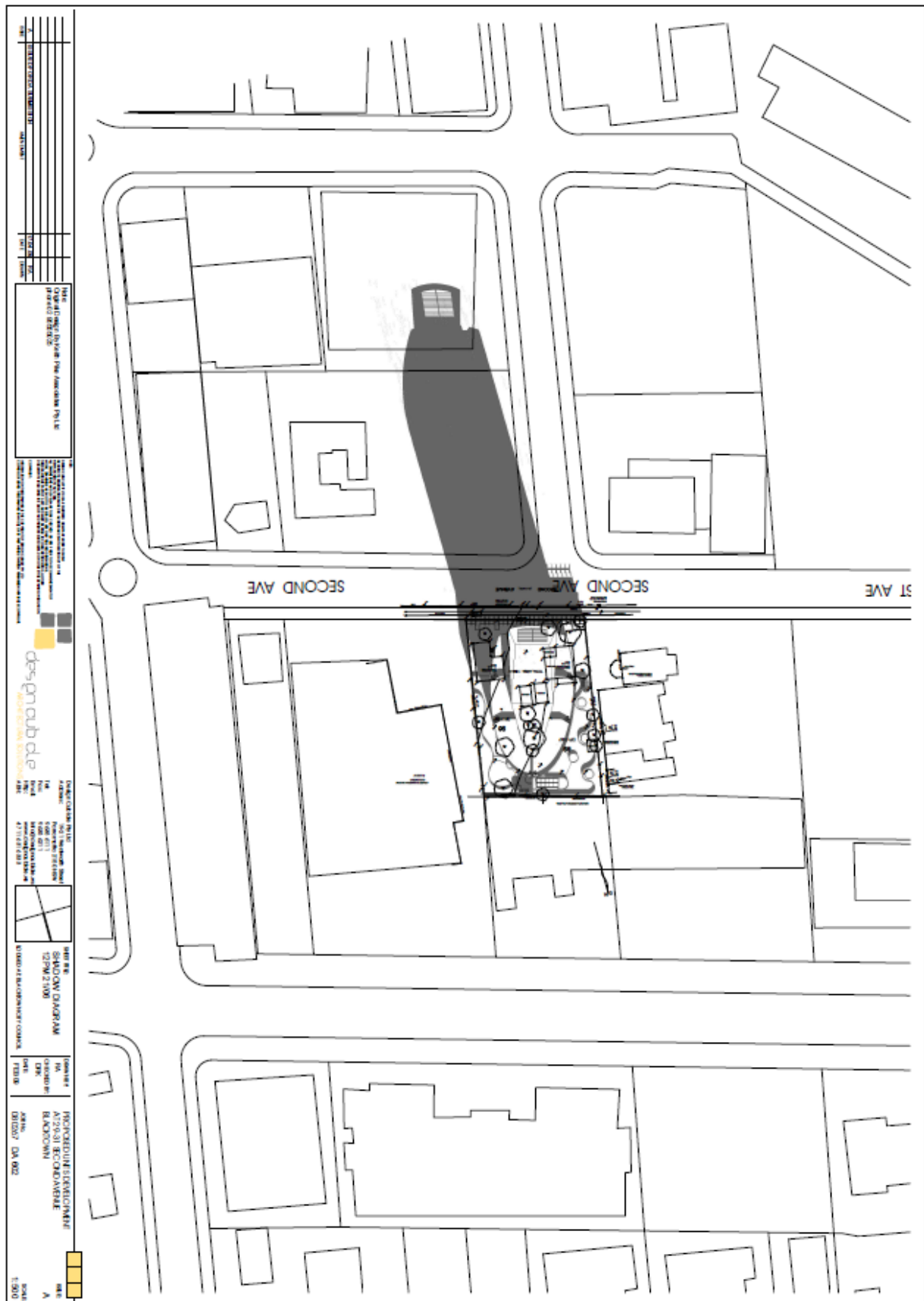
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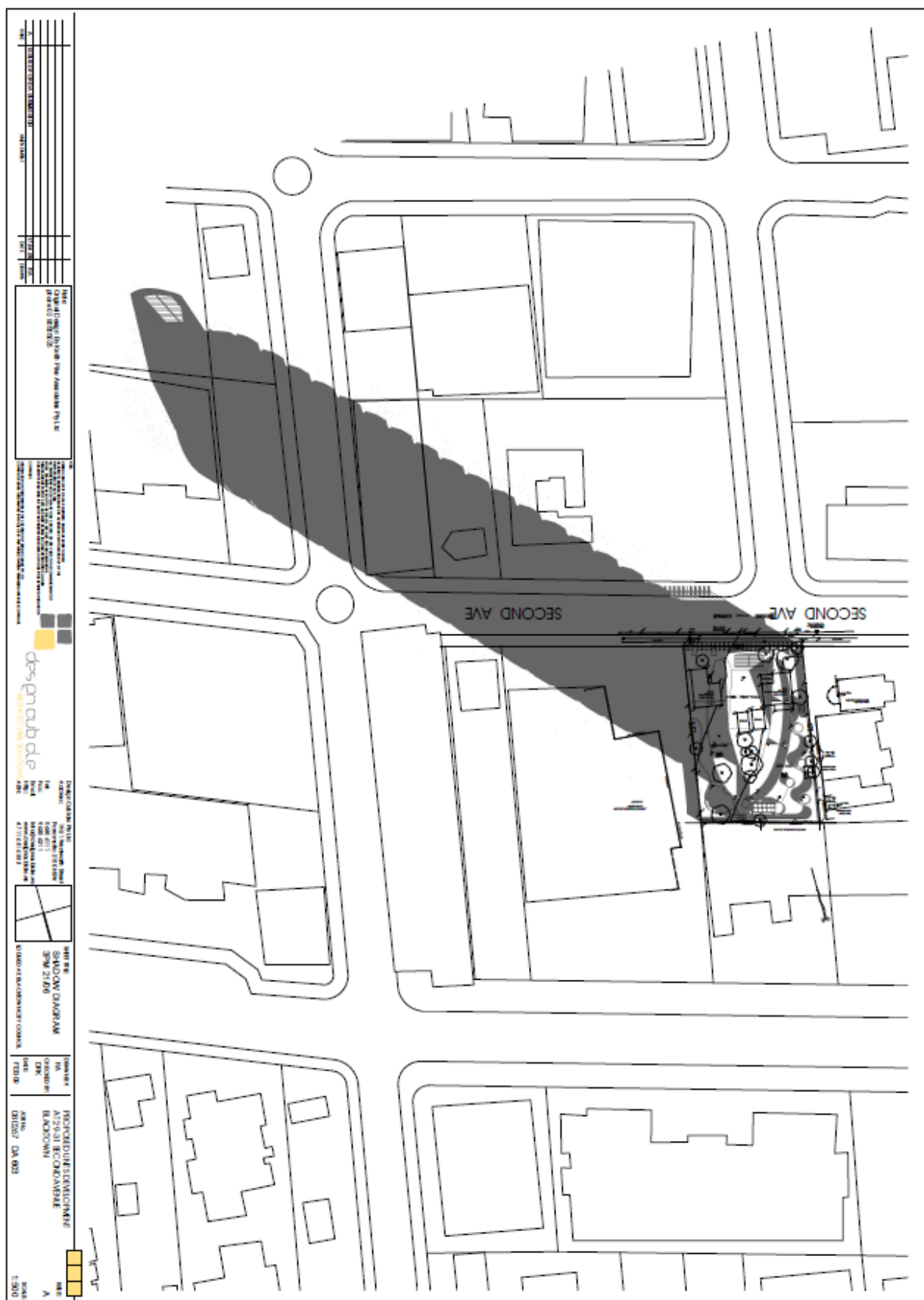




SHADOW DIAGRAM – 9am



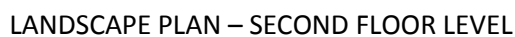
SHADOW DIAGRAM – 12 noon



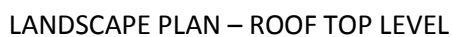
SHADOW DIAGRAM – 3pm



LANDSCAPE PLAN – FIRST FLOOR LEVEL









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## **Attachment 2 – Independent Built Form Assessment**

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## **Attachment 3 – Proposed Conditions of Consent**

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### **ADVISORY NOTES**

#### **1. ADVISORY NOTES**

##### **1.1 Terminology**

1.1.1 Any reference in this document to a "consent" means a "development consent" defined in the Environmental Planning and Assessment Act 1979.

1.1.2 Any reference in this consent to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to a certificate as defined by Section 109C of the Environmental Planning and Assessment Act 1979.

##### **1.2 Scope of Consent**

1.2.1 The granting of this consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992. The applicant is advised to investigate any liability that may apply under that Act. The current suite of Australian Standard 1428 - Design for Access and Mobility, should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

1.2.2 Should it be intended to subdivide the approved development into strata title allotments, Council will require the lodgement of a separate Development Application for consideration. Council advises that any new Development Application for Strata Subdivision will not be approved until such time as the approved development has reached practical completion and issues such as visitor car parking, internal and external boundary fencing, landscaping or any other works required in accordance with this Notice of Determination and all associated Construction Certificates have been fully completed to Council's satisfaction.

##### **1.3 Other Approvals**

1.3.1 A separate valid Construction Certificate shall be issued prior to commencement of any construction works.

1.3.2 The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary development not approved by this consent, including:

- (a) the removal of any tree(s) not indicated on the approved plans.
- (b) any fence, retaining wall, land excavation or filling, or other development not being exempt development under State Environmental Planning Policy (Exempt and Complying Development) 2008.
- (c) the erection of any advertising sign not being exempt development under State Environmental Planning Policy (Exempt and Complying Development) 2008. In this regard, advertising signage for the commercial component of the development is to be subject to an overall theme for the development and is to be submitted to Council for separate approval.

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(d) Strata Subdivision of the development.

1.3.3 The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary activity not approved by this consent, including:-

- (a) the installation of a vehicular footway crossing servicing the development.
- (b) the erection of an advertising structure over a public road.
- (c) works in existing Public Roads or reserves, including the installation or removal of vehicular footway and gutter crossings, and all pathpaving works.

1.3.4 Council wishes to encourage active uses/restaurants at the ground level of the development. Further, should structural alterations be proposed in the commercial tenancy, this may have implications under the BCA and Blacktown DCP 2006. Accordingly, Council requires the following:

- (a) Separate consent for any structural change to the premises or for any activity not being exempt development under State Environmental Planning Policy (Exempt and Complying Development) 2008.
- (b) Installation of plumbing facilities in the ground floor tenancy to facilitate its use for restaurant/cafe purposes.

#### 1.4 **Services**

1.4.1 The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Integral Energy
- (c) Natural Gas Company
- (d) The relevant local telecommunications carrier

regarding any requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on the land or on the adjacent public road(s).

All approved building construction plans attached to the Construction Certificate should be submitted to and stamped by a Sydney Water Corporation Limited Customer Centre or a Sydney Water Quick Check Agent as an indication that the proposal complies with the Sydney Water requirements. Sydney Water may also require the applicant to obtain a Trade Waste Approval as part of the operation of the approved development. Enquiries should be made to ascertain the Sydney Water requirements for the eventual operation of the approved use.

1.4.2 Information regarding the location of underground services may be obtained from the Sydney "Dial Before You Dig" service, telephone number 1100, fax number (02) 9806 0777. Inquirers should provide the street/road name and number, side of street/road name and the nearest cross street/road name.

#### 1.5 **Identification Survey**

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- 1.5.1 The applicant is advised to obtain an identification survey from a registered surveyor to ascertain the correct location of the property boundaries, and to ensure the development does not encroach upon adjoining properties.

**1.6 Roads & Traffic Authority**

- 1.6.1 All works associated with the proposed development shall be at no cost to Council or the Roads & Traffic Authority (RTA).

**1.7 Services**

- 1.7.1 The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

**2 GENERAL**

**2.1 Scope of Consent**

- 2.1.1 This consent relates to the following drawings/details submitted to Council with the Development Application, subject to compliance with any other conditions of this consent:

Drawing No.	Dated	Council's File Enclosure No.
DA: 200 Site Plan (B)	14.08.09	148E
DA: 201 Basement (A)	14.04.09	148F
DA 202 Basement (A)	14.04.09	148G
DA:203 Basement (A)	14.04.09	148H
DA:204 Ground Floor & First Floor Plans (B)	14.08.09	148I
DA:205 Second Floor & Levels 3-8 Floor Plans (C)	14.05.10	148J
DA:206 Level 9-17 & Level 18 Floor Plan (C)	14.05.10	148K
DA:207 Level 19 Floor Plan & Plant Room (B)	14.08.09	148L
DA:208 Roof Plan & Awning Detail (A)	17.04.09	148M
DA:300 North & East Elevations (A)	17.04.09	148N
DA:301 South & West Elevations (A)	17.04.09	148O

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DA:302 Sections (A)	17.04.09	148P
Schedule of Colours	Undated	1R
Waste Management Plan	April 2009	2C
Landscape Concept Plans Sheets 1/4, 2/4, 3/4 & 4/4 (E)	06.06.09	1V-1Y

\* Unless modified by any condition of this consent. In this regard, please refer to Condition 4.1.

- 2.1.2 The subject site is zoned 3(b) Special Business and therefore permits only limited retailing activities. Retail development in the 3(b) zone is limited to:

- (a) shops which service the daily convenience needs of workers and residents of the area; and
- (b) shops which specialise in retailing of bulky goods.

Any retailing use on site must be consistent with the objectives of the 3(b) zone, any other provisions of the LEP and must comply with the guidelines for development contained in the DCP.

## 2.2 Suburb Name

- 2.2.1 The land the subject of this consent is known to be located in the following suburb. This suburb name shall be used for all correspondence and property transactions:

Suburb: Blacktown

- 2.2.2 Any advertising of sales in association with the approved development shall clearly indicate that the development is located in the following suburb. No other estate names or the like shall be used in any advertisements/other promotional information:

Suburb: Blacktown

## 2.3 Compliance with BASIX Certificate

- 2.3.1 All commitments listed in BASIX Certificate numbers: 244868M & 245318M dated 15 May 2009 and held at Enclosure 2E on Council's File JRPP-09-1574 shall be complied with.

## 2.4 Engineering Matters

### 2.4.1 Definitions

- 2.4.1.1 Where this consent requires both engineering and building works to be undertaken, a separate Construction Certificate may be issued for each category of works i.e. a separate construction Certificate for the Engineering works nominated in "Prior to Construction Certificate (Engineering)" and a separate Construction Certificate (for all building works relating to the erection and fit-out of a structure). This excludes all works on existing public roads significant enough to warrant separate engineering approval pursuant to the Road Act 1993. In relation to this consent, an engineering approval pursuant to the Road Act, 1993 or

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Section 68 of the Local Government Act must be issued prior to the issue of the Construction Certificate.

In lieu of issuing a separate Construction Certificate, the above-mentioned engineering works can be included on an overall Construction Certificate provided that SPECIFIC REFERENCE is made to the relevant Engineering works. In such instances, the certifier shall provide evidence that they are accredited to do so. This is not applicable where Roads Act or Local Government Act Approvals are required.

Council does not permit the private certification of works on existing public roads or reserves, or any land under the care and control of Council. In this regard Council will not accept a Construction or Compliance Certificate from a Private Certifier for any works on Second Avenue.

#### **2.4.2 Design and Works Specification**

2.4.2.1 All engineering works required by Scope of Engineering Works and other sections of this consent must be designed and undertaken in accordance with the relevant aspects of the following documents except as otherwise authorised by this consent:

- a. Blacktown City Council's Works Specification - Civil (Current Version)
- b. Blacktown City Council's Engineering Guide for Development (Current Version)
- c. Blacktown City Council Development Control Plan (Current Version)
- d. Blacktown City Council Soil Erosion and Sediment Control Policy (Current Version)
- e. Blacktown City Council On Site Detention General Guidelines and Checklist
- f. Upper Parramatta River Catchment Trust On Site Stormwater Detention Handbook Third Edition December 1999.
- g. Blacktown City Council Stormwater Quality Control Policy

Design plans, calculations and other supporting documentations prepared in accordance with the above requirements MUST be submitted to Council with any application for Construction Certificate, Road Act 1993 or Local Government Act 1993 Approval.

Any Construction Certificates issued by Private Certifiers must also be accompanied by the above documentations.

NOTE: Any variations from these design requirements must be separately approved by Council.

#### **2.4.3 Payment of Engineering Fees**

2.4.3.1 If it is the applicant's intention to engage Council to undertake Construction inspections and the issue of the Compliance Certificate for engineering works, it will be necessary to contact Council's Development Services Engineer for a quote.

A verbal quote will be provided within 48 hours based upon Council's Goods and Services Pricing Schedule. This will also be confirmed in writing.

#### **2.4.4 Other Fee and Bond/Securities**

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- 2.4.4.1 The payment of the following fee to Council's Maintenance Section pursuant to Sections 608 and 609 of the Local Government Act 1993. The fee is subject to periodic review and may vary at actual time of payment.

(a) Vehicular Crossing Application and Inspection Fee: \$115.00.

NOTE: Council may grant a reduction in the above fee dependent upon the timing of the placement of the footpath crossings.

#### 2.4.5 **Other Necessary Approvals**

- 2.4.5.1 A separate application or details (as necessary) shall be submitted for the separate approval of Council under the provisions of the Local Government Act 1993 and/or the Roads Act 1993 for any of the following (a) The installation of a vehicular footway crossing servicing the development as required by "Scope of Engineering Works and other sections of this consent" (b) Works on or occupation of existing public roads - that are not covered by a Roads Act Approval - which may require a Road Occupancy Licence or Work Zone Permit.

#### 2.5 **Other Matters**

- 2.5.1 No construction preparatory work (including tree or vegetation removal, ground clearing, excavation, filling, and the like) shall be undertaken on the land prior to a valid Construction Certificate being issued for the construction works.
- 2.5.2 Any future substation or other utility installation required to service the approved subdivision/development shall not under any circumstances be sited on future or existing Council land, including road reservations and/or public reserves. Any proposal to locate a proposed substation or other utility installation on Council land shall be negotiated with and fully endorsed by the relevant Council Directorates.

### 3 **PRIOR TO CONSTRUCTION CERTIFICATE (GENERAL)**

#### 3.1 **DA Plan Consistency**

- 3.1.1 A Construction Certificate for the proposed development shall only be issued when the accompanying plans, specifications and/or details are consistent with the approved Development Application design plans.

#### 3.2 **Road Deposit/Bond & Other Fees**

- 3.2.1 The following fees and bond (which is subject to periodic review and may vary at time of payment) shall be lodged with Council:
- (a) Long Service Levy of \$87,500.00
  - (b) Road inspection fee of \$152.00
  - (c) Road maintenance bond of \$3,143.00
  - (d) Administration fee of \$80.00

The bond is required to cover the cost of any damage to Council's public assets (eg: road, guttering, footpaths, drainage systems) arising from development works. The bond (less an administration fee) will be refunded upon the completion of the development should there be no damage to Council's assets as a result of the development works.

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The road inspection fee covers Council's costs to inspect public assets adjacent to the development site before and after development work.

**3.3 DCP 2006**

3.3.1 Except as otherwise approved, the design plans which accompany the Construction Certificate shall comply with the design criteria specified in Council's Development Control Plan 2006.

**3.4 Services/Utilities**

3.4.1 The following documentary evidence shall accompany any Construction Certificate:

- (a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Applications must be made through an authorised Water Servicing Coordinator. Please refer to the "Building Plumbing and Developing" Section of the website [www.sydneywater.com.au](http://www.sydneywater.com.au), then follow the "Developing Your Land" link or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the occupation of the development/release of the plan of subdivision, whichever occurs first.
- (b) A Notification of Arrangement" Certificate from Integral Energy, stating that electrical services, including the provision of street lighting, have been made available to the development.
- (c) A written clearance from Telstra or any other recognised communication carrier, stating that services have been made available to the development or that arrangements have been made for the provision of services to the development.

**4 PRIOR TO CONSTRUCTION CERTIFICATE (PLANNING)**

**4.1 Necessary Plan Amendments**

4.1.1 The following plan amendments shall be included on or addressed by any Construction Certificate relating to the approved development:

- (a) Balustrading in compliance with the BCA is to be provided in conjunction with the podium levels and any roof top planter boxes. Safe access to the planter boxes should also be provided for maintenance purposes. The balustrading must be transparent to maintain view of the landscaping.
- (b) In order to minimise potential noise impacts from the adjoining Church site, double glazing must be installed to all residential units facing the Church site.
- (c) Plumbing connection are to be provided to the ground floor commercial tenancy to facilitate its use as a cafe/restaurant.

**4.2 Section 94 Contributions**



- 4.2.1 The following monetary contributions pursuant to Section 94 of the Environmental Planning & Assessment Act 1979 must be paid. The amounts below are BASE contributions which WILL BE INDEXED from the nominated base date to the date of payment. Payment of the indexed amounts must be made (BY BANK CHEQUE IF IMMEDIATE CLEARANCE IS REQUIRED. NOTE Council DOES NOT accept payment of S.94 Contributions by credit card or EFTPOS) prior to the issue of a Construction Certificate (for building works) or Subdivision Certificate (for subdivision works) either by Council or any accredited certifier, whichever occurs first.

Contribution Item	Base Amount	Relevant C.P.	Base Date
(i) Local Roads Reconstruction	\$49,742	16	June 2003
(ii) Streetscape Facilities	\$37,782	16	June 2003
(iii) Traffic Management Facilities	\$217,495	16	June 2003
(iv) Open Space & Recreation	\$190,702	16	June 2003
(v) Community Facilities	\$237,886	16	June 2003
(vi) Open Space in Established Urban Areas	\$541,043	3	March 2005

The contribution(s) will be indexed according to the Australian Bureau of Statistics' Implicit Price Deflator for Gross Fixed Capital Expenditure (Private Dwellings) and the Consumer Price Index (Sydney Dwellings).

Copies of the following relevant Contributions Plan(s) may be inspected/purchased from Council's Development Services Unit:

S.94 CP No. 3 - Open Space in Established Residential Areas

S.94 CP No. 16 – Blacktown CBD (Northern Precinct)

The Section 94 Contribution(s) have been based on the total developable area, the site's road frontage and/or the potential additional population nominated below. Should the final plan of survey indicate any change in the total developable area or should amendments change the potential additional population, the Section 94 Contribution(s) will be adjusted accordingly.

Additional Population: 393.2

Road Frontage: 36.575m

No. Of Dwellings: 168

Commercial Floor Space: 690sq.m

- 4.2.2 Any Compliance Certificate issued for the payment of Section 94 Contributions shall be

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accompanied by a letter from Council acknowledging that the correct Section 94 Contributions have been paid for that particular development or stage of development.

#### **4.3 Street Tree Planting**

- 4.3.1 Prior to the issue of any Construction Certificate, the person having the benefit of the development consent is to enter into an arrangement satisfactory to the Council for the planting and maintenance of tree(s) along the frontage of the development site for the purposes of improving the amenity of the streetscape.  
Number of Trees: 3 x 25 litre street trees (to the satisfaction of Council's Manager Open Space)

The Applicant is to undertake the planting and maintenance of street tree/s at no cost to Council and obtain any necessary clearances from relevant Service Authorities.

The Applicant is to lodge a tree bond of \$250.00 per tree with Council to ensure the health and vigour of the tree/s. This bond shall be returned six (6) months after the completion of the development (ie. issue of the final Occupation Certificate) if the trees are in a state of good health and vigour to Council's satisfaction.

After 6 months and prior to seeking a refund of the bond, the Applicant is to call for an inspection by Council's Open Space Section and pay an associated administrative/inspection fee of \$53.00 as per Council's fees and charges.

#### **4.4 Aesthetics/Landscaping**

- 4.4.1 Council is particularly concerned about the appearance of the development. Accordingly, the following additional information is required to be submitted for Council's separate approval prior to the issue of any Construction Certificate for the approved development:

- (a) Details of the proposed external building materials and finishes, including colour samples from brochures or the like. In this regard, the external finishes should reflect those details shown in the coloured perspective held on Council's file JRPP-09-1574 at Enclosure 1R.
- (b) A detailed landscaping plan prepared by a suitably qualified person which provides for the embellishment of all common open space areas (i.e. ground level, podiums and roof-top) by providing:
  - i. Suitable ground covers, shrubs and trees to complement the height, scale, design and function of the approved development, and help soften the visual appearance of the large building.
  - ii. Measures designed to enable easy long-term maintenance of the property.
  - iii. Planting of a combination of 35 litre, 75 litre and 100 litre trees. All shrubs to be planted are to have a minimum pot size of 200mm.
  - iv. Details of the soil depth, plant species and automatic irrigation system for all planter boxes, including on the podium and roof top areas.
  - v. Full details of the proposed street planting.

In this regard, the landscaping is to be generally in accordance with the Landscape Concept Plans (Drawing Number: 08106CC Sheets 1-4 Revision E dated 6 June 2009)

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- (c) The common open space areas are to be embellished with appropriate equipment. This should include children's play equipment, permanently installed hardwood/anodised aluminium vertical slat tables and bench seating, push button electric barbeque facilities with stainless steel hot plates, pergola structures, shade structures and the like. Details of all seating/outdoor furniture, play equipment, etc are to be shown on the landscape plan required by 4.3.1(b) above. Note: Pre-painted open metal (pool type) fencing is to be provided around the children's play equipment. The fencing is to be a minimum height of 1.2 metres and is to be provided with a self-closing latch top child-proof gate.
- (d) All common open space areas are to be appropriately illuminated by the use of bollard type outdoor lighting or the like, to provide for the safety of residents at night. Details of all outdoor lighting are to be submitted. Note: If artificial lighting is proposed full details are to be submitted indicating the manner in which adjoining residential properties/units are to be protected.
- (e) Details of the proposed awning, including colour samples of the materials/finishes from brochures or the like. In this regard, Council's preference is for opaque glass as it will allow an acceptable level of both sunlight and shade to the footpath area below. Note: The height and width of the proposed footpath awning is to comply with the requirements of Council's Maintenance Engineers.
- 4.4.2 The reflectivity index of glass used in the external facade of the building is not to exceed 15 percent.
- 4.5 **Access/Parking**
- 4.5.1 The internal driveway and parking areas are to be designed in accordance with Australian Standard (AS) 2890.1-2004 and AS 2890.2-2002 for commercial vehicles.
- The loading facility must be designed so that trucks do not interfere with resident's vehicles during loading/unloading operations.
- 4.5.2 A minimum of 23 commercial, 1 courier, 180 resident and 68 visitor car parking spaces are to be provided on site, each designed having minimum internal clear dimensions in accordance with Australian Standard 2890.1 as follows:
- Commercial Car Space: 2.6m x 5.4m  
Residential Flat Building (excluding width of pillar): 2.5m x 5.4m  
Residential Flat Building (adjacent to solid wall): 2.7m x 5.4m  
Disabled Car Space: 3.2m x 5.4m
- Suitable bicycle parking must also be provided as indicated on the approved plans.
- 4.5.3 Access to and parking for persons with disabilities shall be designed in accordance with Australian Standard 2890.1.
- 4.5.4 The car parking allocation required by Condition 4.4.2 of this consent is to be incorporated into a parking Management Strategy which will also include the following responsibilities for the Managing Agent/future Body Corporate:
- (a) Measures to ensure there is a clear segregation between the residential and non-residential parking spaces. In this regard, the provision of a security roller door or boom gate, with access provided through an intercom system, to segregate the commercial car parking area from the residential parking area is to be provided.
- (b) Measures to ensure that the parking areas are not used for commuter parking.

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- (c) The ongoing maintenance of the parking area to ensure the allocation is in accordance with Condition 4.4.2.

The parking strategy is to be submitted to Council for separate approval, prior to the release of any Construction Certificate.

#### **4.6 Noise Attenuation**

- 4.6.1 Additional information/documentation is to be submitted to demonstrate compliance with the recommendations of the Acoustic Assessment prepared by Heggies Pty Limited dated 16 October 2009 and held at Enclosure 97A on Council's File JRPP-09-1574.
- 4.6.2 Mechanical ventilation will be required to be provided to those units facing Second and Third Avenue that are affected by traffic noise.
- 4.6.3 The location and selection of mechanical plant is to be submitted prior to the release of a Construction Certificate. In this regard, the mechanical plant must be in accordance with the recommendation of the Acoustic Assessment prepared by Heggies Pty Limited dated 16 October 2009 and held at Enclosure 97A on Council's File JRPP-09-1574.

#### **4.7 Wind Impact Mitigations**

- 4.7.1 Prior to release of a Construction Certificate the development plans must be amended to demonstrate compliance with the recommendations of the Qualitative Wind Impact Assessment prepared by Heggies Pty Limited dated 14 October 2009 and held at Enclosure 95A on Council's File JRPP-09-1574. In this regard, details of the horizontal/vertical windbreaks and proposed additional landscaping.

Note: Any wind mitigation devices used at the upper levels must be sympathetic and in keeping with the design and appearance of the development. Any wind mitigation devices visible from a public road or place must be separately approved by Council.

### **5 PRIOR TO CONSTRUCTION CERTIFICATE (BUILDING)**

#### **5.1 Building Code of Australia Compliance**

- 5.1.1 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by :

- (a) Complying with the deemed to satisfy provisions, or
- (b) Formulating an alternative solution which :
  - (i) complies with the performance requirements, or
  - (ii) is shown to be at least equivalent to the deemed to satisfy provision, or
  - (iii) A combination of (a) and (b).

#### **5.2 Site Works and Drainage**

- 5.2.1 Soil erosion and sediment control measures shall be designed in accordance with Council's Soil Erosion and Sediment Control Policy. Details shall accompany any Construction Certificate.
- 5.2.2 Should any proposed excavation associated with the development extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land

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(including a public place), separate details prepared by a suitably qualified person shall be prepared indicating how that building or structure is to be:

- (a) Preserved and protected from damage, and
- (b) Underpinned and supported.

Such details shall accompany the Construction Certificate.

### **5.3 Internal Works**

- 5.3.1 A separate application for development consent shall be lodged with Council for any proposed fit out of a commercial and industrial building (which includes any fixed internal partition wall/display/storage racking/machinery /equipment and the like) that was not approved by this Notice of Determination. This condition does not apply to work or development that is Exempt Development or Complying Development under the Blacktown Local Environmental Plan.

### **5.4 BASIX Certificate Compliance**

The plans and specifications must indicate compliance with the commitments listed in the BASIX Certificate Numbers: 244868M & 245318M dated 15 May 2009 and held at Enclosure 2E on Council's File JRPP-09-1574.

## **6 Prior to Construction Certificate (Engineering)**

### **6.1 Removal of Power Poles**

- 6.1.1 The proposed footpath crossing is obstructed by 2 power poles. Prior to the release of **ANY** Construction Certificate, documentary evidence must therefore be obtained from the relevant authority advising:

- (a) that they have no objection to the relocation/burying of the 2 power poles; and
- (b) that the developer/applicant has entered into a suitable arrangement with the service provider (or their agent) to carry out the required works, and that all associated costs will be met by the applicant/developer.

### **6.2 Compliance with Conditions**

- 6.2.1 All conditions in the "Prior to Construction Certificate (Engineering)" Section and the relevant conditions in the "General" Section of this consent, must be complied with prior to the issue of any Construction certificates.
- 6.2.2 All fees for Construction and Compliance Certificates, Roads Act 1993 and Local government Act 1993 approvals must be paid to Council prior to the issue of any of the above certificates or approvals.

### **6.3 Road-works**

- 6.3.1 Documentary evidence shall be provided, demonstrating that a satisfactory agreement has been reached with the RTA for contributions to upgrade the intersection of Prince St. and Third Avenue.
- 6.3.2 A Traffic Management / Control Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with

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the requirements of current Australian Standard 1742.3 (Traffic Control Devices for Works on Roads) and current RTA Traffic Control at Work Sites manual. Any persons preparing such traffic control layout plans shall be RTA accredited.

- 6.3.3 A Road Opening Occupancy Licence is required from the relevant Road Authorities (Council or RTA) for all works on existing public roads. The application for this licence must be accompanied by a Traffic Management / Control plans.

#### 6.4 Asset Management

- 6.4.1 A detailed estimate of the cost of civil engineering work must be submitted to Council prior to the issue of the Construction Certificate for engineering works. If engineering works are of a value greater than \$25,000; documentary proof of payment of the levy required by the Building and Construction Industry Long Service Payments Act must be provided to Council prior to any approval of engineering plans either by Council or an appropriately accredited certifier.

#### 6.5 Stormwater Quality Control

- 6.5.1 Stormwater Treatment Measures for the proposed development shall be designed in accordance with the requirements of Council's Stormwater Quality Control Policy, and shall treat run-off and wash-down flows from the vehicular pavements. The device for treatment of these flows shall be subject to approval by Council. Details are to be included with the plans and specifications accompanying any Construction Certificate.

- 6.5.1.1 A Maintenance Schedule must be provided for the stormwater treatment measures in accordance with the requirements of Council's Stormwater Quality Control Policy. The designer of the stormwater treatment measures must prepare the Maintenance Schedule and this schedule must show the designer's name, signature and date on it.

#### 6.6 On-Site Detention

- 6.6.1 The on-site detention system shall be designed so it does not impact on the amenity of the development or the use of such areas.
- 6.6.2 A certificate from a Registered Engineer (NPER) to be submitted to Council certifying that the structures associated with the on-site detention system have been designed to withstand all loads likely to be imposed on them during their lifetime.
- 6.6.3 A certificate from a Professional Civil Engineer/Registered Surveyor must be obtained verifying that the On Site Detention system will function hydraulically in accordance with the requirements of Upper Parramatta River Catchment Trust and Council's current development guide.

Council acknowledges the submission of the On-site Stormwater Detention concept plan prepared by HKMA Engineers, drawing No. 3048-C, dated 29-05-09 (Council File No. # enclosure No. #). The Construction Certificate issued in this regard must generally be in accordance with this concept.

This plan is considered sufficient in detail for the purpose of issuing Consent the final plan however will need to vary from this concept as follows;

- (i) Due allowance must be made for the areas avoiding OSD capture, PLUS the discharge from the basement pumping system (unless the pump riser is to be directed into the OSD storage, in which case the additional inflow from the pump shall be taken into account when sizing the storage volume).

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- (ii) The riser from the pump shall have a crest higher than the maximum water level in the receiving pit, and a siphon-break, to prevent run-back.
  - (iii) The pump well and pump capacity shall be proportioned to allow for inflow from the sub-soil drainage system. This shall include sufficient storage volume for the 1% AEP, 24-hour event (including subsoil inflow) assuming total pump failure.
  - (iv) The drainage system shall capture rainwater from all terraces and balconies. Water shall not be permitted to cascade down the building. Each basement level shall have drainage; water shall not be permitted to flow across the surface from one level to the next.
- 6.6.4 Any Construction Certificate issued for or including an On-site Stormwater Detention (OSD) System must be accompanied by;
- (a) A Drainage Design Summary Sheet per Appendix B1 of the Upper Parramatta River Catchment Trust Handbook, current version.
  - (b) Full drainage calculations and details for all weirs overland flow-paths and diversion/catch drains - including catchment plans and areas, times of concentration and estimated peak run-off volumes.
  - (c) A completed OSD Detailed Design Submission and Checklist per Appendix B9 of the above-mentioned Handbook.
  - (d) A complete address of Council's OSD General Guidelines and Checklist requirements.
  - (e) A Maintenance Schedule is to be presented with the designer's name, his signature and date on it in accordance with the Upper Parramatta River Catchment Trust handbook guideline. (If an underground tank is involved this must include reference to WorkCover Authority of NSW Occupational Health & Safety Act 1983 and Confined Spaces Regulation.)
- 6.6.4.1 (A) On-site detention of stormwater runoff from the site must be designed to achieve the following nominated permissible site discharge and site storage capacity for the following percentages of site area draining to the system. (Absolute minimum site draining area is 80%)
- Nominated Discharge PSD: 95l/s/ha for 100%; 65l/s/ha for 90%; 36l/s/ha for 80%.
- Nominated Storage SSR: 343cu.m/ha for 100%; 429cu.m/ha for 90%; 580cu.m/ha for 80%.
- Intermediate values can be interpolated linearly for PSD and a fair curve through the 3 values for SSR. These parameters are subject to further adjustment as required by the other conditions of this consent.
- Council electronic OSD calculation spreadsheet is available for calculating the above parameters. This electronic spreadsheet can be obtained upon request from Council Development Services Unit.
- (C) Any variation to the following design parameters of the above mentioned concept plan will require a lodgement of a Section 96 application to Council for amendment of the consent;
    - (i) location of storage area
    - (ii) alteration of the type of storage - i.e changing from above ground to below ground storage

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- (iii) location of discharge outlet from the system.
  - (D) Professional accreditation of OSD designers and certifiers must be in accordance with the requirements of Council's Policy.
  - (E) The concept plan referred to above is for Development Application purposes only and is not to be used for construction.
  - (F) Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer to be issued with a Construction Certificate under the Environmental Planning and Assessment Act 1979 prior to the commencement of works.

## **7 PRIOR TO DEVELOPMENT WORKS**

### **7.1 Safety/Health/Amenity**

- 7.1.1 Toilet facilities shall be provided on the land at the rate of 1 toilet for every 20 persons or part thereof employed at the site.

Each toilet provided shall be:

- (a) a standard flushing toilet, and
- (b) connected:
  - (i) to a public sewer, or
  - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility provided by the Council, or
  - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable to some other sewage management facility approved by Council.

- 7.1.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 indicating:

- (a) the name, address and telephone number of the principal certifying authority for the work, and
- (b) the name of the principal contractor (if any) for the building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

This condition does not apply to:

- (a) building work carried out inside an existing building, or
- (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

- 7.1.3 Should the development work:

- (a) be likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) involve the enclosure of a public place,

A hoarding or protective barrier shall be erected between the work site and the public place.



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Such hoarding or barrier shall be designed and erected in accordance with Council's current Local Approvals Policy under the Local Government Act 1993.

Where necessary, an awning shall be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to any person in the public place.

- 7.1.4 Soil erosion and sediment control measures shall be provided in accordance with Council's Soil Erosion and Sediment Control Policy.
- 7.1.5 All soil erosion and sedimentation control measures indicated in the documentation accompanying the Construction Certificate shall be installed prior to the commencement of development works.
- 7.1.6 A single vehicle/plant access to the land shall be provided to minimise ground disturbance and transport of soil onto any public place. Such access shall be provided in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. Single sized 40mm or larger aggregate placed 150mm deep, and extending from the street kerb/road shoulder to the land shall be provided as a minimum.
- 7.1.7 Any excavation and/or backfilling associated with the development shall be executed safely and in accordance with appropriate professional standards, with any excavation properly guarded and protected to prevent such work being dangerous to life or property.
- 7.1.8 Should any excavation associated with the development extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), that building or structure:
  - (a) shall be preserved and protected from damage, and
  - (b) if necessary, shall be underpinned and supported in accordance with structural design details accompanying the Construction Certificate, and
  - (c) the owner(s) of which shall, at least 7 days before any such excavation or supporting work commences, be given notice of such intention and particulars of the excavation or supporting work.

## **7.2 Notification to Council**

- 7.2.1 The person having the benefit of this consent shall, at least 2 days prior to work commencing on site, submit to Council a notice under Clauses 135 and 136 of the Environmental Planning and Assessment Regulation 2000, indicating details of the appointed Principal Certifying Authority and the date construction work is proposed to commence.

## **7.3 Home Building Act**

- 7.3.1 Building Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,

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(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition sufficient evidence that the person has complied with the requirements of that Part.

#### **7.4 Sydney Water Authorisation**

- 7.4.1 Sydney Water Corporation's approval, in the form of appropriately stamped Construction Certificate plans, shall be obtained and furnished to the Principal Certifying Authority to verify that the development meets the Corporation's requirements concerning the relationship of the development to any water mains, sewers or stormwater channels.

OR

The approved plans are to be submitted to a Sydney Water Customer Centre or Quick Check Agent, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met. The plans must be appropriately stamped and all amended plans will require restamping. For Quick Check Agent details, please refer to the "Building Plumbing and Developing" Section of the website [www.sydneywater.com.au](http://www.sydneywater.com.au), then follow the "Developing Your Land" link or telephone 13 20 92 for assistance.

#### **7.5 Construction Details**

- 7.5.1 Structural details of the nominated building component(s), prepared and/or certified by a professional engineer or other appropriately qualified person, shall be lodged with Council prior to commencing or erecting that portion of the approved development.

##### Nominated Component

- (a) Footing piers
- (b) Footing system
- (c) Floor slab
- (d) Structural concrete
- (e) Wall frame bracing
- (f) Roof trusses
- (g) Structural steelwork
- (h) Retaining walls

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## 8 DURING CONSTRUCTION (BUILDING)

### 8.1 Safety/Health/Amenity

8.1.1 The required toilet facilities shall be maintained on the land at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.

8.1.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 indicating:

- (c) the name, address and telephone number of the principal certifying authority for the work, and
- (d) the name of the principal contractor (if any) for the building work and a telephone number on which that person may be contacted outside working hours, and
- (e) stating that unauthorised entry to the work site is prohibited.

8.1.3 Should the development work:

- (a) be likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) involves the enclosure of a public place,

the required hoarding, awning or protective barrier shall be maintained between the land and the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to persons in the public place.

8.1.4 Soil erosion and sediment control measures (including the connection of roofwater downpipes to stormwater drainage lines upon fixing of roof covering) shall be maintained during the development works.

8.1.5 All measures specified in the Construction Certificate to control soil erosion and sedimentation shall be maintained throughout development works.

8.1.6 A single vehicle/plant access to the land shall be maintained to minimise ground disturbance and transport of soil onto any public place. Such access shall be maintained in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. As a minimum, single sized 40mm or larger aggregate placed 150mm deep, and extending from the street kerb/road shoulder to the land shall be provided.

8.1.7 Any excavation and/or backfilling associated with the ongoing development works shall be executed safely and in accordance with appropriate professional standards, with any excavation properly guarded and protected to prevent them from being dangerous to life or property.

8.1.8 Building and construction materials, plant, equipment and the like shall not to be placed or stored at any time on Council's footpath, roadway or any public place.

### 8.2 Building Code of Australia Compliance

8.2.1 All building work shall be carried out in accordance with the provisions of the Building Code of Australia.

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### 8.3 **Surveys**

- 8.3.1 The building(s) shall be set out by a registered surveyor and a survey report lodged with the Principal Certifying Authority to verify the approved position of each structure in relation to the property boundaries.

### 8.4 **Nuisance Control**

- 8.4.1 Any objectionable noise, dust, concussion, vibration or other emission from the development works shall not exceed the limit prescribed in the Protection of the Environment Operations Act 1997.
- 8.4.2 The hours of any offensive noise-generating development works shall be limited to between 7.00am to 6.00pm, Mondays to Fridays: 8.00am to 1pm, Saturdays; and no such work to be undertaken at any time on Sundays or public holidays.

### 8.5 **Waste Control**

- 8.5.1 The waste material sorting, storage and re-use requirements of the approved Waste Management Plan and Council's Site Waste Management and Minimisation Development Control Plan shall be implemented during the course of development works.

### 8.6 **Construction Inspections**

- 8.6.1 The person having the benefit of this consent is required to notify the Principal Contractor for the building construction project that various mandatory and critical stage inspections must be conducted by an accredited certifier, and may include inspections (where applicable):
- (a) At the commencement of the building work; and
  - (b) After excavation for, and prior to placement of, any footings; and
  - (c) Prior to pouring any in-situ reinforced concrete building element; and
  - (d) Prior to the covering of the framework for any floor, wall roof or other building element, and prior to covering waterproofing in any wet areas; and
  - (e) Prior to covering waterproofing in any wet areas (but for a minimum of 10% of rooms with wet areas in any class 2,3 or 4 building); and
  - (f) Prior to covering any stormwater drainage connections; and
  - (g) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The critical stage inspection “(g)” must be carried out by the Principal Certifying Authority.

Any inspection conducted by an accredited other than the nominated PCA for the project must be verified by way of a Compliance Certificate issued for the relevant works.

Note: Failure to ensure the relevant inspections are conducted will preclude the issue of an Occupation Certificate.

### 8.7 **Waste Management**

- 8.7.1 The measures outlined in the approved Waste Management Plan dated April 2009 and held

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at Enclosure 2C on Council's File DA-09-1574, must be implemented during the construction phases of the development. This includes the sorting and storage of waste and recyclable building materials for site collection and disposal by the nominated waste/recycling contractor to the nominated disposal site.

Note: The developer is to retain receipts from the waste/recycling disposal contractor or some form of evidence of compliance with the Waste Management Plan as this information is to be submitted to Council prior to the issue of the Occupation Certificate.

- 8.7.2 Rooms used for the storage and washing of garbage receptacles are to be designed and constructed in accordance with the following requirements:
- (a) The floor and walls shall be constructed of durable and impervious materials and the intersections of the walls and floor are to be coved.
  - (b) The floor is to be impervious, drained to an approved floor waste within the room and connected to the sewer.
  - (c) Hot and cold water taps shall be located within the garbage room or in close proximity, to facilitate cleaning of the room.
- 8.7.3 The plumbing system is to incorporate water saving devices (e.g. dual flush toilets) throughout the building.

## **9 DURING CONSTRUCTION (ENGINEERING)**

### **9.1 Boundary Levels**

- 9.1.1 No construction at the property boundary shall be carried out until alignment levels have been fixed.

### **9.2 Maintenance of Soil Erosion Measures**

- 9.2.1 Soil erosion and sediment control measures shall be implemented in accordance with Council's Soil Erosion and Sediment Control Policy.
- 9.2.2 All required soil erosion and sediment control measures are to be maintained during the entire construction period until disturbed areas are restored by turfing paving or revegetation. Infringement Notices incurring a monetary penalty may be issued by Council where the maintenance of measures is inadequate.

### **9.3 Filling of Land & Compaction**

- 9.3.1 Regular wetting down of the site must be undertaken during the course of works being carried out in order to control wind blown dust from the site.
- 9.3.2 Roads adjoining the site must be kept clean and free of all excavated /transportable spoil materials.
- 9.3.3 Trucks transporting fill must have their loads covered.
- 9.3.4 Provisions of "Shaker Pads" and wash-down areas for trucks leaving the site details are to be shown on plans.

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- 9.3.5 Only clean fill shall be deposited on site in accordance with Council's Works Specification - Civil (Current Version). Note: dry builder's waste i.e. bricks plaster and timber industrial waste or putrescible materials are not to be deposited on site.

#### 9.4 **Inspections of Works**

- 9.4.1 Inspection Compliance Certificates issued by a Registered Engineer (NPER) or Registered Surveyor or Compliance Certificates issued by an accredited certifier, under Part A of Environmental Planning and Assessment Act 1979 as amended, are to be issued for works covered by the Construction Certificate for engineering works at the completion of the following mandatory inspection stages: -

(i) Soil Erosion and Sediment Control

- (a) Implementation of erosion and sediment control
- (b) Construction of major controls
- (c) Removal of sediment basins/ fencing etc
- (d) Internal sediment/ pollution control devices
- (e) Final Inspection

(ii) Traffic Control

- (a) Implementation of traffic control
- (b) Maintenance of traffic control during works
- (c) Removal of traffic control

(iii) Construction of Drainage works

- (a) Pipes before backfilling including trench excavation and bedding
- (b) Sand Backfilling
- (c) Final pipe inspection
- (d) Connection to existing system
- (e) Final Inspection

(iv) Footpath Works

- (a) Footpath Trimming and/or turfing
- (b) Path-paving construction
- (c) Service Adjustments

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(d) Final Inspection

(v) Construction of on-site detention system

(a) Steel and Formwork for tank/ HED control pit

(b) Completion of HED control pit

(c) Pit formwork

(d) Pipes upstream/ downstream of HED control pit before backfilling

(e) Completion of OSD system

(vi) Stormwater Quality Control

(a) Installation of Stormwater Quality Control devices

(b) Final Inspection

(vii) Final overall Inspections

(a) Preliminary overall final inspection

(b) Overall final inspection

ALTERNATIVELY, one comprehensive Inspection Certificate or Compliance certificate may be issued to include all of the above-mentioned stages of construction.

Where Council is appointed as the Principal Certifying Authority for the development (e.g. all Torrens Title subdivisions), only Compliance Certificates issued by accredited certifiers will be accepted at the completion of the above-mentioned stages. Any Compliance Certificate must certify that the relevant work has been completed in accordance with the pertinent Notice of Determination / Development Consent and Construction certificate.

- 9.4.2 Inspection of the works required pursuant to the engineering approval issued under the Roads Act 1993 must be made by Council's Development Overseers who can be contacted on 9839 9718 between 7am - 8am and 12.30pm - 1.30pm. A site inspection is required prior to commencement of work. A minimum twenty-four (24) hours notice must be given prior to any required inspection. A schedule of mandatory inspections is listed in Council's Works Specification – Civil (current version).

## 9.5 Public Safety

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- 9.5.1 The applicant is advised that all works undertaken in a public place are to be maintained in a safe condition at all times. Council may at any time and without prior notification make safe any such works Council considers to be unsafe and recover all reasonable costs incurred from the applicant.

**9.6 Site Security**

- 9.6.1 Chain wire gates and security fencing must be provided around the site in order to prevent unauthorised access and dumping of rubbish.

**10 PRIOR TO OCCUPATION CERTIFICATE**

**10.1 Compliance with Conditions**

- 10.1.1 An Occupation Certificate shall not be issued until such time as all conditions of this consent, other than “Operational” conditions, have been satisfied. The use or occupation of the development prior to compliance with all conditions of consent, other than “Operational” conditions, may render the applicant/developer liable to legal proceedings.
- 10.1.2 Prior to occupation/use of a new building, it is necessary to obtain an Occupation Certificate from the principal certifying authority in accordance with the provisions of Section 109H of the Environmental Planning & Assessment Act 1979.

**10.3 Consolidation of Lots**

- 10.2.1 The lots shall be consolidated into one title which shall be registered with the Department of Lands.

**10.3 Road Damage**

- 10.3.1 The cost of repairing any damage caused to Council's assets in the vicinity of the land as a result of the development works shall be met in full by the applicant/developer.

Note: Should the cost of damage repair work not exceed the road maintenance bond Council will automatically call up the bond to recover its costs. Should the repair costs exceed the bond amount a separate invoice will be issued.

**10.3.2 Vehicular Crossings**

- 10.3.2.1 A standard commercial and industrial vehicular footway crossing shall be constructed, in accordance with Council plan A(BS)103S.

**10.3.3 Footpaths**



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- 10.3.3.1 The footway area shall be fully restored in an appropriate manner to be free draining to the street and of neat appearance.

#### **10.4 Ancillary Works**

- 10.4.1 Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this consent effective. Such works shall include but are not limited to the following:

- (a) the relocation of underground services where required by the positioning of new drainage and road infrastructure.
- (b) the relocation of above ground power and telephone services.
- (c) the matching of new infrastructure into existing or future designed infrastructure.

#### **10.5 Service Authorities**

- 10.5.1 A final written clearance shall be obtained from Sydney Water Corporation, Integral Energy and Telstra (or any other recognised communication carrier) if such clearance (in the form of a Section 73 Certificate, Notification of Arrangement, etc) has not previously been issued.

#### **10.6 Temporary Facilities Removal**

- 10.6.1 Any hoarding or similar barrier erected to protect a public place shall be removed from the land and/or public place.
- 10.6.2 Any temporary toilet facilities provided during construction works shall be appropriately dismantled, disconnected and removed from the land.
- 10.6.3 Any temporary soil erosion control measure installed during development works shall be removed and other permanent measures required by Council's Soil Erosion Control Policy shall be provided.
- 10.6.4 Any temporary builder's sign or other site information sign shall be removed from the land.
- 10.6.5 Any temporary site access provided for the purpose of development works shall be removed and the kerb and gutter and/or previous roadworks reinstated in a manner satisfactory to Council. Should the reinstatement involve the provision of a new vehicular crossing, layback, kerb and gutter or road shoulder works the separate approval of Council's Maintenance Section shall be obtained (and any appropriate fees paid) prior to such works commencing.

#### **10.7 Fire Safety Certificate**

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10.7.1 An interim or final fire safety certificate complying with Clause 153 of the Environmental Planning and Assessment Regulation 2000 shall be issued prior to the use or change of use of the building, except in the case of any Class 1a and Class 10 building(s).

**10.7.2 Surveys/Certificates/Works As Executed plans**

10.7.2.1 A works-as-executed plan (to a standard suitable for microfilming) under the hand of a Chartered Professional Engineer or a Registered Surveyor must be lodged with Blacktown City Council when the engineering works are completed. The works as executed plan must confirm that the On Site Detention system identification plate has been installed in accordance with the Upper Parramatta River Catchment Trust Guidelines. The On Site Detention system identification plate can be purchased from Upper Parramatta River Catchment Trust /Council.

10.7.2.2 A certificate from a Chartered Professional Engineer/Registered Surveyor must be obtained and submitted to Council verifying that the on-site detention system as constructed will function hydraulically in accordance with the approved design plans.

10.7.2.3 A certificate from a Registered Engineer (NPER) must be lodged with Council verifying that the structures associated with the on-site detention systems have been constructed to withstand all loads likely to be imposed on them during their lifetime.

10.7.2.4 A certificate from a Chartered Professional Civil Engineer must be obtained and submitted to Council verifying that the constructed Stormwater Quality Control system will function effectively in accordance with Council's Stormwater Quality Control Policy.

10.7.2.5 Written evidence is to be obtained from the Roads & Traffic Authority indicating compliance with its requirements including the payment of any necessary works supervision fees.

10.7.2.6 All Inspection/Compliance Certificates required this consent shall be submitted.

**10.8 Fee Payment**

10.8.1 Any fee payable to Council as part of a Construction, Compliance or Occupation Certificate or inspection associated with the development (including the registration of privately issued certificates) shall be paid in full.

**10.8.2 Inspections**

10.8.2.1 Any additional Council inspections beyond the scope of any Compliance Certificate package and needed to verify full compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

**10.9 BASIX Certificate Compliance**

10.9.1 All requirements listed within the schedule of BASIX Commitments attached to the following BASIX Certificates for the development must be complied with prior to the issue of an Occupation Certificate for the development:

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## **10.10 Street Tree Planting**

- 10.10.1 Prior to the issue of the Final Occupation, all required street tree planting and payments of bonds are to be completed to Council's satisfaction.

## **10.11 External Finishes**

- 10.11.1 The development approved by Council is to be constructed in accordance with the approved schedule of materials, finishes and colours as submitted to satisfy Condition 4.3.1(a) of this consent. All landscaping, fencing, retaining walls and driveways are to be provided in accordance with the approved plans, and the details submitted and approved as part of the Construction Certificate.

## **10.12 Landscaping/Common Open Space**

- 10.12.1 All landscaping shall be completed in accordance with the approved landscaping design plan submitted as part of the Construction Certificate. All turfed areas shall be finished level with adjoining surfaces and graded to approved points of drainage discharge.
- 10.12.2 The common open space areas and podium levels are to be embellished with appropriate equipment, including heavy duty children's play equipment (which meet relevant Australian Standards), recreational facilities, permanent seating and security lighting. In this regard, all equipment and facilities shall be provided in accordance with the details submitted as part of the Construction Certificate.
- 10.12.3 The children's play area shall be provided with an approved soft fall surface material complying with the relevant Australian Standard, and is to be enclosed by pool-type safety fencing that includes a child-proof latchtop gate.
- 10.12.4 All common open space areas and internal driveways shall be appropriately illuminated by the use of bollard lighting or the like to provide for the safety and convenience of occupants and other people resorting to the land at night. The loading dock area and car parking areas must also be provided with sufficient lighting to enhance the safety of users.

## **10.13 Access and Car Parking**

- 10.13.1 All required internal driveways and car parking spaces are to be line-marked, appropriately signposted to indicate their intended usage, and sealed with a hard-standing, all-weather material to a standard suitable for the intended purpose. All signposting and parking required by the Parking Management Strategy is to be implemented.
- 10.13.2 All internal driveways and other paved areas are to be graded to provide continuous surface drainage flow paths to approved points of discharge.
- 10.13.3 Off-street car parking shall be encouraged by the installation of appropriate, permanent and prominent signs indicating its availability for tenants, customers, residents and visitors.

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10.13.4 Entrance/exit points are to be clearly signposted and visible from the street and the site at all times.

10.13.5 Access and parking for people with disabilities shall be provided in accordance with Australian Standard 2890.1.

10.13.6 Bicycle racks are to be provided on site in accordance with the Residential Flat Design Code (RFDC).

#### **10.14 Ancillary Work**

10.14.1 Each dwelling unit is to be provided with a mechanical drying appliance within the unit.

10.14.2 Mail boxes are to be provided on site in accordance with the requirements of Australia Post.

10.14.3 The awning must be constructed in accordance with the those details submitted as part of the Construction Certificate. The height and width of the awning must comply with the requirements of Council's Maintenance Section.

10.14.4 Plumbing services are to be provided to the ground floor commercial tenancy to enable the installation of a potential kitchen.

#### **10.15 Acoustic Measures**

10.15.1 Double glazing must be installed to those residential units facing the adjoining Church site.

#### **10.16 Waste Management Plan**

10.16.1 Evidence (e.g. in the form of receipts) is to be submitted to confirm that waste and recyclable materials have been managed and disposed of in accordance with the submitted Waste Management Plan held at Enclosure 2C on Council's File DA-09-1574.

### **11 OPERATIONAL (PLANNING)**

#### **11.1 Graffiti Removal**

11.1.1 Removal of any graffiti, visible from any public road or space, is the responsibility of the property owner/s. All graffiti must be removed within 48 hours.

#### **11.2 Access/Parking**

11.2.1 All required off-street car parking spaces and internal roads shall be maintained to a standard suitable for the intended purpose.

11.2.2 All loading and unloading operations shall take place at all times wholly within the confines of the site. All vehicles must enter and exit the site in a forward direction at all times.

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- 11.2.3 Access and parking for people with disabilities shall be maintained in accordance with provisions of Australian Standards 1428.1 and 2890.1.

**11.3 Retailing Restrictions**

- 11.3.1 The use of the land for retail activities is prohibited except with the prior separate approval of Council. Such approval can only be granted where the retail use is, in the opinion of Council, ancillary to and undertaken in conjunction with a genuine manufacturing purpose permitted in the industrial zone and being undertaken on the site.

**11.4 General**

- 11.4.1 No goods, materials or trade waste shall be stored or displayed at any time outside the building on either the internal vehicular driveway, car parking area, landscaping or footpath, other than in approved garbage receptacles.
- 11.4.2 Spillage of light, if any, shall be controlled so as not to cause nuisance to the amenity of adjoining land.
- 11.4.3 If artificial lighting is proposed full details are to be submitted indicating the manner in which adjoining properties are to be protected.
- 11.4.4 Should an intruder alarm be installed on the land it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 11.4.5 Emission of sound from the commercial tenancies shall be controlled at all times so as to not unreasonably impact upon nearby owners/occupants.
- 11.4.6 In order to minimise adverse impacts on future residents of the development, the following activities shall not operate outside of the following nominated times. Any alteration to these hours will require the separate approval of Council.

Approved hours of operation:

- (a) Commercial tenancies
  - Monday to Friday: 8.00am to 10.00pm
  - Saturday: 8.00am to 12 midnight
  - Sunday: 9.00am to 9.00pm
- (b) Gymnasium/podium levels and other communal open space areas
  - Monday to Friday: 8.00am to 10.00pm
  - Saturday: 8.00am to 12 midnight
  - Sunday: 9.00am to 9.00pm
- (c) Refuse and recycling collection

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Monday to Saturday: 8.00am to 9.00pm  
Sunday: 9.00am to 9.00pm

The above hours of operation are to be incorporated into any future Plan of Strata Management, contracts with tenants and refuse collection companies.

#### **11.5 Landscaping**

- 11.5.1 All landscaped areas provided in accordance with the approved landscaping design plan shall be maintained at all times in a suitable manner.

#### **11.6 Use of Premises**

- 11.6.1 The use of the approved development shall, at all times, be conducted in a manner consistent with the terms and conditions of this consent.

#### **11.7 Waste Management**

- 11.7.1 Arrangements shall be made for an effective commercial refuse removal service. In this regard, a private contractor must be engaged and appropriate provisions are to be included in the Strata Management Plan for the ongoing management of waste and recyclables on the property during the operations of the development. The following provisions must also be adopted:

- (a) The managing agent and future Body Corporate is to be responsible for ensuring the implementation of the ongoing waste management system in accordance with this Condition, including the collection of recycled materials from the residential levels and transporting them to the storage and collection room.
- (b) If the development is to be strata subdivided, a clause is to be included in the Plan of Strata Management to incorporate the requirements of this condition to address the ongoing management of waste and recycled materials in accordance with this Condition.

- 11.7.2 Contact details of the private contractor used to provide the collection services will need to be provided to Council once the development is operational.

Note: Residents will not be able to access Council's household clean up service, or garbage/recycling service.

- 11.7.3 All waste generated on site must be disposed of in accordance with the Waste Management Plan held at Enclosure 2C on Council's File DA-09-1574.

#### **11.8 Clothes Drying**

- 11.8.1 Clothes drying is to be conducted in the mechanical dryers. The drying of clothes on balconies (where visible from a public place) is prohibited. If the development is to be strata subdivided, a clause is to be included in the Plan of Strata Management prohibiting the drying of clothes on balconies (where visible from a public place).

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**12 OPERATIONAL (ENVIRONMENTAL HEALTH)**

**12.1 Environmental Management**

- 12.1.1 All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- 12.1.2 All waste shall be stored suitably and disposed of by an appropriate waste contractor. Under no circumstances is waste from the activity to be disposed of through Council's waste collection services.
- 12.1.3 Within 3 months of occupation of the proposed development, an Environmental Noise Assessment should be conducted by an appropriately qualified person and submitted to Council for consideration. The assessment should address potential for impact on the site, as well as the noise impact generated by the proposal.
- 12.1.4 Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.

**12.2 Noise Attenuation**

- 12.2.1 The proposed development is to comply with the recommendations of the Acoustic Assessment prepared by Heggies Pty Limited dated 16 October 2009 and held at Enclosure 97A on Council's File JRPP-09-1574.