

Report to Sydney West Joint Regional Planning Panel

JRPP No:	2009SYW013
DA No:	JRPP-09-2379
Local Government Area:	Blacktown
Proposed Development:	Demolition of the old Lochinvar Motel, staged subdivision and construction of a Mixed-Use Development comprising 17 ground level retail/commercial tenancies, 198 residential units and 2 levels of basement car parking.
Development Type:	“Regional Development” – Capital Investment Value >\$20 million
Lodgement Date:	24 September 2009
Land/Address:	Lot 4, DP 870330, H/N 6 Merriville Road, Kellyville Ridge
Land Zoning:	2(a) – Residential and 3(b) – Special Business pursuant to Blacktown Local Environmental Plan 1988
Applicant:	Kanebridge Property Investments
Number of Submissions:	892 submissions (i.e. 219 individual submissions from 127 households and 673 pro forma submissions from 393 households)
Report Author:	Rebecca Gordon, Town Planner
Recommendation:	Approval
Instructing Officers:	Judith Portelli, Manager Development Services & Administration and Trevor Taylor, Acting Director City Strategy & Development



Figure 1: Photomontage of the Proposed Development

ASSESSMENT REPORT

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1. Executive Summary

- 1.1 Blacktown City Council is in receipt of a Development Application (DA) from Raindera Pty (c/o Design Cubicle Pty Limited) for the demolition of the existing dilapidated Lochinvar Motel, staged subdivision and construction of a mixed-use commercial/retail and residential development at H/N 6 Merriville Road, Kellyville Ridge. The proposed development constitutes 'Regional Development' requiring referral to a Joint Regional Planning Panel (JRPP) as it has a Capital Investment Value of \$30.5M. 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 accordingly forwarded to the Panel for its consideration.
- 1.2 The DA plans originally submitted to Council in September 2009 provided 23 retail and commercial tenancies forming a small neighbourhood centre, 4 residential flat buildings ranging in height from 2 storeys to 8 storeys, and 495 basement car parking spaces over 2 levels. A total of 268 residential units, including 51 x 1 bedroom units, 183 x 2 bedroom units and 34 x 3 bedroom units were proposed.
- 1.3 An assessment of the original plans identified a number of issues and deficiencies with the proposal, including non-compliance with the 3(b) Special Business zone objectives and the exhibited draft LEP amendment, height, setbacks to Clonmore Street, use of the 6 metre Right of Carriageway, privacy, overshadowing, parking, loading/unloading, traffic, waste collection and non-compliance with State Environmental Planning Policy (SEPP) No. 65 and the Residential Flat Design Code (RFDC). Various concerns were also raised by the Quakers Hill Police and the Sydney Regional Development Advisory Committee (SRDAC). The applicant was therefore requested to submit amended plans that addressed all of the identified issues.
- 1.4 Following this, the applicant submitted various sets of amended plans for Council's consideration. The final version included 17 ground level retail/commercial tenancies forming a small neighbourhood centre, 4 residential flat buildings ranging in height from 2 storeys to an upper limit of 5 storeys, and 2 levels of basement car parking for each building. A total of 198 residential units, including 46 x 1 bedroom units, 116 x 2 bedroom units and 37 x 3 bedroom units were proposed. Each unit has a functional floor plan consisting of 1, 2 or 3 bedrooms, kitchen, living areas and internal laundry area. The private balconies/courtyards have been designed as an extension of the living areas and are large enough to accommodate a table and chairs.
- 1.5 The proposed development generates the need for a total of 377 car parking spaces. In this regard, 226 resident car spaces, 80 visitor car spaces and 67 retail/commercial car spaces are required. In addition to this, Council also requested that 1 courier space be provided under each building (i.e. 4 courier spaces in total). The proposed development provides for a total of 406 car parking spaces and therefore well exceeds Council's minimum parking requirements.
- 1.6 The proposal includes 1,338sq.m of commercial floor space and 805sq.m of retail floor space. At this stage tenants have not been nominated for the 17 retail and commercial premises. The applicant has indicated that the retail and commercial uses will operate between 8.00am and 10.00pm, 7 days a week. Given that the proposal is for a mixed-use development and that late night operations may have the potential to impact on the future residents of the development, it is recommended that trading till 10.00pm be limited to Thursday-Saturday nights only. On Sundays to Wednesdays is recommended that all retail/commercial activities cease operations at 9.00pm. This matter will be addressed as a **condition** of any consent granted.
- 1.7 Deliveries to the proposed retail/commercial tenancies will be undertaken by a variety of vehicles up to and including 12.5m long medium rigid trucks. The majority of deliveries,

however, will be by light commercial vehicles, vans and the like. 1 unloading bay/courier space is proposed under each building (4 in total) to accommodate deliveries by these vehicles. Separate loading bays have also been located within the basement levels to accommodate garbage collection. In addition, 2 loading bays are proposed at ground level, on either side of the proposed internal road roundabout. The proposed loading bays have been designed to accommodate the swept turning path requirements of a 12.5m long truck and will be for the exclusive use of large trucks only. No deliveries by vans or light commercial vehicles will be permitted in these areas. The loading bays will be signposted as “Reverse In Only” and the use and operation of the loading bays will be supervised by the on-site centre manager. Deliveries to the retail/commercial tenancies will also be undertaken outside core business hours to eliminate any potential conflict with residents and customers. Suitable **conditions** will be imposed on any consent granted to address loading and unloading operations.

- 1.8 In addition to the commercial/retail tenancies, the private central access road, 2 loading bays and 9 car parking spaces, the ground level also includes ground floor residential units, a children’s playground and landscaped areas. The common landscaped areas will be embellished with seating, water features, pathways, pergolas and appropriate plantings. The children’s play and ball games area, located within the central courtyard of Building ‘B’, will be available for the exclusive use of the residents of the development. Additional “resident only” recreation areas, will be provided within the central courtyards of Buildings ‘C’ and ‘D’ and on the roof-top of each building. These areas will include outdoor seating, gazebos and barbeques, raised planter boxes, water features and pergolas.
- 1.9 In the absence of a FSR, building envelope or density control within BDCP 2006, full compliance Council’s common open space controls 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 for the site. Council Officer’s calculations indicate that the development must be provided with a total of 7,930sq.m of common open space. The proposal provides 3,316sq.m of common open space at the ground floor level, 4,968sq.m of private balcony/terrace area, and 3,687m2 of roof top open space. Given balconies/terraces can only contribute to 30% of the total common open space requirement, the balcony contribution is calculated to be 2,379sq.m. Similarly, the roof top space can only contribute to 30% of the total common space requirement and as such, is calculated to be 2,379sq.m. The total amount of common open space provided as per the DCP requirement is therefore calculated to be 8,074sq.m (i.e. 3,316sq.m + 2,379sq.m + 2,379sq.m). The common open space on site therefore exceeds the minimum requirement of the DCP by 144sq.m.
- 1.10 The ground floor level of Building ‘A’ (south-east corner) contains a mix of retail and commercial tenancies only. As such, the central courtyard of Building ‘A’ will be accessible to the public during business hours. After hours, this area will be restricted to residents only. It is proposed that these ground level retail/commercial tenancies will be occupied by active uses including cafes and restaurants, to encourage outdoor dining and activity within this central courtyard area. Details of the façade treatments will be required prior to the release of any Building Construction Certificate, to ensure good visibility is maintained in this area. In this regard, it is considered desirable to provide glazed shop “fronts” and “backs” to allow unrestricted sight lines between the street and the central courtyard area. This matter will be addressed via suitable **conditions** of any consent granted.
- 1.11 The subject site is zoned 3(b) Special Business pursuant to the provisions of Blacktown Local Environmental Plan (BLEP) 1988. The 3(b) zoning was introduced in 1991 as part of the Parklea Release Area Local Environmental Plan (LEP), to support the development of the nearby Mungerie Park Regional Centre (now Rouse Hill Town Centre) and in recognition of the

existing commercial use of the site. Since 2003, the owner of the land has attempted to unsuccessfully develop the site for various uses. A small portion of the site, which currently encroaches into the Clonmore Street road reservation, is zoned 2(a) Residential pursuant to BLEP 1988. This portion of the site will be required to be dedicated to Council as a **condition** of any Consent if granted.

- 1.12 The proposed development seeks to develop the site for a mix of residential, commercial and retail uses. It should be noted that only limited retailing activities are permitted in the 3(b) Special Business zone. In this regard, shops/retailing activities are prohibited in the 3(b) Special Business zone unless it can be demonstrated that they “service the daily convenience needs of the locality”. A site-specific clause, however, was inserted into Clause 41A of BLEP 1988 earlier last year to permit shops on the subject site, “subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m”. The proposed development complies with this restriction. The proposed development, being for a mixed use (i.e. a combination of “commercial premises”, “shops” and “residential flat building”) is therefore permissible under in the 3(b) zone with development consent.
- 1.13 As part of the assessment process, the DA was referred to various internal sections of Council, the RTA/Sydney Regional Development Advisory Committee (SRDAC) and the Quakers Hill Local Area Command (LAC) for consideration. Council’s Parks & Recreation and Civil Maintenance Sections have raised no objection to the proposed development subject to appropriate conditions being imposed on any consent. Council’s Development and Drainage Engineers have raised no objection to the development subject to appropriate drainage conditions. Council’s Building Surveyors have also raised no objection subject to standard demolition **conditions** be imposed on any consent granted. Given the high potential for asbestos containing material (ACM) to be contained within the old derelict Motel, a qualified Site Auditor accredited by the NSW Office of Environment and Heritage (under the provisions of the Contaminated Land Management Act 1997) will be required to undertake appropriate investigations and make recommendations for the remediation of the land. Suitable **conditions** will be imposed to address this matter and to ensure the ACM is removed and disposed of in accordance with current regulations and guidelines. A **condition** will also be imposed requiring that after any asbestos has been removed from the site, that a validation of the soil be conducted to ensure there is no residual soil contamination.
- 1.14 Council’s Coordinator Sustainable Resources has raised no objections to the proposal provided collection of waste/recycling is undertaken by a private contractor twice a week. This matter will be addressed by a suitable **condition** of any consent. Council’s Environmental Health Unit has raised no objections to the proposal subject to suitable **conditions** including a requirement that the development comply with the recommendations of the amended Acoustic Assessment. In this regard, the Acoustic Consultant has advised that double glazing and acoustic louvers will adequately address the concerns raised by Council and on behalf of the Ettamogah Hotel and McDonalds.
- 1.15 The subject site is not located on or in the vicinity of any statutory listed heritage item. The nearest Heritage Item to the subject site is Merriville House and Gardens: State Heritage Item (SHI) 00091, which is located approximately 500 metres away. While the proposed development will not be visible from Merriville House and Gardens, Council’s Heritage Officer indicated that the ridge line and treescape, within which the SHI is located, is visible from Windsor Road and that this visual may have some historical significance. Following a detailed assessment it was recommended that a plaque be installed at the entry to the proposed Mixed-use Development indicating the location of Merriville House (i.e. a State Heritage item in the area) and its significance to the naming of Merriville Road. It was also recommended that a ‘Tourist Information Board’ be provided within the proposed retail

precinct of the proposed development providing details regarding the significance of Merriville House, the Battle at Vinegar Hill and Windsor Road. Details of Mungerie House, which is a heritage item in The Hills Shire Local Government Area, will also be displayed on the 'Tourist Information Board'. Details of the plaque and 'Tourist Information Board' will be required to be submitted to Council for separate approval, prior to the release of any Building Construction Certificate. This matter will be addressed as a **condition** of any consent granted.

- 1.16 Following lodgement of the original DA with Council, the Quakers Hill Police Local Area Command (LAC) was provided an opportunity to view the application and undertake a 'Safer by Design' Evaluation. The DA, as originally proposed, contained 268 residential units, 23 retail/commercial tenancies and 495 car parking spaces. A formal Crime Safety/Prevention Audit was not submitted with the original proposal. After undertaking a detailed evaluation in October 2009, the Crime Prevention Officer at Quakers Hill LAC advised that the proposed development had a "High" crime rating. The Quakers Hill Police therefore strongly objected to the proposal. In order to help reduce opportunities for crime, the Crime Prevention Officer recommended that a range of 'Crime Prevention Through Environmental Design' (CPTED) treatments be considered for the development.
- 1.17 The applicant responded to the issues raised and in July 2011 the Police advised that the Quakers Hill LAC no longer has any objections to the proposed development subject to appropriate conditions. In this regard, the Crime Prevention Officer is satisfied that most of the CPTED principles can be met (i.e. security, natural/passive and controlled surveillance, environmental maintenance, landscaping, territorial re-enforcement, space/activity management, lighting, access control measures, general maintenance, fencing and graffiti management). The Crime Prevention Officer, however, did indicate that there were still concerns in relation to the security of the basement car park and the potential for a high level of theft to occur in this area. Accordingly, it has been recommended that a roller shutter out-of-hours system be installed at the entry points of the basement car park and at the segregation points between the commercial/visitor and residential parking areas. The Crime Prevention Officer has also indicated that chain link fencing should not be provided to segregate resident parking, as this will not deter the 'would be' thief. Ideally, masonry walls from floor to ceiling with a roller shutter and appropriate locking mechanisms should be provided. However, if this is not a viable option the Police strongly recommend that welded mesh security fencing be installed to segregate each parking compound. Provided these matters can be addressed, the Police agree that the 'Safer by Design' rating can be downgraded and classified as "Low". It is therefore recommended that as a **condition** of any consent granted, the applicant be required to liaise with the Quakers Hill Crime Prevention Officer to develop a satisfactory design solution which addresses these remaining concerns.
- 1.18 A detailed assessment of the proposal has been undertaken by the former Roads and Traffic Authority (RTA) and Council's Traffic Management Section (TMS). Although the development site has a secondary frontage to Clonmore Street, all vehicular access to the development site is proposed via a new roundabout on Merriville Road. Merriville Road is the main collector road into and out of Kellyville Ridge. The internal roadway into the site will form the northern arm of the new roundabout, while the eastern driveway of the Ettamogah Hotel and Dan Murphy's will become the southern arm of the roundabout. The design of the roundabout, with its 2 approach and exit lanes for eastbound traffic and 1 approach and exit lane for westbound traffic, is the result of lengthy discussions and negotiations with the RTA.
- 1.19 The RTA has recommended that a median be constructed in Merriville Road from Windsor Road to the proposed roundabout to minimise congestion and reduce the likelihood that traffic will queue from Merriville Road onto Windsor Road. Whilst it is acknowledged that there are traffic related issues associated with the ingress/egress arrangements to the

McDonald's Restaurant and the Woolworths Service Station from Merriville Road, the applicant argued that this is an existing problem and therefore falls outside the scope of the application. Council Officers agree that any proposal to construct a median in Merriville Road should be dealt with separately, at which time McDonalds, Woolworths and any other affected parties would need to be consulted directly.

- 1.20 The primary concern of any new development is the effect that any additional traffic may have on the operational performance of the nearby road network. All evidence suggests, however, that the current traffic condition is adequately managed by the traffic signal controlled intersection at Windsor Road. Modelling undertaken by Varga Traffic Planning indicates that even under the 5 and 10 year scenarios, queuing in Merriville Road is not expected to reach the proposed new roundabout.
- 1.21 Given Council Officers and the RTA were still concerned that the proposed development may exacerbate the existing traffic problems in the area, Council resolved at its Ordinary Meeting on 9 February 2011 that Council undertake its own detailed multi-day traffic count at the intersection of Merriville Road and Old Windsor Road. Council's TMS undertook the independent traffic and queue length survey during the peak weekday traffic periods. The approximate distance between the proposed roundabout and the Windsor Road traffic signal is 114m. The queue length survey indicated that the maximum number of vehicles queuing back from the intersection at any one time (one signal cycle) is 17 vehicles which is approximately 100m. Based on the queue length survey, the existing queue length will therefore finish just short of the proposed roundabout. The proposed roundabout was also analysed with SIDRA software. The analysis was based on a lane configuration of 2 approach and exit lanes for eastbound traffic and 1 approach and exit lane for westbound traffic as agreed to by the RTA. The operation of the roundabout was also tested for the future years of 2020, 2025 and 2030 allowing a 2% growth in the background traffic. The 2% growth was allowed as a worst case scenario, but in reality is expected to be less. The traffic modelling has confirmed that the proposed development will not have any appreciable effect on the operational performance of the adjacent road network and that queue lengths are adequately managed by the current lane configuration.
- 1.22 While it recognised that there is a significant amount of traffic in the area and there are traffic management issues that must be addressed, it should be recognised that the issues are existing ones and would require attention regardless of the proposed Development Application. All evidence indicates that the traffic issues in the area are not caused by the proposed development, and the proposed development will not further exacerbate the existing traffic issues. It should be recognised that the provision of a new roundabout on Merriville Road will actually help to resolve some of the existing problems on Merriville Road. It will assist right hand turn movements into and out of the Ettamogah Hotel site and will provide an alternate route for westbound traffic wishing to enter the McDonalds/Woolworths site via a right-turn off Merriville Road. In this regard, the roundabout will enable customers to undertake a U-turn and enter the site via a simpler and safer left-turn into the McDonalds/Woolworths site. This will also help to reduce the likelihood of traffic queuing back to Windsor Road. The roundabout is also likely to help provide breaks in the flow of traffic on Merriville Road thereby allowing vehicles to turn right out of the McDonalds Restaurant and Woolworth Service Station access driveway with a far greater degree of safety. The installation of "No Stopping" restrictions across the frontage of the site will further improve safety at the McDonalds/Woolworths site access driveway.
- 1.23 As part of the notification and public exhibition process, Council referred the revised development proposal to the RTA, together with updated Traffic Reports and survey data. The RTA advised in their correspondence dated 21 January 2011 that they have no objection to the

current development proposal, subject to appropriate **conditions** including that the right turn lane on Windsor Road be lengthened by an additional 50 metres at full cost to the developer. The RTA's recommendations will form **conditions** of any consent granted.

- 1.24 Given the overwhelming number of traffic related objections received as a result of the public notification process, Council thought it prudent to engage an independent traffic consultant to undertake an assessment of the proposal. In response, Road Delay Solutions Pty Ltd was engaged to review the applicant's Traffic Report and its validation, and Council's assessment of the applicant's Traffic report. Road Delay Solutions Pty Ltd concluded that Blacktown City Council has adequately addressed all traffic issues pertaining to the proposed Development Application. Road Delay Solutions P/L recommended, however, that an assessment of the traffic implications and operational performance of the road network subject to the planned expansion of the NWGC be undertaken.
- 1.25 Council's Manager Transport and City Projects has advised that a further review of the road network impacts under the demands of the NWGC expansion is unnecessary given Council's own independent assessment was based on traffic volumes which well exceed those quoted in Road Delay Solution's independent Traffic review. In this regard, Council's modelling was based on 988 vehicles heading east and 1153 vehicles heading west along Merryville Road during the am peak period. In comparison, the independent assessment was based on only 459 vehicles heading east and 579 vehicles heading west during the same period. Council's assessment therefore addresses all concerns and indicates that a further review is unwarranted.
- 1.26 A detailed assessment has been undertaken against the provisions of Blacktown Development Control Plan (DCP) 2006. The proposed development is fully compliant with the provisions of Council's DCP's with the exception of the front setback to Merryville Road (for the second floor level only), the internal distance separation requirements and the solar access requirements to the ground level common open space. However, given the non-compliances are considered minor it is recommended that the development be supported in its current form.
- 1.27 The issue of height is discussed under Sections 8.3(d)ii. and 8.4(a)v. of the report. The Business Zones DCP states that the height of any building within a local centre should not exceed 2 storeys. The subject application seeks approval for a mixed-use development. While the proposed commercial/retail component of the development is limited to the ground level only and therefore complies with the DCP, the residential portion of the development does not. It should be recognised, however, that "Residential Flat Buildings" typically exceed 2 storeys in height and that Residential Flat Buildings are a permissible land use in the 3(b) zone under the LEP. It would therefore be unreasonable to insist that this permissible form of development be restricted to 2 storeys only.
- 1.28 The original proposal lodged with Council was to construct an 8 storey mixed-use development. Council Officers consistently advised the applicant that the level of development was excessive, out-of-character and could not be supported. While Council Officers could not confirm an acceptable height until all aspects of the DA had been assessed, the applicant was advised that a non-compliance with the 2-storey height limit would be considered for the residential flat component of the development given that "Residential Flat Buildings" are a permissible land use in the 3(b) zone and are not typically 2 storeys in height.
- 1.29 As a redesign starting point it was suggested that the proposal be based on similar, already approved commercial mixed-use proposals and the heights agreed by Council in those instances. In this regard, Council has previously considered variations to the local centres 2 storey height limit where the development has been designed so that the impact on the adjoining 2(a) Residential land is no greater than for a complying height development and

where the proposed development demonstrates a high degree of compliance with all of Council's other requirements. Section 8.3(d)ii. of the report provides a table of mixed use developments in the commercial zones where Council has previously granted approval for development above the 2 storey height limit. The table demonstrates that this is not a one-off variation and that Council has a history of dealing with increased heights in local centres on its merits.

- 1.30 In the absence of any specific controls for residential flat buildings in local centres, the application has been assessed against those controls applying to residential flat building development in the residential zones. In residential areas, the surrounding land uses are typically of a more sensitive nature than in commercial zones and as such, it is considered that there would be no negative impacts in applying the residential controls to a commercial context. In this regard, the DCP for development in residential zones states that on sites within the 2(c) Residential zone the height limit is 4 storeys, except in areas that directly interface with the 2(a) Residential zone (i.e. across the road from or adjacent to land zoned 2(a) Residential, such is the case with this site) where the number of storeys permissible is 3 storeys for that part of the residential flat building development closest to the single lot housing. On large sites exceeding 5,000sq.m, however, favourable consideration may be given to development up to 5 storeys where suitable transition scales are demonstrated in respect to adjacent properties. Given that the proposed development is a permissible form of development in the 3(b) Special Business zone, that the proposed heights comply with the controls for residential flat development in residential areas (i.e. the site is 13,580sq.m in area and therefore could be considered for 5 storey development) and that a maximum height limit of 2 storeys has been applied closest to the single lot housing (as opposed to 3 storeys which would be permitted if the site was zoned 2(c) Residential), it is believed that the height of the development is sympathetic to the adjoining existing development and will have minimal impact on the surrounding land uses. Given the proposed development has also demonstrated a high degree of compliance with the other requirements of the DCP, and has provided varied heights across the site to reduce concerns relating to bulk and scale, it is recommended that the variation be supported.
- 1.31 The proposal is also 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). In this regard, the development complies with all of the numerical recommendations of the RFDC except for the distance separation requirement. It should be noted, however, that the main non-compliance is within the internal courtyard of one building, is limited to point encroachments only and is mainly at the 5th floor level. Furthermore, the non-compliance does not compromise the amenity or privacy of the proposed apartments as windows have been offset. Given the dual orientation of the units, solar access and natural ventilation is also not reduced by the variation. While the RFDC recommends that a greater building separation should be provided at the 5th floor level, in reality the occupants at the 5th floor will experience no greater amenity impacts than those occupants residing at the 4th floor.
- 1.32 It should also be noted that the provision of a suitable building separation is not only required to address issues such as amenity, visual and acoustic privacy, and solar access. Separation requirements are also required to ensure appropriate massing and spaces between buildings. While the proposed development does not comply with the recommended building separation requirements of the RFDC, it should be noted that the varied building setbacks and heights across the site, the provision of large common terrace areas at the 4th floor level, and the varied balcony sizes and shapes all help to provide a well articulated and designed building.

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- 1.33 The amenity of the units, whilst not strictly meeting all of the numerical standards of the RFDC, does meet its intent. It is therefore strongly considered that the proposal in its current layout has design merit and should be supported despite the minor non-compliance with the distance separation requirement. 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 (as is the case here) should not warrant refusal of the application.
- 1.34 The proposed development, in its amended form, was notified to all property owners and occupiers located within a 500m radius of the subject site and located within the Blacktown City Council LGA. This equated to approximately 850 letters. The Hills Shire Council and all nearby property owners/occupiers located along the eastern side of Windsor Road were also notified of the proposal. The Development Application was also advertised in the local newspapers and placed on public exhibition between 1 December 2010 and 25 January 2011. The notification process was undertaken in accordance with Blacktown Development Control Plan 2006: Part K – Notification of Development Applications. Given the overwhelming public interest in the application, the standard 2 week notification period specified under BDCP Part K was extended to 8 weeks.
- 1.35 As a result of the notification/advertising process, a total of 892 submissions (i.e. 219 individual submissions from 127 properties and 673 pro forma submissions from 393 households) were received objecting to the proposal. The main grounds for resident concern include height, bulk, scale, design, overshadowing, noise, privacy, crime and safety, traffic, parking and impacts on property values. The grounds for objection are noted and where necessary appropriate conditions will be imposed on any consent to ameliorate any potential concerns. It is also noted that many of the objections relate to existing issues that would require attention regardless of the proposed Development Application. The grounds for objections are therefore not considered sufficient to warrant refusal of the application.
- 1.36 As outlined above, the proposal is fully compliant with the DCP with the exception of minor non-compliances to the front street setback, the internal distance separation requirements and the solar access requirements to the ground level common open space. Overall the development is considered satisfactory with regard to relevant matters such as siting and design, bulk and scale, privacy, access, traffic impacts, parking, stormwater drainage and the like. The proposed development has been assessed against the relevant matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, including the suitability of the site and the public interest and is considered satisfactory.
- 1.37 In light of the above, it is recommended that the proposed development be approved subject to the conditions documented at **Attachment 1** to this report.

2 Location

- 2.1 The subject site is located at the gateway to the well established residential suburb of Kellyville Ridge. Kellyville Ridge is located 41km west of Sydney CBD, within the North West sector of the Sydney metropolitan region and has been undergoing development since the mid 1990s. Kellyville Ridge is bound by Schofields Road in the north, Parklea Prison in the south, Second Ponds Creek in the west and Windsor Road in the east. Windsor Road is a major arterial road and forms the boundary between the local government areas of Blacktown and Baulkham Hills.
- 2.2 The subject site is located on the northern side of Merriville Road, approximately 100 metres west of Windsor Road. The location of the subject site is shown in Figure 2 below. The land immediately surrounding the subject site is currently zoned 3(b) Special Business, 2(a)

Residential and 2(c) Residential, and is characterised by a mix of commercial, retail and residential land uses. To the west of the site is the residential suburb of Kellyville Ridge, which contains a mix of single and 2 storey detached dwelling houses. The adjoining residence fronting Merriville Road is 2 storeys and is setback 3.5m from the common side boundary, while the adjoining dwelling fronting Clonmore Street is single storey and is set back 5m from the common boundary. The main housing type in the area is single detached dwellings, although there are several medium density/residential flat buildings located adjacent to and near Windsor Road. In this regard, the land immediately to the north of the site and along Windsor Road is zoned 2(c) Residential and has been developed with a cluster of 4 storey residential flat buildings. Immediately to the east of the site are 3 commercial properties, each with frontage to Windsor Road. 2 of the allotments are developed and contain the existing Woolworths Plus Petrol Station and a McDonald's Family Restaurant. The remaining lot is vacant, however approval has previously been granted for the purposes of a 2 storey commercial building on the site. Directly opposite the site, on the southern side of Merriville Road, is the Ettamogah Hotel and a Dan Murphy's bottle shop. The Hotel and bottle shop contain at grade car parking for approximately 300 vehicles. These car spaces are available for patrons only.

2.3 Kellyville Ridge also contains a local State Primary School, a Catholic Primary School and several parks and reserves, which are all within walking distance of the subject site. The nearest state High School is located at Glenwood, while Rouse Hill Anglican College and Stanhope Gardens Catholic School are located in adjoining suburbs. While the subject site and adjoining properties are zoned for business purposes, there are no retail shopping centres in Kellyville Ridge. The nearest retail centres are Stanhope Village which is approximately 2km away and the Rouse Hill Town Centre which is approximately 1.5km away.

2.4 Kellyville Ridge is not serviced by rail. Private buses, however, do service the area. Hillsbus provides services to Sydney CBD, Parramatta and the Rouse Hill Town Centre, while Busways provides services to Castle Hill, Kellyville and Blacktown. A Bus Transitway (T-way) is located along Windsor Road, approximately 50 metres west of the site. Although bus services are available in the area, there is still a high dependency on private car for travel.



Figure 2. Location Map (Source: Blacktown City Council)

3 Site Description

- 3.1 The subject site comprises of a single allotment, known as Lot 4, DP 870330, H/N 6 Merriville Road, Kellyville Ridge. The development site is regular in configuration and has a frontage of approximately 110m to Merriville Road, a depth of approximately 115m metres and a total site area of 1.358 hectares. A 6 metre wide right-of-way (ROW) runs along the entire length of the site's eastern boundary. The ROW provides vehicular access to a vacant commercial allotment (Lot 13, DP 1067209) fronting Windsor Road. The proposed development does not seek to utilise the ROW.
- 3.2 The site has a secondary frontage to Clonmore Street. All vehicular access to and from the development, however, will be obtained via a new roundabout on Merriville Road. While there will be no vehicular access from Clonmore Street, restricted pedestrian access will be available.
- 3.3 The site is currently bounded by a wire fence along Merriville Road, and colorbond fencing on the western and northern boundaries adjacent to residential properties, and along the eastern boundary adjacent to the McDonalds, Service Station and vacant allotment. Apart from the disused and dilapidated Lochinvar Motel which is located adjacent to the site's eastern boundary, the subject site is undeveloped. Although fenced off from the remainder of the site,

the motel has been heavily vandalised. The subject Application seeks concurrent approval to demolish the single storey motel building. Appropriate **conditions** would be required on any development consent, given the building has been identified as containing asbestos.

3.4 The presence of reeds in the northern section of the site indicates the location of a stormwater pathway. A concrete culvert is also located adjacent to the northern boundary of the site. The remaining portion of the site is predominantly vacant. The site is devoid of any significant vegetation although all soil surfaces are well vegetated with grass. Development of the site would remove all existing vegetation, rubbish and debris from the area. An aerial view of the subject site and its surrounds is provided in Figure 3 below.



Figure 3. Aerial Photo of Subject Site and its Surrounds (Source: Blacktown City Council)

3.5 The subject site is zoned 3(b) Special Business pursuant to the provisions of Blacktown Local Environmental Plan (BLEP) 1988 as shown in Figure 4 below. The purpose of the 3(b) Special Business zone is to accommodate uses such as commercial offices, light industrial activities 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 with retail activities within the 3(a) zone. A Planning Proposal, however, was adopted by Council earlier this year to insert a site-specific clause into BLEP 1988 to permit retailing up to 2000sq.m on the site. This is in addition to the office/commercial activities already permitted under the 3(b) Special Business zone. The 3(b) zone also permits all forms of housing, including residential flat buildings, with development consent. The proposed mixed-use development is therefore permissible under the current zoning with development consent. It is also noted that a small portion of the site, which currently encroaches into the Clonmore Street road reservation, is zoned 2(a) Residential pursuant to BLEP 1988. This portion of the site will be required to be dedicated to Council as a **condition** of any Consent if granted.

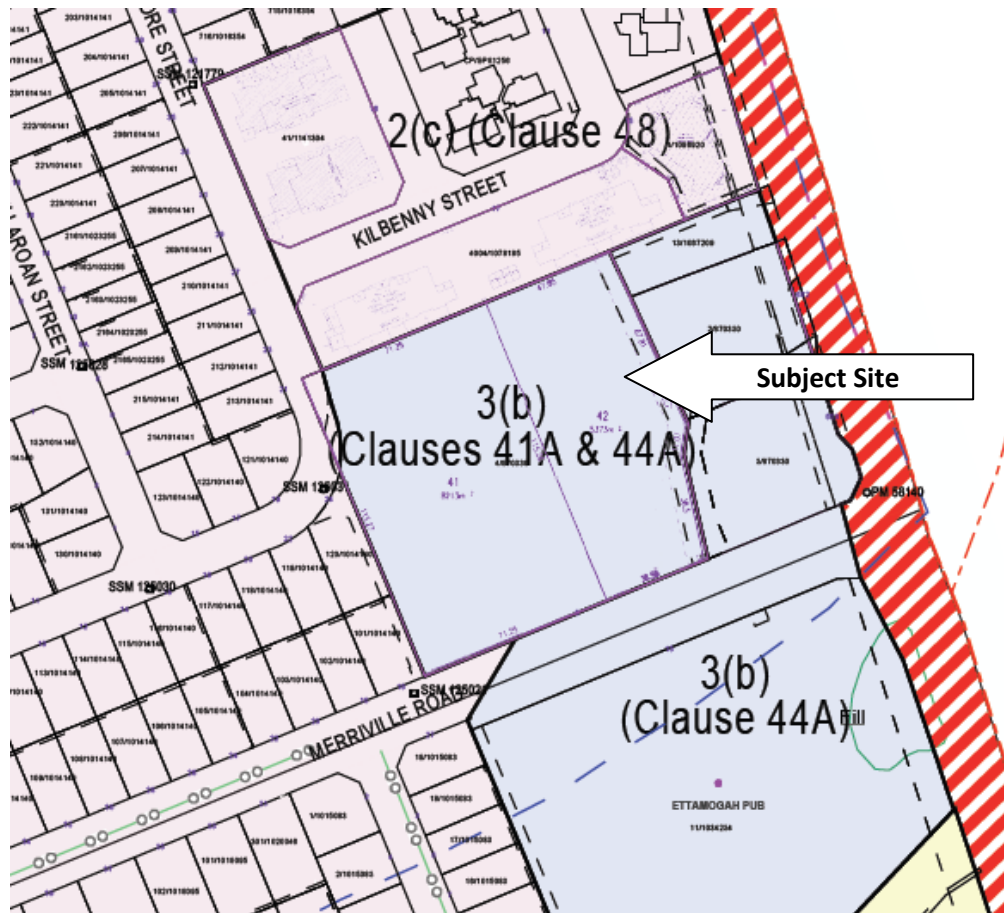


Figure 4. Zoning Plan (Source: Blacktown City Council Local Environmental Plan 1988)

4 History and Current Use of the Site

- 4.1 The subject site is currently occupied by a small single-storey motel. Historic investigations have revealed:
- The subject site was cleared prior to 1949;
 - Between 1949 and 1961 the Lochinvar Motel was constructed on the eastern section of the site;
 - Major changes occurring over the site consisted of changes to the creek running across the site with parts of the creek being filled in;
 - Between 1982 and 1994 the Lochinvar Motel was extended in a northerly direction. Additional accommodation, a restaurant and functions rooms were added;
 - The motel has since become derelict. The western portion of the site has always remained vacant.
- 4.2 The subject site is currently zoned 3(b) Special Business pursuant to the provisions of Blacktown Local Environmental Plan (BLEP) 1988. The 3(b) zoning was introduced in 1991 as part of the Parklea Release Area Local Environmental Plan (LEP), to support the development of the nearby Mungerie Park Regional Centre (now Rouse Hill Town Centre) and in recognition of the existing commercial use of the site.
- 4.3 Part of the subject site was previously zoned 5(a) Special Uses – Public Transport Corridor. However, the former Department of Urban Affairs and Planning (now DPI) and the NSW

Department of Transport confirmed that the 5(a) corridor was surplus and consented to its elimination. On 26 September 2001 it was therefore resolved to rezone that portion of land to 3(b) Special Business in accordance with the adjoining land use zone.

- 4.4 Since 2003, the owner of the land has attempted to unsuccessfully develop the site for various uses. On 30 January 2003, an application (DA-03-292) was lodged with Council for the construction of a bulky goods retail establishment comprising 20,800sq.m of retail floor space and 493 off-street car parking spaces. The proposed development contained 2 levels of bulky goods floor space, above 2 levels of car parking, one of which was totally below ground.
- 4.5 The Development Application was refused by Council on the grounds that it was inconsistent with the stated objectives and purpose of the 3(b) zone, Clause 34(a) of BLEP, Council's retail hierarchy, REP 19 and draft SEPP 66, and was likely to result in delay of the development of bulky goods retail outlets in the Mungerie Park Regional Centre (now Rouse Hill Regional Centre). Furthermore, it was considered that the location of the site was inappropriate given that it was isolated from any other similar forms of development, adjoined low density residential development and was prominently located at the entry to the residential estate. The height, bulk and size of the development were also considered to be out of character and unsympathetic with adjoining and nearby low density residential properties, and therefore were not in the public interest. This decision was later upheld by the NSW Land and Environment Court (Stadurn Pty Limited v Blacktown City Council [2004] NSWLEC 348 (2 July 2004) [11626 of 2003]).
- 4.6 On 4 November 2005, an Application (DA-05-3153) was then lodged for a neighbourhood shopping centre. The proposed shopping complex was part single storey and part 2 storey, and included 3,750sq.m of retail floor space at the ground level (including a 1,500sq.m supermarket), 2,135sq.m of office space at the first floor level and 241 car parking spaces.
- 4.7 Shops/retailing activities are prohibited in the 3(b) Special Business zone unless it can be demonstrated that they service the "daily convenience needs of the local community". It was therefore questionable whether the supermarket and retail floor space proposed by the development would be permissible under the subject zoning of the site. Although the applicant argued that the type and scale of retailing proposed by the application would be analogous to a typical neighbourhood shopping centre, it was also acknowledged that it was open to interpretation and could be argued to be inconsistent with the provisions of the 3(b) zone which permits only limited retailing activities.
- 4.8 Council Officers were of the opinion that if approval was granted, an undesirable precedent could be set in the 3(b) Special Business zone. As such, the applicant was requested to lodge a site specific zoning amendment to specifically enable the proposal to be considered. Given it was likely to take a considerable amount of time to process the rezoning, and that the Development Application could not be progressed until the site specific amendment was determined, DA-05-3153 was subsequently withdrawn by the applicant.
- 4.9 Following the lodgement of a rezoning application by Miles & More Pty Limited, Council resolved on 6 June 2007 to insert a site-specific clause into Blacktown Local Environmental Plan (LEP) 1988 to permit "general retail uses" over the subject site. The intent of the amendment was to allow a small neighbourhood shopping complex (including a 1,500sq.m supermarket) to a maximum 'retail' floor space of 2,000sq.m. The 2,000sq.m limit on the 'retail/shop' uses was established to ensure that the remainder of the 1.358 hectare site could only be developed in accordance with the objectives of the 3(b) Special Business zone. Any additional floor space would therefore be limited to such uses as commercial offices, light industrial activities, business support services, bulky goods retailing or refreshment rooms.

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- 4.10 Council's rationale for allowing additional retail activities on the site was to meet the local retail needs of the Kellyville Ridge residents. By allowing a general retailing component over this site, residents would not be required to cross Windsor Road to the Regional Centre or travel to Stanhope Village (approximately 2km away) to access daily convenience needs. It was also recognised that the 3(a) zoned land to the east did not provide the community local shopping facilities, as it has been developed for highway service functions only. The rezoning would therefore permit conveniently located shopping facilities for the local community of Kellyville Ridge. Due to the size and scale of the operations proposed, it was considered that the proposal would not have a detrimental impact on the retail hierarchy of the City of Blacktown or the Rouse Hill Town Centre. Furthermore, the supporting Economic Impact Assessment (EIA) for the proposal demonstrated that a "neighbourhood shopping centre" on the site would provide for the convenience needs of the local population without affecting the operation and status of other existing and planned commercial centres. For these reasons the draft LEP was subsequently exhibited from 26 August to 23 September 2008, at which stage notification of the proposal also occurred.
- 4.11 Due to economic circumstances, a new DA was never lodged for purposes of a neighbourhood shopping centre. Instead the subject Development Application (JRPP-09-2379) was lodged with Council on 24 September 2009. On receipt of the DA, the applicant was advised that any proposal over the subject site must still demonstrate compliance with the draft LEP amendment.
- 4.12 During the finalisation of the LEP amendment, however, a drafting error by Parliamentary Counsel (PC) was discovered within the Written Statement which had the unintended outcome of restricting the entire site's commercial and retail usage to 1,500sq.m. By limiting both retail and commercial development on the 1.35 hectare site, only slightly more than 10% of the site would be meaningfully developed for its specifically zoned purpose, which is to permit and support commercial (office) activities on the land in conjunction with other permissible land uses, such as retail and residential development. Council places no commercial floorspace limitation on any other business zone in the City area and there was never any intention in the Council reports to do so in relation to this site. It was therefore resolved at Council's Ordinary Meeting on 14 April 2010 to re-exhibit the draft Plan as Amendment No. 223 to Blacktown LEP 1988. The intent of the planning proposal was to rectify the previous drafting error. The Planning Proposal was re-exhibited from 4 August to 17 August 2010, and on 26 November 2010 Clause 41A of BLEP 1988 was amended so that "shops" are now a permissible use on the site, "subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m". The proposed development complies with this restriction.

5 Development Proposal

- 5.1 The subject Development Application (DA) has been lodged by Raindera Pty Limited (c/o Design Cubicle Pty Limited) for the demolition of the existing dilapidated Lochinvar Motel, staged subdivision and construction of a mixed-use commercial/retail and residential development at H/N 6 Merriville Road, Kellyville Ridge. The proposed development has a Capital Investment Value of \$30.5 million.
- 5.2 The plans originally submitted to Council in September 2009 provided 23 retail and commercial tenancies forming a small neighbourhood centre, 4 residential flat buildings ranging in height from 2 storeys to 8 storeys, and 495 basement car parking spaces over 2 levels. A total of 268 residential units, including 51 x 1 bedroom units, 183 x 2 bedroom units and 34 x 3 bedroom units were proposed.

- 5.3 An assessment of the original plans identified a number of issues and deficiencies with the proposal, including non-compliance with the 3(b) Special Business zone objectives and the exhibited draft LEP amendment, height, setbacks to Clonmore Street, use of the 6 metre Right of Carriageway, privacy, overshadowing, parking, loading/unloading, traffic, waste collection and non-compliance with State Environmental Planning Policy (SEPP) No. 65 and the Residential Flat Design Code (RFDC). Various concerns were also raised by the Quakers Hill Police and the Sydney Regional Development Advisory Committee (SRDAC). The applicant was therefore requested to submit amended plans that addressed all of the identified issues. In addition to submitting amended architectural plans, the applicant was also requested to submit a range of reports and plans for Council's further consideration. These reports/plans included a Noise Impact Assessment, Shadow Diagrams, Demolition Report, Site Contamination Assessment and Drainage Concept Plans.
- 5.4 Given the significant deficiencies with the original proposal and the number of outstanding supplementary reports, a decision was made to defer the public exhibition process. The applicant was advised that following receipt of the outstanding documentation, a decision would be made as to when the Development Application and plans would be notified to the public.
- 5.5 Following this, the applicant submitted various sets of amended plans for Council's consideration. The final version included 17 ground level retail/commercial tenancies forming a small neighbourhood centre, 4 residential flat buildings ranging in height from 2 storeys to an upper limit of 5 storeys, and 2 levels of basement car parking for each building. A total of 199 residential units, including 46 x 1 bedroom units, 116 x 2 bedroom units and 37 x 3 bedroom units were proposed. A total of 380 car parking spaces were required for the development. On 1 December 2010, the DA was placed on public exhibition for a period of 8 weeks.
- 5.6 During the detailed assessment process, however, it was discovered that the plans actually proposed a total of 198 units (instead of 199 as indicated). It was also noted that 8 of the 1 bedroom units contained "studies" and as such, it was considered appropriate that these units be nominated as 2 bedroom units for assessment purposes. 2 of the 2 bedroom units also contained "studies" and as such, these have been nominated as 3 bedroom units for assessment purposes. In this regard, Council defines a "bedroom" to be a room designed or intended for use as a bedroom or any room capable of being adapted to or used as a separate bedroom.
- 5.7 In summary, the 198 residential units are proposed in the 4 new buildings as follows:

Building	A	B	C	D	Total
1 bed	13	13	5	10	41
2 bed	28	32	39	30	129
3 bed	2	17	0	9	28
Total	43	62	44	49	198

Table 1: Unit Mix and Yield

- 5.8 Each unit has a functional floor plan consisting of 1, 2 or 3 bedrooms, kitchen, living areas and internal laundry area. The private balconies/courtyards have been designed as an extension of the living areas and are large enough to accommodate a table and chairs.

- 5.9 The proposed development generates the need for a total of 377 car parking spaces. In this regard, 226 resident car spaces, 80 visitor car spaces and 67 retail/commercial car spaces are required. In addition to this, Council also requested that 1 courier space be provided under each building (i.e. 4 courier spaces in total). The proposed development provides for a total of 406 car parking spaces and therefore well exceeds Council's minimum parking requirements.
- 5.10 A 2-level basement car parking area has been provided underneath each of the 4 respective buildings. 397 basement car parking spaces are proposed in total. Each basement car space has been designed so that vehicles can enter and exit 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. The non-residential spaces will also be clearly signposted. An additional 9 car spaces are proposed at ground level and will be nominated as retail/commercial spaces. The remaining retail/commercial spaces will be provided at the basement parking level immediately beneath the shops. Elevators will provide direct access from the basement car park area to the retail/commercial premises. Separate elevators will also be provided from the residential levels to the secure resident parking areas. Final car parking allocation details and secure access arrangements will be required prior to release of any Construction Certificate and will be addressed as a **condition** of any development consent granted.
- 5.11 Although the development site has a secondary frontage to Clonmore Street, all vehicular access to the development site is proposed via a new roundabout on Merriville Road. Vehicular access to Building A's and Building D's car parking facilities is to be provided via 2 new entry/exit driveways located on the new private internal roadway. Vehicular access to Building B's & Building C's car parking facilities is proposed via a single new entry/exit driveway located at the northern end of the new private internal roadway.
- 5.12 Deliveries to the proposed retail/commercial tenancies will be undertaken by a variety of vehicles up to and including 12.5m long medium rigid trucks. The majority of deliveries, however, will be by light commercial vehicles, vans and the like. 1 unloading bay/courier space is proposed under each building (4 in total) to accommodate deliveries by these vehicles. Separate loading bays have also been located within the basement levels to accommodate garbage collection. In addition, 2 loading bays are proposed at ground level, on either side of the proposed internal road roundabout. The proposed loading bays have been designed to accommodate the swept turning path requirements of a 12.5m long truck and will be for the exclusive use of large trucks only. No deliveries by vans or light commercial vehicles will be permitted in these areas. The loading bays will be signposted as "Reverse In Only" and the use and operation of the loading bays will be supervised by the on-site centre manager.
- 5.13 The proposal includes 1,338sq.m of commercial floor space and 805sq.m of retail floor space. At this stage tenants have not been nominated for the 17 retail and commercial premises. As such, details of the future business identification signage have not been included with this Application and will require separate development consent unless classified as "Exempt Development". The DA does, however, propose the erection of 2 directory boards at the entry to the site. The directory boards will be used to display the tenant's details and provide directions around the site. For further details regarding signage please refer to Section 6.3(e) of this report. The applicant has indicated that the retail and commercial uses will operate between 8.00am and 10.00pm, 7 days a week. Given that the proposal is for a mixed-use development and that late night operations may have the potential to impact on the future residents of the development, it is recommended that trading till 10.00pm be limited to Thursday-Saturday nights only. On Sundays to Wednesdays is recommended that all retail/commercial activities cease operations at 9.00pm. This matter will be addressed as a **condition** of any consent granted.

- 5.14 In addition to the commercial/retail tenancies, the private central access road, 2 loading bays and 9 car parking spaces, the ground level also includes ground floor residential units, a children's playground and landscaped areas. The common landscaped areas will be embellished with seating, water features, pathways, pergolas and appropriate plantings. The children's play and ball games area, located within the central courtyard of Building 'B', will be available for the exclusive use of the residents of the development. Additional "resident only" recreation areas, will be provided within the central courtyards of Buildings 'C' and 'D' and on the roof-top of each building. These areas will include outdoor seating, gazebos and barbeques, raised planter boxes, water features and pergolas. The ground floor level of Building 'A' (south-east corner) contains a mix of retail and commercial tenancies only. As such, the central courtyard of Building 'A' will be accessible to the public during business hours. After hours, this area will be restricted to residents only. It is proposed that these ground level retail/commercial tenancies will be occupied by active uses including cafes and restaurants, to encourage outdoor dining and activity within this central courtyard area. Details of the façade treatments will be required prior to the release of any Building Construction Certificate, to ensure good visibility is maintained in this area. In this regard, it is considered desirable to provide glazed shop "fronts" and "backs" to allow unrestricted sight lines between the street and the central courtyard area. This matter will be addressed via suitable **conditions** of any consent granted.
- 5.15 To assist with the construction timetable, it is proposed that the site be subdivided into 4 separate Torrens title allotments (i.e. development blocks A, B, C and D). Following completion of the development, it is the applicant's intention to lodge a separate Application to Strata subdivide the residential units and retail/commercial tenancies. A **condition** will be imposed on any development approval to address this matter.
- 5.16 The building has been architecturally designed. The curvilinear corner elements provide articulation to the front façade and help to identify the entry to the site. The use of recessed balconies, the transition in building heights, and use of quality finishes will also add to the visual interest of the development. The materials and colours have been selected to give the buildings an identity, and to 'soften' the apparent bulk and scale of the development. A variety of materials will be used, including rendered and painted finishes for the facade walls, a combination of solid balustrades as well as glazed balustrade treatments, and Alucobond cladding for partial walls. Balcony balustrades are of various types and serve differing purposes. Painted and rendered solid walls work as compositional devices to divide facades, whilst the glass plate balustrades allow for maximum views. The overall grey and colour white colour scheme, coupled with a large amount of glazing, will help give the proposal a sharp, modern look whilst not overpowering its surroundings. The feature colours will add warmth, interest and a sense of identity to the building. The development will also be complemented with soft landscaping, street trees, planter boxes, stencilled finished concrete surfaces, various pavement patterns and colours, and timber decks, adding to the overall aesthetics of the development. A schedule of external finishes and photomontage is included at Figure 5 below.
- 5.17 The proposal has been developed having regard to the prominent location of the site near the corner of Merriville Road and Windsor Road, and the mixed use context. Combined with the 3(b) Special Business zoning, the applicant believes that the site is capable of a more prominent built form in conjunction with a small neighbourhood centre. The applicant believes the buildings will not detract from the established homes and businesses within the area, but instead will add and provide variety to an underutilised "paddock" located at the "gateway" of Kellyville Ridge. A full assessment of the proposal is provided under Section 8 of this report while a copy of the development plans are included at **Attachment 2**.



Figure 5. Schedule of External Finishes (Source: DesignCubicle Architectural Solutions.)

6 Planning Controls

6.1 The planning policies and legislation that are applicable to the proposed development are as follows:

- (a) Environmental Planning & Assessment Act 1979
- (b) State Environmental Planning Policy (Major Development) 2005
- (c) State Environmental Planning Policy (Infrastructure) 2007
- (d) State Environmental Planning Policy 55 – Remediation of Land
- (e) State Environmental Planning Policy 64 – Advertising and Signage
- (f) State Environmental Planning Policy 65 – Design Quality of Residential Flat Development
- (g) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (h) Blacktown Local Environmental Plan 1988
- (i) Blacktown Development Control Plan 2006

6.2 In addition, the following non-statutory provisions also influence the design outcome of the proposal:

- (a) Residential Flat Design Code (RFDC)

6.3 An assessment of the proposed development under the relevant planning controls is provided below:

(a) Environmental Planning & Assessment Act 1979

For an assessment against the Section 79C ‘Heads of Consideration’ please refer to Section 7 of this report.

(b) 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 of the SEPP.

The proposed development is classified as Regional Development as its Capital Investment Value is more than \$20 million. As such, while Council is responsible for the assessment of the DA, determination of the Application falls with the Sydney West Joint Regional Planning Panel.

(c) State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) 2007 ensures that 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 on-site parking 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 9 “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 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.

In accordance with Council’s requirements, the applicant submitted an Acoustic Assessment prepared by RSA Acoustic Consultants (Report No. 4911 dated 11 August 2010). Due to concerns raised by both Council and nearby property owners, a revised report (dated 28 March 2011) was later lodged.

As part of the review, an assessment of typical road traffic noise intrusion from Windsor Road into the residential facades was undertaken to determine if measures were required to control any noise impacts to the external and internal residential areas. The acoustic testing concluded that the proposed residential development will potentially be impacted by traffic noise on Windsor Road and Merriville Road. In this regard, the daytime and night-time internal noise levels with the windows closed, will be in excess of the internal noise criteria specified under the SEPP. As such, the amended Acoustic Assessment recommends that improved glazing of at least Rw 40 (i.e. double glazing) and acoustic louvers be provided to control noise intrusions to those residential units

exposed to the road traffic noise. The recommendations of the amended Acoustic Report will form **conditions** of any consent granted. Further details regarding the Acoustic Assessment and the recommended noise attenuation measures can be found under Section 8.2, Point d. of this report.

(d) State Environmental Planning Policy 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land aims to “*provide a State wide planning approach to the remediation of contaminated land*”. Where contamination is, or may be, present, the SEPP requires a proponent to investigate the site and provide the consent authority with the information to carry out its planning functions. As discussed under Section 8.7 of this report, a Site Contamination Assessment of the site has identified elevated levels of Total Petroleum Hydrocarbons (TPHs). As such, appropriate disposal of the contaminated material must be undertaken in accordance with the NSW DECCW (2009) – *Waste Classification Guidelines*. The Assessment also recommends that all asbestos containing material, associated with the Lochinvar Motel, be removed and disposed of following current regulations and guidelines. Following removal of the contaminated material, a final validation of the soil will need to be undertaken by a EPA Accredited Site Auditor to ensure there is no residual soil contamination. The Site Contamination Assessment concludes that the site will be suitable for the proposed mixed-use development provided the potential asbestos and TPH impacted areas are appropriately managed and remediated in accordance with the recommendations of the Report. Suitable **conditions** will be imposed on any development consent to address these matters.

(e) State Environmental Planning Policy 64 – Advertising and Signage

At this stage tenants have not been nominated for the 17 retail and commercial premises. As such, details of the future business identification signage have not been included with this Application. The applicant has indicated, however, that the tenant’s details will be displayed across 2 proposed directory boards. The directory boards will be erected at the entry to the site and are consistent with the definition of a ‘building identification sign’ outlined under SEPP 64. In this regard, *building identification sign* means a sign that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but that does not include general advertising of products, goods or services.

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied that the signage is consistent with the objectives of SEPP 64 as set out in clause 3(1)(a) of the Policy, and that the proposed signage satisfies the assessment criteria specified in Schedule 1.

The objectives set out under clause 3(1)(a) ensure that signage (including advertising):

- (i) is compatible with the desired amenity and visual character of an area; and
- (ii) provides effective communication in suitable locations; and
- (iii) is of high quality design and finish.

Each of the proposed ‘directory boards’ measure 450mm x 900mm, will be located at the entry to the site, will be internally illuminated and will constructed from brushed aluminium materials. It is believed that the proposed signs satisfy the stated objectives under the SEPP. The table at **Attachment 4** demonstrates that the proposal also satisfies the assessment criteria specified under Schedule 1 of the SEPP.

As part of any development consent, a **standard condition** will be imposed drawing the applicant's attention to the need to obtain Council's separate approval for any additional building/business identification or advertising signage not being 'Exempt Development' under State Environmental Planning Policy (Exempt and Complying Development) 2008.

(f) State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

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 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 such advice in the design quality of the 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.

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. (Note: SEPP 65 does not apply to the proposed commercial/retail component of the development).

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 is located at the gateway to Kellyville Ridge and is situated within convenient distance to the Rouse Hill Regional Shopping Centre, local schools,

parks and entertainment facilities. The site is also located near the major arterial road of Windsor Road, and is within close walking distance to the Northwest Transit Corridor. The area immediately surrounding the site is characterised by a diverse range of activities, including commercial/retail, entertainment, high density residential and low density residential land uses. The existing buildings surrounding the site range in height from single storey to 4 storeys, and generally lack uniformity in building design.

The desired character of an area is largely determined by the planning controls specified under Council's LEP and DCPs. In the absence of any site specific controls for this site, the commercial/retail elements of this development have been designed in accordance with the provisions found under Council's DCP for Business Zones, while the residential component has been designed in accordance with the controls specified for residential flat buildings under Council's DCP for Residential Zones. General compliance with these codes has ensured that an appropriate design solution has been derived.

The design of the development has also taken into account that 3 very different land uses adjoin the common boundaries (i.e. commercial/retail to the east, high density residential to the north, and low density detached dwelling houses to the west). In this regard, the development has been limited to 2 storeys adjacent to the western boundary and 3 storeys at the Clonmore Street frontage. It is considered that the proposed site layout and building design acknowledges the diverse character of the area and responds to this context in an appropriate manner. The development has also been designed to maximise solar access, take advantage of district views and provide large areas of open space on site.

Given the site's prominent location and that the area generally lacks uniformity, it is believed that the development will contribute to the quality and identity of the area. The sites close proximity to services, facilities, public transport and a major arterial road network also makes this a highly desirable site for mixed/use development with higher residential densities.

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.

The proposed development is generally consistent with the height of other residential flat buildings found in the 2(c) Residential zone located immediately to the north of the site and adjacent to the Windsor Road corridor. The proposed development also complies with the generic guidelines of the DCP and the maximum 5 storey height limit for residential flat buildings located on larger sites exceeding 5,000sq.m. The proposed buildings are well designed and well articulated to justify their height.

It is recognised, however, that the surrounding area displays a mix of land uses, including low density detached dwellings to the west, higher density residential flat buildings to the north, commercial premises to the east and a public entertainment area to the south. The applicant was therefore required to create a design which appropriately responded to the land forms on the neighbouring

properties. In this regard, whilst the overall the height of the development is greater than the detached houses located immediately to the west of the site, proposed Building 'C' (south-west corner) has been limited to a maximum height of 2 storeys immediately adjacent to the boundary. The 2 storey element along the western boundary also helps to significantly reduce the perceivable bulk and scale of the development when viewed from the existing residential dwellings. Building 'D' (north-west corner) which has frontage to Clonmore Street, has been limited to a maximum height of 3 storeys for that part of the building closest to the single lot housing, in order to provide a transition in scale.

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.

The proposed design has been developed in keeping with the requirements of the Residential Flat Design Code (RFDC) and Council's DCP requirements in relation to building alignment, setbacks and building type.

The proposed built form consists of 4 individual apartment buildings, including 2 x 5 storey buildings to the east and 2 partially 5 storey buildings to the west. The development is to be mixed use, with 17 ground level commercial/retail tenancies and 198 residential apartments, comprising a mix of 1, 2 and 3+ bedroom units.

Substantial architectural treatment has been incorporated into the design of the development. The extensive glazed facades along Merriville Road together with the balconies provided on each level of the building, help to reduce the bulk and scale of the design by emphasising the horizontal elements. Some vertical elements, such as blade walls, have also been used to help accentuate the overall identity of the building. The other building facades have also been visually divided into smaller elements by horizontals and verticals, helping to reduce the overall perceived bulk of the building. This composition helps the development to fit into the urban landscape setting, whilst maintaining its contextual uniqueness.

Curved building facades, cantilevered awnings, balconies and other design features have been used to highlight the entry into the site from Merriville Road. The curved corner elements also help to 'soften' the impact of the building. A variety of shapes, material and colours have also been used to provide visual interest to the development. Along the northern and western boundaries, the development is of a comparable bulk and scale to the existing adjoining development, and helps the proposal to fit in more sympathetically with its surroundings. In this regard, the 2 storey podiums to the west are of a comparable bulk and scale to the existing adjoining detached dwellings.

The proposed development provides an acceptable level of internal amenity. In many cases, the room layouts have been designed to minimise the impact of traffic noise and pollution, and achieve a comfortable living environment for residents.

The development has been provided with setbacks and open space areas which fully comply with the minimum requirements of Council's DCP for Residential Flat Development 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 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 generally determine the maximum density achievable on site. An assessment of the DA against the requirements of BDCP 2006, is provided under Section 8 of this report. Although the overall mixed-use development does not comply with the 2-storey height limit specified under Council's Business Zones DCP for buildings located within local centres, it should be noted that in isolation the residential component of the development fully complies with the numerical requirements and intent of the Residential DCP. Furthermore, it should be recognised that Residential Flat Buildings are a permissible land use in the 3(b) zone.

The proposed development will consist of 198 units including 41 x 1 bedroom units, 129 x 2 bedroom units and 28 x 3 bedroom units.

The density of the proposed development fits in with the objectives of Council's planning instruments, which aim to cater for an increasing population through the provision of higher density housing near regional centres. The density proposed is compatible with the character of the area, which includes commercial uses and high density residential, and can be comfortably accommodated on site. Given the proposed massing and well articulated building form, it is believed that the proposed density 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 the Rouse Hill Town Centre. The site is also located within easy walking distance of the North-West Transitway.

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 has been designed so each unit receives a satisfactory level of natural light, energy and ventilation, while the roof top common open spaces receive unlimited solar access. In particular, the proposal provides:

- 72% of the units with at least 3 hours of solar access to the main living areas.
- Active and passive sun control systems.
- Installation of low energy saving devices.
- Natural cross-flow ventilation to 94% of the units.
- On-site detention of run-off from paved areas to reduce peak flows.

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 buildings to provide a high level of aesthetic quality on the development site and a high level of amenity for the future occupants of the development.

The proposal provides various communal landscaped recreation spaces and a children's play area at ground level. The children's play area and main communal recreation areas are located in the centre of the site, to protect the amenity and privacy of the existing adjoining residents. The use of landscape planting along the northern and western boundaries of the site will also offer aesthetic amenity to existing adjacent properties and will providing a visual buffer between adjoining outdoor spaces.

Useable common open space areas have also been provided on the rooftops. These spaces include planter boxes, changes in levels, use of different materials such as concrete and timber decks, helping to add to their interest and appeal. The roof levels are accessible by lift, receive unlimited solar access and have been designed so that they are segregated from private areas to ensure resident's privacy is maintained. These areas also include seating and barbeque facilities to encourage social interaction and provide an increased level of amenity for residents.

Planter boxes have been provided at the podium level adjacent to the western boundary and around the perimeter of the roof terrace levels, in order to eliminate potential overlooking and protect existing resident's privacy. The planter boxes also contribute to the overall design of the building and create interest through the use of natural vegetation.

Street trees will also be provided along the footpath in front of the development along Merriville Road. This zone serves the dual purpose of softening the front facade of the development, as well as offering aesthetic amenity to the adjacent properties by creating a visual 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.

The efficient yet spacious unit layouts provide a high level of amenity for all residents, and generally promote good visual and acoustic privacy. Where required, the development plans indicate that double glazing will be provided.

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. All apartments have direct access to the basement via centrally located lifts and stairs, where parking for residents and visitors will be provided. Adequate storage areas have also been provided in the form of basement storage cubicles. All apartments have easy access to waste rooms, provided on each floor near the lifts, for the disposal of garbage into chutes and recyclables into collection bins.

72% of the proposed units also receive a minimum 3 hours solar access to the main living areas, and 94% of the units achieve natural 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 proposal affords good casual surveillance of the street frontage through the glazed facades of the commercial/retail tenancies located at the ground level along Merriville Road. The same principles apply along the main axis driveway through the site, with glazed retail facades stretching along the length of the internal access road. The internal common areas and the internal pathways have also been designed to promote good casual surveillance. Appropriate lighting and CCTV is also to be provided to all common areas to increase the safety of those areas, especially at night. With regards to the parking areas, secure access is to be maintained at all times. Separation between the commercial/retail parking spaces and the resident car parking spaces will be achieved through security garage doors at the basement level. A full 'Safer by Design' Evaluation has been undertaken by the Quakers Hill Police Local Area Command and can be found under Section 8.2, Point i. of this report.

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.

The public domain is one of the major elements of the proposal. Its main stage is the ground floor activities, including the commercial/retail tenancies which will provide the opportunity for uses such as outdoor cafes/restaurants. The ground level also provides substantial on-site recreation facilities for residents, including a children's playground. Pedestrian links are also available to the public parks, public transport and other services in the area. On the roof tops, gardens will be equipped with barbeque facilities and relaxation spaces.

The proposal will provide an alternative type of housing to the area, and will provide high levels of amenity to each apartment. The apartments are diverse in design and orientation, and will provide a suitable mix of dwellings for people to choose from.

While most of the units have 2 bedrooms to reflect market demand (with 129 x 2 bedroom units provided), the provision of 41 x 1 bedroom and 28 x 3 bedroom apartments provides reasonable housing choice and affordability for the community, therefore satisfying the intent of this Principle.

The design also provides 26 adaptable apartments (i.e. 13 % of the total number of units), as required by the DCP and the BCA, 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 proximity of the site to the Rouse Hill Regional Centre and major public transport corridor will also add to future occupant's 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.

The development has been architecturally designed. 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. Overall, it is considered that the appearance of the development is appropriate for its location.

The development provides a well articulated building form and an interesting streetscape, while the façade treatment of the buildings reflects contemporary architectural initiatives consistent with the objectives of this principle. The

curvilinear corner elements provide articulation to the front façade and help to identify the entry to the site.

The use of quality finishes will also add to the visual interest of the buildings. The materials and colours have been selected to give the buildings an identity, and to 'soften' the apparent bulk and scale of the development. A variety of materials will be used, including rendered and painted finishes for the facade walls, a combination of solid balustrades as well as glazed balustrade treatments, and Alucobond cladding for partial walls. Balcony balustrades are of various types and serve differing purposes. Painted and rendered solid walls work as compositional devices to divide facades, whilst the glass plate balustrades allow for maximum views.

The overall grey and colour white colour scheme, coupled with a large amount of glazing, will help give the proposal a sharp, modern look whilst not overpowering its surroundings. The feature colours will add warmth, interest and a sense of identity to the building. The development will also be complemented with soft landscaping, street trees, planter boxes, stencilled finished concrete surfaces, various pavement patterns and colours, and timber decks, adding to the overall aesthetics of the development.

The choice and composition of the building elements are contemporary to reflect the time, but have also been chosen to reflect the desired future character of the area.

Accordingly, it is determined by the above assessment that the proposed development is acceptable when **considered** against the 10 design principles identified under SEPP 65.

(g) Residential Flat Design Code (RFDC)

In addition to the 10 'design quality principles' listed in Section (f) 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. The main numerical guidelines from the RFDC are summarised in the table at **Attachment 5** to this report, together with Town Planning comments.

While it is considered that the proposed development satisfies the 10 'design quality principles' listed under Part 2 of SEPP 65, it is noted that the development does not strictly comply with the recommendations of the RFDC. Development which seeks to vary from the minimum "rules of thumb" 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.

In this regard, the development complies with all of the numerical recommendations of the RFDC except for the distance separation requirement. It should be noted, however, that the main non-compliance is within the internal courtyard of one building, is limited to point encroachments only and is mainly at the 5th floor level. Furthermore, the non-compliance does not compromise the amenity or privacy of the proposed apartments as windows have been offset. Given the dual orientation of the units, solar access and natural ventilation is also not reduced by the variation. While the RFDC recommends that a greater building separation should be provided at the 5th floor level, in reality the

occupants at the 5th floor will experience no greater amenity impacts than those occupants residing at the 4th floor.

It should also be noted that the provision of a suitable building separation is not only required to address issues such as amenity, visual and acoustic privacy, and solar access. Separation requirements are also required to ensure appropriate massing and spaces between buildings. While the proposed development does not comply with the recommended building separation requirements of the RFDC, it should be noted that the varied building setbacks and heights across the site, the provision of large common terrace areas at the 4th floor level, and the varied balcony sizes and shapes all help to provide a well articulated and designed building.

The amenity of the units, whilst not strictly meeting all of the numerical standards of the RFDC, is considered to meet its intent. It is therefore strongly considered that the proposal in its current layout has design merit and should be supported despite the minor non-compliance with the distance separation requirement. 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 (as is the case here) should not warrant refusal of the application.

The RFDC also recommends that a formal crime risk assessment be carried out for all residential developments of more than 20 new dwellings. This matter has been discussed in detail under Section 8.2, point (i) of this report.

(h) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

BASIX Certificates were lodged as part of the Development Application. The BASIX Certificates list the manner in which the residential components of the development will satisfy water and energy efficiency requirements. A recent change to the legislation, however, means that BASIX Certificates are now only required for Class 1 dwellings. As such, any future Construction Certificate (CC) relating to the development will not be required to comply with the submitted BASIX Certificates. Instead, the development will be required to demonstrate compliance with Section J of the National Construction Code Building Code of Australia (BCA) Volume 1. A suitable **condition** will be imposed on any development consent to address this matter.

(i) 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 (i.e. a combination of “commercial premises” and “residential flat building”) is permissible under the zoning table with development consent. A small portion of the site, which currently encroaches into the Clonmore Street road reservation, is zoned 2(a) Residential pursuant to BLEP 1988. This portion of the site will be required to be dedicated to Council as a **condition** of any Consent if granted.

To be a permissible form of development, Clause 9(3) of the LEP requires that the development be *generally consistent with* one or more of the following objectives of the 3(b) Special Business 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."*

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 (or in this case the Rouse Hill Regional Centre), 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 limited amount of commercial/retail development) satisfied the stated zone objectives, and therefore was permissible in the zone. A copy of the legal advice is held at **Attachment 6** of this report.

The advice received indicates that there is 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". (See **Attachment 6**).

Council Officers would also argue that given the overall size and scale of the proposed retail/commercial tenancies, the proposal will not compete with the nearby Rouse Hill Regional Centre or Stanhope Village. As such, the proposal is consistent with the preferred retail hierarchy and therefore with objective (a).

The proposed development represents an appropriate redevelopment of an underutilised parcel of land, and is not out of keeping with other high rise developments approved in the 2(c) Residential Zone located immediately to the north of the site. The building has a high standard of design quality, and includes a mix of commercial and residential development to integrate with and complement surrounding land uses. The inclusion of residential accommodation on this site will also help to support the nearby Rouse Hill Regional Centre.

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

(j) Clause 37 – Advertisements of BLEP 1988

As tenants have not yet been nominated for the 17 retail and commercial premises, details of the future business identification signs have not been included with this Application. A standard **condition** will be imposed on any consent granted requiring

that separate approval be obtained if not classified as “exempt development”. The applicant has indicated, however, that the tenant’s details will be displayed across 2 proposed directory boards at the entry to the site. Under BLEP 1988 a ‘Business Identification Sign’ is defined as an advertisement which, in respect of any place or premises, contains all or any of the following:

- (a) a reference to the identification or description of the place or premises,*
- (b) a reference to the identification or description of any person residing or carrying on an occupation at the place or premises,*
- (c) particulars of any occupation carried on at the place or premises,*
- (d) such directions or cautions as are required that relate to the place or premises or any occupation carried on there,*
- (e) particulars or notifications required or permitted to be displayed by or under any State or Commonwealth Act,*
- (f) particulars relating to the goods, commodities or services dealt with or provided at the place or premises,*
- (g) particulars of any activities held or to be held at the place or premises,*
- (h) a reference to an affiliation with a trade, professional or other association relevant to the business conducted at the place or premises.*

The proposed signs will identify the proposed uses on site and as such is consistent with BLEP’s definition of a ‘Business Identification Sign’.

Clause 37 (2) of BLEP 1988 stipulates that the consent authority must consider the following provisions before granting consent to an advertisement:

- (a) the council must consider both the objectives of this clause and the relevant zone objectives, and*
- (b) the council must be satisfied that the applicant can demonstrate the following:*
 - i. the advertisement relates to a use of the land on which it is to be situated,*
 - ii. the advertisement will not detract from the amenity of the local environment because of its appearance, size, design, illumination or location, or as a result of the number and location of advertisements within the vicinity,*
 - iii. the size and likely impact of the advertisement is compatible with the size and design of the premises on which the advertisement is to be constructed and with the size and design of the surrounding buildings,*
 - iv. the advertisement will not detract from any items of scenic, historic, architectural, scientific or cultural interest,*
 - v. appropriate setbacks, clearances and structural features are incorporated into the proposal to ensure safe pedestrian and vehicular traffic circulation,*
 - vi. the advertisement is not a flashing or moving sign.”*

The proposed signs satisfy the objectives of this clause and the relevant zone objectives. The signs relate specifically to the use of the land and will not detract from the amenity of the local environment given their overall appearance, scale and design. The low levels of illumination and location of the signs will ensure that the amenity of future residents is protected. Standards **conditions** will be imposed on any consent to ensure that no signage on site contains any flashing or moving parts.

(k) Clause 41A of 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 seeks to develop the site for a mix of residential, commercial and retail uses. Only limited retailing activities are permitted in the 3(b) Special Business zone. In this regard, shops/retailing activities are prohibited in the 3(b) Special Business zone unless it can be demonstrated that they “service the daily convenience needs of the locality”.

As discussed within Sections 4.8-4.10 of this report, a Planning Proposal was adopted by Council earlier this year to insert a site-specific clause into Clause 41A of BLEP 1988 to permit shops on the subject site, “subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m”. The purpose of the LEP amendment was to permit “general retailing” over the site up to a maximum floor area of 2,000sq.m. Commercial offices, bulky goods retail establishments and refreshment rooms still remain permissible forms of development on the site with no restriction on floor space. The proposed mixed-use development proposes 1,338sq.m of commercial floor space and 805sq.m of retail floor space, and therefore complies with the floor space restrictions imposed by Clause 41A of BLEP.

(l) Blacktown Development Control Plan 2006

The proposed development is subject to the requirements contained in Blacktown Development Control Plan (BDCP) 2006. In this regard, the following parts of the DCP are applicable to the assessment of the application:

- Part A - Introduction and General Guidelines
- Part C - Development in Residential Zones
- Part D - Development in Business Zones
- Part K - Notification of Development Applications
- Part O - Site Waste Management and Minimisation
- Part Q - Contaminated Land Guidelines
- Part R - Soil Erosion and Sediment Control Guidelines

The proposals compliance with the abovementioned Development Control Plan (DCP's), is discussed in detail under Section 8 of this report. In this regard, BDCP 2006 Part A – *General Guidelines* and Part C – *Development in the Residential Zones* have been used to assess the residential portion of the proposal. The provisions of Part A – *General Guidelines* and Part D – *Development in the Business Zones* have been used to assess the commercial/retail component of the development. Part D also calls up the provisions of Part C for any residential development in a Business Zone.

The proposed development is fully compliant with the provisions of the Council's DCP's with the exception of the front setback to Merriville Road (for the second floor level only), the internal distance separation requirements and the solar access requirements to the ground level common open space. However, given the non-compliances are considered minor it is recommended that the development be supported in its current form. The non-compliances, and additional issues relating to the overall height of the

development, are discussed in detail under Section 8 of this report and are summarised in the table at **Attachment 8**.

7 Section 79C Consideration

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

Heads of Consideration 79C	Comment	Complies
<p><i>a. the provisions of :</i></p> <p><i>(i) any environmental planning instrument (EPI)</i></p> <p><i>(ii) any development control plan (DCP)</i></p> <p><i>(iii) the regulations</i></p>	<p>The provisions of the relevant EPI's relating to the proposed development are summarised under Section 6 of this report. The proposal is considered to be consistent with the relevant SEPP's including, SEPP (Infrastructure) 2007 and the 10 'design quality principles' of SEPP 65.</p> <p>The proposed development is a permissible land use within the 3(b) Special Business zone, and satisfies at least one of the zone objectives outlined under Blacktown Local Environmental Plan 1988 as required by Clause 9(3).</p> <p>Blacktown Development Control Plan 2006 - Parts A, C, D, K, O, Q and R apply to the site. The proposed development is compliant with all of Council's numerical controls except for minor variations to the front street setbacks to Merriville Road, the internal distance separation requirements and solar access requirements to the ground level common open space. A detailed assessment of the Application is provided under Section 8 of this Report. The issue of height is also discussed in detail under Sections 8.3(d)ii. and 8.4(a)v. of the report. Given the non-compliances are considered minor it is recommended that the development be supported in its current form.</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 the key issues relating to the proposed development is provided under Section 8 of this Report. It is considered that the likely impacts of the development including traffic, noise, 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 surrounding properties. The bulk and scale of the development has been designed to be sympathetic with adjoining and nearby low density residential properties, and a transition in building heights ensures there will be no unreasonable overshadowing or privacy impacts on adjoining dwellings. Appropriate measures, including CCTV, lighting, signage and employment of security personnel, will also ensure that security and safety is maximised on and around the site. These will be</p>	Yes

	<p>conditioned for in any consent granted.</p> <p>Given the proposed development provides only a limited amount of retail floor space (i.e. 805sq.m), it is considered that the proposal will not have any negative economic impacts on existing retail development at the Rouse Hill Town Centre or at Stanhope Village.</p> <p>In view of the above it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts given the nature of the zone.</p>	
<i>c. the suitability of the site for the development</i>	<p>The subject site is zoned 3(b) Special Business and permits retail/commercial premises and residential flat buildings with development consent.</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 different types of land uses adjoining the site. The sites close proximity to services, facilities, public transport and a major arterial road network also makes this a suitable site for mixed/use development with higher residential densities.</p> <p>Apart from a dilapidated motel which is located on the eastern portion of the site, the site is generally vacant. Soil testing has determined that the site is suitable for residential use subject to appropriate conditions. The site also contains no significant vegetation or threatened species, and the Aboriginal land groups have previously advised that the site has no archaeological significance.</p> <p>The site is therefore considered suitable for the proposed development.</p>	Yes
<i>d. any submissions made in accordance with this Act, or the regulations</i>	<p>As noted in Section 13 of this Report, a total of 892 submissions (i.e. 219 individual submissions from 127 households and 673 pro forma submissions from 393 households) objecting to the proposal have been received. It is considered the objections raised do not warrant refusal of the application and in many instances can be addressed via suitable conditions of consent if granted.</p>	Yes
<i>e. the public interest</i>	<p>While an overwhelming number of public submissions were received objecting to the proposal, it is considered that the objections do not contain valid grounds to refuse the Application. Section 13 discusses in detail how concerns relating to height, bulk/scale, traffic, parking, loading/unloading, noise, privacy, anti-social behaviour, etc have been addressed or can be controlled via suitable conditions of any consent.</p> <p>It is considered that no adverse matters relating to the public interest arise from the proposal. The proposal</p>	Yes

	provides high quality housing stock and has the favourable outcome of furthering the principles of urban consolidation. The retail/commercial uses will also be a positive contribution to the services and facilities available to the local community.	
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8 Council Assessment

8.1 An assessment of the proposed development against the relevant requirements of Blacktown Development Control Plan (BDCP) 2006 (i.e. parts A, C, D, K, O, Q and R) is presented below:

8.2 Compliance with BDCP 2006 – Part A ‘Introduction and General Guidelines’

Blacktown Development Control Plan (BDCP) 2006 *Part A – Introduction and General Guidelines* is applicable to all Development Applications and provides overall guidance on the operation of Blacktown LEP 1988 and Blacktown DCP 2006, the submission of DAs and the general requirements of Council. An assessment of the proposed development against the relevant requirements of BDCP - *Part A* follows:

(a) Soil Conservation

The proposed development is required to incorporate soil conservation measures to minimise soil erosion and siltation during construction and following completion of development. It is proposed that the subject development will be constructed in stages, which will mean that soil disturbance and erosion is minimised.

Prior to the release of any Construction Certificate (CC) relating to the development, Council will require the applicant to submit details showing what measures will be undertaken to ensure the control of erosion and sedimentation prior to any work commencing on site. This matter will be addressed as a **condition** of any development consent granted.

(b) 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.

The subject site is predominantly vacant and does not contain any significant trees or vegetation. The subject site also does not contain any critical habitats or threatened species in accordance with the Threatened Species Conservation Act 1995. It is considered that the additional landscaping proposed by the development will be an improvement on the current state of the site.

(c) Cultural Heritage

There are no known Aboriginal archaeological sites on or near the subject property. Representatives from 3 local Aboriginal Land Groups previously inspected the property and advised that they have no further interest in the site. Darug Custodian Aboriginal Corporation advised that the area is highly disturbed. Darug Tribal Associated Incorporated advised that there is nothing of cultural significance on the site, and the representative from Deerubbin Local Aboriginal Land Council advised that no Aboriginal cultural material was present during the inspection. As such, it is considered that no further survey work is necessary. It is recommended, however, that a standard **condition** be imposed to ensure that the Aboriginal land council representatives are invited to

monitor the site during earthwork activities. In the event archaeological relics are uncovered during construction, all works will be required to cease until the appropriate “consent to destroy” is obtained from the NSW Office of Environment and Heritage (OEH). This will be **conditioned** in any consent granted.

Schedule 2 of BLEP 1988 also lists certain buildings or works which are defined as “items of the environmental heritage”. A review of the schedule reveals that there are no heritage items on or immediately adjoining the subject site. However, given concerns were raised during the public exhibition period in relation to the historical value of Kellyville Ridge, the development proposal was referred to Council’s Heritage Advisor for comment.

In response, Council’s Heritage Advisor has indicated that the subject site is not located on or within the vicinity of any statutory listed heritage item. The nearest Heritage Item to the subject site is Merriville House and Gardens: State Heritage Item (SHI) 00091, which is located approximately 500 metres away on the corner of Cavenah and Eire Way. While the proposed development will not be visible from Merriville House and Gardens, an inspection of the site revealed that the ridge line and treescape, within which the SHI is located, is visible from Windsor Road.

Council’s Heritage Advisor has indicated that *“It is likely that this visual link from Windsor Road to the Merriville treescape is an historically present visual link, and the association with the naming of Merriville Road retains this significance”*. Council’s Heritage Advisor therefore requested that any “visual link” between Windsor Road and the treescape surrounding Merriville House and Gardens be maintained.

To address this concern, it was recommended that a Visual Assessment be carried out to determine whether the proposed development will impact on significant views to the Merriville House and Gardens treescape, and what measures (if any) are required to enable the views of the treescape indicating the location of Merriville House to remain visible from Windsor Road and its intersection with Merriville Road.

In response, the applicant undertook a visual inspection of the area. Comments in relation to the issues raised, together with a series of photographs of the housing forms immediately adjacent to the SHI and the view from the Windsor Road/Merriville Road intersection, were then submitted for Council’s further consideration.

Merriville House and Gardens is located over 500 metres from the Windsor Road/Merriville Road intersection. While the association between the naming of Merriville Road and Merriville House is recognised, the applicant has indicated that it is difficult to understand the alleged significance of the “visual” link between Windsor Road and the treescape when the only direct view is from the middle of Windsor Road (i.e. when standing on the centre median). A visual inspection of the area also indicated that the McDonalds Restaurant, Woolworths Service Station and a number of residential flat buildings fronting Windsor Road significantly obstruct any view from Windsor Road towards the Merriville House and Gardens treescape.

The applicant has also argued that any “beneficial visual” association between the treescape of Merriville House and Windsor Road was lost long ago, when approval was given to develop the residential precinct immediately adjacent to the SHI. In this regard, the double and single storey houses in the area block any direct views. The direct sight-line to the “trees” (as shown in the photographs at **Attachment 7** to this report) has also been severely compromised, as the 2-storey houses dominate the visual-link. Given the view to the ‘treescape’ has been compromised by the established development over both

the immediate and localised area, the applicant believes that any modulation or reduction in height to the proposed development will "not" provide a better view to the tree-line. The topography of Kellyville Ridge, and in particular the contour between the proposed site and Merriville House, is such that even a single-level development over the land would block any direct view to the 'treescape'.

The applicant therefore requested that Council review the need to preserve a very limited and somewhat "compromised" view to the 'treescape'. This request has been made on the basis that past approvals have permitted the establishment of a diverse and varied form of residential housing to be established within both the immediate and surrounding areas of Merriville House, which has impacted on the visual-link to the 'treescape' more than any development over the subject site could ever generate.

The applicant, however, does not wish to step away from a responsible position to protect the heritage value of the area. To support the preservation of this significant historical link to the area, the applicant has therefore submitted the following suggestions for Council's consideration:

- i. The applicant install a plaque at the entry to the proposed Mixed-use Development indicating the location of Merriville House and its significance to the naming of Merriville Road;
- ii. The applicant provide a 'Tourist Information Board' within the proposed retail precinct of the proposed development providing details as to the significance of Merriville House, the Battle at Vinegar Hill and Windsor Road.
- iii. Give the proposed mixed-use development the name "Merriville Place" in recognition to the historical significance of its location.

Council's Heritage Team Leader agreed that the visual link exists now only because the subject site is cleared, and it would be unreasonable to restrict development/reduce the overall height on this basis. It has been recommended, however, that the applicant's suggestions (i) and (ii) form **conditions** of any consent granted. It has also been requested that the 'Tourist Information Board' include details of Mungerie House which is a heritage item in The Hills Shire Local Government Area. Details of the suggested plaque and 'Tourist Information Board' will be required to be submitted to Council for separate approval, prior to the release of any Building Construction Certificate. This matter will be addressed as a **condition** of any consent granted. In terms of point (iii), Council's Heritage Team Leader is not supportive of naming the development Merriville Place as it would confuse the fact that the site is located on Merriville Road (which is not the alignment of the original driveway into Merriville House).

(d) Noise Reduction

As part of the assessment process, the applicant was requested to submit an Acoustic Assessment to identify any likely noise generating activities from the proposed development that may impact on the future occupants of the development and the adjoining/nearby residents. The Assessment was also required to advise what measures should be adopted within the design of the development to reduce any noise impacts and therefore the likelihood of complaint. Noise generated from the commercial/retail tenancies, car movements, loading/unloading activities and from mechanical equipment was required to be considered as part of the assessment.

In addition to considering any noise impacts from within the development itself, it was requested that the report also consider whether any external activities (e.g. traffic on

Windsor Road or from the adjacent 24 hour McDonald's or nearby Ettamogah Hotel) are likely impact on the future residents of the development and if so, how this could be treated.

The Acoustic Assessment was to be carried out in accordance with the requirements of the Department of Environment, Climate Change and Water's (DECCW's) document *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.

In response, an Acoustic Assessment was undertaken by RSA Acoustic Consultants (Report No. 4911 dated 11 August 2010). Unattended noise monitoring was conducted at the subject site between Tuesday 13 July and Thursday 22 July 2010. In this regard, readings were taken at the southern boundary of the site to determine typical road traffic noise intrusion into the residential facades proposed at Merriville Road and to determine the range of measures required to control noise intrusion to external and internal areas. Readings were also taken at the eastern boundary of the site adjoining the existing McDonald's Restaurant and Woolworths Petrol Station.

An analysis of the recorded data indicates that the proposed residential development will potentially be impacted by traffic noise from Merriville Road and by operational noise from the adjoining retail activities. As such, the report indicates that all living room and bedroom windows and doors addressing the eastern and southern boundaries of the site (i.e. facing Merriville Road, with a line of sight to Merriville Road or facing the existing Woolworths Petrol Station and McDonalds restaurant), are required to be closed to meet the internal noise level criteria. Alternative methods of ventilation would therefore need to be implemented so that door and window openings could remain fully closed during noisy periods. As a **condition** of any consent granted, an appropriately qualified mechanical consultant will be required to review this matter and ensure that the selected method of ventilation complies with Australian Standard (AS) 1668.

The report also recommended that in order to meet internal noise levels, improved glazing of at least Rw 34 (indicatively 10.38mm laminated glass) should be provided to the windows and glazed doors of any living room or bedroom addressing the eastern and southern boundaries of the site (i.e. facing Merriville Road, with a line of sight to Merriville Road or facing the existing Woolworths Petrol Station and McDonalds restaurant), to meet internal noise levels.

In terms of any noise impacts from within the development itself, the Assessment indicates that the mechanical plant selection for the development is unknown at this stage. However, it is anticipated that the mechanical ventilation/air-conditioning and refrigeration equipment would operate late at night. As such, all plant equipment and alternative methods of ventilation would need to be selected and positioned to ensure compliance with the DECCW's recommended "acceptable noise levels" (ANLs) for residential premises located in a "Suburban" area. Given background noise levels in the area are relatively high, the Acoustic Consultant believes that the criteria could be achieved through the use of conventional noise control methods (e.g. selection on the basis of quiet operation and where necessary, providing enclosures or localised barriers). The applicant has also indicated that mechanical plant could be located in the basement or adjacent the central core to minimise noise disturbance. This will be **conditioned** accordingly in any consent granted. In this regard, all mechanical plant and ventilation systems are to be suitably located so they are shielded from public view. Any mechanical plant located in the basement car park must not displace any of the

required car parking spaces, and any mechanical plant or ventilation system located on the roof must be shielded from public view. In the event any plant equipment or the like is provided at ground level, details are to be submitted for the separate approval of Council. In this regard, plant equipment should not obstruct any public walkways or parking/loading areas, should not cause unreasonable noise disturbance and should be shielded from public view. All details are to be submitted to Council for separate approval prior to release of any Construction Certificate. If enclosures or localised barriers are required to reduce noise levels, details are to be submitted for Council's separate approval.

Given the retail/commercial uses are located centrally within the development, it is anticipated that any noise impacts will be limited to the subject site. The Acoustic Assessment indicates that the proposed commercial/retail hours of operation are 8.00am – 10.00pm, 7 days per week. Given that the proposal is for a mixed-use development and that late night operations may have the potential to impact on the future residents of the development, it is recommended that trading till 10.00pm be limited to Thursday-Saturday nights only. On Sundays to Wednesdays is recommended that all retail/commercial activities cease operations at 9.00pm. This matter will be addressed as a **condition** of any consent granted.

Concerns were also raised in relation to the potential noise impacts associated with the proposed children's play area located within the central courtyard of Block "B" (north-east corner). To address this concern, the Acoustic Assessment recommends that the bedroom windows to the ground floor units be fitted with double glazing (Rw40). The development plans indicate that double glazed windows will be provided for all apartments that adjoin the playground area. It is recommended that as a **condition** of any consent, that the bedroom windows adjacent to any internal courtyard be installed with double glazing, given that barbeque facilities and the like will be installed in these areas.

While the Acoustic Assessment generally considered the likely noise impacts, Council Officers were concerned that the potential noise impacts from the Ettamogah Hotel had not been considered. Council Officers also requested that additional measures (e.g. appropriate hours of operation and other operational restrictions) be recommended to ensure that future resident's amenity is not unreasonably impacted by the proposed children's playground.

During the public exhibition period, both the Ettamogah Hotel and McDonalds engaged separate Acoustic Consultants to review the submitted Acoustic Assessment. As a result of this process, valid deficiencies with the report were identified. In this regard, McDonalds were concerned that while boundary fencing would provide some additional acoustic shielding to the ground level residents, that residents residing on the upper floors had not been provided with suitable attenuation measures. McDonalds were also concerned that the report had not taken into account potential sleep disturbance impacts associated with the 24/7 operations of McDonalds and the Service Station, had not taken into account traffic noise intrusion from Windsor Road and had not considered the night-time activities associated with the Ettamogah Hotel. The Ettamogah Hotel also raised similar concerns, especially given the acoustic assessment had been undertaken in mid-winter and therefore did not provide a true reflection of the noise levels throughout the year. It was also pointed out that a substantial number of bedroom windows were proposed to face the Ettamogah Hotel. A full discussion of the objections raised can be found under Section 13 of this report. However, to address

the concerns of Council and the adjoining/nearby land owners, the applicant was requested to submit a revised Acoustic Report.

A revised Acoustic Assessment, dated 28 March 2011, was prepared by RSA Acoustic Consultants for Council's further consideration. RSA indicated that the data collected at the southern boundary of the site not only determined typical road traffic noise intrusion from Merriville Road, but also provided an indication of the noise associated with the operations of the Ettamogah Hotel. RSA also advised that the data collected at the eastern boundary of the site, provided not only an indication of typical noise experienced from the existing McDonald's Restaurant and Woolworths Petrol Station, but could also be used to determine the typical road traffic noise intrusion from Windsor Road.

As part of the revised Assessment, the 'External Facade Noise Levels' were increased to take into account the issues raised by Council and the Acoustic Consultants acting on behalf of the Ettamogah Hotel and McDonalds (i.e. the potential increase in car park activity at the Ettamogah Hotel during the summer months, the potential for increased activity at the adjacent McDonalds Restaurant and Service Station, and the potential for an increase in traffic flows on Merriville Road and Windsor Road over the next 10 years). The Assessment did not consider noise sources from within the Ettamogah Hotel premises (e.g. music, crowds, etc), given that the Hotel already provides acoustic barriers/walls to control these noise impacts.

The revised analysis of the amended data indicates that the proposed residential development may experience increased noise impacts, over and beyond what was originally assessed. To compensate for the increase in noise impacts, the revised report recommends that in addition to providing alternative methods of ventilation as originally proposed, improved glazing of at least Rw 40 (i.e. double glazing) should be provided to all windows and glazed doors directly adjoining or in line of sight of the southern and eastern boundaries. In addition to this, the revised Acoustic Assessment recommends that acoustic louvers be located on the balconies facing Merriville Road and Windsor Road to assist in controlling noise emitted from the surrounding commercial premises. A **condition** will be imposed on any consent granted, requiring that the details of the louvers be submitted for Council's separate approval prior to the release of any Construction Certificate.

In terms of the children's play area located within the central courtyard of Block B (north-east corner), the revised Acoustic Assessment recommends that signage be displayed requesting that no noisy activities or amplified music be undertaken in the area at any time. By-laws in any future Strata Plan can reinforce the prohibition of these types of activities. Any disputes regarding the use of the internal playground/recreation area could be referred to the on-site Building Manager in the first instance. The assessment also recommends that the operating hours of the playground be limited to 7.00am- 7.00pm on any day. This matter will be addressed via a **condition** of any consent granted.

In conclusion, the Acoustic Consultant believes that the proposed development site is suitable for residential land use on the basis of acoustics, provided the "amended" recommendations of the Assessment are implemented. The Consultant also believes the provision of double glazing and acoustic louvers will adequately address the concerns raised by Council and on behalf of the Ettamogah Hotel and McDonalds.

The revised Acoustic Assessment, together with a copy of the objections submitted on behalf of the Ettamogah Hotel and McDonalds, was forwarded to Council's

Environmental Health Unit (EHU) for consideration. In response, Council's EHU has raised no objections to the proposal subject to suitable **conditions** being imposed on any consent requiring compliance with the amended Acoustic Assessment.

(e) Roads & Pedestrian Pathways

The subject site benefits from unrestricted vehicular access, given it does not have frontage to an arterial or sub-arterial road. While the applicant did investigate the option of providing a secondary vehicular access point off Clonmore Street, this option was disregarded given the potential amenity impacts on existing residents. As such, all vehicular access is proposed off Merriville Road via a new 4-way round-a-bout. The development has been designed to meet Council's requirements in relation to half-width road and pedestrian construction. The roundabout (in its revised form) has also been located to enable no land acquisition or interruption to the site on the opposite side of Merriville Road. Appropriate **conditions** will be imposed on any consent granted to ensure all road works are undertaken to Council's satisfaction.

Merriville Road is the main collector road into and out of Kellyville Ridge. The internal roadway into the site will form the northern arm of the new roundabout, while the eastern driveway of the Ettamogah Hotel and Dan Murphy's will become the southern arm of the roundabout. The design of the roundabout, with its 2 eastbound circulating lanes and 1 westbound lane, is as a result of lengthy discussions and negotiations with the RTA. A full discussion regarding the roundabout design is provided under Section 9 of this report.

The site is not affected by any DCP road pattern, although it is noted that a small portion of the site (which is zoned 2(a) Residential) currently encroaches into the Clonmore Street road reservation. This portion of the site will be required to be dedicated to Council as a **condition** of any consent granted.

The site is also affected by a right-of-way (ROW) 6 metres wide which extends along the entire length of the eastern boundary. The ROW was created by DP 2683464 and benefits Lot 13, DP 1067209 (formerly known as Lot 1, DP 870330). The intention of the ROW is to provide future vehicular access to the vacant allotment located immediately to the north of the Woolworths Service Station. As a **condition** of any consent, the developer will be required to construct the ROW. The ROW, however, will be required to be fenced/gated until such time as Lot 13, DP 1067209 is developed. Fencing/gating of this area is considered essential as it will prevent anti-social activities (e.g. graffiti, riding of skateboards, loitering, etc) from occurring in this isolated area. Alternatively, the applicant may wish to negotiate with all affected parties for the provision of alternate vehicular access for Lot 13 and extinguishment of the easement, in which case the area could be allocated and used for private recreation purposes (i.e. courtyards).

The applicant was requested to investigate various access options, including the provision of a vehicular access link between the adjoining commercial properties (i.e. McDonalds and the Woolworths Service Station) and the proposed roundabout on Merriville Road. This matter is discussed further under Section 9 of this report. The final design, however, proposes that vehicular access to the proposed 4 new buildings will be provided via a new internal roadway which will run through the centre of the site. The roadway will provide access to the basement car park levels under each building, and to the car parking spaces and loading bays proposed at ground level. The new internal roadway will remain in private ownership and therefore will be maintained and managed by the land owner (or any future body corporate). Appropriate **conditions**, however, will be imposed on any consent to ensure that the road is

constructed to appropriate Engineering standards. Council's Engineering and Traffic Sections have reviewed the proposed plans and have advised that the carriageway width, splay corners and overall design is appropriate for a private access road.

In accordance with the RTA requirements, the proposed development makes provision for an extension of the right-turn lane on Windsor Road for traffic turning right into Merriville Road. The right-turn bay is to be lengthened by an additional 50 metres as part of the development proposal. Suitable **conditions** will be imposed on any consent to address this matter.

The proposed development also provides a series of pedestrian pathways to provide accessibility and permeability into and through the site. The sites location gives rise to the opportunity to provide pedestrian connection not only into the small neighbourhood shopping centre, but through the site and connecting to nearby commercial facilities. It has therefore been proposed that pedestrian access will be available from the eastern, western and southern boundaries of the site.

The applicant has indicated that the daily convenience needs of the local residents, to the north-west and west of the site, will be addressed if a pedestrian pathway is provided from Clonmore Street. While there would be benefit to the wider community if direct pedestrian access was available from Clonmore Street, Council Officers are concerned that pedestrian movements (especially late at night if patrons are returning from the Ettamogah Hotel) in this location could cause unnecessary disturbance to the existing adjoining dwellings. For this reason, it is recommended that as a **condition** of any consent any public pedestrian access point provided along the Clonmore Street frontage be closed/gated at 9.00pm each night by the on-site Building Manager. Details of the gates/barriers and the Building Manager's responsibilities would be required to be submitted for Council's separate approval prior to the release of any Construction Certificate, and will be addressed as a **condition** of any consent.

Council Officer's also have concerns regarding the proposed pedestrian access points located on the eastern boundary (i.e. adjoining the 6m right of carriageway). The applicant has indicated that these access points will provide a direct or alternative link for residents in Kellyville Ridge to the transport node on Windsor Road. Given the pedestrian access points open directly on to the ROW, and that the ROW will be required to be fenced/gated until such time as Lot 13, DP 1067209 is developed in order to prevent anti-social activities from occurring in this isolated area, it recommended that no pedestrian access be permitted along the eastern boundary of the site. A suitable **condition** will be imposed on any consent to address this matter. This deletion of the pedestrian access points along the eastern boundary would also ensure that pedestrians are directed to the signalised crossing at the intersection of Merriville and Windsor Road, which would allow them to cross over to the T-Way safely.

(f) Car Parking & Access

In accordance with the DCP, the commercial component of the development requires that parking be provided at the rate of 1 space per 40sq.m GFA. Any shop 200sq.m or greater must be provided with 1 space per 22sq.m GFA, while shops less than 200sq.m must be provided with 1 space per 30sq.m GFA. 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). Given the design of the development, Council Officers also requested that 1 courier space be provided under each building.

Application of the above parking rates to the various components of the development proposal yields an off-street parking requirement of 377 car parking spaces (i.e. 226 residential spaces, 80 visitor spaces, 67 retail/commercial spaces and 4 courier spaces). By way of comparison, the Road and Traffic Authority's publication *Guide to Traffic Generating Developments, Section 5 – Parking Requirements for Specific Land Uses* requires that the proposed development be provided with approximately 300 car parking spaces.

The proposed development provides for a total of 406 car parking spaces (i.e. 397 basement car spaces over 2 levels and 9 car spaces at ground level) and therefore well exceeds both Council's minimum parking requirement and the RTA Guidelines. The 9 spaces provided at ground level will be nominated as retail/commercial spaces. The remaining retail/commercial spaces will be provided on the parking level immediately beneath the shops. As a **condition** of any consent, the applicant will be required to provide an overall parking tenancy plan for the development. In this regard, the retail/commercial parking spaces must be located in an area which has convenient access to the relevant tenancy, and all resident car parking spaces must be located directly underneath the associated unit. Convenient access between the retail/commercial tenancies and the on-site customer car parking spaces is considered essential as it will deter customers from parking at the Ettamogah Hotel on the opposite side of Merriville Road or within the surrounding streets.

While parking details have been submitted with the application, a review indicates that the car parking allocation still requires further revision to ensure that customers/visitors do not have access from the basement car park into the private residential areas, and that direct access is available from the residential parking areas to the residential levels of the building. As a **condition** of any consent, the revised parking allocation plan will need to be submitted for Council's separate approval prior to the release of a Building Construction Certificate.

It should be noted that at this stage, the commercial/retail tenants are unknown. It is recognised, however, that the surplus number of car spaces would allow some flexibility in the type of uses proposed within the small shopping centre. For example, restaurants are permissible in the 3(b) zone with the separate consent of Council. Given a restaurant would require more parking than a general retail or commercial use (i.e. 1 space per 10sq.m of dining area, plus 1 space per 2 employees), some of the surplus spaces could be allocated to this type of activity in the future. When preparing the required car parking allocation/tenancy plan, this matter will need to be taken into account.

Vehicle access to the site is to be provided via a new private internal roadway which is to form the northern arm off a new 4-way roundabout in Merriville Road. The proposed roundabout will be located directly opposite the Ettamogah Hotel and Dan Murphy's eastern driveway (which will become the southern arm of the round-a-bout). Vehicular access to Building B and C's basement car parking spaces is to be provided via a single new entry/exit driveway located at the northern end of the new internal roadway, while access to Buildings A and D's basement car parking spaces is provided on either side of the internal access road at the northern end of the at grade car parking spaces. The entry to the basement carparking area under Buildings B and C has been reconfigured to provide improved visibility and manoeuvrability.

A Traffic and Parking Assessment Report, prepared by 'Varga Traffic Planning Pty Ltd', has also been submitted with the Application. The existing kerbside parking restrictions which apply to the road network in the vicinity of the site comprise of:

- No Stopping restrictions along both sides of Windsor Road and the far eastern portion of Merriville Road.
- Generally unrestricted kerbside parking elsewhere in Merriville Road, including along the site frontage and throughout the local residential area.
- Bus zones located at regular intervals along both sides of Merriville Road.

The proposed on-site parking arrangements and design of the development does not conflict with any of the kerbside parking restrictions in the area. The report indicates that the design of the proposed on-site car parking facilities (i.e. ramp grades, ramp widths, driveway and aisle widths, parking bay dimensions, etc) comply with the requirements specified under the Australian Standard. A suitable **condition** will be imposed on any consent to ensure that the car park design fully complies with AS 2890.1. It is noted from the architectural plans that each space is accessible and that all vehicles can enter and leave in a forward direction. It is also noted that the proposed development provides 9 stacked residential car spaces within basement level 2. While the provision of stacked car parking is generally not favoured, given only a small quantity is proposed that the 2 stacked spaces will be allocated to the 1 housing unit, the stacked spaces are considered satisfactory. Measures are also proposed to ensure a clear segregation between the residential and non-residential parking spaces. All non-residential spaces will be clearly signposted. The submitted Traffic and Parking Assessment Report therefore concludes that the proposed development will not have any unacceptable parking implications. Standard **conditions** will be imposed on any development consent to address parking and access. A further **condition** will be imposed to ensure that the 9 stacked car spaces are allocated to 3 bedroom units to ensure the ownership relates to the same tenancy.

(g) Services

Suitable **conditions** will be imposed on any consent granted requiring that the applicant provide evidence that arrangements satisfactory to the relevant service providers (E.g. Sydney Water, Endeavour Energy, Telstra) have been made for the provision of water, sewerage, electricity, gas and telephone. The applicant has nominated that a new sub-station will be provided in the south-west corner of the site. **Conditions** will be imposed on any consent requiring that the area behind the sub-station is densely landscape with suitable plant species that would prevent undesirable activities from occurring in this area.

(h) Drainage and Flooding

Prior to lodgement of the Development Application (DA) the applicant met with relevant staff to discuss a previous drainage plan prepared by Mepstead & Associates. At that time, the applicant was advised that the drainage concept plan was insufficient and that a full Hydraulic Study was required with submission of any DA, including assessment of the overland flow in a PMF event demonstrating no critical impact on existing development in the area.

The required detailed Study, however, was not submitted with the Application. The applicant was therefore requested to submit a full hydraulic study. The applicant was also advised that the submitted drainage concept plan was unsatisfactory for the following reasons:

- Stormwater Quality Improvement has not been incorporated in accordance with Council's Stormwater Quality Improvement Policy.

- It is proposed that the 100yr overland flowpath will be piped. As such, a detailed concept design for the inlet structure to the RTA triple cell RCBC under Windsor Road must be provided. This must include provision for the overland flow path leading from the pathway in Kilbenny Street.
- The plans indicate that there is a low point south of the proposed overland flowpath. This will cause excessive ponding in Clonmore Street and impact on the adjoining existing and future development.
- The proposal, including the location, for a 12m grated inlet pit is not acceptable for the design of the 100yr flow.
- A clear indication of existing and proposed spot levels has not been provided.
- Details of the current and proposed drainage within Merriville Road have not been provided.

Following a long and detailed assessment process, revised drainage plans were submitted for Council's consideration. Council's Engineering/Drainage staff has confirmed that all previous concerns have now been satisfactorily addressed. As such, no objections have been raised to the development subject to the imposition of appropriate conditions of any consent. A copy of the draft determination, including the recommended drainage and stormwater **conditions** are included at **Attachment 1** of this report.

(i) Crime Prevention through Environmental Design

The DCP states that major DA's may require the submission of a Crime Safety/Prevention Audit prior to the determination of the application. This Crime Safety/Prevention Audit may also be referred to the NSW Police Service for detailed review and assessment.

The NSW Police Service has produced a document titled '*Safer by Design – A Practical Guide to Crime Prevention Through Environmental Design*'. This document provides detailed design controls for consideration in the planning of development so that crime activities can be minimised. Following lodgement of the original DA with Council, the Quakers Hill Police Local Area Command (LAC) was provided an opportunity to view the application and undertake a 'Safer by Design' Evaluation. The DA, as originally proposed, contained 268 residential units, 23 retail/commercial tenancies and 495 car parking spaces. A formal Crime Safety/Prevention Audit was not submitted with the original proposal.

After undertaking a detailed evaluation in October 2009, the Crime Prevention Officer at Quakers Hill LAC advised that the proposed development had a "High" crime rating. The Quakers Hill Police therefore strongly objected to the proposal. In order to help reduce opportunities for crime, the Crime Prevention Officer recommended that a range of 'Crime Prevention Through Environmental Design' (CPTED) treatments be considered for the development. These included:

- Increasing natural surveillance opportunities at building entry points, lift wells, stairwells, public toilets and communal areas;
- Nominating landscaping that will not restrict opportunities for natural surveillance, provide areas of concealment or cause visual obstruction of lighting and CCTV;

- Eliminating potential points of entrapment and areas of concealment;
- Where necessary, providing CCTV and formal supervision (i.e. security guards);
- Installing vandal resistant lighting, sensor lighting or other forms of appropriate lighting;
- Clearly defining public and private boundaries;
- Providing secure access to “resident only” areas, including the basement car parking spaces;
- Designing units to prevent potential neighbour disputes, especially in terms of noise related issues;
- Adopting a maintenance and graffiti removal policy;
- Addressing potential impacts (e.g. noise and anti-social behaviour) associated with patrons from the nearby Ettamogah Hotel and 24 hour McDonalds Restaurant, and ensuring that the site did not become a thoroughfare or meeting point after hours;
- Appropriately designing rooftop terraces to ensure opportunities for anti-social behaviour were eliminated;
- Eliminating potential pedestrian/vehicle conflict points (e.g. youths skateboarding and bike riding on the basement car park ramps);
- Appropriately locating street furniture to prevent undesirable congregation points where anti-social behaviour could occur;
- Providing appropriate signage, bollards, barriers, alarms, etc where required; and
- Providing suitable access for emergency services and adequate evacuation assembly points.

Following receipt of the detailed ‘Safer By Design Evaluation’ and recommendations of the Crime Prevention Officer, a copy was forwarded to the applicant for consideration during the preparation of any revised development proposal for the site.

In November 2010, the applicant submitted an amended proposal for 198 units, 17 retail/commercial tenancies and 406 car parking spaces. A copy of the amended development proposal was forwarded to the Quakers Hill LAC for a revised assessment. The Crime Prevention Officer was still not satisfied that the CPTED principles had been addressed, and therefore requested that further information be provided in the form of a detailed report. The Police advised that on receipt of the more detailed information, a formal decision regarding the proposal could be made.

In April 2011, the applicant lodged a formal response to the original and revised CPTED assessments. A summary of the Crime Prevention Officer’s CPTED assessment and the applicant’s response to the identified areas of concern, are detailed under items i. – ix. below. The information provided by the applicant demonstrates that the potential to commit crime has now either been reduced or in many cases eliminated altogether. This information was forwarded to the Quakers Hill LAC, and in July 2011 the Police advised that the Quakers Hill LAC no longer has any objections to the proposed development subject to appropriate conditions. In this regard, the Crime Prevention

Officer is satisfied that most of the CPTED principles can be met (i.e. security, natural/passive and controlled surveillance, environmental maintenance, landscaping, territorial re-enforcement, space/activity management, lighting, access control measures, general maintenance, fencing and graffiti management).

The Crime Prevention Officer, however, did indicate that there were still concerns in relation to the security of the basement car park and the potential for a high level of theft to occur in this area. Accordingly, it has been recommended that a roller shutter out-of-hours system be installed at the entry points of the basement car park and at the segregation points between the commercial/visitor and residential parking areas. The Crime Prevention Officer has also indicated that chain link fencing should not be provided to segregate resident parking, as this will not deter the 'would be' thief. Ideally, masonry walls from floor to ceiling with a roller shutter and appropriate locking mechanisms should be provided. However, if this is not a viable option the Police strongly recommend that welded mesh security fencing be installed to segregate each parking compound. Provided these matters can be addressed, the Police agree that the 'Safer by Design' rating can now be down-graded and classified as "Low". It is therefore recommended that as a **condition** of any consent granted, the applicant be required to liaise with the Quakers Hill Crime Prevention Officer to develop a satisfactory design solution which addresses these remaining concerns prior to release of any Construction Certificate.

As indicated above, a summary of the Crime Prevention Officer's CPTED assessment and details of how the applicant has addressed the original areas of concern, are detailed below. Where the Crime Prevention Officer recommended that certain measures be adopted to reduce opportunities for crime, these will be included as additional **conditions** of any consent issued.

i. Surveillance/CCTV

- *The Police have recommended that CCTV be installed throughout the development. Prior to installation of any CCTV system, the Police require specific details regarding the proposed systems. This includes details of the number of CCTV units, the location of CCTV units, details of the associated signage referring to the existence of CCTV in the area, and details of who will be responsible for the storage and maintenance of the footage and equipment. The Police also recommend that a qualified consultant be involved in the planning and placement of the CCTV systems.*

The applicant has advised that a CCTV system will be provided throughout the complex to monitor all public areas, the retail/commercial precinct, the basement car park entry/exit points, lift entry points, main building entry points and roof-top recreation areas to improve public surveillance and provide a secure environment for the public, residents, visitors and shopkeepers. In addition to the CCTV points, security mirrors will be installed to eliminate any potential areas of concealment and vehicular conflict points.

The CCTV system will include back to base 24 hour video surveillance and will be monitored by a professional security company. It is proposed that the CCTV camera and monitoring systems will be housed within a secure area (card-key access) within the Building Manager's office. The monitoring system will be complete with a suitable image bank to cater for long-term file storage. Signage will also be installed throughout the complex to advise of the existence of video surveillance cameras.

The applicant has advised that at the Construction Certificate (CC) stage, the developer will engage the services of a professional security advisor to develop an overall safety and security management plan for the site. As part of the overall plan, the number and placement of the CCTV cameras will be determined. It is therefore recommended that this matter be addressed as **condition** of any development consent granted. Details of the overall management plan, including signage details, details of who is responsible for the equipment, and details of the Building Manager's office (which is assumed to be located within one of the retail/commercial tenancies) will also be required prior to release of any Building CC and will be addressed via suitable **conditions** of any consent.

Concerns have been raised that the implementation of an overall CCTV camera system, including back to base monitoring, could be complicated and expensive and therefore may not be provided. The developer, however, has shown a commitment to installing these facilities and recognises that these systems are essential for overall safety of all users and occupiers of the site.

- *The Crime Prevention Officer has noted that the lift wells have been relocated in accordance with the original recommendations. It is further recommended, however, that all lift entries be provided with secure access for residential tenants only and that CCTV and appropriate lighting be provided at all lift locations. Access to the central courtyards must also be by way of keypad or swipe card to prevent unauthorised access. In this regard, unsecure access could lead to increased incidences of break and enter, or could allow paedophiles to loiter around children's play areas. Natural surveillance opportunities should be provided to all entry points, stairwells, basement parking areas, communal areas and pathways.*

The applicant has indicated that an internal card-key security system will provide all occupants with a high level of security when moving between the resident-only basement car parking area and residential home units. Access to the resident-only section of the basement car park will be provided via a card-key. In this regard, an internal security door will be provided to segregate the resident and non-resident parking spaces. This will ensure the probability for car theft, break and enter, and malicious damage is decreased or eliminated altogether. All residential areas, including the rooftop resident recreation areas and main building entry points, will also only be accessible via a resident-only card-key system. CCTV will further prevent unauthorised access to these areas. It should be noted, however, that the central courtyard to Building 'A' (south-east corner) will be accessible to the general public during business hours to allow access to the ground level commercial/retail tenancies. It is proposed that after hours, access to this area will only be available via a resident-only card-key system. Appropriate **conditions** will be imposed on any consent to address these matters. Additional **conditions** will also be imposed requiring that the commercial/retail tenancies in Building 'A' have a dual frontage (i.e. to both the street and the central building courtyard). In this regard, it is recommended that the subject tenancies be provided with glazing and door openings on both frontages, to allow unrestricted pedestrian activity and allow better opportunities for casual surveillance.

The basement car park entry/exit points will be monitored by CCTV cameras and safety mirrors. While unrestricted access must be available to the basement car park during business hours, to allow visitors and customers to access the non-resident parking areas, it is proposed that roller doors and a card-key system will be installed at the entry/exit points to restrict after-hours access to the basement car park. This will ensure that the Police concerns regarding vehicle theft and car jacking are significantly minimised or eliminated. Further **conditions** will be imposed on any consent to ensure

appropriate measures are installed to control access to the basement car park at all times.

Since the original CPTED evaluation, the design of the ground level retail/commercial tenancies and residential units has been significantly amended. Remote/concealed areas have been eliminated, and the lift wells and stairwells have been amended to increase natural surveillance. The lifts have been also redesigned to provide direct access between the public basement car parking areas and the retail/commercial precinct, and CCTV cameras, card-key systems and appropriate lighting have been proposed at all lift entry/exit points. Sight-lines have also been improved throughout the ground level and basement areas to enhance natural surveillance within the development and ensure there are no “dark” spots where persons could go undetected.

The revised design provides for increased natural surveillance where occupants and users of the facility can see and be seen by others. All public areas are also overlooked by numerous apartments and the design provides good casual surveillance of the street and other internal parts of the site. Mechanical surveillance mechanisms (i.e. CCTV) will further help to increase surveillance throughout the development. Seating adjacent to main building entry points and lift doors have also been removed to ensure no persons can loiter near these areas to gain unauthorised access to the residential only car parking areas or the residential units. The applicant recognises that paedophilia is a social problem throughout all levels of society, and has indicated that the police will be advised immediately by the Building Manager should any such activity be reported or identified by the Building Manager or security staff.

- *Planter boxes have been provided throughout the development including within the central ground level courtyards. Appropriate landscaping must be provided in the planter boxes to maintain natural surveillance opportunities.*

Planters and other perceived obstructions have been moved away from main access points to improve public surveillance. The final landscape design will ensure that dense “bushy” plants are not provided where they will cause a visual obstruction or potential area for concealment. It is proposed that all plants selected will allow enhanced natural surveillance opportunities throughout the public areas, along pathways and around the retail/commercial tenancies. Whilst the plants will be placed to provide clear lines of sight, they will also be of varieties that will enhance the overall ambience of the public spaces and provide areas of shade as required. In the event shrubs are incorporated, regular maintenance will be required to ensure these plants do not impact on lines of sight at entry and exit points for both persons and vehicles. Careful consideration will also need to be given to the type of plants provided in the planter boxes located in front of ground level windows. In this regard, the plants selected must ensure that opportunities for casual surveillance are available while also providing a suitable level of privacy for residents. As a **condition** of any consent, a detailed landscape plan addressing these matters will need to be submitted for Council’s separate approval prior to release of a Building CC.

ii. Maintenance

- *A maintenance policy needs to be established to include both graffiti and landscaping. In this regard, all vegetated areas, gardens, planter boxes, communal areas and children’s playgrounds should be appropriately maintained. Any graffiti should be removed within 48 hours. Landscaping should be adequately maintained to provide natural surveillance opportunities, and ensure that the ‘visual’ appearance of the development is*

not reduced. A management plan should also be adopted in regard to drug paraphernalia.

The applicant has indicated that prior to the completion and formal opening of each building a formalised maintenance program will be implemented to ensure the long term up-keep of the development. Once established the Owners Corporation will manage the program to ensure any specific owner/tenant requirements are reviewed and where appropriate integrated into the Strata Management Agreement and bi-laws. The “total” maintenance program will ensure all buildings, public areas, landscaping, the children’s play area, security systems and lighting are regularly inspected and maintained, to ensure the longevity of the development. The maintenance program will also ensure that security, cleanliness and general repairs are managed appropriately, and that areas are not left unattended for long periods thereby substantially increasing the opportunity for graffiti or anti-social behaviour. Any “anti-social” activity, including drug use, identified by or reported to the on-site Building Manager or security staff will be referred immediately to the Police. The applicant has indicated that the public/communal areas have been designed as places that will be used on a daily basis. This will ensure that the opportunity for anti-social behaviour or graffiti application is minimised or eliminated altogether. Should graffiti appear, however, the bi-law requirement will ensure it is removed no later than 48 hours of notification. Appropriate **conditions** will be imposed on any development consent to address maintenance and graffiti related issues. Where possible, the selected external building materials should be robust and durable, and materials which discourage vandalism and graffiti should be selected (e.g. graffiti resistant paints). As a **condition** of any consent granted, the applicant will also be required to submit prior to release of any Construction Certificate an on-going funding model detailing the cost sharing arrangements for the on-site Building Manager, security staff and general maintenance and up-keep of the development.

iii. Security

- *It is recommended that formal supervision (security guards) be provided to ensure the safety/security of residents/users of the area. A formal security management plan, including details of the number of personnel to be hired, the hours of operation, whether there will be a full-time property manager and the location (if any) of the property manager’s office, should be provided. Details of the property manager’s responsibilities, including whether they will be the guardian of the CCTV system, are also to be included.*

The applicant has advised that it is the intention of the developer to engage the services of a specialist security advisor at the Construction Certificate (CC) stage to develop a “total” security management plan. The applicant has advised that the recommendations of the Police will be adopted and that details regarding the number of security personnel to be employed, the hours of operation, details of the on-site Building Manager and their responsibilities, etc will all be addressed in the security management plan. In this regard, the applicant has indicated that all areas of the complex will be monitored on a 24/7 basis by on-foot security guards. This will increase security around the site and ensure that more isolated areas, such as the rear setback area adjacent to the northern boundary, are kept clear of any loitering persons at night. The contract for the “on-foot security guards” will be managed by way of an annual service agreement and will be controlled by the Owners Corporation. The employment

of an on-site building manager will also assist in increasing security around the development site.

The applicant has indicated that a 24 hour back-to-base video surveillance/alarm system will also be installed to ensure the public areas of the complex are monitored at all times. All security systems will be updated and improved in line with community or user concerns. As part of the development of a “total” security management plan, the specialist security advisor will also review the potential for “panic alarms”. These could be installed at select areas on the ground floor level, within basement car parks and stairwells, and utilised in the event of a robbery or other such serious event. Public car park areas will be sign posted and covered by CCTV to ensure unauthorised parking or anti-social behaviour is minimised. The on-foot security guards will also patrol the car park areas to ensure patrons safety.

The applicant has indicated that bi-laws will be introduced to ensure a high level of security is maintained in accordance with the prepared security management plan. It is recommended that appropriate **conditions** be imposed on any development consent requiring the preparation of a security management plan by a specialist security advisor. Details of the finalised security management plan should be submitted for Council’s and the Quakers Hill LAC’s separate approval, prior to the release of any Building CC. In terms of the on-foot security guards, it is recommended that in the event it is cost prohibitive to employ guards on a 24/7 basis, that as a minimum patrols should be undertaken Thursday, Friday and Saturday nights (i.e. when patrons are leaving the Ettamogah Hotel).

iv. Lighting

- *Details of the type and location of all security lighting (e.g. flood lighting/sensor lighting) to be provided throughout the development is to be provided. In this regard, lighting is required within the basement car parks, along fence lines, at entry/exit points, along key pedestrian walkways, loading dock areas and cash transit areas. All lighting must be vandal proof and must be of a standard that will allow the effect use of the CCTV. The roof of the basement car park must also be painted white to enhance the lighting operations.*

The applicant has advised that a detailed lighting plan will be prepared as part of the Construction Certificate (CC). All lighting will be designed in accordance with Australian/New Zealand lighting standards for public space, pedestrian walkways and basement car park areas. All external lighting will also be within the recommended lux rating of the Australian Standard to reduce glare on residential neighbours and occupants of the development.

In this regard, vandal proof security lighting will be provided throughout the complex to discourage undesirable persons from congregating within the public/communal areas at night. The use of appropriate lighting will allow any undesirables to be detected and escorted from the premises by the on-foot security guards.

The elevations fronting Clonmore and Kilbenny Streets (i.e. the 6m rear setback area) will be monitored by way of motion-activated lighting and strategically positioned CCTV cameras. Lighting levels will be enhanced around all CCTV cameras (e.g. around lift entries, basement car parks and courtyard building entries) to allow facial recognition. Appropriate vandal proof lighting will also be provided to ensure the basement car parks, vehicle and building entry points, stairwells, walkways and public/communal areas are a safe environment for all occupants and users of the site. Sensor/motion and

24 hour timer activated lighting will be provided to ensure all external public areas are well illuminated, to deter vandal and nuisance activity, eliminate areas of concealment, and provide better safety at night.

The “total” maintenance program adopted for the site will also ensure that the lighting system throughout the development is maintained at all times. All lighting within the basement car parks and public/communal areas will be protected by way of vandal proof metal guards to ensure globes/tubes are not broken and that any potential “dark-spots” are eliminated. Lighting will also be positioned at a height to deter vandal attacks. The applicant has advised that the maintenance of all external lighting will be managed by way of an annual service agreement to ensure the security of the building and persons within are not compromised from dark or uncontrolled public areas.

It is recommended that a **condition** of any consent granted, that all lighting details, a copy of the maintenance program, and a light spillage plan be submitted for Council’s separate approval. A separate **condition** will also be imposed requiring that the ceiling of each basement car park be painted white to enhance lighting illumination.

v. Territorial Reinforcement & Design, Definition and Designation Conflict

- *Information is required on how the development will recognise the mix of uses across the site (e.g. how will private and public areas be distinguished, will boundaries be provided between retail/commercial and residential areas, how will persons recognise who is supposed to use the space and what is it to be used for). In this regard, will signage be erected (e.g. “trespassers will be prosecuted”, “CCTV in use”, “security personnel on ground”, etc) or will there be strict and clear conditions within the tenancy agreements? The designated ‘purpose’ of a space should make it clear who owns it, cares for it and is responsible for it.*

The retail/commercial area and public spaces will be under constant CCTV monitoring and surveillance from the Building Manager/Security Guards. Details of this arrangement will be finalised in the development of the “total” security management plan to be undertaken by the specialist security advisor at the Construction Certificate (CC) stage. The intention, however, is that there is constant “guardianship” over the public spaces on site. The support of the retail/commercial operators within the development and adjoining the site (i.e. the Ettamogah Hotel, McDonalds and Woolworths) will also be sought to ensure that all external safety/security requirements are met and that all parties have an opportunity to address security matters. In this regard, it is proposed that a joint agreement will be developed between all businesses in the area to control external anti-social behaviour. Such agreement will provide the mechanism to ensure any nuisance related activity can be eliminated before it becomes problematic. To address this matter, a **condition** will be imposed on any consent requiring that the Security Management Plan be prepared in consultation with the adjoining property owners (i.e. the Ettamogah Hotel, McDonalds and Woolworths) to ensure that all external safety/security requirements are met and that appropriate measures are in place to control/eliminate anti-social behaviour. A copy of the Plan, including evidence that the required consultation has occurred, is to be submitted to Council prior to release of any Construction Certificate.

The development has been redesigned so there is a clear definition between the “resident only” and non-resident areas at ground level. For example, the central courtyards of Blocks B, C and D can now only be accessed via a resident card-key system. Block A (south-east corner of site), however, has been redesigned so retail/commercial tenancies occupy the entire ground floor level. The central courtyard

to Block A will therefore be a shared zoned where residents, visitors and customers can integrate. The applicant has indicated that cafes, restaurants and other active uses will be located in this area. However, as a **condition** of any consent, access to this area after business hours will only be available via the resident-only card-key system. This will prevent the area becoming a meeting place at night. As discussed elsewhere in this report, appropriate **conditions** will also be imposed on any consent to ensure there resident and non-resident parking areas are cleared segregated.

Well designed and placed signage will also be placed throughout the complex to ensure residents, customers and visitors have a clear and concise understanding of where they are permitted and not permitted to go. Various signs to be erected throughout the development include:

- Trespassers will be Prosecuted;
- Access for residents only;
- Visitor parking
- Loading Dock (15 mins);
- Resident car park (with unit numbers allocated);
- 24/7 Security Employed onsite;
- Alcohol Free Area (subject to Council approval);
- Video Surveillance Cameras in use;
- Courier parking;
- Garbage pick-up zone;
- No loitering;
- Carpark entry/exit;
- Various directional signs (e.g. to loading docks, to parking areas, etc).
- Security card-key access only;

The applicant has advised that details regarding the final wording, size, location and other signs to be erected will be provided at the CC stage. It is recommended that this matter therefore be addressed as a **condition** of any consent granted.

In terms of creating an “Alcohol Free Area”, it should be noted that under the Ministerial Guidelines “alcohol free” zones can only be established on public roads, public footpaths or public car parks. Private property, including private roads and private car parks, cannot be nominated as “alcohol free” zones. As such, an “alcohol free” zone could only be established across the Merryville Road street frontage.

An “alcohol free” zone may be established for a maximum period of 4 years, although it may be re-established at the conclusion of the original period if considered applicable. Alcohol Free Zones may only be made upon resolution of the Council. A proposal to establish an “alcohol free” zone must in all cases be supported by evidence that the public’s use of those roads, footpaths or public car parks has been compromised by

street drinkers. Once an “alcohol free” zone is established, it may be enforced by either the NSW Police Force.

The Ministerial Guidelines on “Alcohol Free” Zones recognise that anti-social behaviour and alcohol-related violence is a growing problem in all communities. A proposal to create an “alcohol free” zone, however, may just move the problem from one place to another. A more effective way of improving public safety in this case is to implement measures on site which will deter the anti-social behaviour from occurring. In this regard it is believed that the proposed CCTV, security lighting, and security guard/building manager patrols will help to deter anti-social behaviour at this location.

vi. Access Control

- *Access controls should clearly delineate public, semi-public and private space. All main entry/exit points, windows and fire exit doors should be fitted with appropriate locks/keypads/security doors, etc, and adequate signage should be erected to ensure clear passage to exits and around pedestrian routes. Electronic communication devices are also recommended at entry points. Appropriate measures should also be put in place to ensure ‘non-residents’ do not have access to private areas, and that balcony to balcony access is prevented. Appropriate access control devices must also be installed to regulate vehicle movements within the basement car park areas. Appropriate barriers must be provided between the resident and customer/visitor parking spaces. In this regard, a roller door/swipe card system is highly recommended as boom gates do not restrict access to unauthorised persons. If each garage bay is to be secured, it is recommended that floor to ceiling concrete be provided over chain link fencing and that appropriate locks be installed (e.g. a multifunction lock that is drilled into the concrete flooring).*

The original proposal was designed so that customers had unrestricted access to the internal courtyards of Block ‘A’ and ‘C’ (fronting Merriville Road). In this regard, a mix of residential units and retail/commercial tenancies were provided on the ground floor levels of both buildings, allowing non-residents to congregate outside resident’s front doors and bedroom windows. The development has been redesigned to eliminate both Council and the Police’s concerns regarding the lack of delineation between public and private areas. In this regard, the general public now have no reason to enter private residential areas.

The developer has also given a commitment to implement Owner’s Corporation Bi-laws to ensure all concerns relating to security are recognised and appropriately addressed. All doors throughout the complex will be keyed to service their intended use, and all windows and doors to all residential units will be fitted with keyed locks. The balconies will also be separated by way of dividing walls/elements to ensure each unit is secure from the adjoining residence.

Access to resident-only areas (i.e. the units, common recreation areas and the designated basement car parking spaces) will be controlled by security roller doors, card-key systems, signage, CCTV, etc, which will ensure people have a high degree of security when entering and leaving the building. While all “resident” parking spaces will be provided within the secure sections of the basement car park, accessible only by security card-keys, the applicant has advised that some tenants will also have the option to purchase “caged” car spots. In this regard, any separation fencing for the car spaces will be provided in accordance with the BCA. The applicant has noted the Police

suggestion for “masonry” walls to divide and secure the individual parking bays, however, has indicated that such provision may create building code issues. The applicant has therefore indicated that the option for masonry walls will be assessed and determined at the CC stage. The Police have advised if this is not a viable option, then it is strongly recommend that welded mesh security fencing be installed to segregate each parking compound. The Crime Prevention Officer has indicated that chain link fencing would not be acceptable, as this will not deter the ‘would be’ thief. As this remains an outstanding concern for the Police, it is recommended that an appropriate **condition** be imposed on any consent to address this matter.

While visitors and customers will have access to the designated basement car parking spaces during business hours, after-hour access to the basement car parks will be restricted. As such, any non-resident wishing to gain access to the basement car parks outside normal business hours, will need to contact the on-site security guard/building manager. While final details will be finalised at CC stage, the applicant has indicated that roller shutter doors will control out-of-hour access to the basement car parks and boom-gates will be installed to control normal daily use. This matter will also be addressed via a suitable **condition** of any consent.

- *Bollards or barriers should be installed to reduce the opportunity for ram raid attacks, and counters should be designed to reduce unauthorised access to behind counter areas. Where appropriate monitored alarm systems, duress facilities and safes should also be provided to the retail/commercial premises.*

Shopfront doors, windows and access grills will all conform to the BCA and applicable standard for security locking. Where required, steel bollards and/or suitable barriers will be installed to eliminate the potential for ram-raid attacks. Shop-keepers will be encouraged to design all shop-fittings with safety and security being a paramount consideration. Such design should ensure the potential for any assault or unauthorised access behind a counter location is minimised. Where applicable, shatter-proof film will be applied to shopfronts and window glass to minimise smash and grab opportunities. Shopkeepers will also be encouraged to engage the services of a security company to collect daily takings to ensure no monies are kept on premises overnight. The external areas around the retail/commercial tenancies will be monitored by 24 hour back-to-base CCTV, while the design of the internal private road and roundabouts will prevent any “hooning” or street racing within or around the development.

- *Should an ATM be installed there is great concern that persons may be the target of a robbery, due to the lack of natural surveillance.*

The location of service facilities such as ATM’s will be coordinated into the architectural design to ensure there are no areas of concealment where undesirables could hide. Details regarding the location of any ATM’s will be finalised in the development of the “total” security management plan to be undertaken by the specialist security advisor at the Construction Certificate (CC) stage. Appropriate **conditions** will be imposed on any consent to address this matter.

- *Access should be provided for emergency vehicles, and an evacuation plan/emergency management plan should be put in place. Copies of the plans should be submitted to the Police and Council. In this regard, it appears there is no room for an evacuation assembly point on site for the projected number of occupants. An assembly point within one of the adjoining businesses or residential streets would be unacceptable.*

The applicant has advised that prior to completion of the development, a detailed Emergency Evacuation and Management Plan will be prepared in accordance with Australian Standard Emergency Control Organisation and Procedures for Buildings, Structures and Workplaces. Such plan will be issued to all occupants by way of a “fixed” sign within the tenancy, unit or commercial office. As part of the emergency plan, an “audio” system will be installed at strategic locations (e.g. car park entry/exits, lift door access, select public areas) to ensure the safety of residents and the public in the event of an emergency. The system will also have provision for “back-to-base” contact.

Emergency and general EXIT points will be well sign-posted to ensure all patrons know where to go in the event of an emergency. Periodically, a “mock” evacuation of the premises would be undertaken to ensure all parties are aware of the plan guidelines in the event of an emergency. It is proposed that the on-site Building Manager would coordinate the timing of any “mock” evacuation procedure.

As a **condition** of any development consent, it is recommended that the plan be developed in conjunction with a specialist consultant and that a copy of the plan be submitted to Council and the Police for comment prior to the release of any Building CC.

vii. Fencing

- *Details of all fencing are required. Colorbond fencing or fencing that provides a canvas for graffiti is to be avoided. The Police strongly recommend that spear fencing be erected on the perimeter fence lines as it will provide natural surveillance and reduce malicious damage offences. Alternatively, green screening (runners and vines) can be used to prevent graffiti on solid wall fencing. Flat or porous wall finishes should also be avoided in areas of public view. Strong, wear resistant laminates, impervious glazed ceramics, treated masonry products and stainless steel are preferred materials.*

The applicant has indicated that the overall Management Plan for the site will include a “Graffiti Management Plan”. This element of the Plan will focus on:

- Minimising the potential for graffiti (i.e. graffiti resistant paint and materials);
- Management/notification for the “early” removal of graffiti;
- Annual review of any “management agreement” for the removal of graffiti to ensure the property is maintained at its optimum level;
- Selection of “best” building materials to minimise staining from graffiti;
- Selection of perimeter/boundary fencing to minimise the areas for graffiti to be applied; and
- Application of appropriate landscaping to minimise the potential for graffiti attacks.

The applicant has also indicated that the design and selection of the perimeter fencing will take into account a range of considerations including:

- The specific needs of the development;
- The level of security to be provided by the fencing;
- Provisions for vandal-proofing the fencing;
- Needs and formal agreements between neighbours and the developer;

- Options to minimise/eliminate the potential for graffiti canvas effect;
- On-going maintenance of the fence, landscaping and adjoining properties; and
- Type selection of foliage to be grown on/over the fence to minimise any potential graffiti attacks.

Each of the above elements require a detailed review to ensure the optimum solution/selection of materials and management is employed to not only control graffiti attacks but also provide the level of security required and minimise ongoing maintenance issues. This matter will be reviewed in conjunction with the preparation of the total Security Management Plan being undertaken by the specialist security consultant. A suitable **condition** will therefore be imposed on any development consent requiring that all fencing and graffiti resistant materials are submitted for Council's separate approval prior to release of any Building CC.

viii. Street Numbering, Letter Boxes and Power Boards

- *Street numbers must be clearly displayed and visible at night. The letterbox system and power boards should be vandal resistant and secure.*

As required by Council and Australia Post, street numbers will be appropriately displayed. The applicant is proposing that the street numbers will also be illuminated between sunset and sunrise to ensure the site is easily identified. Letterboxes will be provided in appropriate locations for all residents, shops and commercial premises. It is envisaged that an illuminated and tamper-proof "letter box" wall will be provided in a prominent location so as to minimise vandal attacks. Each box will be appropriately numbered and provided with a key lock. Details regarding the location, size and construction detail for the street numbers and letter-box wall will be determined in conjunction with the Security Management Plan at the CC stage. Appropriate **conditions** will therefore be imposed on any consent to address this matter.

The power supply to the complex will be provided in conjunction with the "supply authority" requirements. A suitably located Main Distribution Board (MDB) will be provided to service each building within the complex. The MDB will be secured by way of all-weather vandal-proof doors complete with a master key locking system in accordance with the supply authority requirements. As required, each tenancy, commercial suite and residential unit will be provided with an internal distribution board as required by statutory provisions. A new electricity sub-station is also required for the proposed development and has been located in the south-west corner of the site fronting Merriville Road.

ix. Space/Activity Management & Seating

- *The public/common spaces around the site should be frequently used and maintained, as infrequently used and inactive spaces encourage undesirable activities.*

The applicant anticipates that the development will have high occupancy rates due to the unit mix and proximity to the Transitway. The applicant also believes that the North-West railway, to be constructed from Rouse Hill to Parramatta, will further help to maintain occupancy rates throughout the development. In turn, the developer believes that low vacancies will ensure that the development will have lower crime rates and deter anti-social behaviour.

Prior to completion of the development a Building Manager will also be appointed to oversee all aspects associated with the management and running of the development (e.g. retail/commercial, residential areas, security, space management). The appointment of a Building Manager will help to ensure that the completed development provides both the type of businesses and the lifestyle anticipated by future residents and customers. As a **condition** of any consent granted, the applicant will be required to submit prior to release of any Construction Certificate an on-going funding model detailing the cost sharing arrangements for the permanent engagement of the on-site Building Manager and security staff.

A well run centre will ensure the potential for vacancies within the retail and commercial tenancies will be minimised. As the centre has a focus on the neighbourhood style of shopping, tenancies will be selected to satisfy the “daily requirements” of the on-site residents and residents of the Kellyville Ridge area. As the retail tenancies will be limited to “neighbourhood” type shops, the development should not experience high vacancies. This in turn will ensure that the public areas are well populated at all times, and that anti-social behaviour or malicious damage is minimised. The development is also planned to be an “active place” and has been designed to permit alfresco dining during the day-time and night-time trading hours. The movement of people throughout the retail and parking areas during these times will further help to eliminate the potential for criminal and anti-social behaviour. Undesirable uses within the retail tenancies will be discouraged to ensure a family friendly atmosphere is created and maintained, so all parties can enjoy the retail shopping experience.

- *All seating should be vandal resistant. Serious consideration should be given to the location of any seating as it may result in young people congregating in that area. Seating should also not be provided in areas where a person could wait until a resident enter/exits a secure area and then easily gain unlawful access.*

All public/communal area furniture will be designed and located to discourage the potential for people to congregate and partake in anti-social behaviour. All street and garden furniture will be selectively positioned and low-rise open-back style seating will be used to ensure surveillance lines are maintained. The location of such seating will ensure areas for any youth congregation or people loitering (including paedophiles) is minimised or eliminated altogether. The on-site Building Manager and employed Security Guards will further discourage anti-social behaviour. The applicant has indicated that it is intended for the development to be a family friendly place where people will be happy to visit. As a **condition** of any consent, it is recommended that details of all seating be submitted as part of the overall landscape plan for the development prior to release of any Building CC.

x. Other Matters

In addition to submitting the CPTED assessment, Quakers Hill Police LAC also forwarded a Crime Analysis, comparing the Kellyville Ridge residential area with the existing unit developments around Clonmore, Kilmore and Kilbenny Streets over a 12 month period. The analysis looks at the percentage of reported break and enters, domestic violence incidents, assaults, stealing and malicious damages from units compared to the overall residential area. The analysis indicates that 7%-8% of all assaults and incidences of stealing and malicious damage, were reported from units between the period of 1 January 2010 and 28 February 2011. The percentage of all break and enters reported from units was higher at 21%.

The applicant has acknowledged the statistical information but has asked *“are these statistics any different to the many areas throughout the greater western region especially where there is high predominance of new houses and units”*. The applicant suggests that *“such statistics are more of a manifestation of today’s society than the effect ... the proposed mixed-use development may have”*. The applicant suggests *“the statistics be reviewed but not used as the one and only tool to assess what may or may not be the situation with the development of 6 Merriville Road especially where the developer is proposing to install a fully integrated CCTV camera system, a full-time (onsite) Building Manager, panic alarm points and an on-site uniformed security patrol to ensure the security throughout the complex at all times”*.

Council Officers agree that the level of security proposed for this DA far exceeds that provided for the surrounding unit developments. As such, there is no evidence to suggest that the level of crime, vandalism or anti-social behaviour will increase as a direct result of this development being constructed. As stated throughout the above assessment, a professional security advisor will be engaged at the CC stage to ensure all levels of security are addressed and that the design and ongoing management provides a safe environment for all users and residents. With the imposition of appropriate conditions of consent, it will ensure that at no stage during the design and construction of the buildings will the developers step away from their responsibility to create a safe environment that will attract people and discourage anti-social behaviour. The applicant has further indicated that details of the Emergency Evacuation and Management Plan, and the Security Management Plan will be issued to all emergency services groups and the Police inviting them to:

- Review and comment on the Plans that will be developed at the CC stage; and
- Attend the property on completion to inspect and comment on any “short-fall” elements of the Plans.

It is recommended that appropriate **conditions** be imposed on any consent to ensure that this occurs.

The applicant has indicated that the successful investment to projects such as this, depends on the well being of its residents, users and visitors at all times. Since the initial ‘Safer By Design Evaluation’ was conducted by the Quakers Hill LAC Crime Prevention Officer, the project design has evolved to eliminate all major security concerns. The developers have taken on board the recommendations of the CPTED assessment, and have amended the plans to adopt good security management principles.

Based on this the Police have now advised that they have no objections to the proposed development subject to appropriate conditions. Provided these conditions are met, the Crime Prevention Officer has indicated that the ‘Safer by Design’ rating can be classified as “Low”.

While the NSW Police do not guarantee that the areas evaluated will be free from criminal activity if the recommendations of the ‘Safer By Design Evaluation’ are followed, it does anticipate that by using the recommendations that criminal activity will be reduced and the safety of members of the community and their property will be increased.

xi. Noise, Traffic & Parking

Attached to the 'Safer By Design Evaluation' was also a list of general objections. While these objections were first raised in relation to the original 8 storey proposal, the NSW Police initially advised that the objections still held true for the revised development. The objections raised were generally in relation to existing problems associated with the 24 hour McDonalds and Ettamogah Hotel, the lack of on-site parking and truck loading/unloading bays, increased traffic congestion and the design of the roundabouts. These matters have been identified under Section 13 of this report and a Town Planning response has been provided to each of the issues raised.

After reviewing the applicant's detailed response to the CPTED assessment, however, the Quakers Hill Local Area Commander advised in July 2011 that in addition to having no objections to the development, the following comments were made in relation to the related traffic management issues:

*"... I am of the view, with the installation of the proposed roundabout on Merriville Road and the extension of the right hand turn lane on Windsor Road these improvements would alleviate some of the additional pressure placed on Merriville Road. With the increase of dwellings located within the area there will always be a comparative increase in traffic movements. This will **however** be a matter for Council or the RTA to assess the potential impacts in their road design".*

A full assessment of the traffic related issues, including Council's and the RTA's comments, can be found under Section 9 of this report.

j. Section 94 Contributions

The following Section 94 calculations have been based on the site having a total developable area of 1.358 hectares, and the population being increased by 488.7 persons (i.e. 282.2 persons in Stage 3, 106.5 persons in Stage 4 and 100 persons in Stage 5).

STAGE	CONTRIBUTION ITEM	BASE AMOUNT
4 lot Subdivision	(i) Tributary Trunk Drainage	\$31,447
	(ii) Major Roads	\$43,554
	(iii) Local Roads	\$22,825
Blocks B & D	(i) Open Space	\$1,501,022
	(ii) Community Facilities	\$224,631
Block C	(i) Open Space	\$566,474
	(ii) Community Facilities	\$84,774
Block A	(i) Open Space	\$531,900
	(ii) Community Facilities	\$79,600
	TOTAL	= <u>\$3,086,227</u>

TABLE 2: Base Section 94 Contributions (Source: Blacktown City Council)

* NOTE: This is equivalent to a base contribution amount of \$15,587 per residential unit. The above figure is the base contribution only and 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) at the time of payment.

8.3 **Compliance with BDCP 2006 – Part D 'Development in the Business Zones'**

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* follows:

(a) Chapter 2.0 – The Business Zones

Blacktown LEP 1988 contains 3 business zones, each designed for a different purpose. The subject site falls into the 3(b) Special Business Zone. The purpose of the 3(b) Special Business zone is described in BDCP 1992 – Part D as follows:

“This business zone applies to certain land adjoining the Blacktown Central Business District (Blacktown CBD), the Riverstone District Centre, the Mount Druitt Village (south of the railway line), the Seven Hills District Centre and the Mungerie Park sub-regional centre. The purpose of this zone is to cater specifically for the future expansion of these commercial centres by providing land on the fringe for support development”.

It is understood that the Mungerie Park sub-regional centre (now known as the Rouse Hill Town Centre) was once intended to be located directly in line with the subject site on the opposite side of Windsor Road, within The Hills Local Government Area. It was later decided, however, to relocate the Town Centre approximately 1 kilometre to the north. As a result, the subject 3(b) Special Business Zone does not immediately adjoin the Rouse Hill Town Centre. As such, unlike other 3(b) zones, the Kellyville Ridge commercial area will not specifically cater for the future expansion of the Rouse Hill Town Centre. Notwithstanding this, the land uses developed within the 3(b) zone must still support the nearby Town Centre and must be of a scale and nature that does not directly compete with the Town Centre. To ensure this occurs, the 3(b) zone is designated to accommodate uses such as commercial offices, light industrial activities and business support services. Only limited retailing activities are permitted in the 3(b) zone. In this regard, retail development in the 3(b) zone is limited to shops which service the daily convenience needs of workers and residents in the area, and shops which specialise in bulky goods.

While the site does not adjoin land zoned 3(a) and therefore cannot perform as fringe land that caters for the future expansion of any such commercial areas, it is believed that the proposal does meet the objectives and purpose of the 3(b) zone. In this regard, the proposal incorporates commercial offices and is ideally located to provide shops which will serve the immediate needs of surrounding neighbourhood catchment and people working in the area.

It should also be noted, however, that a Planning Proposal was adopted by Council earlier this year to insert a site-specific clause into Clause 41A of BLEP 1988 to permit shops on the subject site, “subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m” (see Sections 4.8-4.10 and 6.3(k) of this report). The purpose of the LEP amendment was to permit “general retailing” over the site up to a maximum floor area of 2,000sq.m. The proposed mixed-use development proposes 805sq.m of retail floor space, which will incorporate a mix of general retail use and uses that service the daily convenience needs of people in the area, and therefore

complies with both the objectives of the DCP and the floor space restrictions imposed by Clause 41A of BLEP.

(b) Chapter 3.0 – Hierarchy of Business Centres & Chapter 7.0 - Neighbourhood Centres

Within the City of Blacktown there are 4 main levels of business centres these being ‘Sub-Regional Centres’, ‘District Centres’, ‘Large Neighbourhood Centres’ and ‘Small Neighbourhood Centres’. Blacktown CBD and Mount Druitt Town Centre are classified as sub-regional centres, while Seven Hills, Plumpton, Parklea, Quakers Hill and Riverstone are classified as district centres. All other centres serve local retail and commercial needs to varying degrees.

Having regard to the location of the site, the zoning of the site and the objectives of the zone, the applicant argued that while the site does not form part of Council’s Retail Hierarchy, the retail/commercial component of the development is best categorised as a “small neighbourhood centre”. These centres typically consist of a small supermarket and restricted range of speciality shops (such as butchers, bakery, greengrocers, chemist, newsagent etc) along with perhaps a dry cleaner, hairdresser, post office and bank agencies. In some cases, professional services or take-away food shops are also provided. These centres typically range in size from 1500sq.m – 3500sq.m, with some larger centres reaching up to 5,000sq.m gross floor area. The proposed development provides a total commercial/retail floor space of 2,143sq.m (i.e. 805sq.m of retail floor space and 1338sq.m of commercial floor space) and therefore is consistent in size with a small neighbourhood centre.

Council’s Commercial Centres Planner advised, however, that land zoned 3(b) Special Business is not included in Council’s retail hierarchy, as the 3(b) zone is a “supporting” zone to the 3(a) General Business zone and does not permit general retailing. In this regard, “shops” (other than those which service the daily convenience needs of the locality) are listed as a prohibited use within the 3(b) zone. Whilst it is acknowledged that the subject site is not located adjacent to an identified centre (i.e. land zoned 3(a) General Business), Council’s Commercial Centres Planner believed that given the 3(b) zoning it is inappropriate and misleading to classify the site as a “small neighbourhood centre” within Council’s retail hierarchy. Within the Blacktown LGA “neighbourhood centres” are zoned 3(a) General Business and permit a significantly wider range of retail uses.

It should be noted in this case, however, that a site-specific clause has been adopted into Clause 41A of BLEP 1988 thereby permitting general retailing over the subject site, “subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m”. As such, it could be argued that the proposed retail/commercial component of the development is consistent with a “small neighbourhood centre”. Given the size and nature of the centre, however, it is still believed that the proposed development will cater for the daily convenience needs of the neighbourhood and will not compete with the Rouse Hill Town Centre or the Stanhope District Centre, where “top up” or “impulse” shopping is not the core purpose of the centre.

(c) Other Matters - Economic Impacts

As part of the development application, the applicant submitted an Economic Statement in relation to the commercial/retail component of the development. The Economic Statement was prepared by Byrnes PDM and is summarised below.

The report includes a discussion on key demographic data for Kellyville Ridge and a discussion on the proposals economic factors in relation to retail and commercial uses.

The Economic Statement concludes that the development of a “small neighbourhood centre” in this location is suitable having regard to the broader economic and social factors. The consultant states *“It is apparent from a review of the current and projected population and dwelling numbers that Kellyville Ridge will benefit from a neighbourhood retail centre to support the local residents needs”*. The high proportion of residents in the working age bracket and the equally high proportion of commuting workers suggests that a neighbourhood centre that meets the daily needs of a working and commuting population is appropriate and an important contribution to Kellyville Ridge, which currently contains no convenience shopping.

The proposed retail/commercial component of the development is consistent with the zone and will meet a growing demand as Kellyville Ridge continues to expand in terms of housing numbers and residential population. The proposal has been sensibly designed to provide a consolidated retail/commercial focus that fronts both Merriville Road and the internal private access road. The clustering of the retail/commercial area with basement parking will provide convenient shopping, serving the daily needs of the residents and passers-by.

The Windsor and Merriville Road intersection is also a focal point for residents of Kellyville Ridge, particularly those who work and travel by car or public bus. The intersection is characterised by the hotel, service station and McDonalds which serve the local population and passersby. The proposal for a neighbourhood retail/commercial component to the development proposal is considered appropriate for the site having regard to its proximity to this busy intersection and node.

The Economic Statement also considers the proposal in relation to the overall Metropolitan Strategy. In this regard, the Metropolitan Strategy aims to provide sufficient land for employment growth and includes employment targets for subregions in Sydney, along with strategic centres and employment precincts. The Strategy sets an employment target of 128,000 for Blacktown and 100,000 for Baulkham Hills by 2031.

It is noted that as the Metropolitan Strategy is a regional planning document, the identification of new smaller centres is to be undertaken by local government. Although Kellyville Ridge is not identified under the Strategy, the Economic Consultant believes that the zoning adopted by Blacktown City Council (including the adoption of Clause 41A into BLEP) establishes the sites potential as a neighbourhood centre, and that the proposed development will fit into the Strategy’s requirement of having increased density and retail services. In this regard, the regional planning strategies and local planning controls encourage the development of small neighbourhood centres that are supported by higher density residential development in close proximity. This is particularly the case in proximity to public transport routes such as Windsor Road.

The consultant therefore concludes that the proposed small neighbourhood centre and associated residential development is not considered to have adverse economic impacts and will contribute positively to the services in the area and meet a need for daily convenience shopping of the existing and growing Kellyville Ridge population.

(d) Chapter 4.0 – General Guidelines for Development

It should be noted that the following requirements under Chapter 4: *General Guidelines for Development* relate to the commercial/retail component of the development only. The specific controls for the residential component of the development are addressed separately below.

i. Section 4.1 – Building Design and Construction

The guidelines for design and built form have now been superseded by the detailed provisions in SEPP 65, and are discussed under Section 6.3(f) and (g) above.

The application has been accompanied by details of the materials to be used in the external facades. The applicant has indicated that the materials and colours have been selected to give the buildings an identity, and to 'soften' the apparent bulk and scale of the development. A variety of materials will be used, including rendered and painted finishes for the facade walls, a combination of solid balustrades as well as glazed balustrade treatments, and Alucobond cladding for partial walls. Balcony balustrades are of various types and serve differing purposes. Painted and rendered solid walls work as compositional devices to divide facades, whilst the glass plate balustrades allow for maximum views. The overall colour scheme is grey and white. Feature colours have been included to add interest and a sense of identity to the building. The development will also be complemented with soft landscaping, street trees, planter boxes, stencilled finished concrete surfaces, various pavement patterns and colours, and timber decks, adding to the overall aesthetics of the development. A schedule of external finishes and photomontage is included at Figure 5 of this report. Overall the building design is considered appropriate for this prominent site. Suitable **conditions** will be imposed on any development consent to ensure that the external colours and materials used are consistent with those proposed.

The proposed commercial/retail development is also wheelchair accessible, and provides all-weather pedestrian protection in the form of awnings. A **condition** will also be imposed on any consent issued, stating that the reflectivity of the external glass used in the building must not exceed 20% reflectivity.

ii. Section 4.2 – Height of Buildings in Local Centres

The Business Zones DCP states that the height of any building within a local centre should not exceed 2 storeys. The subject application seeks approval for a mixed-use development. While the proposed commercial/retail component of the development is limited to the ground level only and therefore complies with the Business Zones DCP, the residential portion of the development does not. It should be recognised, however, that "Residential Flat Buildings" typically exceed 2 storeys in height and that this form of residential development is not listed as a prohibited land use in the 3(b) zone under the LEP. It therefore could be argued that a non-compliance is justified for the residential component of the development.

The original proposal lodged with Council was to construct an 8 storey mixed-use development. Council Officers consistently advised the applicant that the level of development was excessive, out-of-character and could not be supported. While Council Officers could not confirm an acceptable height until all aspects of the DA had been assessed, the applicant was advised that a non-compliance with the 2-storey height limit would be considered for the residential flat component of the development given that "Residential Flat Buildings" are a permissible land use in the 3(b) zone and are not typically 2 storeys in height.

As a redesign starting point it was suggested that the proposal be based on similar, already approved commercial mixed-use proposals in Blacktown City and the heights agreed by Council in those instances. In this regard, Council has previously considered variations to the local centres 2 storey height limit where

the development has been designed so that the impact on the adjoining 2(a) Residential land is no greater than for a complying height development and where the proposed development demonstrates a high degree of compliance with all of Council's other requirements. Below is a table of mixed use developments in the commercial zones where Council has previously granted approval for development above the 2 storey height limit. The table demonstrates that this is not a one-off variation and that Council has a history of dealing with increased heights in local centres on its merits.

Table 3: Other Mixed-Use Developments Exceeding 2 storeys

DA Number	Address	Site Area	Zoning	Approved Height
DA-07-2801 Approved 1/12/08	92 & 96 North Parade, Rooty Hill	3475sq.m	3(a) General Business	2-4 storeys
DA-05-1277 Approved 21/3/06	270 Beames Ave, Mount Druitt	2844sq.m	3(b) Special Business	2-3 storeys
DA-05-1104 Approved 16/2/06	160 Main Street, Blacktown	785sq.m	3(b) Special Business	4 storeys
DA-03-3648 Approved 14/12/04	55A-D Turner St, Blacktown	572sq.m	3(a) General Business	3 storeys
DA-03-2563 Approved 12/2/04	166 & 168 Main St, Blacktown	531sq.m	3(b) General Business	4 storeys

While it was agreed that a variation to the overall 2 storey height limited would be considered for the "Residential Flat Building" component of the development, Council Officers advised that a variation would not be supported for that part of the development located immediately adjacent to the existing detached dwelling houses. In this regard, any development proposal must be limited to a maximum height of 2 storeys immediately adjacent to the 2(a) residential zone (western boundary). It was also considered desirable if the elements located along the northern boundary, adjacent to the existing 2(c) residential zone, were limited to a maximum height of 4 storeys. In accordance with the controls for 'Residential Flat Buildings' (Part C of the DCP) the component fronting Clonmore Street (i.e. across the road from existing detached dwellings houses) was also to be limited to a maximum height of 3 storeys.

In this regard, the Residential Zones DCP limits the height of any residential flat building to 4 storeys, except in areas that directly interface with the 2(a) Residential zone (i.e. across the road from or adjacent to land zoned 2(a) Residential, such is the case with this site) where the number of storeys permissible is 3 storeys for that part of the residential flat building development closest to the single lot housing. The DCP also states that on large sites exceeding 5,000sq.m, favourable consideration may be given to development up to 5 storeys where suitable transition scales are demonstrated in respect to adjacent properties.

It should be recognised that 'Residential Flat Buildings' are a permissible land use in the 3(b) Special Business zone with consent, and that it would be unreasonable

to insist that this permissible form of development be restricted to 2 storeys only. In the absence of any specific controls for residential flat buildings in local centres, the application has been compared against those controls applying to residential flat building development in residential zones. In residential areas, the surrounding land uses are typically of a more sensitive nature than in commercial zones and as such, it is considered that there would be no negative impacts in applying the residential controls to a commercial context.

The development, in its amended form, has given consideration to the adjoining and nearby residential area. In this regard, development along the western edge of the site, immediately adjacent to the existing detached single and 2 storey dwelling houses, has been limited to 2 storeys. The upper levels step up to 5 storeys, but have been well setback from the western boundary to eliminate potential overlooking and amenity impacts. Level 3 has been setback a minimum of 11 metres (when measured from the boundary to the planter boxes) and levels 4 and 5 have been setback over 20 metres (when measured from the boundary to the roof top terraces). Where the western edge adjoins Clonmore Street, the proposal has been limited to a maximum height of 3 storeys.

The properties to the north are zoned 2(c) Residential and have been developed with 4 storey high density residential developments. Along the northern edge of the site, the development is predominantly 5 storeys. While the proposed development is one storey higher, the generous setbacks (i.e. minimum 10 metres to the 5th level window openings) will ensure that there are minimal impacts in terms of privacy and amenity. Along the eastern and southern boundaries, the development is predominantly 5 storeys. Overall, the 5 storey height is considered appropriate having regard to the site being at the core of the local centre and predominantly surrounded by intense land uses, including a Woolworths service station and McDonalds fast food restaurant which includes tall and prominent identification signage, high density residential development and on the opposite side of Merriville Road a large hotel establishment with a predominant 3-4 storey feature element at the front of the building.

As demonstrated, the immediate area surrounding the site is not characterised by low density residential development but is of mixed use and character. Given the zoning of the site, it is reasonable to assume that the anticipated character for the site would be consistent with the adjoining high density residential, commercial and retail uses, rather than low density residential.

In arriving at the proposed heights consideration has been given to the location and context of the site, along with what opportunities are afforded to improve and give legibility to the heights of development in the area. The applicant argues that the 4 storey development along Windsor Road and extending westwards into the low density residential areas is without apparent meaning or context when viewed from Windsor Road or adjoining areas. A motorist travelling along Windsor Road from the south and observing development along the western edge of the road will exit a 2 storey residential area, come across an intersection with a large entertainment building with 3 storey element, fast food restaurant, service station, and then several high density buildings of 4 storeys in height, before returning to low density development. The subject site provides an opportunity to give an overall understanding of heights and development intensity through the introduction of a central height point over a small neighbourhood centre. From this central point heights progressively step down to

low density residential development. The proposal intentionally steps the heights to articulate the change in heights from the surrounding areas to the focal small neighbourhood centre. The applicant believes that the 5 storey maximum height will add to the legibility of built form and heights in the vicinity, and thereby is not intrusive or out of scale with the surrounding area.

Given that the proposed development is a permissible form of development in the 3(b) Special Business zone, that the proposed heights comply with the controls for residential flat development in residential areas (i.e. the site is 13,580sq.m in area and therefore could be considered for 5 storey development) and that a maximum height limit of 2 storeys has been applied closest to the single lot housing (as opposed to 3 storeys which would be permitted if the site was zoned 2(c) Residential), it is believed that the height of the development is sympathetic to the adjoining existing development and will not have any unacceptable impacts on the surrounding land uses. The transition in scale and varied building heights across the site also helps to address the overshadowing, privacy and amenity impact on the adjoining 2(a) Residential land.

While Council has previously only granted consent for development up to 4 storeys in the Business Zones (see above table), it should be noted that these approvals were over much smaller sites than the subject site, which is 1.358 hectares in area. The 5 storey elements on the site can therefore be well setback from the existing 2(a) Residential zone. Given the proposed development has also demonstrated a high degree of compliance with the other requirements of the DCP, and has provided varied heights across the site to reduce concerns relating to bulk and scale, it is recommended that the variation be supported.

iii. Section 4.3 – Building Setbacks

There are no minimum building setback requirements for commercial/retail 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 streetscape design, or to enable adequate sight distance for traffic using adjacent roads.

In relation to the proposed ground level retail/commercial tenancies, a zero setback to both Merriville Road and the internal private road is considered appropriate as it promotes activity along these frontages. A covered awning has been provided at the street level to provide all weather protection for pedestrians.

The retail tenancy located in the south-west corner of the site, however, has been setback 6 metres from the 2(a) Residential zone. While it is considered appropriate to provide a substantial setback in this location, it is considered essential that suitable **conditions** be imposed on any consent to ensure that appropriate landscaping is provided to prevent the area becoming a “dead space” or area for concealment or anti-social activities.

iv. Section 4.4 – Landscaping

Given the commercial/retail tenancies have been provided with a zero setback to Merriville Road and the internal private road, there is limited opportunity to provide landscaping along the street frontages. The Merriville streetscape, however, can be improved with the implementation of street tree planting, suitable paving within Council’s footpath reserve and planter boxes on roof

terraces. The internal private road incorporates wide footpaths and therefore can also accommodate planter boxes and varied paving materials. These matters will be addressed by way of a **condition** on any consent granted.

Landscaping, as required by the controls for the residential portion of the development, has been provided throughout the site. A detailed landscape plan has been submitted with the DA which includes internal central courtyards and rooftop terraces for the exclusive use of the residents of the development and their visitors.

The retail/commercial tenancies provided at the ground level of Block A (south-east corner) have been orientated ‘inwards’ and are directly accessed from the central courtyard. This area will therefore be a shared zone between the commercial/retail shoppers and the residents. Careful attention will therefore need to be given to the landscaping of this area. The applicant has indicated that this area could include uses such as cafes with outdoor seating, or other activities that will provide the residents with an alternate form of recreation. Details of the landscape treatment of this area and the type of shop facades (e.g. glazing to allow passive surveillance) will need to be submitted to Council for separate approval prior to release of a Building CC. Details of the landscaping of all other public areas will also be required prior to release of the Building CC. This matter will be addressed as a **condition** of any consent granted.

As part of the overall landscape plan, all lighting details will need to be submitted for the commercial/retail component of the development. In this regard, the lighting for the commercial/retail tenancies must not create any unreasonable impacts on any adjoining/nearby residential property. Lighting from any future illuminated signage will also need to be taken into consideration. To ensure all lighting is satisfactory, a light spillage diagram will need to be submitted together with the lighting details. A suitable **condition** will be imposed on any development consent to address this matter.

v. Section 4.5 – Pedestrian Access, Public Spaces and Open Space

The DCP states that commercial/retail developments should aim to increase the area of public spaces and pedestrian links that are available in the business centres. The proposed development does not reduce the amount of public open space in the area and in fact, provides common landscaped areas and a central courtyard area (Block A) that can be enjoyed by both the future residents of the development and the general public.

Unrestricted public access through this site, however, is considered inappropriate in this instance. In this regard, the applicant has indicated that the daily convenience needs of the local residents, to the north-west and west of the site, will be addressed if a pedestrian pathway is provided from Clonmore Street. While there would be a benefit to the wider community if direct pedestrian access was available from the west, Council Officers are concerned that pedestrian movements (especially late at night if patrons are returning from the Ettamogah Hotel) in this location could cause unnecessary disturbance to the existing adjoining single storey residences. For this reason, it is recommended that as a **condition** of any consent, any public pedestrian access point provided along the Clonmore Street frontage be closed/gated at 9.00pm each night by the on-site Building Manager. Details of the gates/barriers would be required to be

submitted for Council's separate approval prior to the release of any Construction Certificate, and will be addressed as a **condition** of any consent.

Council Officer's also have concerns regarding the proposed pedestrian access points located on the eastern boundary (i.e. adjoining the 6m right of carriageway). The applicant has indicated that these access points will provide a direct or alternative link for residents in Kellyville Ridge to the transport node on Windsor Road. Given the pedestrian access points open directly on to the ROW, and that the ROW will be required to be fenced/gated until such time as Lot 13, DP 1067209 is developed, it recommended that no pedestrian access be permitted along the eastern boundary of the site. A suitable **condition** will be imposed on any consent to address this matter.

vi. Section 4.6 – Vehicular Access and Circulation

Adequate provision must be made for vehicular access, circulation and loading/unloading operations. Vehicular access to and from the proposed development is to be provided via a new internal private roadway which is to form the northern arm off a new four-way roundabout in Merriville Road. The provision of a new roundabout will ensure that ingress and egress from the site will cause minimal interference with traffic movements on Merriville Road.

While the DCP recommends that parking areas should be provided with separate entrance and exit points where more than 50 car spaces are provided, this is not considered necessary where access is provided from an internal private road. Given this is the case, the potential for queuing on Merriville Road will be minimal. The provision of combined entry/exit points to the basement car park, is also considered acceptable in this instance, as the access points are provided directly off the internal private road and therefore will not conflict with existing vehicular movements on the public roads. The basement car parks have been designed so that all spaces are readily accessible and so that vehicles can enter and exit the site in a forward direction.

Deliveries to the proposed retail/commercial tenancies will be undertaken by a variety of vehicles up to and including 12.5m long medium rigid trucks. 2 truck loading bays are proposed at street level, on either side of the proposed internal road roundabout, and have been redesigned to accommodate the swept turning path requirements of 12.5m long HRV rigid trucks. The 2 street level loading areas are intended to be used by large trucks only (including commercial delivery trucks and removalists), and will be clearly signposted accordingly.

Initially Council Officers were concerned that 2 truck loading bays would be insufficient for a development of this size, especially given the retail tenancies would require daily deliveries and that the proposed residential units would also generate deliveries by commercial vehicles and removalists. Council Officers were concerned that this could result in loading/unloading activities occurring in Merriville Road or the surrounding streets.

The applicant has advised, however, that the number of large truck deliveries will actually be infrequent given the size of the proposed retail tenancies, and the mix of commercial/retail uses. Council Officers are satisfied that the majority of deliveries to the small retail/commercial tenancies will be undertaken by light commercial vehicles and vans, and that these vehicles will access the designated "courier" spaces in the basement car park. To address this matter, it is

recommended that suitable **conditions** be included on any consent granted. It is further recommended that loading/unloading activities be undertaken after hours to eliminate any conflicts with customer vehicles. These light commercial vehicles will not be permitted to access the street level loading bays which will be specifically designated for large vehicles. Council's Traffic Section has advised that the access and manoeuvring areas within the basement car park are suitable for these operations.

Council's Traffic Management Section (TMS), however, did raise concerns with the manoeuvring of delivery trucks from the 2 proposed street level loading bays and requested that appropriate measures be implemented to prevent trucks reversing into the path of vehicles within the roundabout. Furthermore, Council's TMS was concerned that vehicles exiting the basement carpark (i.e. from Buildings B and D) would have limited visibility of the trucks reversing out of the loading bays thereby increasing the risk of an accident.

The applicant was therefore requested to submit turning templates to demonstrate that satisfactory manoeuvring would be available in and out of the 2 loading bays, and that truck movements would not conflict with other vehicles using the roundabout. Given there are also cantilevered balconies located either side of the loading bays, adequate manoeuvring space around the loading bays was considered critical.

To address these concerns, the loading bays were redesigned to ensure adequate manoeuvring area. The applicant also recommended that the loading bays be signposted as "Reverse In Only", and that the on-site Centre Manager supervise the use and operation of the loading bays. In addition, the applicant's Traffic Engineer suggested that illuminated signs be provided at the carpark entrance to warn motorists exiting the carpark that trucks may be manoeuvring in the vicinity of the internal roundabout. The sign could display the legend "Truck Manoeuvring Ahead" and be illuminated when sensors detect the movement of trucks proceeding to or from the proposed loading bays. Council's TMS was satisfied with these proposed traffic management measures and therefore recommended that these be included as **conditions** of any consent granted.

It should also be noted that the street level loading docks will not be used by waste collection vehicles. In this regard, separate waste collection points have been nominated within each basement car park. To avoid possible conflict and congestion the customer parking spaces have also been separated from the residential parking spaces, and the "courier"/unloading spaces have been suitably separated to ensure there is no conflict with customer vehicles or pedestrian movements. Given a suitable **condition** will be included to ensure the majority of deliveries are undertaken after hours, it is anticipated that very little conflict will occur.

Suitable **conditions** will be imposed on any consent granted to address all loading/unloading operations and garbage collection arrangements.

vii. Section 4.7 – Service Laneways

No service laneways are proposed by this development.

viii. Section 4.8 – Car Parking

In 3(b) zones it is important that all staff and customer car parking is provided on site. 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 development provides in excess of the minimum number of on-site car parking spaces and therefore is considered satisfactory (see comments under Section 8.2, point (f) above). Suitable **conditions** will 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.

ix. Section 4.9 – Signs

Tenants have not yet been nominated for the 17 commercial/retail tenancies. Specific tenancy signage details are therefore unknown at this stage. A standard **condition** will 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.

Various ‘operational’ signs will be erected throughout the development to advise:

- Trespassers will be Prosecuted;
- Access for residents only;
- Visitor parking
- Loading Dock (15 mins);
- Resident car park (with unit number allocated);
- 24/7 Security Employed onsite;
- Alcohol Free Area (subject to Council approval);
- Video Surveillance Cameras in use;
- Courier parking;
- Garbage pick-up zone;
- No loitering;
- Carpark entry/exit;
- Security card-key access only;

Details regarding the final wording, size, location and other signs to be erected will be provided at the Construction Certificate stage. It is recommended that this matter be addressed as a **condition** of any consent granted.

The applicant has indicated, however, that 2 directory boards will be erected at the entry to the site. The directory boards will clearly identify circulation spaces, entrance and exit points to parking and residential lobbies, along with the location of the retail and commercial suites. The free-standing directory boards measure 450mm x 900mm, will be internally illuminated and will be located wholly within the property boundaries. For further details please refer to the SEPP 64 assessment under Section 6.3, point (e) of this report. It should be noted, however, that from the proposed plans it appears that the signage will be

erected across the pedestrian pathway, therefore forcing pedestrians onto the private roadway. One of the directory boards also prevents direct access into one of the proposed lift wells and encroaches into the proposed disabled parking spaces. As such, further details of the proposed 'directory boards' and their location will be required prior to the release of any Construction Certificate. A suitable **condition** will be imposed on any development consent to address this matter.

x. Section 4.10 – Solar Access

The commercial/retail component of the development is single storey only and is predominantly located within the centre of the site. The proposed retail/commercial tenancies therefore will not result in any adverse overshadowing impacts. In fact, the shadow impact of the overall development will not unreasonably impede on any adjoining or nearby properties given the site lies on the northern side of Merriville Road. As the submitted shadow diagrams demonstrate, the bulk of shadows cast by the proposed buildings will be contained within the boundaries of the site. A copy of the shadow diagrams are held at **Attachment 2** of this report.

xi. Section 4.11 – Community Facilities

Given the subject site is not located within a district or sub-regional centre, the provision of public facilities (e.g. child care centre) is not proposed or required. The site does, however, provide public areas adjacent to the retail/commercial premises. The internal courtyard within Block A, has the potential to include outdoor café seating for workers and residents in the area. A new bus stop/shelter will also be required at the front of the site. A suitable **condition** will be imposed on any consent to address these matters.

Each commercial/retail tenancy will have service provision for future w.c. facilities. While the original proposal for the site included public toilet facilities, these were deleted due to security and safety concerns raised by the Quakers Hill Police LAC. In the event a public toilet is proposed at the detailed CC stage, access will only be available by way of a key available from select retail tenancies or from the Building Manager.

xii. 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 smaller local centres, such development would **probably** take the form of a dwelling or flats above a shop or office, provided the finished development is not higher than 2 storeys (emphasis added).

The issue of height has already been discussed under Section b. above. As outlined, residential flat buildings are a permissible form of development in the 3(b) Special Business Zone.

The DCP states that residential development in the 3(b) zone must comply with the residential standards outlined in Part C of the DCP (Development in the Residential Zones). An assessment of the residential component of the development is therefore provided in Section 8.4 below.

It is also worth noting that in relation to residential development in the 3(b) zone, BDCP 2006 states:

“As with the 3(a) General Business zone, all development (apart from certain changes of use) requires Council’s development consent and only incompatible uses are specifically prohibited. Development 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.”

Accordingly, as residential flat buildings have not been prohibited, it is determined that they are a compatible use that is appropriate for the site. The proposed development is also consistent with the objectives of the zone, is fully compliant with the provisions of the LEP, and generally complies with the provisions of the DCP. The proposed development is therefore considered appropriate for the site.

8.4 Compliance with BDCP 2006 – Part C ‘Development in the Residential Zones’

As outlined in point xii. above, residential development in the 3(b) zone must generally comply with the residential standards outlined in Blacktown Development Control Plan (BDCP) 2006 *Part C – Development in the Residential Zones*.

An assessment of the residential component of the development against the relevant requirements of Council’s development controls for ‘Residential Flat Buildings’ in residential zones is therefore presented below. Appendix 3 of the ‘Residential Flat Building’ DCP controls, provides a checklist against all the relevant numerical standards. A copy of this checklist, including details of how the development complies with the required numerical standards is included at **Attachment 8** of this report, while a full discussion of the proposed development against the relevant requirements of BDCP - *Part C* follows:

(a) Chapter 7.0 – Residential Flat Buildings

It should be noted that the following requirements under BDCP – Part C: Chapter 7: *Residential Flat Buildings* relate to the residential component of the development only. The controls relating to the retail/commercial component of the development have been addressed separately in Section 8.3 above.

i. Section 7.1 – Definition

The proposed development complies with the definition of a ‘residential flat building’.

ii. Section 7.2 – Statutory Provisions

The proposed development is permissible under Blacktown Local Environmental Plan 1988, complies with the provision of Section 79C of the *Environmental Planning and Assessment Act 1979* and has been designed in accordance with State Environmental Planning Policy No. 65 – *Design Quality of Residential Flat Development* (SEPP 65). An assessment against the relevant Statutory Provisions is included under Section 6 of this report.

iii. Section 7.3 – Local Context & Section 7.4 – Site Analysis

The SEPP 65 Assessment (Principle 1) has demonstrated that the Development Application plans have been prepared on a thorough understanding of the site

context. A Statement of Environmental Effects and site analysis have also been submitted with the Application which take into account local issues including site orientation, solar access, wind direction, vista and views, and the like.

iv. Section 7.5.1 – Development Site Parameters

The subject site has a frontage of approximately 110m to Merriville Road and a depth of approximately 115m, and therefore well exceeds the minimum 30m frontage and minimum 30m depth requirements of the DCP. The total area of the site is 1.358 hectares and is therefore significantly larger than the 1,000sq.m minimum total area requirement of the DCP. Given the generous size of the site, it is believed there is sufficient area to accommodate the proposed development while providing adequate open space areas, parking arrangements, setbacks and other siting requirements.

v. Section 7.5.2 – Height

The issue of height has been discussed in detail under Section 8.3, point (d)(ii), above. While Part D of the DCP – *Development in the Business Zones*, states that in **smaller local centres** residential development (which is typically in the form of ‘shop top housing’) should be no higher than 2 storeys, it also states that residential development must comply with the residential standards outlined in Part C of the DCP. (emphasis added)

As already discussed earlier in this report, ‘residential flat buildings’ are a permissible form of development in the 3(b) – Special Business Zone. Under Part C of the DCP, the maximum height of any residential flat building is 4 storeys (or 16m excluding centrally located lift towers, stairwells or roof structures). On sites at the interface with (i.e. across the road from) or adjacent to land zoned 2(a) Residential, the housing envelope needs to respond by way of a transition in scale, to a maximum of 3 storeys, for that part of the residential flat building development closest to the single lot housing. If the basement car park projects 50cm or more above ground level, then it is considered an above ground storey. The DCP goes on to say, however, that on larger sites exceeding 5,000sq.m, favourable consideration may be given to development up to 5 storeys where suitable transition scales are demonstrated in respect to adjacent properties.

The subject site has a developable area of 1.358 hectares and therefore well exceeds the 5,000sq.m minimum land size requirement. Given the development responds well to the existing surrounding development and has been designed to be harmonious with the adjoining residential properties, it is recommended that 5 storey development be supported in this instance. In this regard, development along the western edge of the site, immediately adjacent to the existing detached single and 2 storey dwelling houses, has been limited to 2 storeys only (instead of 3 storeys as permitted by the DCP). Where the western edge adjoins Clonmore Street (i.e. across the road from land zoned 2(a) Residential), the proposal has been limited to a maximum height of 3 storeys.

The properties to the north are zoned 2(c) Residential and have been developed with 4 storey residential flat buildings. Development along the northern, eastern and southern edge of the subject site is 5 storeys. While the proposed development is 1 storey higher than the residential development to the north, generous setbacks (i.e. minimum 10 metres to the 5th level window openings) ensure that impacts in terms of privacy and amenity are acceptable. Overall, 5

storey development is considered appropriate given the site adjoins intense land uses on 3 sides, including a Woolworths service station and McDonalds fast food restaurant to the east, residential flat development to the north and a large hotel establishment to the south.

The proposed development also complies with the secondary height control of 16m. In this regard, the ground floor level typically has an R.L of 46.70m and the floor level of the roof top terraces have an R.L of 62.40m. This means that the maximum overall height of the development, when measured from the ground floor to the floor of the roof top terrace, is 15.7m.

It is also unusual to find a 1.358 hectare undeveloped commercial site in one ownership. Typically sites of this size are not found in “smaller local centres” which tend to be made up of small, individual land holdings. While development of this scale and height would therefore typically not be appropriate in neighbourhood centres, it is recommended that it be supported in this unique situation.

vi. Section 7.5.3 – Setbacks

Setbacks for the front, rear and sides of the development play an important role in ensuring new development fits in with the local built context. In accordance with the DCP for residential flat development, the minimum front setback requirement is 9m and the minimum side and rear setback requirement is 6m. The only projections permitted in the setback areas are open style balconies, roof eaves and sunhoods. Balconies may project into the setback by a maximum of 1m (i.e. an 8m front setback is permitted to balconies). Roof eaves and sunhoods may project into the setback by a maximum of 600mm. It should be noted that the front setbacks apply to those portion of the development fronting a public road. There are no minimum setback requirements to ‘private’ internal roads.

The proposed front setback to Clonmore Street is 9m in accordance with the DCP. The 9m has been measured from the front of the building to the future property boundary. In this regard, a small portion of land located in the north-west corner of the site is to be dedicated to Council as it forms part of the Clonmore Street road reserve. This will be addressed by a suitable **condition** of any consent.

A zero front setback is proposed to the commercial/retail tenancies fronting Merriville Road in accordance with the DCP controls for development in the business zones. The residential units proposed at the second level, sit directly above the ground floor tenancies. The balconies to these units are therefore also provided with a zero setback to Merriville Road. The upper storeys (levels 3-5), however, are provided with a front building setback of approximately 10m or 8m when measured to the balconies and therefore comply with the provisions of the DCP.

While not strictly complying with the front setback requirements, it is believed that the proposed zero setback to the second floor level is appropriate given the site is zoned for business purposes. The provision of a zero setback at the second floor level, also helps to provide a more aesthetically pleasing building by giving the development a defined base. It should be noted if the site was developed purely for retail/commercial purposes, then a zero setback would be permissible at the second level.

In terms of the side and rear setback, the proposed development provides 6m setbacks to the north, east and west boundaries in accordance with the provisions of the DCP.

vii. Section 7.5.4 – Common Open Space

Landscaped common open space for the use of all residents of the development must be provided at the minimum rate of:

- 30sq.m for each 1 bedroom unit;
- 40sq.m for each 2 bedroom unit; and
- 55sq.m for each 3 (or more) bedroom unit.

In order to encourage the provision of usable and adequate open space for each unit, the area of any balcony, ground level courtyard or terrace with a width of 3m or more and a depth of 2.5m or greater may be included as part of the required common open space calculation. However, in the calculation of the total required common open space for any development, no more than 30% of the total common open space may occur on balcony or terrace areas, and no more than 30% of the total common open space may occur on the roof of any building. A minimum of 40% of the total common open space requirement must be located at ground level.

The front setback, small pockets of open space with an area less than 10sq.m, parking areas, garbage area, etc must not be included in the calculations. In the case of the subject site, the 6m wide right-of-way (ROW) extending along the entire length of the site's eastern boundary must also be excluded from the open space calculations as this area provides access to vacant Lot 13, DP 1067209 located immediately to the north of the Woolworths Service Station site. In this regard, the Landscape Plans originally submitted to Council indicated that the ROW would be allocated to the adjoining ground floor units for use as a private courtyard. Given the relevant affected parties have not agreed to the extinguishment of the easement, the landscape plans were required to be amended to exclude this area from the open space calculations. In the event negotiations are successful in extinguishing the ROW and evidence is submitted to support this, the ROW can be allocated for private use.

In the absence of a FSR, building envelope or density control within BDCP 2006, full compliance with the above common open space controls 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 for the site.

Council Officer's calculations indicate that the development (i.e. comprising of 41 x 1 bedroom units, 129 x 2 bedroom units and 28 x 3 bedroom units) must be provided with a total of 7,930sq.m of common open space. The current proposal provides:

- 3,316sq.m of common open space at the ground floor level (Note: This exceeds the minimum 3,172sq.m which must be provided at ground level);

- 4,968sq.m of private balcony/terrace area, but given only 30% of the total common open space requirement can comprise of useable balconies/terraces, the balcony contribution to the open space is calculated to be 2,379sq.m;
- 3,687m² of roof top open space, but given only 30% of the total common space requirement can comprise roof top open space, the roof terrace contribution to the open space is calculated to be 2,379sq.m.

As such, the total amount of common open space provided as per the DCP requirement is calculated to be 8,074sq.m (i.e. 3,316sq.m + 2,379sq.m + 2,379sq.m). The common open space on site therefore exceeds the minimum requirement of the DCP by 144sq.m.

The DCP also requires that at ground level there be a designated active area which is appropriately embellished with children's play equipment, gazebo, BBQ facility, seating, lighting and the like. To demonstrate compliance with this requirement, the applicant has submitted detailed landscape plans.

The plans indicate that the common areas will be embellished with suitable plantings and landscape features which complement the height, scale, design and function of the development. The ground level common areas will also be provided with a range of recreation features including water features, permanent seating, sculpture gardens, gazebos, pergolas, bbq and raised planter boxes. The central courtyard space to Building 'B', located in the north-east portion of the site, will also be provided with a children's play area. The residential units immediately adjacent to the playground and ground level recreation areas will be provided with acoustic glazing in order to help protect the amenity of the future occupants. The opening hours of the children's playground will also be restricted to eliminate unreasonable noise disturbance at night. Suitable **conditions** will be imposed on any consent to address this matter.

Overall the proposed common open space areas are well designed, functional and easily accessible to all residents. The design of the common recreation areas are also believed to be conducive to indoor/outdoor use, and are appropriate for this form of development. Suitable **conditions** will be imposed on any consent to ensure that the common areas at both the ground level and the rooftops are appropriately embellished in accordance with the submitted landscape plans.

viii. Section 7.5.5 – Separation Between Buildings

The DCP requires that the minimum separation distance between elements of buildings shall be 12m. The separation between the external walls of each building generally complies with this requirement. Where a non-compliance occurs, the separation is between commercial/retail tenancies at the ground level or between cantilevered planter boxes at the second level. Given the distance between the residential elements comply with the 12m minimum distance separation, and that the areas of non-compliance are point encroachments only, the proposed distance between the external walls of each building is considered satisfactory.

In some cases, however, the distance between the internal courtyard walls do not comply with the 12m separation requirement. In this regard, Block 'A' and Block 'D' have varied internal separations ranging from over 12m to approximately

10m. While the internal separation does not strictly comply with the DCP, it is noted that the non-compliances are all internal to the development site and are point encroachments only. The point encroachments do not compromise the amenity of the apartments as the non-compliances are typically where opposing rooms are non-habitable or where stairwells are located opposite each other. In circumstances where a potential privacy impact may occur, landscape planter boxes have been provided to protect the amenity of the future occupants of the development. Given the non-compliance is considered minor, it is recommended that the development be supported in its current form.

ix. Section 7.6.1 - Site Planning and Landscaping

Landscape plans, prepared by an appropriately qualified firm, have been submitted as part of the Application. The landscape design responds to the mixed use development proposal. Stone paving and concrete footpaths will be provided to support the small neighbourhood centre. All parts of the site not built-upon or paved, including the side and rear setbacks and in between the blocks, will be provided with soft landscaping and taller plantings. Suitable **conditions** will be imposed on any consent to ensure that a suitable detailed landscape design, incorporating appropriate plant species as required by the Quakers Hill Crime Prevention Officer (see Section 8.2, point i(i) above), is developed for the site. Further **conditions** will be imposed to ensure that all public areas and pedestrian walkways are suitably illuminated from dusk to dawn. Details of the method of illumination and the spacing between lights will be required on the detail landscape plans, and will be addressed as a **condition** of any consent.

x. Section 7.6.2 – Protection of Views

Having regard to the flat nature of the land surrounding the site and the type of adjoining land uses, it is believed that there are no significant landscape views that will be obstructed. Concerns, however, were raised by Council's Heritage Advisor regarding the view from Windsor Road to the tops of the trees surrounding Merriville House and Gardens which is a State listed Heritage Item. This matter is discussed further under Section 8.2, point (c) of this report.

xi. Section 7.6.3 – Visual and Acoustic Privacy

Having regard to the density proposed, the applicant has taken care in the design of the development to ensure that there is adequate separation between apartments and in the location and design of balconies. Balconies and living rooms have been designed and located to maximise outlook, views and solar orientation, without compromising the visual privacy of other apartment users. To ensure that the privacy of future residents is maintained, windows and balconies of opposing units have been off-set where possible. Where opposite facing windows or balconies have been provided, these have been separated by a suitable distance or will be shielded by screen landscaping. Windows and private courtyards located adjacent to the ground level common areas and public spaces will also be screened by appropriate landscaping and fences. Suitable **conditions** will be imposed on any consent to address this matter. It is also recommended that a further **condition** be imposed requiring that privacy screens be installed adjacent to the window openings of Unit 1 (i.e. Ground Floor Level of Building C) given that they open directly onto an area of public open space.

In addition to addressing all privacy/overlooking concerns within the site itself, the applicant was requested to look at the potential overlooking impacts on the adjoining properties. Although the development was limited to a maximum height of 2 storeys adjacent to the western boundary, it was noted that rooftop terraces had been provided at the higher levels which would directly overlook the rear yards of the adjoining detached dwellings. While planter boxes had been provided to help eliminate potential privacy impacts, these added to the overall height and bulk of the development when viewed from the western boundary. Prior to placing the proposed development on public exhibition, the applicant was therefore requested to address this significant concern. As a result, several units were deleted from the scheme. The terrace areas at the third level were setback approximately 11 metres from the boundary when measured to the planter boxes, and the terraces at the fourth and fifth levels were setback over 20 metres. In terms of any privacy impact on the existing residential units adjoining the northern boundary, it is believed that the proposed development is satisfactory given that a 12m separation has been maintained between units in accordance with the DCP controls.

In addition to ensuring suitable visual privacy, the DCP states that residents must be protected from mechanical noise and noise associated with any source of activity. To reduce noise disturbance to an acceptable level, noisy activities and sources of noise should be located away from living areas and private open spaces.

Originally, Building 'C' (south-west corner) provided public access from the commercial/retail tenancies to the internal courtyard. Building 'A' (south-east corner) was similarly designed with some residential units at the ground level. Given that employees and customers had the ability to congregate in front of the ground level units (immediately outside resident's bedroom windows), this arrangement was considered unacceptable. The plans were therefore revised to address this concern. While employees and customers can no longer congregate immediately outside the ground level units, the internal courtyards of Buildings 'B', 'C' and 'D' have been nominated as the common recreation areas for use by all residents within the complex. Concerns were therefore raised regarding the potential noise impacts on adjoining units, especially given that a children's play area, bbq and other recreation facilities were proposed in these areas. To address this concern, all bedrooms windows adjacent to the internal courtyards will be double glazed in accordance with the recommendations of the submitted Acoustic Report. Further details regarding the Acoustic Assessment, please refer to Section 8.2, point (d) of this report. A **condition** will be imposed on any consent granted to ensure full compliance with the recommendations of the Acoustic Report. A further **condition** will also be imposed stating that in accordance with the requirements of the DCP, no plant or equipment shall generate a noise level greater than 5dBA above the ambient L90 sound level.

xii. Section 7.6.4 – Orientation

The development has been orientated so that the small neighbourhood centre faces south. As a result, the number of non-south orientated apartments has been maximised. Despite this, the development still provides units with a variety of orientations. Each block has been designed with central lift shafts to maximise exposure for solar penetration and cross ventilation opportunities. The proposed

development complies with the solar access and cross-ventilation guidelines in the RFDC and therefore is considered satisfactory.

xiii. Section 7.6.5 – Parking Provision

As outlined under Section 8.2, point (f) above, the residential component of the development 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). Application of these parking rates yields an off-street parking requirement of 226 residential spaces and 80 visitor spaces. The proposed development exceeds these requirements, and is therefore considered satisfactory. Standard **conditions** will be imposed on any consent granted to ensure that the car parking areas are provided in accordance with Australian Standard 2890.1.

xiv. Section 7.6.6 – Vehicle and Pedestrian Access

The issue of vehicular and pedestrian access has been addressed in detail under Section 8.2, point (e) of this report. The development includes a number of controls that assist in managing traffic and pedestrian flows, and providing a safe environment for residents and visitors. The roundabout on Merriville Road serves to slow and control traffic speeds as vehicles enter the site. The internal road is a pedestrian dominant environment, characterised by wide footpaths, minimised at grade parking, planter boxes and alternative pavement materials.

The proposed development has also been designed so that the main entrances to each unit block are landscaped and are easily identified. This gives each block a clear sense of address and provides better safety and security around the site.

The development provides clear and safe access to parking and servicing areas. The basements are each served by clearly defined and separate driveway entrances, providing for efficient movement and disbursement of traffic, as opposed to a single basement access that would be inefficient and lead to congestion. Lifts have been provided within each building, which will cater also for disabled access.

xv. Section 7.6.7 – Public Road Access and Construction

The issue of public road access has also been addressed under Section 8.2, point (e) of this report. The development has been designed to meet Council's requirements in relation to half-width road and pedestrian construction. The roundabout (in its revised form) has also been located to enable no land acquisition or interruption to the site on the opposite side of Merriville Road. Appropriate **conditions** will be imposed on any consent granted to ensure all road works are undertaken to Council's satisfaction.

xvi. Section 7.6.8 – Accessways

The internal private road is defined as the "accessway". The DCP indicates that all accessways shall be constructed to Council's standards appropriate to the type and volume of traffic it is anticipated to carry. Council's Traffic Engineers have advised that they have no objection to the width and design of the internal private accessway and have advised that it is also suitable for delivery vehicles and garbage trucks.

Traffic is controlled by the design of the internal accessway. It provides a width that does not encourage high speeds, yet allows for effective movement through the site. Access to the resident, visitor and commercial/retail parking will be clearly signposted, allowing for efficient movement of traffic along the accessway into the basement parking areas. The traffic exiting the site will move efficiently due to the new roundabout on Merriville Road.

It should be noted that a right-of-way (ROW) also runs along the entire length of the eastern boundary of the site, to provide vehicular access to the vacant allotment located immediately north of the Woolworth Service Station. This secondary access point, however, does not provide access to the subject development although the applicant was asked to consider this as an option when designing the proposal.

The proposed ground floor residential units, located immediately adjacent to the ROW, have been redesigned so that window openings, stairways and courtyards do not open directly onto this trafficable area. As a **condition** of any consent, the applicant will be required to construct the ROW and appropriately fence the area until access is required to the vacant allotment.

xvii. Section 7.6.9 – Water Management

The objectives of integrated water management are to preserve and protect the amenity and property of the community from damage by flooding whilst minimising changes to the natural hydrology of the area. It also aims to eliminate the effect of stormwater pollution on receiving waters, protect downstream habitat and ecological values and minimise the use of potable water.

As advised under Section 8.2, point (h) Council's Engineering/Drainage Sections are satisfied that all flooding and drainage can be addressed via suitable **conditions** of any consent. A copy of the draft determination, including the recommended drainage **conditions**, are included at **Attachment 1** of this report.

xviii. Section 7.6.10 – Fencing and Screen Walls

The existing fencing along the northern and western boundaries will be retained as part of the development. New fencing, however, is required across the Clonmore Street frontage for the reasons outlined under Section 8.2, point (e) of this report. In this regard, it is believed that the privacy and amenity of the adjoining detached dwelling houses would be severely compromised (especially late at night if patrons are returning from the Ettamogah Hotel) if unrestricted pedestrian access was available between Merriville Road and Clonmore Street. While it may be reasonable to allow unrestricted pedestrian movements during business hours, it is recommended that as a **condition** of any consent granted that the public pedestrian access point provided along the Clonmore Street frontage be closed/gated at 9.00pm each evening. Details of the gates/barriers will be required to be submitted for Council's separate approval prior to the release of any Building Construction Certificate, and will be addressed as a **condition** of any consent.

Council Officer's also have concerns regarding the proposed pedestrian access points located on the eastern boundary (i.e. adjoining the 6m right of carriageway). The applicant has indicated that these access points will provide a direct or alternative link for residents in Kellyville Ridge to the transport node on Windsor Road. Given the pedestrian access points open directly on to the ROW,

and that the ROW will be required to be fenced/gated until such time as Lot 13, DP 1067209 is developed in order to prevent anti-social activities from occurring in this isolated area, it recommended that no pedestrian access be permitted along the eastern boundary of the site. A suitable **condition** will be imposed on any consent to address this matter.

In terms of the new fencing required along the length of the ROW, Council Officer's were concerned that the provision of any significant expanse of blank fencing would become a target for graffiti. To address this concern the applicant is therefore proposing to install perforated metal screens along the length of the ROW. The adjacent planter boxes will then be planted with vines, which will completely cover the metal fencing.

The use of internal fencing and screen walls are provided only where they are required to protect resident's privacy and differentiate between public and private areas. Gated entry pavilions, with security keypad controls, will provide a clear zone of transition between the shared public zones of the site and the private residential parts of the site. This will also ensure that the internal common courtyard areas to Buildings 'B', 'C' & 'D' are available for the exclusive use of the residents living there.

The applicant has advised that the fencing and screen walls associated with the development may incorporate a range of building materials provided, in the opinion of Council, such materials enhance the physical appearance of the development. As noted on the development application plans, a fast growing foliage vine or shrub will be selected to grow over the perimeter fences. The foliage cover will ensure the potential for graffiti attacks are minimised or eliminated altogether.

As part of the 'Safer By Design' evaluation (see Section 8.2, point (i)vii. above), the applicant also indicated that the design and selection of fencing will take into account a range of considerations including:

- The specific needs of the development;
- The level of security to be provided by the fencing;
- Provisions for vandal-proofing the fencing;
- Needs and formal agreements between neighbours and the developer;
- Options to minimise/eliminate the potential for graffiti canvas effect;
- On-going maintenance of the fence, landscaping and adjoining properties; and
- Type selection of foliage to be grown on/over the fence to minimise any potential graffiti attacks.

Each of the above elements require a detailed review to ensure the optimum solution/selection of materials and management is employed to not only control graffiti attacks but also provide the level of security required and minimise ongoing maintenance issues. It is therefore recommended that as a **condition** of any consent granted, that all fencing details therefore be submitted to Council for separate approval prior to the release of any Construction Certificate. Further details of the gated entry pavilions will also need to be submitted to ensure that

these entrances are clearly identifiable and provide a clear sense of address for each residential block. A further **condition** will also be imposed stating that all new fencing must be provided at full cost to the developer.

xix. Section 7.6.11 – Podium Design

The proposed buildings do not provide identifiable podiums. Instead each building has been stepped to provide a transition in building height, thereby creating areas for roof top terraces and private balconies. The 'podium'/roof top area above the basement car park entrance to Buildings 'B' and 'D' at the rear of the site, has been allocated for use as private courtyards. This area does not impact on the overall height of any of the proposed buildings and does not encroach into any setback areas.

xx. Section 7.6.12 – Disabled Access Provision

In accordance with the DCP, at least 10% of the total number of units must be designed for persons with a disability. The proposed development provides 26 units which are adaptable (i.e. 13 %) and therefore exceeds the requirements of the DCP. These units have been identified on the proposed plans and are either accessible by lift or located at the ground level in accordance with the Building Code of Australia (BCA).

While lift access has been provided to all levels of the building, including the 2 basement levels, there are a proportion of units which are not accessible from a lift. In this regard, 4 "walk up" units are proposed on level 3 of Block 'C' and a total of 14 "walk up" units are proposed within Block 'D' (7 on level 2 and 7 on level 3). The 4 "walk up" units proposed on level 3 of Block 'C', are provided with lift access from the basement car parking to level 2. "Stair-only" access is then available from level 2 to level 3. The "walk up" units in Block 'D' are provided with "stair only" access between the ground floor and the upper levels. Lift access, however, is available from the ground level to the basement car parking. None of the "walk up" units have been nominated as adaptable.

1 car space has also been provided for each 1 and 2 bedroom accessible unit, and 2 car spaces for persons with a disability have been provided for the 2 adaptable units located on the 5th floor of Building 'B' (which in Council Officer's opinion have the capability of being used as 3 bedroom units). In total, 28 resident car parking spaces for persons with a disability have been located within the basement in close proximity to the liftwells. Standard **conditions** will be imposed on any consent to ensure the proposed 26 units are accessible and that the correct number of car parking spaces are provided.

xxi. Section 7.6.13 – Safety and Security

As outlined under Section 8.2, point (i) of this report, a formal safety and security assessment was undertaken by the NSW Police Service. Following lodgement of the applicant's formal response to the CPTED assessment, the Police advised that they no longer has any objections to the proposed development subject to appropriate conditions. Provided the conditions can be met, the Police have agreed that the 'Safer by Design' rating for the proposed development can be classified as "Low".

The proposed development complies with the requirements of this Section of the DCP in the following manner:

- The proposed buildings overlook the streets, internal private accessways and public areas to facilitate casual surveillance;
- The basement car park and entrances to the residential areas can be appropriately secured;
- CCTV is proposed throughout the site and a full time property manager will be on site. The site will also be patrolled by a security company;
- Residential entrances, pedestrian areas and common open spaces will be illuminated at night by vandal proof security lighting;
- The gated residential entry pavilions to each building will be designed to have a clear sense of address; and
- Buildings will be constructed in external materials that are robust and durable. Measures will also be adopted to discourage vandalism and graffiti.

Where appropriate, suitable **conditions** will be imposed on any consent to ensure that works required to make the development safe and secure are undertaken to Council's satisfaction.

xxii. Section 7.7.1 – Building Design: General

In accordance with the requirements of the DCP and SEPP 65, a scaled model and schedule of finishes have been submitted with the Development Application.

xxiii. Section 7.7.2 - Unit Types in the Development

The development incorporates a mix of unit types including 41 x 1 bedroom units (20.7%), 129 x 2 bedroom units (65.2%) and 28 x 3 bedroom units (14.1%). The unit mix has been determined by likely market expectations and is considered appropriate for its location. The market is likely to consist of first home buyers or renters, who in time intend to purchase a dwelling house in the region. The mix also provides opportunity for individuals, couples or small families to locate within the development.

xxiv. Section 7.7.3 – Floor to Ceiling Height

The proposed development provides a minimum floor to ceiling heights of 2.7m to all habitable rooms and corridors, and a minimum floor to ceiling height of 2.4m to all non-habitable rooms in accordance with the DCP and the provisions of the BCA.

xxv. Section 7.7.4 - Passenger Lift Access

The DCP states that passenger lift access is required for any residential flat building containing 4 or more levels, including the basement.

4 passenger lifts are proposed for Blocks 'A' and 'B' and 2 passenger lifts are proposed for Blocks 'C' and 'D'. While lift access has been provided to all levels of the building, including the 2 basement levels, there are a proportion of units which are not accessible from a lift.

In this regard, 4 "walk up" units are proposed on level 3 of Block 'C' and a total of 14 "walk up" units are proposed within Block 'D' (i.e. 7 on level 2 and 7 on level

3). The 4 “walk up” units proposed on level 3 of Block ‘C’, are provided with lift access from the basement car parking to level 2. Stair-only access is then available from level 2 to level 3. The “walk up” units in Block ‘D’ are provided with stair-only access between the ground floor and upper levels (i.e. 3 storeys only). Lift access, however, is available from the ground level to the basement car parking.

xxvi. Section 7.7.5 – Balconies

There are no minimum size requirements for balconies. In order to include the balcony space as part of the total common open space requirements, however, the majority of the balconies have been provided with minimum dimensions of 2.5m x 3m. All of the balconies comply with the SEPP65 requirement of a minimum 2m dimension.

None of the balconies are proposed to be enclosed and none of them project into the 6m side or rear setback areas. The balcony balustrades are generally glass with metal posts, to provide some contrast with the main walls of the building. A small number of the balconies also include rendered brick work.

A standard **condition** will be imposed on any consent granted, to ensure that clothes hanging/drying is not permitted from any balcony.

xxvii. Section 7.7.6 - Internal and External Shading and Solar Access

The DCP provides the following numerical requirements in terms of solar access and overshadowing:

- At least 50% of the principle area of ground level open space in neighbouring properties shall not have their level of solar access reduced to less than 2 hours between 9.00am and 3.00pm on 21 June.
- Buildings within the proposal must be designed to ensure that 50% of the common open space area of the proposed development at ground level must receive a minimum of 3 hours of sunlight between the hours of 9.00am and 3.00pm on 21 June.
- Living rooms and private open spaces for at least 70% of the units must receive a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in midwinter.

Shadow diagrams showing the impact of the proposal on the subject site and on adjoining sites between 9.00am and 3.00pm on 21 June have been submitted with the Application. The shadow diagrams have been provided at hourly intervals, have been prepared by a qualified professional, have been based on survey information and include finished ground level details.

The shadow diagrams clearly demonstrate that there will be no adverse shadow impacts on any adjoining property. The shadows fall towards Merriville Road and as such, the residential flat building located to the north will not be overshadowed by the proposed development. The detached dwelling houses located adjacent to the western boundary will be partially affected by shadows at 9.00am on 21 June, but by 10.00am 100% of the neighbouring properties principle area of private open space will receive unrestricted solar access. The proposed development is therefore acceptable in terms of its overshadowing

impact on neighbouring residential properties. The impact on the commercial properties adjacent to the eastern boundary is also minor. At 2.00pm the shadows are contained completely within the development site. It is only at 3.00pm that there is partially overshadowing of the adjoining commercial properties.

It should be noted that the shadow diagrams originally submitted to Council provided insufficient information. In this regard, only those shadows which fell outside of the property boundaries were supplied. The applicant was therefore requested to provide additional diagrams clearly showing what overshadowing impacts the proposal would have upon itself (i.e. internally within the site). In this regard, Council Officer's were concerned that 50% of the common open space at ground level would not receive the required minimum 3 hours of required sunlight and that a significant number of the units in Buildings 'A' and 'C' would be significantly overshadowed by Buildings 'B' and 'D'.

The proposed development provides 3,316sq.m of common open space at the ground floor level. 50% of this is therefore 1,658sq.m. The shadow diagrams suggest that the development does not comply with this requirement of the DCP. It is noted, however, that more than 50% of the overall common open space on site achieves adequate solar access for extended periods of the day and as such, will provide future residents with useable on-site recreation areas.

In terms of solar access to the residential units, the RFDC also requires that at least 70% of the units receive a minimum of 3 hours of direct sunlight between 9am and 3pm in midwinter. As discussed under Section 6.3 point (g) of this report, the applicant has submitted information which demonstrates that 72% of the units will achieve the minimum 3 hours of direct sunlight between 9am and 3pm.

The proposed development is therefore considered satisfactory in terms of shadow impacts and solar access, and generally complies with the requirements of both Council's DCP and the RFDC.

xxviii. Section 7.7.7 - Natural Ventilation

The DCP requires that at least 60% of the units have good cross ventilation. This requirement reflects the minimum guidelines under the RFDC. As discussed under Section 6.3, point(g) of this report, 94% of the units achieve the natural cross-flow ventilation requirements. The proposed development is therefore satisfactory in terms of natural ventilation.

xxix. Section 7.7.8 - Energy Performance and Sustainability

A BASIX Certificate was submitted with the Development Application. However, a recent change to the legislation means that BASIX Certificates are now only required for Class 1 dwellings. As such, any future Construction Certificate (CC) relating to the development is not required to comply with the submitted BASIX Certificate. Instead, any approved development will be required to demonstrate compliance with Section J of the Building Code of Australia (BCA) Volume 1. A suitable **condition** will be imposed on any development Consent granted to address this matter.

xxx. Section 7.7.9 & 7.7.10 – Provision for Services

A new electricity substation is proposed in the front south-west corner of the site. Adequate area has also been provided within the basement levels for the location of all necessary building services and plant equipment. Standard **conditions** will be imposed on any consent to ensure that the developer liaises with the appropriate service providers at the relevant stages of construction to ensure the required services are accommodated. A **condition** will also be imposed requiring that appropriate landscaping be provided at the rear of the new substation to eliminate any potential area of concealment. A further **condition** will also be imposed requiring that in the event any plant equipment or the like is provided at ground level, details are to be submitted for the separate approval of Council.

xxxi. Section 7.7.11 - Waste Management

Separate garbage loading areas are proposed in each of the 4 basements to accommodate the garbage collection needs of the proposed development. Waste removal (i.e. both garbage and recyclable materials) for the entire development will be undertaken by a private contractor using small 5.25m long rigid trucks which require an overhead clearance of 2.5m. The 4 buildings will each have their own respective garbage rooms which are to be located on the first basement level. Basement 1 has been designed to accommodate the overhead clearances of these small rigid garbage trucks, and sufficient manoeuvring area has been provided so vehicles can enter and leave the basement in a forward direction.

The original proposal was referred to Council's Coordinator Sustainable Resources in October 2009. In response, the applicant was requested to submit further details and plans demonstrating that the location and design of the bin storage areas were adequate. In this regard, the applicant was advised that the proposed garbage rooms must be designed to comply with the requirements of the Blacktown City Council "Site Waste Management and Minimisation" DCP, Garbage and Recycling Area/Room Requirements.

It was also requested that the applicant demonstrate that there is sufficient clearance heights within the basement car parks for garbage trucks, provide separate bin storage areas for the commercial and residential uses, provide designated collection bays for the garbage trucks to park and provide turning templates to demonstrate that garbage trucks can enter and exit the basement without conflicting with any parked vehicles. In the event a compaction unit was not provided at the end of each garbage chute, the applicant was advised that a full-time caretaker would be required to rotate the bins. In addition to requesting this additional information, it was recommended that the following **conditions** be included as part of any development consent:

- The future Strata Management Agreement, outlining the provisions and responsibilities relating to the waste arrangements, must be submitted to Council for separate approval. In this regard, the agreement will be required to include:
 - Provision for the placement of waste and recycling bins.
 - Responsibility for:
 - The maintenance of the garbage and recycling collection system.

- Ensuring that designated collection points are clear and unobstructed for collection vehicles.
- Cleaning of bins and garbage rooms and ensuring that they are kept free of odours and pests.
- Given that a Private Contractor will be used to collect the waste, future residents will not be permitted to access Council’s “Household Clean Up Service” for their bulky waste.
- Appropriate signage must be provided in the “garbage areas” to advise residents where waste and recycling materials are to be placed, and what are appropriate materials for recycling.

In December 2010, the revised development proposal was referred to Council’s Coordinator Sustainable Resources for further comment. While most of the original concerns had been addressed, additional information was requested in relation to the design of the bin storage areas. There was also concern that the storage areas provided insufficient capacity for the required 403 garbage and recycling bins required for the development. The applicant alleviated these concerns by amending the proposed plans and provided additional information to confirm that the collection of waste/recycling will be undertaken by a private contractor twice a week. This matter will be addressed by a suitable **condition** of any consent.

Following this, Council’s Coordinator Sustainable Resources advised that all outstanding concerns had been addressed and that no objections were raised to the development subject to appropriate **conditions**, including those outlined above.

It should be noted that while Council’s Coordinator Sustainable Resources is satisfied that the issue of providing separate bin storage areas for the commercial and residential uses has been addressed, Town Planning Officers do not approve of the proposed location of 1 of the commercial bin storage areas. In this regard, the bin store area has been located immediately adjacent to one of the proposed loading bays. The concern is that the bin store area totally obstructs the footpath, thereby forcing pedestrians to walk through the loading area. Furthermore, if a truck is parked in the loading bay access to the bin area is restricted/unavailable. As such, as a **condition** of any consent the bin store area will be required to be recessed into the main wall of the building or relocated to a more appropriate location.

xxxii. Section 7.7.12 - Laundry Facilities

The development does not propose communal laundry or drying facilities, as it is considered that these type of facilities will not be utilised for fear of theft. As such, internal laundry facilities with mechanical drying appliances are proposed within each unit. A standard **condition** will be imposed on any consent issued, requiring that as a condition of any future Strata Application, the Strata Management Plan must contain a restriction that no hanging of clothes is permitted on the balconies.

8.5 Compliance with BDCP 2006 – Part K ‘Notification of Development Applications’

The proposed development was placed on public exhibition and notified to local residents in accordance with Blacktown Development Control Plan 2006 – Part K (Notification of Development Application). Given the overwhelming public interest in this application, the standard 2 week notification period specified under the DCP was extended to 8 weeks. For further details regarding the notification/exhibition process, please refer to Section 13 of this report.

8.6 Compliance with BDCP 2006 – Part O ‘Site Waste Management and Minimisation’

As required by this part of the DCP, a Waste Management Plan (WMP) prepared by DesignCubicle dated April 2011, has been submitted which provides the following details:

- (a) the volume and type of waste generated during demolition and construction;
- (b) how waste is to be stored on site;
- (c) the method of disposal of recyclable and residual waste; and
- (d) ongoing management.

In this regard, the WMP demonstrates and achieves a diversion in the amount of waste going to landfill. Standard **conditions** will be imposed on any development consent to ensure that the measures outlined in the submitted WMP are implemented during the demolition and construction phases of the development. This includes the sorting and storage of waste and recyclable building materials on site for collection and disposal to appropriate disposal depots. The developer will be required to retain receipts from the waste/recycling disposal contractor or some form of evidence of compliance with the WMP which will need to be submitted to Council prior to issue of an Occupation Certificate. An ‘Operational’ **condition** will also be imposed to ensure all waste generated on site is disposed of in accordance with the WMP.

8.7 Compliance with BDCP 2006 – Part Q ‘Contaminated Land Guidelines’

The applicant was advised that a Site Audit Statement, prepared by a NSW Environment Protection Authority (EPA) accredited site auditor, was required to determine whether the site is suitable for the proposed use. Alternatively, if a previous sufficiently rigorous Site Contamination Assessment had been undertaken, the applicant was advised that an addendum may be prepared to confirm whether or not any further contamination had occurred since the date of the original report.

A Site Contamination assessment was undertaken by Environmental Earth Sciences NSW in 2002. As part of this Application, Environmental Earth Sciences NSW was therefore engaged to undertake a further review and update the findings of the 2002 investigation. In this, the consultant reviewed the original report, carried out a site inspection, and prepared an addendum to the original report to advise whether the conclusions of the original report still held true for the proposed use of the site.

As part of the 2002 investigation a detailed contamination assessment was conducted, and identified the following potential contaminants on the site:

- total petroleum hydrocarbons (TPH);
- benzene, toluene, ethylbenzene and xylenes (BTEX);
- polycyclic aromatic hydrocarbons (PAHs);
- heavy metals; and

- organochlorine pesticides (OCPs).

A total of 25 locations were assessed across the site with 10 boreholes hydraulically drilled and 15 samples collected from surface materials. The conclusions derived from the sampling was that:

- heavy metal, OCPs, phenols, monocyclic and polycyclic hydrocarbons, (BTEX and PAHs) were below relevant commercial landuse guidelines;
- TPH from borehole 3 in the north-western section of the site was found to be above sensitive landuse criteria. This was justified at the time of the 2002 assessment to be acceptable due to proposed commercial use of the site;
- any fill material intended for offsite disposal should be classified as per the NSW EPA *Environmental guidelines: assessment, classification and management of liquid and non-liquid wastes*; and
- natural soils from the site may be classified as VENM (virgin excavated natural material) according to NSW EPA guidelines.

Based on the current inspection of the site and review of the 2002 report, the site was determined to be in a condition similar to that in 2002. There were, however, some visual differences since the preparation of the original report including:

- The Lochinvar Motel building has been heavily vandalised with potential asbestos containing material (ACM) in contact with surrounding soil. (Note: The issue of asbestos associated within the old derelict Motel has been dealt with by Council's Building Department as discussed under Section 10 of this report. Suitable conditions will be imposed to ensure the asbestos containing material is removed and disposed of in accordance with current regulations and guidelines).
- The stockpiles identified in the 2002 report were now missing.
- Newly dumped material was located in the south-western and north-western sections of the site.
- A concrete culvert was located at the northern end of the Motel building along the site boundary. Aerial photographs indicate that this was installed at a date later than 2002.
- 4 more tanks (possible septic) were identified south of the tanks identified in the original report. No detectable odours were associated with any of the 7 tanks on site.

In addition to the visual differences, the Site Contamination addendum indicates that a different set of appropriate guidelines are now applicable to the site. In this regard, the 2002 report was based on the site being developed for commercial purposes only. The current proposal includes residential development and as such, requires that stricter guidelines be applied to this more sensitive landuse.

The Site Contamination Addendum Report indicates that all results fall below the residential landuse criteria, with the exception of borehole 3 which had elevated TPHs. It is recognised, however, that the proposed basement car park will result in soil excavation and removal. Given the TPH occurs in the top metre of soil which will have to be removed to facilitate the nature of the proposed development, the risk of this elevated TPH posing a threat is therefore low. The contamination report also identified elevated levels of Total Petroleum Hydrocarbons (TPHs) above the criteria in the north-western section of the site. To address

these issues, a **condition** will be imposed to ensure appropriate disposal of this fill material and classification according with the NSW DECCW (2009) – *Waste Classification Guidelines*.

The Site Contamination Addendum Report recognises that the asbestos containing material, associated with the Lochinvar Motel, has been directly addressed by the client through a separate independent report conducted by AECOM. Appropriate **conditions** will be imposed on any consent to ensure that this material is removed and disposed of following current regulations and guidelines. A **condition** will also be imposed requiring that after the asbestos has been removed from the site, that a validation of the soil be conducted to ensure there is no residual soil contamination.

The submitted Site Contamination Addendum Report concludes that the site is suitable for the proposed mixed-use development provided the potential asbestos and TPH impacted areas are appropriately managed and classified in accordance with the current waste classification guidelines (i.e. NSW DECCW (2009): *Waste classification guidelines*). It is recommended that any soil removed from the site be classified in accordance with the current waste classification. As a further recommendation, it is suggested that natural and fill material be removed and classified separately, and that soil associated with potential asbestos (i.e. from the footprint and surrounding the Motel) also be classified separately.

The recommendations of the Site Contamination assessment undertaken by Environmental Earth Sciences NSW in 2002, together with the additional recommendations of the Site Contamination Addendum Report, will form **conditions** of any consent granted.

8.8 **Compliance with BDCP 2006 – Part R ‘Soil Erosion and Sediment Control Guidelines’**

Standard **conditions** of consent will be imposed on any approval granted to ensure compliance with Council’s soil erosion and sediment control guidelines during the construction phases of the development.

Another consideration with this site is the potential for salinity. Based on the map titled *Salinity potential of Western Sydney 2002*, the site has a moderate risk of salinity with high risk areas associated with nearby Caddies Creek and tributaries. Visual observations by Environmental Earth Sciences NSW as part of the site contamination investigation, indicate however that there are visually no indicators of salinity on this site. A standard **condition**, however, will be imposed on any consent granted requiring that a site specific Preliminary Salinity Investigation and Management Plan be submitted to Council prior to release of any Construction Certificate. The report is to include salinity mitigation measures for the bulk earthworks, services, stormwater drainage, infrastructure, roads, landscaping and building works.

9 **Traffic and Parking Assessment**

- 9.1 State Environmental Planning Policy (Infrastructure) 2007 nominates the proposed development as being “traffic generating development”. A Traffic and Parking Assessment was therefore prepared by Varga Traffic Planning Pty Limited and submitted as part of the original application. The report assessed the traffic and parking implications of the proposal, reviewed the road network and traffic conditions in the vicinity of the site, estimated the traffic generation potential of the development proposal assessed the traffic implications of the development proposal in terms of road network capacity, and assessed the adequacy of the off-street car parking provisions. An assessment of the on-site resident and visitor parking arrangements is provided under Section 8.2, point (f) of this report, while the traffic related issues are discussed below.

- 9.2 On receipt of the DA, the original development plans and supporting Traffic and Parking Statement were referred to Council's Traffic Management Services (TMS) for assessment. In response, minor concerns were raised regarding the parking design and loading/unloading arrangements. These matters have been addressed in the body of this report under Sections 8.2, point (f) and Section 8.3, point (d)vi. Further to these issues, Council's TMS also requested that the following matters be addressed:
- (a) Investigate whether there was any opportunity to use the right-of-carriageway located along the eastern boundary of the site as a secondary access point;
 - (b) Provide appropriate measures so pedestrians can cross Merriville Road safely, especially given that the Ettamogah Hotel is located on the opposite side of the road;
 - (c) Further details were required to determine whether the proposed roundabout in Merriville Road was mountable or not, and whether it could cater for 12.5m long vehicles;
 - (d) A further analysis was required regarding the operation of Merriville Road at the Windsor Road intersection. Specifically details regarding the queue lengths along Merriville Road and within the development were required. In this regard, Council was concerned that the proposed development may exacerbate the existing traffic problems in the area. The analysis was to include background traffic growth for the future years, and was to cover the 5 and 10 year scenarios.
- 9.3 In addition to seeking comments from Council's TMS, the DA was referred to the Roads and Traffic Authority (RTA) (now RMS) on 14 October 2009 for comment in accordance with Clause 104 of *State Environmental Planning Policy (Infrastructure) 2007*. In response the Sydney Regional Development Advisory Committee (SRDAC) considered the traffic impact of the Application at its meeting on 4 November 2009. No objections were raised to the proposed development, however, the following comments were provided for consideration in the determination of the application:
- (a) The proposed roundabout on Merriville Road is to provide 2 lanes through the roundabout in each direction. The right lane westbound is to be designated as right turn only.
 - (b) A median is to be constructed in Merriville Road from Windsor Road to the proposed roundabout to minimise congestion and reduce the likelihood that traffic will queue from Merriville Road onto Windsor Road. As this will impact on the existing access to/from the adjacent McDonalds/service station it is suggested that the developer provide vehicular egress from McDonalds to Merriville Road via the subject property to allow access to the roundabout so that traffic may proceed west.
 - (c) Service areas do not appear adequate to cater for large rigid trucks such as removalists.
 - (d) To minimise potential queuing into the site from the proposed roundabout it is suggested that all access to both residential and commercial car parking be via the car parks under buildings on Lots B & D.
 - (e) The traffic report has not addressed future traffic growth or given consideration to the extent of queuing in Merriville Road back from Windsor Road. Concerns are raised that the queue will extend beyond the proposed roundabout and cause unacceptable delays.
- 9.4 In addition to raising the above concerns, the RTA also requested that the following conditions be imposed on any consent granted:

- (a) The right turn lane on Windsor Road, for traffic turning right into Merriville Road is to be lengthened by 50 metres at full cost to the developer, to accommodate the additional right turning traffic generated by the proposed development. All works are to be undertaken to the RTA's design requirements.
- (b) Council, following advice from its traffic committee, should consider the installation of "No Stopping" restrictions along the site's frontage, extending to the existing restrictions on the approach to Windsor Road.
- (c) Signage is to be provided on site to clearly indicate residential and commercial parking.
- (d) Off-street parking associated with the proposed development should be designed in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002 for heavy vehicles.
- (e) All works/regulatory signposting associated with the development are to be at no cost to the RTA.

9.5 The applicant was invited to respond to the issues raised by the RTA. In reply the applicant has provided modelling that indicates that the additional traffic turning right into Merriville Road from Windsor Road is expected to be less than 20vph (i.e. less than 1 car per cycle). The increase in queue length in the right-turn bay would therefore be only 1 passenger car unit (i.e. 6 metres). The applicant has indicated that although the request for a 50 metre long extension of the right-turn storage bay does not appear to be warranted by the proposed development, they have agreed to undertake the works to the RTA's requirements. It is therefore recommended item 9.4(a) above be addressed as a **condition** of any consent granted. The applicant has also agreed to the installation of "No Stopping" restrictions along the site's frontage and to the other recommended standard conditions of consent. It is therefore recommended that the items listed under points 9.4(b)-(e) be imposed as **conditions** of any consent granted.

9.6 In terms of the issues raised by the former RTA and Council's TMS under Sections 9.2 and 9.3 above, these are discussed in detail as follows:

- (a) ***The proposed roundabout at the entry to the site is to provide 2 lanes through the roundabout in each direction. The right lane westbound is to be designated as right turn only.***
 - i. In response to this request, the applicant amended the plans to provide a roundabout with 2 lanes in each direction. Council Officers noted, however, that the footway area of the proposed roundabout encroached into the Ettamogah Hotel's land located on the southern side of Merriville Road directly opposite the subject site.
 - ii. In May 2010, the applicant was advised that the roundabout would need to be relocated 3.5 metres to the north (i.e. towards the development site) and that this option would require the reconstruction of Merriville Road. Alternatively, the applicant was given the option to acquire the affected portion of land from the Hotel. Council Officers advised that the amended plans, proposing an encroachment into private property, however could not be accepted without the written owner's consent of the Ettamogah Hotel. Following this, the applicant approached the owner of the Ettamogah Hotel to purchase the required portion of land. Negotiations, however, were unsuccessful. The applicant therefore decided to investigate alternate options including traffic signals or a roundabout with only a single westbound lane.

- iii. Varga Traffic Planning Pty Limited (the applicant's traffic consultant) undertook an analysis of the traffic signal and amended roundabout options assuming a 20% increase in traffic volumes in both Windsor Road and in Merriville Road. The analysis indicated that either a roundabout (with 2 eastbound lanes and a single westbound lane) or traffic signals could be used to provide vehicular access to both the subject site and to the Hotel site opposite, without the need for any property acquisition from the Hotel site. The results of the capacity analysis of the 2 options confirmed that both access options would operate satisfactorily and with minimal delays, and that a roundabout with 2 lanes in each direction was not required.
- iv. Prior to finalising an assessment of the amended proposal, Council forwarded a copy of the amended plans and additional traffic analysis to the RTA on 30 June 2010 for their consideration and comment. In this regard, the RTA was requested to advise which option (i.e. a roundabout with 2 eastbound lanes and a single westbound lane, or traffic signals) if any, was preferred for providing vehicular access to the development site. On 26 July 2010 the RTA advised that a review of the traffic signal and roundabout options prepared by Varga Traffic Planning Pty Ltd had been undertaken. While the RTA indicated that a 2 lane circulating roundabout would be preferable, no objection was raised to the roundabout option being constructed as follows:
 - *To avoid queues of westbound vehicles from the roundabout back to Windsor Road, the roundabout is to be constructed with 2 westbound lanes and a single eastbound lane in Merriville Road.*
- v. This advice, however, was unsatisfactory to Council Officers. Council Officers were concerned that there would be strong public opposition to providing a single east bound lane in Merriville Road given it would result in significant queue lengths back from the Windsor Road traffic lights. On 9 August 2010 Council therefore wrote back to the RTA advising that it was Council's preference that the roundabout have 2 eastbound lanes and a single westbound lane. Further analysis and survey data, prepared by Council's Traffic Management Section, was also forwarded to justify Council's position. A copy of the analysis and survey data is provided at **Attachment 9** to this report. (i.e. Merriville Road Development Access – Intersection Model" report prepared by Council's Senior Traffic Management Officer).
- vi. In summary, the analysis confirms that there will be sufficient storage between the proposed roundabout and Windsor Road until 2030. This was likely to be a worst case scenario as there will be additional arterial road connections developed which will reduce the background traffic flow in Merriville Road. After careful consideration, the RTA advised on 31 August 2010 that it had reviewed the 'Intersection Model report' prepared by Council's Senior Traffic Management Officer. While the RTA would be opposed to traffic signals in this location, no objection was raised to Council's preferred roundabout configuration of 2 approach and exit lanes for eastbound traffic and 1 approach and exit lane for westbound traffic, provided the following requirements are implemented to avoid congestion within the roundabout resulting in the queuing of vehicles back to and impacting on the signalised intersection of Windsor Road and Merriville Road:
 - Appropriate signage shall be installed on all approaches to the roundabout advising drivers not to queue through the roundabout; and
 - Council give assurances to the RTA that any future development of the Ettamogah Hotel site will require design modifications to the roundabout

to include 2 westbound lanes through the roundabout (at no cost to Council/RTA) or, that Council will ensure that the roundabout is modified to ensure that 2 westbound lanes through the roundabout are constructed prior to the year 2025 (whichever occurs first).

- vii. A suitable **condition** will be imposed on any consent granted to address the issue of signage on the approaches to the roundabout. In terms of the second issue, Council can provide an undertaking that 2 westbound lanes will be required as part of any future development of the Ettamogah Hotel. Council, however, cannot guarantee that these changes will be made by 2025 as Council does not have control over the Ettamogah Hotel land which is in private ownership. In the event queuing of westbound traffic impacts on the signalised intersection of Windsor Road and Merriville Road, the RTA has also indicated that they reserve the right to request a review of the configuration and operation at the roundabout. To address the RTA's concerns it is therefore recommended that Council review this matter at regular intervals and report back to the RTA (now RMS).
 - viii. In addition to addressing the above concerns, the applicant was also required to provide further details to determine whether the amended roundabout design was mountable or not, and whether it could cater for 12.5m long vehicles. The roundabout, in its revised form, has been designed to have a fully mountable central island and will be capable of accommodating all vehicle sizes. In particular, the proposed new roundabout will be able to accommodate the swept turning path requirements of large 12.5m long RV rigid trucks undertaking left or right-turns at the roundabout, without the need to mount the central island. The revised roundabout has therefore been designed to satisfactorily address the concerns of Council's TMS.
- (b) ***A median is to be constructed in Merriville Road from Windsor Road to the proposed roundabout to minimise congestion and reduce the likelihood that traffic will queue from Merriville Road onto Windsor Road. As this will impact on the existing access to/from the adjacent McDonalds/Woolworths Service Station it is suggested that the developer provide vehicular egress from McDonalds to Merriville Road via the subject property to allow access to the proposed new roundabout so that traffic may proceed west.***
- i. Whilst it is acknowledged that there are traffic related issues associated with the ingress/egress arrangements to the McDonald's Restaurant and the Woolworths Service Station from Merriville Road, it should be recognised that this is an existing problem and therefore falls outside the scope of the application.
 - ii. Notwithstanding this, the applicant was requested to consider the option of providing vehicular egress from the existing commercial zone (i.e. McDonalds and the Woolworths Service Station) to Merriville Road via the subject site to allow traffic to proceed west via the proposed new roundabout. As part of this review, the applicant was also requested to consider relocating the roundabout to the extreme western end of the site opposite one of the existing entry/exit driveways to the Ettamogah Hotel. The following response was received by Varga Traffic Planning Pty Limited in May 2010:
 - *The provision of a central median island in Merriville Rod across the McDonalds/Woolworths service station site is not the subject of this application, nor is it proposed to provide any form of vehicular access between the subject site and the McDonalds/Woolworths site. Whilst it is*

appreciated that the RTA may have some concerns about the operation of the driveway serving the McDonalds/Woolworths service station site, this is a matter which should be resolved directly with the McDonalds/Woolworths service station operators.

- iii. Council Officers agree that any proposal to construct a median from the subject site to Windsor Road should be dealt with separately, at which time McDonalds, Woolworths and any other affected parties would need to be consulted directly. As such, Council's Traffic and Engineering Sections have recommended that a central median be provided in Merriville Road easterly from the proposed roundabout across the full frontage of the site only. Construction of the median, however, is not to proceed until separate consent is obtained from Council, all necessary public consultation has been undertaken, and arrangements have been made for the full construction of a median to Windsor Road. Where construction is delayed, the work may be bonded or a contribution may be paid by the developer to Council to cover the cost of the works. This matter has been addressed via a suitable **condition** of consent.
- iv. It should be recognised that in the meantime, the proposed new roundabout on Merriville Road will provide some benefits in terms of resolving the concerns about the operation of the McDonalds/Woolworths driveway. In this regard, the roundabout proposed at the entry to the development site will:
 - Provide an alternate route for westbound traffic wishing to enter the McDonalds/Woolworths site via a right-turn off Merriville Road. The roundabout will enable customers to undertake a U-turn and enter the site via a simpler and safer left-turn into the McDonalds/Woolworths site. This will also help to reduce the likelihood of traffic queuing back to Windsor Road.
 - Slow eastbound traffic in Merriville Road thereby improving safety at the McDonalds/Woolworths driveway. The installation of "No Stopping" restrictions across the frontage of the site will further improve safety at the McDonalds/Woolworths site access driveway.
- v. In relation to relocating the roundabout to the extreme western end of the site opposite one of the entry/exit driveways to the Ettamogah Hotel, the applicant responded by advising that relocation would not provide optimum traffic movements. In this regard, the applicant believed that the distance between the roundabout and Manor Street would be too short and as such, the "T" intersection would become congested at peak times thereby compromising the traffic flow along Merriville Road. It was the applicant's opinion that the proposed "mid-point" location would provide for the optimum traffic flow along Merriville Road as the roundabout would break the flow of traffic and allow for reduced vehicle stacking at peak operating times.
- vi. Council Officer's preference was for the roundabout to be located at the extreme western end of the site. As the applicant was unwilling and unable to accommodate this in the development design, Council's Traffic Section assessed the proposed design on its merits. While the relocation of the roundabout to the western of the site would provide greater stacking capacity back from the Windsor Road traffic lights, a thorough assessment of the proposal indicates that the proposed roundabout location is also acceptable.

(c) *Service areas do not appear adequate to cater for large rigid trucks such as removalists.*

- i. Deliveries to the proposed retail/commercial tenancies will be undertaken by a variety of vehicles up to and including 12.5m long medium rigid trucks. 2 truck loading bays are proposed at street level, on either side of the proposed internal road roundabout, and have been redesigned to accommodate the swept turning path requirements of 12.5m long HRV rigid trucks. The 2 street level loading areas are intended to be used by large trucks only (including commercial delivery trucks and removalists), and will be clearly signposted accordingly.
- ii. Initially Council Officer's were concerned that 2 truck loading bays would be insufficient for a development of this size, especially given the retail tenancies would require daily deliveries and that the proposed residential units would also generate deliveries by commercial vehicles and removalists. Council Officer's were concerned that this could result in loading/unloading activities occurring in Merriville Road or the surrounding streets.
- iii. The applicant has advised, however, that the number of large truck deliveries will be infrequent. In this regard, the small size and nature of the commercial/retail tenancies will mean that the majority of deliveries will be undertaken by light commercial vehicles such as white vans, utilities and the like. These vehicles will access the designated "courier" spaces in the basement car park and will undertake loading/unloading activities after hours to eliminate any conflicts with customer vehicles. These light commercial vehicles will not be permitted to access the street level loading bays which will be specifically designated for large vehicles. Council's Traffic Section has advised that the access and manoeuvring areas within the basement car park are suitable for these operations.
- iv. Council's Traffic Management Section (TMS), however, did raise concerns with the manoeuvring of delivery trucks from the 2 proposed street level loading bays and requested that appropriate measures be implemented to prevent trucks reversing into the path of vehicles within the roundabout. Furthermore, Council's TMS was concerned that vehicles exiting the basement carpark (i.e. from Buildings B and D) would have limited visibility of the trucks reversing out of the loading bays thereby increasing the risk of an accident.
- v. The applicant was therefore requested to submit turning templates to demonstrate that satisfactory manoeuvring would be available in and out of the 2 loading bays, and that truck movements would not conflict with other vehicles using the roundabout. Given there are also cantilevered balconies located either side of the loading bays, adequate manoeuvring space around the loading bays was considered critical.
- vi. To address these concerns, the loading bays were redesigned to ensure adequate manoeuvring area. The applicant also recommended that the loading bays be signposted as "Reverse In Only", and that the on-site Centre Manager supervise the use and operation of the loading bays. In addition, the applicant's Traffic Engineer suggested that illuminated signs be provided at the carpark entrance to warn motorists exiting the carpark that trucks may be manoeuvring in the vicinity of the internal roundabout. The sign could display the legend "Truck Manoeuvring Ahead" and be illuminated when sensors detect the movement of trucks proceeding to or from the proposed loading bays. Council's TMS was satisfied with these proposed traffic management measures and therefore recommended that these be included

as **conditions** of any consent granted. Overall the number and design of the proposed loading/unloading areas is considered adequate for the proposed development.

- (d) ***To minimise potential queuing into the site from the proposed roundabout it is suggested that access to both the residential and commercial car parking spaces be via the car parks under buildings on Lots B & D.***

i. The submitted traffic analysis indicates that queuing within the site be less than 1 passenger car unit. On this basis, the provision of an entry/exit driveway under each individual building is considered acceptable. Amended plans were therefore not sought to address this matter as a redesign was considered unwarranted.

- (e) ***The applicant should investigate whether there is any opportunity to use the right-of-carriageway located along the eastern boundary of the site as a secondary access point.***

i. Varga Traffic Planning Pty Limited has advised that the volume of traffic expected to be generated by the development proposal is in the order of 85 vph in peak periods, and therefore does not warrant the provision of a secondary vehicular access driveway. It should also be noted that the right-of-way (ROW) is located immediately adjacent to the McDonalds/Woolworths Service Station driveway, and as such increased traffic flows in this location could cause potential vehicular conflicts. For these reasons, the applicant considered it prudent that use of the ROW be avoided. Council's Development Engineers have also indicated that it is undesirable to have 2 driveway crossings located immediately adjacent to one another and that increased use of the ROW should be discouraged.

- (f) ***Given that the Ettamogah Hotel is located on the opposite side of the road appropriate measures are required so pedestrians can cross Merriville Road safely.***

i. In addition to catering for the movements of a 12.5m long bus/truck, Council's TMS requested that appropriate pedestrian crossing facilities be incorporated into the design of the roundabout. Initially the applicant argued that the volume of pedestrian activity between the subject site and the Ettamogah Hotel was unlikely to warrant the need for a formal crossing facility, particularly given the close proximity of the signalised pedestrian crossing at the Windsor Road intersection. However, given the concerns of Council Officers the applicant advised that a pedestrian "refuge" crossing would be provided within the new roundabout. Final details will be submitted for Council's separate approval prior to release of any Construction Certificate. New and additional signage to direct pedestrians to the traffic light controlled intersection at Windsor Road will also be provided. Suitable **conditions** will be imposed on any development consent to address these matters.

- (g) ***The traffic report has not addressed the future traffic growth and the impacts on the extent of queuing in Merriville Road from Windsor Road. Concerns are raised that the queue will extend beyond the proposed roundabout and cause unacceptable delays.***

i. The original Traffic and Parking Assessment prepared by Varga Traffic Planning Pty Limited provided information on the existing queuing (as of 2009) occurring in Merriville Road. The queue length surveys identified the maximum queue length in Merriville Road for each cycle of the traffic signals between 6.30am-9.30am and 3.30pm-6.30pm on a typical weekday. The surveys indicated that the maximum queue lengths in Merriville Road during peak periods were typically in the order of 50m to 70m in length. Given the proposed roundabout is to be located over 100m

to the west of the Windsor Road intersection, it was concluded that the roundabout will be well clear of the surveyed queue lengths. Traffic modelling also confirmed that the additional traffic expected to be generated by the development proposal did not have any significant effect on the existing queue lengths, typically adding only 1 car per cycle of the signals. Based on the results of the traffic modelling, Varga Traffic Planning Pty Limited concluded that the extent of queuing in Merriville Road will not change to any significant extent as a consequence of the proposed development.

- ii. Despite these conclusions, both Council Officer's and the RTA were still concerned that the proposed development may exacerbate the existing traffic problems in the area. The applicant was therefore requested to undertake a further analysis of the operation of Merriville Road at the Windsor Road intersection. The traffic modelling was to include background traffic growth for the future years, and was to cover the 5 and 10 year scenarios. The traffic modelling indicated that whilst there will be a substantial increase in the volume of "background" traffic volumes:

- The additional traffic volumes expected to be generated by the development proposal are statistically insignificant compared with the projected increases in "background" traffic flows; and
- The additional traffic flows expected to be generated by the development proposal have little, if any appreciable effect on the operational performance of the adjacent road network.

- iii. Varga Traffic Planning also advised that the modelling indicated that even under the 5 and 10 year scenarios, queuing in Merriville Road was not expected to reach the proposed new roundabout.
- iv. Given the significant concerns raised by both the public and Council Officers, Council resolved at its Ordinary Meeting on 9 February 2011 the following:

"That in view of the difficult situation Council finds itself in relation to the DA before the JRPP for a multi-storey development on Merriville Road, that Council urgently undertake a detailed multi-day traffic count at the intersection of Merriville Road and Old Windsor Road, Kellyville Ridge."

- v. In response to Council's resolution, Council's Traffic Management Section undertook its own independent traffic and queue length survey on Merriville Road between the proposed development site and Windsor Road. The survey was undertaken over the period of a week, during the busiest hours in the morning and afternoon. The approximate distance between the proposed roundabout and the Windsor Road traffic signal is 114m. The queue length survey indicated that the maximum number of vehicles queuing back from the traffic signals at any one time (i.e. one signal cycle) is 17 vehicles. This equates to a distance of approximately 100m. Therefore based on the queue length survey, the existing queue length will finish just short of the proposed roundabout.
- vi. The proposed roundabout was also analysed with SIDRA software. The analysis was based on a lane configuration of 2 approach and exit lanes for eastbound traffic and 1 approach and exit lane for westbound traffic (as agreed to under point 9.6(a) above). The operation of the roundabout was also tested for the future years of 2020, 2025 and 2030 allowing a 2% growth in the background traffic. The 2%

growth was allowed as a worst case scenario, but in reality is expected to be less. The output results of the intersection analysis for the proposed roundabout for current and future years can be found at **Attachment 9** of this report.

- vii. The results of the analysis indicate that the proposed roundabout, with the proposed lane configuration of 2 approach and exit lanes for the eastbound traffic and one approach and exit lane for westbound traffic, will operate at Level of Service “A” with minimal average delay until 2030. In 2030, the queue on the west approach of the roundabout will be 3 vehicles and on the east approach will be 15 vehicles. The queue distance for 15 vehicles is approximately 90m. This is considerably less than the available distance of 114m which is available between Windsor Road and the proposed roundabout. Therefore it is confirmed that the available space between Windsor Road and the proposed roundabout can not only accommodate the existing queues lengths, but can also accommodate the queues likely to occur in the future years.
 - viii. As discussed under Section 9.6(a) above, the RTA’s preference was for 2 westbound lanes and a single eastbound lane in Merriville Road. The above results clearly indicate that if the number of eastbound lanes was to reduce, the queue lengths would increase and therefore would have detrimental impacts on the operation of the proposed roundabout and signalised intersection.
- 9.7 Given that the roundabout design in Merriville Road directly impacted on the overall design of the development, it was considered appropriate that finalisation of the plans and supporting reports be deferred until the above matters were resolved. Following the detailed assessment and receipt of the RTA’s favourable advice, however, the applicant submitted amended plans and reports that were in an acceptable form to place on public exhibition.
- 9.8 A summary of the traffic related issues contained within the revised Traffic Report, prepared by Varga Traffic Planning Pty Limited, is provided below:
- (a) Windsor Road is classified by the RTA as a State Road and provides the key north-south road link in the area. It typically carries 2 traffic lanes in each direction in the vicinity of the site with additional lanes provided at key locations. The north-western Transitway also runs alongside Windsor Road.
 - (b) Merriville Road and Conrad Road are local, unclassified roads which perform the function of collector routes through the Kellyville Ridge area. They are also used to provide vehicular and pedestrian access to frontage properties, with kerbside parking permitted at selected locations. West of the proposed development site, Merriville Road is generally a 2 lane road with on-street parking available both sides of the road. The Merriville Road corridor widens at the intersection with Windsor Road to accommodate 3 eastbound lanes and 2 westbound lanes. Traffic signals are provided at the intersection of Windsor Road and Merriville Road. An 80km/hr speed limit applies to Windsor Road and a 50km/hr speed limit applies to Merriville Road and all other local roads in the area.
 - (c) As part of the traffic study, peak period traffic surveys were undertaken to provide an indication of the existing traffic conditions on the local road network. The traffic surveys were undertaken on Windsor Road where it intersects with Merriville Road. In summary, the traffic surveys revealed that:
 - 2-way traffic flows in Windsor Road are typically in the order of 3,600 vehicles per hour during the morning peak period and 4,300 vehicles per hour during the afternoon peak period.

- 2-way traffic flows in Merriville Road are significantly lower, typically in the order of 900 vehicles per hour during the morning peak period and 1,200 vehicles per hour during the afternoon peak period.
- (d) In addition to the Windsor Road and Merriville Road intersection surveys, surveys were also conducted in Merriville Road at the McDonalds/Woolworths Service Station driveway on the adjacent property, and at the Ettamogah Hotel/Dan Murphy's driveway opposite the site, to determine their current levels of usage. In summary, the traffic surveys revealed that:
- 2-way traffic flows in and out of the McDonalds/Woolworths Service Station driveway are typically in the order of 217 vehicles per hour during the morning peak period (i.e. 134 trips in and 83 trips out), reducing slightly to 190 vehicles per hour during the afternoon peak period (i.e. 112 trips in and 76 trips out).
 - 2-way traffic flows in and out of the Homestead Hotel/Dan Murphy's driveway are typically in the order of 20 vehicles per hour during the morning peak period (i.e. 14 trips in and 3 trips out), increasing to 340 vehicles per hour during the afternoon peak period (i.e. 158 trips in and 178 trips out).
- (e) To determine the potential traffic generation of the development proposal, a review of the Road and Traffic Authority's publication *Guide to Traffic Generating Developments, Section 3 – Landuse Traffic Generation (October 2002)* was undertaken. The RTA's Guidelines are based on extensive surveys of a wide range of land uses and nominates the following traffic generation rates which are applicable to the development proposal:
- Commercial Premises - 2.0 peak hour vehicle trips per 100sq.m GFA
 - High Density Residential Flat Buildings in Sub-Regional Centres – 0.29 peak hour vehicle trips/dwelling
- (f) The RTA Guidelines also make the following observation in respect of high density residential flat buildings:
- A high density residential flat building refers to a building containing 20 or more dwellings. This does not include aged or disabled persons housing. High density residential flat buildings are usually more than 5 levels, have basement level carparking and are located in close proximity to public transport services. The building may contain a component of commercial use.
 - The above rates include visitors, staff, service/delivery and on-street movements such as taxis and pick-up/set-down activities.
- (g) The RTA Guidelines do not nominate a traffic generation rate for small, local shops, referring only to major regional shopping centres incorporating supermarkets and department stores. For the purpose of this assessment, the traffic generation rate of 2.0 peak hour vehicle trips/100sq.m GFA nominated for commercial premises has been adopted in respect of the retail component of the development proposal.
- (h) Application of the above traffic generation rates to the commercial and residential components of the development proposal yields a traffic generation potential of approximately 103 vehicle trips per hour during commuter peak periods.
- (i) The primary concern of any new development is the effect that any additional traffic may have on the operational performance of the nearby road network. The traffic

report assesses this issue, using the INTANAL program (which is widely used by the RTA), and reveals:

- The Windsor Road and Merriville Road signalised intersection currently operates at Level of Service (LOS) “B” under the existing traffic demands with total average vehicle delays in the order of 20 to 25 seconds per vehicle.
- (j) LOS “B” is nominated as being good with minimal delays and spare capacity. The LOS categories (i.e. “A” – “F”) are summarised at **Attachment 9** of this report.
- (k) Under the projected future traffic demands expected to be generated by the development proposal, the Windsor Road and Merriville Road intersection will continue to operate at Level of Service “B”(being good with minimal delays and spare capacity), with increases in average vehicle delays of less than 1 second per vehicle.
- (l) The results of the INTANAL analysis of the Merriville Road and proposed new roundabout, revealed that under the projected future traffic demands expected to be generated by the development proposal, the Merriville Road and proposed new roundabout intersection is expected to operate at LOS ‘A’ (being a good LOS), with average vehicle delays in the order of 5 seconds per vehicle.
- (m) Council’s own independent traffic modelling confirms that the proposed development will not have any appreciable effect on the operational performance of the adjacent road network. Based on the above, it is concluded that the proposed development will not have any unacceptable traffic implications in terms of road network capacity.
- (n) As part of the notification and public exhibition process, Council referred the revised development proposal (i.e. being for 70 less residential units, 6 less commercial/retail tenancies and 89 less car parking spaces) to the RTA, together with the updated Traffic Report. The RTA advised in their correspondence dated 21 January 2011 that they have no objection to the proposal in its amended form, subject to the **conditions** listed under Section 9.4 being imposed on any development consent granted. In addition, the RTA also reiterated that the right turn lane on Windsor Road was to be lengthened by an additional 50 metres at full cost to the developer. These matters will form **conditions** of any consent granted.

10 Independent Traffic Assessment

10.1 Given the overwhelming number of traffic related objections received as a result of the public notification process, Council thought it prudent to engage an independent traffic consultant to undertake an assessment of the proposal. In response, Road Delay Solutions Pty Ltd was engaged to:

- (a) Review the applicant’s Traffic Report and its validation.
- (b) Review Council’s assessment of the applicant’s Traffic report.
- (c) Examine the traffic related issues raised by the RTA, Council’s Traffic Section, the Quakers Hill Police Local Area Command, and in the public submissions (e.g. traffic generation, road safety, pedestrian safety, traffic congestion and parking).
- (d) Determine if the parking and loading/unloading provisions for the proposed development are satisfactory.
- (e) Identify whether improvement(s) are needed to the road network in order for the proposed development to achieve a satisfactory level of service.

- (f) Determine if the proposed development would have potential traffic impacts on the surrounding road network.

10.2 Following a review of the issues raised by the RTA, Council and the general public, Road Delay Solutions Pty Ltd identified the following matters as being the prevailing traffic related issues requiring consideration:

- (a) The level of on-street commuter parking in Merriville Road;
- (b) Pedestrian conditions on Merriville Road and at the Windsor Road intersection;
- (c) The Merriville Road access conditions to McDonalds and the Woolworths service centre;
- (d) The RTA request to include the construction of a median in Merriville Road between Windsor Road and the proposed development access roundabout;
- (e) The current traffic conditions approaching Windsor Road; and
- (f) The RTA requirement for 2 westbound lanes in Merriville Road, between Windsor Road and the Ettamogah Hotel access.

10.3 The independent Traffic Report indicates that Blacktown City Council has adequately addressed all traffic issues pertaining to the proposed Development Application. The independent traffic consultant also makes a point of saying that regardless of the proposed Development Application, the issues listed above are existing and therefore would still need to be addressed. A summary of the independent Traffic report is provided below:

(a) **Parking**

- i. The on-site parking provisions satisfy the demands of Council's DCP and the minimum requirements of the RTA. Currently on-street parking is limited to the northern kerbline of Merriville Road, adjacent to the proposed development. Road Delay Solutions Pty Ltd noted during a site inspection that commuters using the Northwest transitway dominate the on-street parking.
- ii. The Transitway attracts patrons from the surrounding residential catchment and allows for unlimited on-street parking to the west of the proposed development site. Road Delay Solutions also noted that further on-site parking intrusion was identified in Kilbenny Street, which allows for convenient pedestrian access to the transit provisions of Windsor Road.
- iii. Road Delay Solutions have advised that given the isolated residential location of the Kilbenny on-street commuter parking, the limitations to regulatory enforcement of parking restrictions as there are none, and that there is currently only a minor impact on the local amenity, it is recommended that the situation be monitored and any necessary action be assessed at a later date should the residential amenity become compromised.
- iv. While the issue is not significantly detrimental at this time, the on-street parking in Merriville Road (i.e. to the west of the proposed development) does limit the available trafficable eastbound lanes to one. Installation of time parking restrictions (i.e. 4 hours) in Merriville Road, will ensure the availability of 2 eastbound lanes. Road Delay Solutions have recommended that this issue be monitored and reviewed by Council should any issue arise via the Local Traffic Committee (LTC) process. It has been pointed out, however, that investigations into the impacts of the parking

restrictions would first need to be assessed as any such regulatory action may force commuters to find alternative residential on-street parking within the precinct.

- v. It should be noted that the RTA has requested that as a **condition** of any consent granted, “No Stopping” restrictions be installed along the site’s frontage, extending to the existing restrictions on the approach to Windsor Road. While this won’t alter the existing problems associated with on-street commuter parking, it will ensure that there are no traffic hazards in the vicinity of the new roundabout.

(b) Pedestrians

- i. Significant concern has been raised over the need for improved pedestrian provisions in Merriville Road and at the Windsor Road intersection. In response, Road Delay Solutions P/L has indicated that provision may need to be made for the safe movement of pedestrians and has recommended that Council **condition** that a pedestrian facility be provided in close proximity to the proposed development, should consent be given to the application. The independent traffic consultant has commented on the current pedestrian crossing on Merriville Road at Perfection Avenue, stating that it may also require further enhancement by introducing zig-zag approach markings and a speed reduction. Such actions, however, would need to be addressed separately to the current DA. Council’s TMS have been advised that these issues will require further investigatory action. This matter has been included in the final recommendation.
- ii. A request was also made to the consideration of a reduction to the speed limit on Merriville Road in the vicinity of the proposed development. Road Delay Solutions P/L has indicated that speed limits and regulations are developed to supplement the judgement of both motorists and pedestrians in determining if speeds are considered reasonable and proper for a particular roadway environment. Speed limits are imposed to promote better traffic flow and road safety. However, should speed limits be perceived as unreasonable, they will be disobeyed by motorists and fail to achieve their desired function. Enforcement of slow speed restrictions is also a matter of concern, given, that without enforcement, they are quite often disobeyed. Speed limits require diligent study of the current roadway and traffic conditions before consideration of any change. Both the pedestrian and vehicle generations proposed by the current DA would not appear to warrant any such consideration of change to speed limits, at this time.

(c) Median

- i. Road Delay Solutions P/L has indicated that the existing access conditions to McDonalds and the Woolworths Service Station from Merriville Road pose considerable concern. The current access provisions for these commercial premises are located on the northern side of Merriville Road some 50 metres west of Windsor road. The Merriville Road access driveway caters for patronage by passengers westbound on Merriville Road and southbound on Windsor Road, while northbound motorists in Windsor Road may avail themselves of both the Merriville Road access or direct access from Windsor Road.
- ii. The concerns are associated with the right hand movements to and from the Merriville Road access driveway. Vehicles waiting to turn right into the driveway have the potential to cause rear end collisions and to cause traffic queues back to and on Windsor Road. It is also recognised that with increasing traffic volumes,

there is increased difficulty experienced by vehicles wishing to turn right out of the site and head west along Merriville Road.

- iii. The solution offered by the RTA is to install a median in Merriville Road, between Windsor Road and the proposed roundabout at the entry to the development site. Westbound traffic in Merriville Road would still be able to access the commercial sites by either utilising the existing roundabout at Perfection Avenue or the proposed new roundabout to perform a U-turn. While the provision of a median would certainly alleviate the concerns over the access and improve the safety conditions, it would also limit the function of the current arrangement. In this regard, right hand turns from McDonalds and/or the service centre onto Merriville Road would no longer be possible. As westbound traffic along Merriville Road would primarily be residential, this would cause an inconvenience for patrons living in the local area.
- iv. Consideration was given to the inclusion of a shared access arrangement between the subject site and the McDonalds/Woolworths facilities to permit access via the proposed roundabout at the current Ettamogah Hotel entry. Given the restrictive nature of the proposed internal road network of the development and the possible traffic impacts of the increased traffic leaving the development on the operation of a proposed roundabout, the potential for a shared access arrangement between the proposed development, McDonalds and the Woolworths Service Centre was dismissed.

(d) **Future Conditions**

- i. Road Delay Solutions Pty Ltd has indicated that extensive residential and employment growth is planned throughout the North West Growth Centre (NWGC) by the year 2036. Some 70,000 dwellings and 38,000 jobs are planned throughout 16 precincts. Road Delay Solutions has indicated that this level of growth will certainly impact on the operation of the Merriville Road/Windsor Road intersection given the morning peak 1 hour traffic projections, as shown in Figure 1 at **Attachment 10**.
- ii. It is anticipated that the proposed mixed use development will add to the projected peak traffic volumes. As outlined under Section 9.8 above, the proposed development will generate some 103 vehicle trips per hour during the peak travel periods. The traffic report, prepared by Varga Traffic Planning details the anticipated generation from the development and Figure 2 at **Attachment 10** presents the traffic assignment.
- iii. By adding the anticipated traffic volumes at **Attachment 10** together, the projected 'Year 2036 End State' traffic conditions under the pressures of the proposed development is calculated. In this regard, it is anticipated that there will be 459 vehicles heading east and 579 vehicles heading west along Merriville Road during the am peak period. In this regard, Merriville Road is a collector road and can accommodate additional vehicles up to a peak flow of 900 vehicles in one lane during the am peak period.

(e) **The Development**

- i. The single lane approach from the development into the proposed roundabout will undoubtedly result in periodic queuing back onto the site. Such inevitability is not foreseen as detrimental to the approval process as modelling would suggest that vehicle delays will not exceed an average of 5 seconds.

- ii. Queuing in Merriville Road, approaching Windsor Road has been identified as possibly queuing back to the proposed roundabout at the development site. Investigation by Council has proven satisfactory queue lengths in Merriville Road which will currently cause no significant issue in the operational performance of the proposed roundabout as discussed in Section 9.6 of this report. Further investigation into the operational performance of the Windsor Road intersection with Merriville Road, however, is necessary under the projected NWGC 'End State' conditions for the year 2036. Council's TMS has indicated that this performance monitoring will be undertaken by Transport for NSW as part of the Growth Centres planning.

(f) The DA Assessment

- i. In a detailed report prepared by Varga Traffic Planning Pty Ltd (the applicant's consultant) the traffic implications of the proposed development, clearly addresses the requirements prescribed and outlined in Blacktown City Council's DCP 2006 and the RTA's *'Guide to Traffic Generating Developments'*.
- ii. The concerns pertaining to the current traffic signal operation of the Windsor Road intersection with Merriville Road would seem unfounded given the model results presented in Varga Traffic Planning's Report. However, it is considered that the intersection should be modelled in juxtaposition with the background growth associated with the NWGC expansion.
- iii. Council has modelled the proposed roundabout operation employing a 2% annual growth with the proposed development generation and found the performance to be satisfactory. Current modelling by Road Delay Solutions and the RTA, however, suggests a significant rise in traffic along Windsor Road by Year 2036. Road Delay Solutions has therefore indicated that a further review of the major arterial road network impacts under the demands of the NWGC expansion is warranted. This projected increase in traffic can be attributed to the impacts under the development demands of the NWGC expansion and the associated future public transport provisions.

(g) Conclusion

- i. In conclusion, the Independent Traffic Consultant has stated that the proposed traffic and parking methodology, as presented by Varga Traffic Planning, generally satisfies the requirements set out in both Blacktown City Council's DCP, 2006 and the RTA's *'Guide to Traffic Generating Developments'*.
- ii. Road Delay Solutions P/L has also indicated in their conclusion that Blacktown City Council has adequately addressed all traffic issues pertaining to the proposed Development Application. Road Delay Solutions P/L recommends, however, that an assessment of the traffic implications and operational performance of the major arterial road network subject to the planned expansion of the NWGC be undertaken.

(h) Council Response to the Independent Assessment

- i. In response to the Independent Traffic Consultant's recommendation, Council's Manager Transport and City Projects has advised that a further review of the road network impacts under the demands of the NWGC expansion is unnecessary given Council's own independent assessment was based on traffic volumes which well exceed those quoted in the Road Delay Solution's Traffic Report.
- ii. In this regard, Council modelled the proposed roundabout operation employing a 2% annual growth. The modelling was based, however, on 988 vehicles heading east

and 1153 vehicles heading west along Merriville Road during the am peak period (see Figure 3 at **Attachment 10**). In comparison, the independent assessment undertaken by Road Delay Solutions P/L was based on only 459 vehicles heading east and 579 vehicles heading west during the same period. Council's assessment was therefore far more rigorous and indicates that a further review is unwarranted.

- iii. Road Delay Solutions P/L has confirmed that as part of their assessment, Council's model was not requested. In this regard, Road Delay Solutions P/L independently reviewed the traffic implications and therefore based the assessment on data published at the time of assessment. The data and model applied was that used by the former RTA for the Area 20 Release, and therefore was considered appropriate for the assessment of this development.
- iv. In addition to Council's assessment being far more rigorous than the Independent Consultants, Council's TMS has advised that an assessment of the traffic implications and operational performance of the major arterial road network is already being done by Transport for NSW as part of the North-West Sector land release area planning by the State Government. The operation of the Merriville Road/Windsor Road intersection was also considered by the former RTA (now RMS) given Windsor Road is a state controlled road and the operation of the intersection is a regional matter. As a result of the RTA's assessment, no objections were raised to the proposed development subject to the right turn lane on Windsor Road being lengthened by 50 metres to accommodate the additional right turning traffic generated by the proposed development. As matters relating to the operational performance of the intersection have already been considered by the former RTA, a further review is considered unnecessary.
- v. While it is recognised that an additional 70,000 dwellings and 38,000 jobs in the NWGC will have a significant impact on the operation of the Windsor Road/Merriville Road intersection, the traffic increase resulting from the proposed development (i.e. 103 vehicle trips per hour during the peak travel periods) will be negligible when considered in the context of the NWGC. The applicant's, Council's and the Independent Consultant's assessment also all confirm that proposed new roundabout and Windsor Road intersection with Merriville Road will operate at a satisfactory level.
- vi. Although it is recognised that the Independent Traffic Consultant's assessment varies from Council's, Council's TMS did not liaise with Road Delay Solutions P/L following receipt of their report so as to ensure the integrity of the independent analysis was not compromised. However as outlined above, it is considered that Council's TMS has rigorously assessed the traffic impacts and has addressed all points raised by Road Delay Solutions P/L.

11 External Referrals

11.1 The subject Development Application was referred to the following public agencies as summarised in the table below:

Agency	Comments
Roads & Traffic Authority (RTA) now the Roads and Maritime Services	The DA, as originally lodged with Council, was referred to the Roads and Traffic Authority (RTA) on 14 October 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

(RMS)	<p>Committee (SRDAC) on 4 November 2009. In response, the RTA advised that no objections were raised to the proposed development. The following comments, however, were provided for consideration in the determination of the DA:</p> <ul style="list-style-type: none"> (a) The proposed roundabout at the entry to the site is to provide 2 lanes through the roundabout in each direction. The right lane westbound is to be designated as right turn only. (b) A median is to be constructed in Merriville Road from Windsor Road to the proposed roundabout to minimise congestion and reduce the likelihood that traffic will queue from Merriville Road onto Windsor Road. As this will impact on the existing access to/from the adjacent McDonalds/service station it is suggested that the developer provide vehicular egress from McDonalds to Merriville Road via the subject property to allow access to the roundabout so that traffic may proceed west. (c) Service areas do not appear adequate to cater for large rigid trucks such as removalists. (d) To minimise potential queuing into the site from the proposed roundabout it is suggested that all access to both residential and commercial car parking be via the car parks under buildings on Lots B & D. (e) Council, following advice from its traffic committee, should consider the installation of “No Stopping” restrictions along the sites frontage, extending to the existing restrictions on the approach to Windsor Road. (f) The traffic report has not addressed future traffic growth and given the existing extent of queuing in Merriville Road from Windsor Road. Concerns are raised that the queue will extend beyond the proposed roundabout and cause unacceptable delays. (g) It was requested that the following condition be imposed on any consent granted: <ul style="list-style-type: none"> • The right turn lane on Windsor Road, for traffic turning right into Merriville Road is to be lengthened by 50 metres at full cost to the developer, to accommodate the additional right turning traffic generated by the proposed development. All works are to be undertaken to the RTA’s design requirements. (h) The following standard conditions were also recommended: <ul style="list-style-type: none"> • Signage is to be provided on site to clearly indicate residential and commercial parking. • Off-street parking associated with the proposed development should be designed in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002 for heavy vehicles. • All works/regulatory signposting associated with the development are to be at no cost to the RTA. <p>The applicant has advised that they have no objection to item (g) above. It is therefore recommended that this matter be addressed as a condition of any consent granted. It is also recommended that the items listed under point (h) be addressed via suitable conditions of any consent.</p> <p>In terms of the issues raised in items (a) – (f) above, these are discussed in detail</p>
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	<p>under Section 9 - "Traffic Assessment" of this report.</p> <p>Following receipt of the application in its amended form (i.e. a reduction of 70 units, 6 commercial/retail tenancies and 89 car spaces), Council forwarded the revised plans and reports to the RTA for any revised comments they wished to make. The RTA advised in their correspondence dated 21 January 2011 that they have no objection to the proposal in its amended form, subject to the above conditions being imposed on any development consent granted.</p>
Quakers Hill Police Local Area Command (LAC)	<p>The DA, as originally lodged with Council (i.e. 268 residential units, 23 retail/commercial tenancies and 495 car parking spaces), was referred to the Quakers Hill Local Area Command (LAC) – Crime Prevention Officer on 8 October 2009. The Crime Prevention Officer was invited to view the application and provide comments on the proposal.</p> <p>After undertaking a 'Safer by Design Evaluation', the Crime Prevention Officer advised that the proposed development had a "High" crime rating. The Quakers Hill Police therefore strongly objected to the proposal. In order to help reduce opportunities for crime, the Crime Prevention Officer recommended that a range of 'Crime Prevention Through Environmental Design' (CPTED) treatments be considered for the development.</p> <p>In November 2010, the applicant submitted an amended proposal for 198 units, 17 retail/commercial tenancies and 406 car parking spaces. A copy of the amended development proposal was forwarded to the Quakers Hill LAC for a revised assessment. The Crime Prevention Officer was still not satisfied that the CPTED principles had been addressed, and therefore requested that further information be provided in the form of a detailed report.</p> <p>In April 2011, the applicant lodged a formal response to the original and revised CPTED assessments. A summary of the Crime Prevention Officer's CPTED assessment and the applicant's response to the identified areas of concern, are detailed under Section 8.2, point (i) of this report. The information provided by the applicant demonstrates that the potential to commit crime has now either been reduced or in many cases eliminated altogether. This information was forwarded to the Quakers Hill LAC, and in July 2011 the Police advised that the Quakers Hill LAC no longer has any objections to the proposed development subject to appropriate conditions. It was also requested that outstanding concerns in relation to the security of the basement car park be addressed. Provided the recommended conditions are met, the Police agree that the 'Safer by Design' rating can now be down-graded and classified as "Low".</p> <p>While the NSW Police do not guarantee that the areas evaluated will be free from criminal activity if the recommendations of the 'Safer By Design Evaluation' are followed, it does hope that by using the recommendations that criminal activity will be reduced and the safety of members of the community and their property will be increased. For further details please refer to Section 8.2, point (i) of this report.</p> <p>The Quakers Hill Local Area Commander also advised in July 2011 that in addition to having no objections to the development, the following comments were made in relation to the related traffic management issues:</p> <p><i>"... I am of the view, with the installation of the proposed roundabout on Merriville Road and the extension of the right hand turn lane on Windsor Road these improvements would alleviate some of the additional pressure placed on Merriville Road. With the increase of dwellings located within the area there will always be a comparative increase in traffic movements. This will however be a matter for Council</i></p>

	<i>or the RTA to assess the potential impacts in their road design”.</i>
Sydney Water	Given that Sydney Water owns land within the vicinity of the site, a standard letter was sent to Sydney Water during the notification process advising them of the development proposal. In response, Sydney Water has provided standard information advising that water, wastewater and recycled water services in the area have the capacity to service the proposed development. Standard conditions will be imposed on any consent granted to ensure that a Water Servicing Coordinator is engaged to obtain a Section 73 Certificate and manage the servicing aspects of the development.

12 Internal Referrals

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

Section	Comments
Engineering & Drainage	<p>Prior to lodgement of the Development Application (DA) the applicant met with relevant staff, on 28/4/09 and 30/4/09, to discuss a previous drainage plan prepared by Mepstead & Associates. At that time, the applicant was advised that the drainage concept plan was insufficient and that a <u>full</u> Hydraulic Study was required with submission of any DA, including assessment of the overland flow in a PMF event demonstrating no critical impact on existing development in the area.</p> <p>The required detailed Study, however, was not submitted with the Application. The applicant was therefore requested to submit a full hydraulic study. The applicant was also advised that the submitted drainage concept plan was unsatisfactory for the following reasons:</p> <ul style="list-style-type: none"> • Stormwater Quality Improvement has not been incorporated in accordance with Council’s Stormwater Quality Improvement Policy. • It is proposed that the 100yr overland flowpath will be piped. As such, a detailed concept design for the inlet structure to the RTA triple cell reinforced concrete box culvert (RCBC) under Windsor Road must be provided. This must include provision for the overland flow path leading from the pathway in Kilbenny Street. • The plans indicate that there is a low point south of the proposed overland flowpath. This will cause excessive ponding in Clonmore Street and impact on the adjoining existing and future development. • The proposal, including the location, for a 12m grated inlet pit is not acceptable for the design of the 100yr flow. • A clear indication of existing and proposed spot levels has not been provided. • Details of the current and proposed drainage within Merriville Road have not been provided. <p>Following a long and detailed assessment process, revised drainage plans were submitted for Council’s consideration. Council’s Engineering/Drainage staff has confirmed that all previous concerns have now been satisfactorily addressed. As such, no objections have been raised to the development subject to the imposition of appropriate conditions of any consent. A copy of the draft determination, including the recommended drainage and stormwater conditions are included at</p>

	<p>Attachment 1 of this report.</p> <p>A separate condition will also be imposed on any consent requiring that all rainwater tanks be provided below ground level (e.g. under the basement car park ramps or within the basement car park void areas) to ensure they do not detract from the overall aesthetics of the development. Standard conditions to address soil erosion and sediment control, stormwater quality control, traffic control, half width road construction, construction of the internal road pavement and ROW, construction of the roundabouts, construction of roadworks on Windsor Road, footpath works, provision of street furniture, etc have also been recommended by the DSU Engineers.</p>
Building	<p>Prior to undertaking an assessment the applicant was required to submit a Site Investigation Report, Work Plan and Demolition Schedule covering the proposed demolition of the Lochinvar Hotel. The required information has been submitted and as such, standard demolition conditions have been included in the draft determination at Attachment 1.</p> <p>Given a separate independent report conducted by AECOM has identified that there is a high potential for asbestos containing material (ACM) associated within the old derelict Motel, a qualified Site Auditor accredited by the NSW Office of Environment and Heritage (under the provisions of the Contaminated Land Management Act 1997) will be required to undertake appropriate investigations and make recommendations for the remediation of the land. Suitable conditions will be imposed to address this matter and to ensure the ACM is removed and disposed of in accordance with current regulations and guidelines. A condition will also be imposed requiring that after any asbestos has been removed from the site, that a validation of the soil be conducted to ensure there is no residual soil contamination.</p> <p>BASIX Certificates were also lodged as part of the DA. However, given recent amendments have been made to the legislation BASIX Certificates are now only required for Class 1 dwellings. As such, any future Construction Certificate (CC) relating to the development will not be required to comply with the submitted BASIX Certificates. Instead, the development will be required to demonstrate compliance with Section J of the Building Code of Australia (BCA) Volume 1. A suitable condition will be imposed on any development consent to address this matter.</p> <p>Subject to the imposition of appropriate conditions of consent, including conditions to address the matters outlined above, Council's Building Surveyors have advised that they have no objection to approval of the application. All recommended conditions are included at Attachment 1 of this report.</p>
Traffic	<p>The original proposal was referred to Council's Traffic Management Services (TMS) on 8/10/09. In response, concerns were raised regarding the parking design, the use of stacked car parking spaces and the proposed loading/unloading arrangements. These matters have been addressed under Sections 8.2, point (f) and Section 8.3, point (d)vi. of this report.</p> <p>Further to these issues, Council's TMS also requested that the following matters be addressed:</p> <ul style="list-style-type: none"> a) Investigate whether there was any opportunity to use the right-of-carriageway located along the eastern boundary of the site as a secondary access point; b) Provide appropriate measures so pedestrians can cross Merriville Road safely, especially given that the Ettamogah Hotel is located on the opposite side of the road; c) Further details were required to determine whether the proposed

	<p>roundabout in Merriville Road was mountable or not, and whether it could cater for 12.5m long vehicles;</p> <p>d) A further analysis was required regarding the operation of Merriville Road at the Windsor Road intersection. Specifically details regarding the queue lengths along Merriville Road and within the development were required. In this regard, Council was concerned that the proposed development may exacerbate the existing traffic problems in the area. The analysis was to include background traffic growth for the future years, and was to cover the 5 and 10 year scenarios.</p> <p>Each of these items have been addressed in detail under Section 9 of this report. Council's Traffic Management Section (TMS) raise no objections to the proposed development subject to appropriate conditions.</p>
Waste	<p>The original proposal was referred to Council's Coordinator Sustainable Resources on 8/10/09. In response, the applicant was requested to demonstrate that there were sufficient clearance heights within the basement car parks for garbage trucks, and provide separate bin storage areas for the commercial and residential uses. The applicant was also advised that if a compaction unit was not provided at the end of each garbage chute, a full-time caretaker would be required to rotate the bins. In addition to requesting this additional information, it was recommended that the following conditions be included as part of any development consent:</p> <ul style="list-style-type: none"> • A Strata Management Agreement outlining the provisions and responsibilities relating to the waste arrangements must be submitted to Council for information. • Given that a Private Contractor will be used to collect the waste, future residents will not be permitted to access Council's Household Clean Up Service for their bulky waste. • Appropriate signage must be provided in the "garbage areas" to advise residents where waste and recycling materials are to be placed, and what are appropriate materials for recycling. <p>In December 2010, the revised development proposal was referred to Council's Coordinator Sustainable Resources for further comment. While most of the original concerns had been addressed, additional information was requested in relation to the design of the bin storage areas. There was also concern that the storage areas provided insufficient capacity for the required 403 garbage and recycling bins required for the development. The applicant alleviated these concerns by amending the proposed plans and provided additional information to confirm that the collection of waste/recycling will be undertaken by a private contractor twice a week. This matter will be addressed by a suitable condition of any consent.</p> <p>Following this, Council's Coordinator Sustainable Resources advised that all outstanding concerns had been addressed and that no objections were raised to the development subject to appropriate conditions, including those outlined above.</p> <p>It should be noted that while Council's Coordinator Sustainable Resources is satisfied that the issue of providing separate bin storage areas for the commercial and residential uses has been addressed, Town Planning Officers do not approve of the proposed location of 1 of the commercial bin storage areas. In this regard, the bin store area has been located immediately adjacent to one of the proposed loading bays. The concern is that the bin store area totally obstructs the footpath, thereby forcing pedestrians to walk through the loading area. Furthermore, if a truck is parked in the loading bay access to the bin area is restricted/unavailable. As such, as a condition of any consent the bin store area will be required to be recessed into the main wall of the building or relocated to a more appropriate location.</p>

<p>Strategic Planning (Commercial Centres Planner)</p>	<p>The original proposal, comprising 2,407sq.m of commercial/retail floorspace, was referred to Council's Commercial Centres Planner on 8 October 2009. Council's Commercial Centres Planner reviewed the commercial/retail component of the development only.</p> <p>The submitted SEE notes that the subject site does not form part of Council's Retail Hierarchy and consequently deduces that the site should be classified as a "neighbourhood centre". Council's Commercial Centres Planner advised, however, that land zoned 3(b) Special Business is not included in Council's Retail Hierarchy, as the 3(b) zone is a "supporting" zone to the 3(a) General Business zone. General retailing is also not permitted in the 3(b) zone. In this regard, only "shops" which service the daily convenience needs of the locality are permitted with consent.</p> <p>While it is recognised that the subject site is not located adjacent to an identified centre (i.e. land zoned 3(a) General Business), given the site is zoned 3(b) Council's Commercial Centres Planner considered it "inappropriate and misleading to classify the site as a neighbourhood centre". Within the Blacktown LGA neighbourhood centres are zoned 3(a) General Business and permit a significantly wider range of retail uses. Retailing and commercial development on the subject site therefore needed to be assessed in the context of the 3(b) zone and the uses permitted in that zone. It was therefore requested that the applicant provide evidence that the "retail" component of the development would in fact provide for "shops that service the daily convenience needs of the locality".</p> <p>The current development proposal, comprising 1,338sq.m of commercial floor space and 805sqm of retail floor space, was referred back to Council's Commercial Centres Planner in December 2010. In response, it was advised that previous comments still apply.</p> <p>It should be noted, however, that a site-specific clause has now been adopted into Clause 41A of BLP 1988 thereby permitting general retailing over the subject site, "subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m".</p> <p>Given the size and nature of the centre, however, it is still believed that the proposed development will cater for the daily convenience needs of the neighbourhood and will not compete with the Rouse Hill Town Centre or the Stanhope District Centre, where "top up" or "impulse" shopping is not the core purpose of the centre.</p> <p>A full assessment regarding this matter and the economic impacts of the development are discussed under Section 8.3, points (a)-(c) of this report.</p>
<p>Environmental Health Unit</p>	<p>The original proposal was referred to Council's Environmental Health Unit (EHU) on 8/10/09. In response, it was advised that further information was required to address Site Contamination and Noise Impacts.</p> <p>In this regard, the developer was requested to submit a Site Audit Statement prepared by a NSW EPA accredited site auditor to determine whether the site is suitable for the proposed use. Alternatively if a previous Site Contamination Report had been undertaken, the applicant was advised that an addendum could be prepared to confirm that no further contamination had occurred since the date of the original report. The issue of Site Contamination and findings of the submitted reports have been addressed under Section 8.7 of this report. Council's EHU has recommended that standard conditions be imposed on any consent, to ensure that the site is remediated and certified as being suitable for residential purposes, prior to release of CC. Standard conditions have also been included to ensure compliance with the recommendations of the submitted Site Contamination Assessments.</p> <p>In addition to this, the applicant was requested to submit an Acoustic Assessment to identify any likely noise generating activities from the proposed development that</p>

	<p>may impact on the future occupants of the development and the adjoining/nearby residents. The Assessment was also required to advise what measures should be adopted within the design of the development to reduce any noise impacts and therefore the likelihood of complaint. Noise generated from the commercial/retail tenancies, car movements, loading/unloading activities and from mechanical equipment was required to be considered as part of the assessment. In addition to considering any noise impacts from within the development itself, it was requested that the report also consider whether any external activities (e.g. traffic on Windsor Road or from the adjacent 24 hour McDonald's or nearby Ettamogah Hotel) are likely impact on the future residents of the development and if so, how this could be treated. The Acoustic Assessment was to be carried out in accordance with the requirements of the <i>NSW Industrial Noise Policy</i> and was to be prepared by an appropriately qualified acoustic consultant that is a member of the Association of Australian Acoustic Consultants.</p> <p>The Acoustic Assessment submitted as part of the revised proposal for 17 commercial/retail tenancies and 198 units, was referred to EHU in December 2010. While the Acoustic Assessment generally considered the likely noise impacts, Council Officer's were concerned that the potential noise impacts from the Ettamogah Hotel had not been considered. Council Officers also requested that additional measures (e.g. appropriate hours of operation and other operational restrictions) be recommended to ensure that future resident's amenity is not unreasonably impacted by the proposed children's playground. During the public exhibition period, both the Ettamogah Hotel and McDonalds engaged separate Acoustic Consultants to review the submitted Acoustic Assessment. As a result of this process, valid deficiencies with the report were identified. To address the concerns of Council and the adjoining/nearby land owners, the applicant was requested to submit a revised Acoustic Report.</p> <p>In April 2011 a revised Acoustic Assessment, together with a copy of the objections submitted on behalf of the Ettamogah Hotel and McDonalds, was forwarded to Council's EHU for further consideration. In response, Council's EHU has raised no objections to the proposal subject to suitable conditions being imposed on any consent requiring compliance with the amended Acoustic Assessment. A summary of the Acoustic Assessments and recommendations can be found under Section 8.2, point (d) of this report.</p>
Heritage	<p>The proposed development is not located on or within the vicinity of any statutory listed heritage item. The nearest heritage item is Merriville House and Gardens [i.e State Heritage Item (SHI) 00091]. Council's Heritage Advisor has confirmed that the proposal will not be visible from Merriville House.</p> <p>It has been noted, however, that the ridge line and treescape within which the SHI is located, is visible from Windsor Road. Council's Heritage Advisor advised: "It is likely that this visual link from Windsor road to the Merriville treescape is an historically present visual link, and the association with the naming of Merriville Road, retains this significance."</p> <p>In conclusion, the Heritage Advisor indicated that while the proposal will not be visible from Merriville House and Gardens, the proposed development may impact on the view of the treescape from Windsor Road (see photos at Attachment 7). It was therefore suggested that could be mitigated by modulating or reducing the height of the affected parts of the development that may obscure this view. In this regard, the Heritage Advisor indicated that a Visual Assessment would need to be carried out to determine whether there was any impact on significant views to the Merriville Gardens treescape.</p> <p>The applicant provided a detailed response to these matters and submitted the</p>

	<p>following suggestions for Council's consideration:</p> <ul style="list-style-type: none"> (i) The applicant install a plaque at the entry to the proposed Mixed-use Development indicating the location of Merriville House and its significance to the naming of Merriville Road; (ii) The applicant provide a 'Tourist Information Board' within the proposed retail precinct of the proposed development providing details as to the significance of Merriville House, the Battle at Vinegar Hill and Windsor Road. (iii) Give the proposed mixed-use development the name "Merriville Place" in recognition to the historical significance of its location. <p>Following a review of the applicant's response, Council's Heritage Team Leader agreed that the visual link only exists now because the subject site is cleared, and it would be unreasonable to restrict development/reduce the overall height on this basis.</p> <p>It has been recommended, however, that the applicant's suggestions (i) and (ii) form conditions of any consent granted. It has also been requested that the 'Tourist Information Board' include details of Mungerie House which is a heritage item in The Hills Shire Local Government Area. Details of the suggested plaque and 'Tourist Information Board' will be required to be submitted to Council for separate approval, prior to the release of any Construction Certificate. This matter will be addressed as a condition of any consent granted. In terms of point (iii), Council's Heritage Team Leader is not supportive of naming the development Merriville Place as it would confuse the fact that the site is located on Merriville Road (which is not the alignment of the original driveway into Merriville House).</p>
Parks and Recreation	<p>The development proposal was referred to Council's Parks and Recreation Section to comment on the proposed street tree planting. In response, it has been advised that <i>Corymbia maculata</i> is not an acceptable street tree species and therefore must be substituted. This matter will be addressed as a condition of any development consent.</p>
Civil Maintenance	<p>Given the commercial/retail tenancies fronting Merriville Road propose awnings which overhang the footpath, the application was referred to Council's Manager Civil Maintenance for comment. The Civil Maintenance Section has advised that they have no objection to the development subject to the following conditions which will be included within any development consent:</p> <ul style="list-style-type: none"> • The minimum height of the awnings must be 2.4m above the finished footpath level; • The awnings are to be designed by a practising structural engineer to withstand different loads; • No other hanging is permitted under the awning which may affect the minimum clearance height of 2.4m; and • The property owner is responsible for the maintenance of the awnings at all times.

13 Public Comment

- 13.1 Prior to placing the Development Application (DA) on public exhibition, the applicant was requested to submit amended plans addressing a number of identified issues and deficiencies with the proposal. In particular the applicant was advised that the level of development (i.e. 8

storeys) was unacceptable and would not be supported by Council. In addition to amended architectural plans, a range of reports/plans and a scaled model were required prior to exhibition. These reports/plans included a Noise Impact Assessment, Shadow Diagrams, Demolition Report, Site Contamination Assessment, Hydraulic/Drainage Report and additional traffic modelling. The applicant was advised that a decision regarding when the application would be publicly exhibited, would be made once the amended plans and requested information had been received by Council.

- 13.2 Following receipt of the revised plans, supporting reports and scale model, the Development Application was advertised in the local newspapers and placed on public exhibition between 1 December 2010 and 25 January 2011. As part of the notification process, all property owners and occupiers located within a 500m radius of the subject site and located within the Blacktown City Council LGA were notified of the proposal. This equated to approximately 850 letters. The Hills Shire Council and all nearby property owners/occupiers located along the eastern side of Windsor Road were also notified of the proposal.
- 13.3 The notification process was undertaken in accordance with Blacktown Development Control Plan 2006: Part K – Notification of Development Applications. Given the overwhelming public interest in the application, the standard 2 week notification period specified under BDCP Part K was extended to 8 weeks.
- 13.4 As a result of the notification/advertising process, a total of 892 submissions (i.e. 219 individual submissions from 127 properties, and 673 pro forma submissions from 393 properties) objecting to the proposal were received. Submissions were also received from the Local Members Offices and from The Hills Shire Council. Maps highlighting the location of all properties located within a 500m radius of the subject site, and the location of individual objectors and pro-forma objectors located within the 500m radius of the subject site are provided at **Attachment 3**. The issues raised within the submissions are summarised below, together with Town Planning comments thereon.

(a) **The Joint Regional Planning Panel (JRPP) Process**

- i. *It is unreasonable that 3 bureaucrats in Sydney will be making the decision that will affect the residents of Kellyville Ridge when they don't even live in the area. These people would not know what is required for the residents. Australia is selling out to greedy developers. We need a Government that will control the planning laws in NSW, and will create a reformed and structured approach to the future of NSW.*

Planning Comment:

- The JRPP is the statutory process by which applications are reviewed, assessed and determined. The JRPP is made up of independent qualified experts and was established to provide greater transparency, objectivity and independence in the planning process through merit-based decision making. In turn, this gives the community confidence that the environment will be protected, and provides industry with the confidence that their applications will be dealt with fairly and professionally. It should be noted that the Panels cannot be directed by either the Council or the Minister for Planning. Rather, they are bound by the Environmental Planning and Assessment Act (EP&A Act), Regulations, a Code of Conduct and Operational Guidelines.

- Applications for development that are to be decided by the Panels are first required to be assessed by councils in accordance with accepted procedures. As is the case with councils, the Panel is then required to provide opportunities for both proponents and objectors to represent their views on the proposal. Finally, the Panel is required to make a decision that is based on the merits of the application. All local issues and concerns of the residents/objectors are taken into careful consideration during this process. To ensure that the decision is a fair and reasonable one and does not favour the developer, the merit-based decision making process is made in full view of the public. To date the process has provided a balanced approach to the DA assessment process throughout the Greater Sydney Metropolitan Region.

(b) Zoning & Zone Objectives

- The site is commercial. While it is recognised that units can be added, the zone objectives do not support the erection of a 10 storey mixed use development. Given the proposal is predominantly residential and provides limited commercial and retail floorspace, it does not comply with the zoning restrictions/objectives.*

Planning Comment:

- The plans originally submitted to Council in September 2009 proposed 23 retail/commercial tenancies, 4 residential flat buildings ranging in height from 2 storeys to 8 storeys, and 2 levels of basement car parking (i.e. 10 levels in total). An assessment of the plans, however, identified a number of issues and deficiencies with the proposal. The applicant was therefore requested to submit amended plans that addressed all of the identified issues. Following this, the applicant submitted various sets of amended plans for Council's consideration. The current proposal includes 4 buildings ranging in height from 2 storeys to a "maximum" height of 5 storeys, and 2 levels of basement car parking.
- The subject is zoned 3(b) Special Business pursuant to BLEP 1988. As outlined under Section 6.3, point (i) of this report, the proposed development, being for a mixed use (i.e. a combination of "*commercial premises*" and "*residential flat building*") is permissible under the zoning table with development consent. To be a permissible form of development, Clause 9(3) of the LEP requires that the development be *generally consistent with* one or more of the zone objectives.
- 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 (or in this case the Rouse Hill Regional Centre), 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 limited amount of commercial/retail development) satisfied the stated zone objectives, and therefore was permissible in the zone.
- The advice received indicates that there is 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”. The legal advice indicates that 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”. Given the overall size and scale of the proposed retail/commercial tenancies, Council Officers consider that the proposal will not compete with the nearby Rouse Hill Regional Centre or Stanhope Village. As such, the proposal is considered to be consistent with the preferred retail hierarchy and therefore with zone objective (a).

- It therefore follows, that the development is generally consistent with one or more of the zone objectives for the 3(b) Zone [in particular objectives (a) and (d)] and therefore is a permissible use with development consent.
 - While the Business Zones Development Control Plan (DCP) does not provide density controls for residential flat development, it does state that residential development is a desirable additional use in the business zones. In residential zones (i.e. arguably a more sensitive land use than business zoned land), residential flat development may be permitted up to 5 storeys on large sites over 5,000sq.m. The proposed development has been designed so that the higher building elements address the established 4 storey units or the commercial sector containing the McDonalds Restaurant and Woolworths Service Station. As such, there is minimal impact to the established residential housing on Merriville Road & Clonmore Street. Given residential flat buildings are a permissible land use in the 3(b) Special Business zone, and that the proposed development is consistent with the development controls for residential flat development in residential areas, it is determined that the proposal is a compatible use that is appropriate for the site.
- ii. *The commercial/retail uses are not fitting with the community.*

Planning Comment:

- As outlined under Section 8.3, point (a) of this report, the 3(b) Special Business zone accommodates uses such as commercial offices, light industrial activities and business support services. Only limited retailing activities are permitted in the 3(b) zone, so that they do not directly compete with the retail uses located in the 3(a) General Business zones. In this regard, retail development in the 3(b) zone is limited to shops which service the daily convenience needs of workers and residents in the area, and shops which specialise in bulky goods.
- It should be noted, however, that a Planning Proposal was adopted by Council in 2010 to insert a site-specific clause into Clause 41A of BLEP 1988 to permit shops on the subject site, “subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m” (see Sections 4.8-4.10 and 6.3(k) of this report). The purpose of the LEP amendment was to permit “general retailing” over the site up to a maximum floor area of 2,000sq.m. The proposed commercial/retail floor space will therefore incorporate a mix of offices, business support services and general retail uses. In this regard, the future tenants could include a butcher, bakery, greengrocer, chemist, newsagent, dry cleaner, hairdresser, real estate agent, professional services, take-away food shops and cafes/restaurants. These types of uses will serve the immediate daily convenience needs of surrounding neighbourhood catchment and people working in the area, and therefore will fit in with the community’s needs.

- iii. *Council has been actively seeking to reduce the “journey to work” for residents by providing zonings that encourage commercial and retail land uses. The proposal fails to satisfy the fundamental objectives of the zone.*

Planning Comment:

- As outlined under point 13.4(b)(i) above, Council obtained legal advice which indicates that the proposed mixed-use 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 development consent. Given the overall size and scale of the proposed retail/commercial tenancies, Council Officers consider that the proposal will not compete with the nearby Rouse Hill Regional Centre or Stanhope Village. As such, the proposal is also considered to be consistent with the preferred retail hierarchy and therefore with zone objective (a).
 - The proposed commercial/retail tenancies presents a chance to create localised job opportunities, but more importantly will include uses that will serve the immediate daily convenience needs of surrounding neighbourhood catchment and people working in the area, therefore cutting travel times.
 - The established Rouse Hill to Parramatta Transitway will also provide a direct mechanism to "reduce the journey to work" for future residents. The previous State Government Housing & Transport Policies were established to encourage higher density housing along the Transitway to reduce journey times for the residents of the North-West Region.
- iv. *There has been adequate release of land and still more to come. Such large development of units is unnecessary in newly developed areas.*

Planning Comment:

- The development controls adopted for the new release areas, include minimum density controls in order achieve target dwelling yields in the North West Sector. The development of this form of development is considered efficient utilisation of land.
 - The corridor of land located to the north of the subject site and adjacent to Windsor Road is zoned 2(c) Residential and was originally identified as an ideal location to establish high density housing as it would support the Rouse Hill Regional Centre and Transitway to Parramatta.
 - The zoning of the subject site, together with its large site area (1.358 hectares), makes it suitable for mixed-use development.
- v. *If this is approved, how many more will follow?*

Planning Comment:

- The development potential of a subject site is determined by its land use zoning. The approval of a similar development (i.e. mixed-use) could therefore not occur in the residential areas of Kellyville Ridge.
- It is also unlikely that approval of the proposed development will set any form of precedent, given the subject site is only 1 of 2 remaining vacant/unused

commercial properties in the area. In this regard, the only other undeveloped parcel of commercial land is the property located immediately to the north of the Woolworths Service Station. However, this parcel is only 1062sq.m in area compared to the subject site which is 1.358 hectares. It is therefore reasonable to assume that the subject site is the last property within the area that can accommodate a large scale mixed-use development.

(c) Alternate Uses

- i. *The land should be used to better assist the Kellyville Ridge community (Eg. Police Station).*

Planning Comment:

- As outlined under point 13.4(b)(ii), the future retail/commercial tenancies are likely to be occupied by uses such as a butcher, bakery, greengrocer, chemist, newsagent, dry cleaner, hairdresser, real estate agent, professional services, take-away food shops and cafes/restaurants. These types of uses will serve the immediate daily convenience needs of surrounding neighbourhood catchment and people working in the area, and therefore will provide benefit to the Kellyville Ridge community. The on-site public spaces will also provide local residents in the area an additional area to recreate and socialise.
 - In terms of providing a use such as Police Station, this would be subject to an Application being made by the State Government and cannot be controlled by Council. The applicant believes that the Rouse Hill Regional Centre would be a better location for a Police Station and other community type services.
- ii. *Bulky goods retailing, duplexes, townhouses or detached houses would be acceptable. But not another area like Waterloo's units or the Redfern Block.*

Planning Comment:

- Given a proposal for a "Bulky Goods Retail Centre" was refused over this site by the Land and Environment (L&E) Court, the developer has indicated that they would not be prepared to revisit such use. Given the site is zoned 3(b) Special Business, it is unlikely that Council Officers would be supportive of a purely residential development over this site. The developer has also indicated that duplexes and townhouses would not provide the return on invested funds to support the establishment of a commercial/retail component. In terms of conventional residential subdivision, the developer has indicated that the road pattern required to support detached housing would compromise site coverage and as such, no investor would be interested to progress such a project. As a result, the land would remain un-used and a "blight" on the established residential estates within the Kellyville Ridge precinct.
 - The proposed development has been architecturally designed and incorporates substantial architectural treatment to provide a development which meets the principles of SEPP 65. The building form has been articulated, while the façade treatment of the buildings reflects contemporary architectural initiatives consistent with the objectives of SEPP 65.
- iii. *The site should be developed as a 2 storey neighbourhood shopping centre at most.*

Planning Comment:

- As outlined above the proposal includes 4 buildings ranging in height from 2 storeys to a 'maximum' height of 5 storeys in parts. The proposal includes ground level neighbourhood shops and residential units above, both of which are permissible in the zone.

(d) DCP Compliance

- The proposal fails to consider the local context in regard to adjacent land, the nature of surrounding land uses, the topography, the landscape character and significant features, and the constraints of the site and its surroundings.*

Planning Comment:

- The SEPP 65 Assessment (see Section 6.3, point (f) i. Principle 1) has demonstrated that the Development Application plans have been prepared on a thorough understanding of the site context and the surrounding land uses.
- In accordance with Section 7.3 and 7.4 of BDCP – Part C a Statement of Environmental Effects and site analysis have also been submitted with the Application and take into account local issues including site orientation, solar access, wind direction, topography, vista/views, access constraints, local drainage/flooding and the like.
- The applicant has also indicated that the design brief for the project was established with a specific requirement to balance the height, bulk, streetscape presentation and use with that of:
 - The established Kellyville Ridge residential zones (single, double and multi-level housing forms. In this regard, the development has been limited to 2-storey where is adjoining the existing detached dwelling houses and has a maximum building height which is only marginally higher than the established multi-unit residential flat buildings within the immediate area.
 - The mixed-use elements of the development (i.e. the proposed commercial/retail component would provide a significant upgrade to the facilities available within the immediate area for the people of Kellyville Ridge).
 - The objectives of the 3(b) Special Business zone and the established commercial precincts of McDonalds, the Woolworths Service Station and the adjacent Ettamogah Hotel.
 - The topography of the land and the ability to support the majority of the car parking below ground.
 - The landscaping proposed for the development, and the need to provide a "green" environment across what is currently a "disused" paddock complete with a dilapidated motel building.

It is therefore considered that the developer has given appropriate consideration to the local context.

- The DA proposes a development of 10 storeys. The proposal disregards the requirement of the DCP which permits a maximum of 4 storeys above ground.*

The DCP also states that the maximum number of storeys for that part of the residential flat building adjacent to single lot housing is to be 3 storeys. The proposal is well outside the built form contemplated by the numerical controls of the DCP.

Planning Comment:

- The plans originally submitted to Council in September 2009 proposed 23 retail/commercial tenancies, 4 residential flat buildings ranging in height from 2 storeys to 8 storeys, and 2 levels of basement car parking (i.e. 10 levels in total). An assessment of the plans, however, identified a number of issues and deficiencies with the proposal. The applicant was therefore requested to submit amended plans that addressed all of the identified issues. The current proposal includes 4 buildings ranging in height from 2 storeys to a “maximum” height of 5 storeys, and 2 levels of basement car parking.
- The issue of height has been discussed in detail under Section 8.3, point 4(d)ii., and Section 8.4, point (a)v. above. Part D of the DCP – *Development in the Business Zones*, provides a level of flexibility in that it states that “residential development must comply with the residential standards outlined in Part C of the DCP”.
- Under Part C of the DCP – *Development in the Residential Zones*, the maximum height of any residential flat building is 4 storeys (or 16m excluding centrally located lift towers, stairwells or roof structures). On sites at the interface with (i.e. across the road from) or adjacent to land zoned 2(a) Residential, the housing envelope needs to respond by way of a transition in scale, to a maximum of 3 storeys, for that part of the residential flat building development closest to the single lot housing. The DCP goes on to say, however, that on larger sites exceeding 5,000sq.m, favourable consideration may be given to development up to 5 storeys where suitable transition scales are demonstrated in respect to adjacent properties.
- The subject site has a developable area of 1.358 hectares and therefore well exceeds the 5,000sq.m minimum land size requirement. Given the development responds well to the existing surrounding development and has been designed to address overshadowing, privacy and amenity impacts on the adjoining residential properties, it is recommended that 5 storey development be supported in this instance. In this regard, development along the western edge of the site, immediately adjacent to the existing detached single and 2 storey dwelling houses, has been limited to 2 storeys only (instead of 3 storeys as permitted by the DCP). Where the western edge adjoins Clonmore Street (i.e. across the road from land zoned 2(a) Residential), the proposal has been limited to a maximum height of 3 storeys.
- The proposed development also complies with the secondary height control of 16m. In this regard, the ground floor level typically has an R.L of 46.70m and the floor level of the roof top terraces have an R.L of 62.40m. This means that the maximum overall height of the development, when measured from the ground floor to the floor of the roof top terrace, is 15.7m.
- A table highlighting the developments compliance with the numerical controls of the DCP for residential flat buildings is included at **Attachment 8** of this report.

While there are some minor non-compliances with the DCP, overall the proposal is considered to be consistent with the built form permitted by the numerical controls of the DCP.

- iii. *The side boundary setbacks should be a minimum of 6 metres. The proposal does not provide meaningful setbacks to the adjacent residential properties.*

Planning Comment:

- In accordance with the DCP for residential flat development, the minimum side and rear setback requirement is 6 metres. The only projections permitted in the setback areas are open style balconies, roof eaves and sunhoods. Balconies may project into the setback by a maximum of 1m. Roof eaves and sunhoods may project into the setback by a maximum of 600mm. It should be noted that the DCP setback requirements apply to those portion of the development fronting a public road or common boundary. There are no minimum setback requirements to 'private' internal roads or accessways.
- In terms of the side and rear setback, the proposed residential portions of the development provides 6m setbacks to the north, east and west boundaries in accordance with the provisions of the DCP. A zero front setback is proposed to the commercial/retail tenancies fronting Merriville Road in accordance with the DCP controls for development in the business zones.
- It should also be noted that development along the western edge of the site, immediately adjacent to the existing detached single and 2 storey dwelling houses, has been limited to 2 storeys and has been setback a minimum of 6 metres. The upper levels step up to 5 storeys, but have been well setback from the western boundary to eliminate potential overlooking and amenity impacts. In this regard, level 3 has been setback a minimum of 11 metres (when measured from the boundary to the planter boxes) and levels 4 and 5 have been setback over 20 metres (when measured from the boundary to the roof top terraces).

(e) Height

- i. *The development does not comply with Council's development guidelines. The 5 storey development exceeds the zoning/size limit. The site is zoned for and should be limited to 2 storey development. The first floor being for commercial and the second being for accommodation.*

Planning Comment:

- It should be recognised that "Residential Flat Buildings" are a permissible land use in the 3(b) Special Business zone with consent. It would therefore be unreasonable to insist that this permissible form of development be restricted to 2 storeys only.
- The issue of height has been discussed in detail under Section 8.3, point (d)ii. and Section 8.4, point (a)v. of the report. While Part D of the DCP – *Development in the Business Zones*, states that in smaller local centres residential development (which is typically in the form of 'shop top housing') should be no higher than 2 storeys, it also provides some level of flexibility given that it also states that residential development must comply with the residential standards outlined in Part C – *Development in Residential Zones* of the DCP.

- In this regard, the DCP for development in residential zones states that on sites within the 2(c) Residential zone the height limit is 4 storeys, except in areas that directly interface with the 2(a) Residential zone (i.e. across the road from or adjacent to land zoned 2(a) Residential, such is the case with this site) where the number of storeys permissible is 3 storeys for that part of the residential flat building development closest to the single lot housing. On large sites exceeding 5,000sq.m, however, consideration may be given to development up to 5 storeys where suitable transition scales are demonstrated in respect to adjacent properties.
- The Residential DCP also provides a secondary height control limit of 16m for 4 storey development. Although 5 storeys in part, the proposed development complies with this secondary height control. In this regard, the ground floor level typically has an R.L of 46.70m and the floor level of the roof top terraces have an R.L of 62.40m. This means the overall height of the development, when measured from the ground floor to the floor of the roof top terrace, is 15.7m.
- The subject application seeks approval for a mixed-use development. While the proposed commercial/retail component of the development is limited to the ground level only and therefore complies with the DCP, the residential portion of the development has not been limited to 2 storeys.
- In the absence of any specific controls for residential flat buildings in local centres, the application has been compared against those controls applying to residential flat building development in residential zones. In residential areas, the surrounding land uses are typically of a more sensitive nature than in commercial zones and as such, it is considered that there would be no negative impacts in applying the residential controls to a commercial context.
- It should also be noted that Council has previously considered variations to the 2 storey height limit in commercial zones, where the mixed-use development has been designed so that the impact on the adjoining 2(a) Residential land is consistent with a complying height development and where the proposed development demonstrates a high degree of compliance with all of Council's other requirements.
- The development in its amended form responds well to the existing surrounding development, and has been designed to minimise overshadowing, privacy and amenity impacts on the adjoining and nearby residential area. Development along the western edge of the site, immediately adjacent to the existing detached single and 2 storey dwelling houses, has been limited to 2 storeys only. The upper levels step up to 5 storeys, but have been well setback from the western boundary to eliminate potential overlooking and amenity impacts. Where the western edge adjoins Clonmore Street, the proposal has been limited to a maximum height of 3 storeys in accordance with the DCP requirements for residential flat development.
- The properties to the north are zoned 2(c) Residential and have been developed with 4 storey high density residential developments. Along the northern edge of the site, the development is predominantly 5 storeys. While the proposed development is one storey higher, the generous setbacks (i.e. minimum 10 metres to the 5th level window openings) will ensure that there are minimal impacts in terms of privacy and amenity. Along the eastern and southern boundaries, the development is predominantly 5 storeys. Overall, the 5 storey

height is considered appropriate having regard to the site being at the core of the local centre and predominantly surrounded by intense land uses, including a Woolworths service station and McDonalds fast food restaurant which includes tall and prominent identification signage, high density residential development and on the opposite side of Merriville Road a large hotel establishment with a predominant 3-4 storey feature element at the front of the building.

- Given that “residential flat buildings” are a permissible form of development in the 3(b) Special Business zone, that the proposed heights comply with the controls for residential flat development in residential areas (i.e. the site is 13,580sq.m in area and therefore could be considered for 5 storey development) and that a maximum height limit of 2 storeys has been applied closest to the single lot housing (as opposed to 3 storeys which would be permitted if the site was zoned 2(c) Residential), it is believed that the proposed heights will have minimal impact on the adjoining and surrounding land uses. For these reasons, it is recommended that proposed maximum 5 storey height limit be supported in this instance.
- ii. *When we bought in the area there were no development proposals of this scale and development was limited to only 2 storeys.*

Planning Comment:

- The Kellyville Ridge area has only been undergoing development since the mid 1990s. The immediate area surrounding the site, however, is not characterised by low density residential development but is of mixed use character. In this regard, a mix of single and 2 storey detached dwelling houses is located to the west. The land immediately to the north of the site and along Windsor Road is zoned 2(c) Residential, and has been developed with a cluster of 4 storey residential flat buildings. Immediately to the east of the site are 3 commercial properties, and directly opposite the site, on the southern side of Merriville Road, is the Ettamogah Hotel and a Dan Murphy’s bottle shop.
- BLEP 1988 and Blacktown DCP 2006 do not prescribe maximum density or floor space ratio limits on either residential, commercial or retail development in the business centres zones and as such, residents would not have been able to receive any guarantees in relation to the type and scale of development likely to be constructed over this site.
- However, given the 3(b) zoning of the site, the permissible land forms allowed under the 3(b) zoning table (i.e. residential flat buildings, bulk goods retail centres, etc, which usually have a height well in excess of 2 storeys), and the mix of land uses in the immediate area, it would have been reasonable to assume that the anticipated character for the site would be consistent with either the adjoining high density residential or commercial and retail uses, rather than the low density residential. The issue of height has been discussed under point 13.4(e)i. above.
- iii. *The excessive height of the buildings, including the overshadowing, does not blend in with the existing community.*

Planning Comment:

- The issue of height has been discussed in detail under Section 8.3, point (d)ii. and Section 8.4, point (a)v., of this report. As discussed above, the development in its amended form responds well to the existing surrounding development, and has been designed to address any overshadowing, privacy or amenity impacts on the adjoining and nearby residential area. Development along the western edge of the site, immediately adjacent to the existing detached single and 2 storey dwelling houses, has been limited to 2 storeys only. The upper levels step up to 5 storeys, but have been well setback from the western boundary to eliminate potential overlooking and amenity impacts. Where the western edge adjoins Clonmore Street, the proposal has been limited to a maximum height of 3 storeys in accordance with the DCP requirements for residential flat development.
- The properties to the north are zoned 2(c) Residential and have been developed with 4 storey high density residential developments. Along the northern edge of the site, the development is predominantly 5 storeys. While the proposed development is one storey higher, the generous setbacks (i.e. minimum 10 metres to the 5th level window openings) will ensure that there are minimal impacts in terms of privacy and amenity. Along the eastern and southern boundaries, the development is predominantly 5 storeys. Overall, the 5 storey height is considered appropriate having regard to the site being at the core of the local centre and predominantly surrounded by intense land uses, including a Woolworths service station and McDonalds fast food restaurant which includes tall and prominent identification signage, high density residential development and on the opposite side of Merriville Road a large hotel establishment with a predominant 3-4 storey feature element at the front of the building. For these reasons, the proposed height of the development is not considered excessive.
- The issue of overshadowing has been discussed under Section 8.4, point (a)xxvii. of this report. In this regard, the submitted shadow diagrams clearly demonstrate that there will be no adverse shadow impacts on any adjoining property. Given the orientation of the development the shadows fall towards Merriville Road and as such, the residential flat building located to the north will not be overshadowed by the proposed development. The detached dwelling houses located adjacent to the western boundary will be partially affected by shadows at 9.00am on 21 June, but by 10.00am 100% of the neighbouring properties principle area of private open space will receive unrestricted solar access. The proposed development is therefore acceptable in terms of its overshadowing impact on neighbouring residential properties. The impact on the commercial properties adjacent to the eastern boundary is also minor. At 2.00pm the shadows are contained completely within the development site. It is only at 3.00pm that there is partially overshadowing of the adjoining commercial properties.

(f) Traffic

Note: Given that a significant number of the objections received were on the grounds of traffic, the independent traffic consultant was requested to provide a response to each of the issues raised. These have been included together with the Town Planning comments below.

- Merriville Road (between Windsor Road and Perfective Drive) currently consists of 3 turning lanes onto Windsor Road, 2 entry/exit driveways into the Ettamogah Hotel and Dan Murphy's, an entry/exit to McDonalds and the Woolworths Service*

Station, bus stops on both sides of the road, an Australia Post letter box, a signalised pedestrian crossing and off-street kerb parking. This is all in the space of 250m. Together with peak morning/afternoon traffic, this section of road is already extremely congested and dangerous.

Independent Traffic Consultant's Comment:

- Road Delay Solutions concur that there certainly is a significant amount of traffic and a modest level of congestion in Merriville Road. However, all evidence suggests that the current traffic condition is adequately managed by the traffic signal controlled intersection at Windsor Road. Council undertook a study of queue lengths during the peak weekday traffic periods and found no issues at this time, with queue lengths adequately managed by the current lane configuration. It must be noted that from time to time with the random arrival of vehicles, queue lengths will increase but should dissipate quickly.
- It is considered that the location of the bus stops and post box should be placed upon the developer to consider while preparing final construction drawings. No issues are foreseen with the relocation of the bus stop currently located in close proximity to the proposed roundabout, and any decision on relocation should involve input from the bus operators. Generally, the consideration of post box locations will require appreciation of any proposed parking restrictions and the lane configuration on Merriville Road. It is recommended that a suitable **condition** be imposed requiring that these matters be addressed prior to the release of any Construction Certificate.

Planning Comment:

- The primary concern of any new development is the effect that any additional traffic may have on the operational performance of the nearby road network. The traffic report prepared by Varga Traffic Planning P/L assesses this issue, using the INTANAL program (which is widely used by the RTA), and reveals:
 - The Windsor Road and Merriville Road signalised intersection currently operates at Level of Service “B” under the existing traffic demands with total average vehicle delays in the order of 20 to 25 seconds per vehicle.
 - Under the projected future traffic demands expected to be generated by the development proposal, the Windsor Road and Merriville Road intersection will continue to operate at Level of Service “B”, with increases in average vehicle delays of less than 1 second per vehicle.
- Council's own independent traffic modelling (as discussed under Section 9 above) confirms that the proposed development will not have any appreciable effect on the operational performance of the adjacent road network. Based on the above, it is concluded that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. The RTA also agrees that the additional traffic flow will be minimal and within all applicable guidelines for the established road network.
- With the ongoing establishment of a road network in The Ponds and new links to Schofields Road now open, the concentration of traffic to Merriville Road will diminish as this concentration is spread over to Schofields Road.

- While it recognised that there is a significant amount of traffic in the area and there are traffic management issues that must be addressed, it should be recognised that the issues are existing ones and would require attention regardless of the proposed Development Application. All evidence indicates that the traffic issues in the area are not caused by the proposed development, and the proposed development will not further exacerbate the existing traffic issues.
 - A new roundabout will be provided on Merriville Road as part of the proposal. The internal roadway into the site will form the northern arm of the roundabout, while the eastern driveway of the Ettamogah Hotel will become the southern arm of the roundabout. The provision of a new roundabout in this location will assist right hand turn movements into and out of the Ettamogah Hotel site and will provide westbound patrons an alternative means of accessing the McDonalds and Woolworth Service Station, and therefore will actually help to address some of the existing traffic related issues in this location.
 - Road Delay Solutions have indicated that while the issue of on-street parking in Merriville Road is not significantly detrimental at this time, it does limit the available trafficable eastbound lanes to one. Installation of time parking restrictions (i.e. 4 hours) in Merriville Road would ensure the availability of 2 eastbound lanes, and presumably would assist traffic flows. Road Delay Solutions have therefore recommended that this issue be monitored by Council. It has been pointed out, however, that investigations would need to be undertaken to ensure any such regulatory action does not simply force commuters to park on alternative residential streets within the precinct.
- ii. *The proposal will completely congest the already busy intersection of Windsor Road and Merriville Road. Merriville Road can barely cope with the current residential traffic. At present the traffic queues back from Windsor Road past Manor Street, almost to Vinegar Hill Road.*

Independent Traffic Consultant's Comment:

- The calculated vehicle generation (i.e. 103vph during peak hour) is not considered excessive and should not have a significant impact on the operational performance of the surrounding road network.

Planning Comment:

- As indicated in point (f)(i) above, the Windsor Road and Merriville Road signalised intersection currently operates at Level of Service "B" under the existing traffic demands with total average vehicle delays in the order of 20 to 25 seconds per vehicle. Under the projected future traffic demands expected to be generated by the development proposal, the Windsor Road and Merriville Road intersection will continue to operate at Level of Service "B", with increases in average vehicle delays of less than 1 second per vehicle.
- As discussed under Section 9 of this report, Council's Traffic Management Section undertook an independent traffic and queue length survey on Merriville Road. The queue length survey undertaken in February 2011 indicates that the maximum number of vehicles queuing back from the intersection at any one time (one signal cycle) is 17 vehicles which is approximately 100m. While it is recognised that from time to time queue lengths may increase, they should also dissipate quickly.

- iii. *The amount of traffic using Merriville Road is rapidly increasing with the construction of new homes to the west of Vinegar Hill Road and The Ponds. The opening up of the Stanhope Parkway has also created a new route for Quakers Hill/Schofields residents to access the Rouse Hill Town Centre.*

Independent Traffic Consultant's Comment:

- Road Delay Solutions concur that traffic volumes in Merriville Road have increased with the development of The Ponds. However, computer based modelling suggests that the current intersection and mid block configurations are adequate to manage the current traffic levels.

Planning Comment:

- While Stanhope Parkway does provide a route into the Kellyville Ridge area, it also provides an alternate "relief" route for vehicles to egress the suburb.
 - Traffic modelling suggests that in the long term, traffic volumes along Merriville Road will actually reduce once alternate routes throughout the Growth Centre (e.g. The Ponds Boulevard) become available.
 - As an alternative to Merriville Road, people can now use the newly opened "Greenview" bridge to access Schofields Road. Ridgeline Drive at The Ponds will also be linked, enabling commuters to access Schofields Road.
- iv. *The proposal will create further traffic problems and chaos, and result in a massive increase in the amount of traffic throughout the local area. The traffic will lead to unreasonable delays on the already struggling Merriville Road. The Quakers Hill Police also raised concerns that the proposed development will place a greater burden upon the already congested arterial roads.*

Independent Traffic Consultant's Comment:

- There is no evidence supporting this claim. The calculated vehicle generation (i.e. 103vph during peak hour) is not considered excessive and should not have a significant impact on the operational performance of the surrounding road network.

Planning Comment:

- The primary concern of any new development is the effect that any additional traffic may have on the operational performance of the nearby road network. The applicant's traffic report assesses this issue, using the INTANAL program (which is widely used by the RTA), and reveals that under the projected future traffic demands expected to be generated by the development proposal, the Windsor Road and Merriville Road intersection will continue to operate at Level of Service "B", with increases in average vehicle delays of less than 1 second per vehicle. Council's own independent traffic modelling also confirms that the proposed development will not have any appreciable effect on the operational performance of the adjacent road network. On this basis, there is no evidence to support that the proposed development will create any significant impact on the existing road network.

- Furthermore, as outlined Section 9 above, the provision of a new roundabout at the entry to the development site will actually help to address some of the existing traffic related issues in this section of Merriville Road.
- v. *If the RTA makes eastbound traffic on Merriville Road, 1 left turn, the middle lane buses only, and 1 right hand turn, it will bring traffic to a crawl.*

Independent Traffic Consultant's Comment:

- Should the RTA invoke a "Bus Only" lane in the current Merriville Road eastbound middle lane, it would be necessary to widen Merriville Road. This is understood by Council and no dedication of the middle lane to buses only is planned without the widening of Merriville Road to permit 3 trafficable lanes eastbound.

Planning Comment:

- As part of the assessment process, the development proposal was referred to the RTA for comment. The RTA assessed the traffic flow data for the intersection and was satisfied that the additional traffic will not impact on the "waiting periods" at the intersection. As indicated by the Independent Traffic Consultant, any plan to create a "bus only" lane will require Merriville Road to be widened to accommodate 3 trafficable eastbound lanes.
- vi. *The proposed new roundabout will only add to the congestion, will cause confusion and frustration, and will make the traffic situation worse. The roundabout will not solve the problem. The Quakers Hill Police are also concerned that the columns supporting the first floor level will be damaged by large trucks and buses negotiating the roundabout.*

Independent Traffic Consultant's Comment:

- All evidence suggests that a roundabout at the proposed development site will not add to congestion but rather, operate at a good level of service, as evidenced by modelling undertaken by Varga Traffic Planning. The statement that '*the roundabout will not solve the current problem*' is considered unfounded given that no problem has been identified.

Planning Comment:

- The results of the INTANAL analysis undertaken by Varga Traffic Planning indicate that the new roundabout will not impact on the existing traffic situation. The Merriville Road and proposed new roundabout intersection is expected to operate at Level of Service 'A', with average vehicle delays in the order of 5 seconds per vehicle.
- The roundabout will also assist patrons turning right into/out of the Ettamogah Hotel and will provide an alternate means for westbound patrons wishing to access the McDonalds Restaurant and Woolworths Service Station. In this regard, the roundabout will provide a greater degree of safety for turning vehicles. It is also likely to help provide breaks in the flow of traffic on Merriville Road thereby allowing vehicles to turn out of the McDonalds Restaurant and Woolworth Service Station access driveway with a far greater degree of safety.
- The roundabout, in its revised form, has also been designed to have a fully mountable central island and is capable of accommodating the swept turning

path requirements of large 12.5m long RV rigid trucks without the need to mount the central island. On this basis, large trucks and buses will remain clear of the public footpath and building structures.

- vii. *An increase in traffic will make it more difficult to enter/exit the McDonalds, Service Station and Ettamogah Pub. Traffic flows heading west along Merriville Road from Windsor Road are frequently halted by someone turning right into McDonalds/Woolworths Petrol. Traffic around them need to brake and serve to avoid accidents To enter/exit the Ettamogah Hotel driveways or the McDonalds/Woolworths Service Station driveways, vehicles have to cross 3 lanes of traffic. This is a dangerous situation. Additional traffic in this location will be a fatality waiting to happen. Cars leaving turning right out of McDonald's onto Merriville Road also jump out through queued cars and near misses occur constantly. Accidents have also occurred due to poor vision.*

Independent Traffic Consultant's Comment:

- The RTA objects to the current access arrangements on Merriville Road to McDonalds and the Woolworths Service Centre and has requested that a median be constructed between Windsor Road and the proposed development access roundabout. This is a pre existing condition and is not a consequence of the current DA application.
- Should a median be constructed, access to McDonalds and the service centre will only be available from Merriville Road by performing a U-turn movement at the proposed development roundabout. Modelling suggests that such action will not deteriorate the operational performance of the roundabout which should still achieve a satisfactory level of service.

Planning Comment:

- The traffic modelling undertaken by both the applicant and Council indicates that the proposed development will not cause an unreasonable increase in traffic, and that only minor additional delays (1-5 seconds) will be experienced at the new roundabout and Merriville Road/Windsor Road intersection.
- The McDonalds Restaurant and Woolworths Service Station currently operate under conditions of development consent that were issued some years ago. Any proposal to erect a median on Merriville Road and alter the existing access arrangements will therefore be dealt with separately, at which time McDonalds, Woolworths and any other affected parties will be consulted directly. To address this matter, Council's Traffic and Engineering Sections have recommended that a central median be provided in Merriville Road easterly from the proposed roundabout across the full frontage of the site only. Construction of the median, however, is not to proceed until separate consent is obtained from Council, all necessary public consultation has been undertaken, and arrangements have been made for the full construction of a median to Windsor Road. Where construction is delayed, the work may be bonded or a contribution may be paid by the developer to Council to cover the cost of the works. This matter has been addressed via a suitable **condition** of consent.
- It should be noted, however, that the objections raised are existing traffic management issues that will not be further impacted by the proposed

development. The proposed new roundabout will actually assist patrons turning right into/out of the Ettamogah Hotel, and will eliminate this existing traffic conflict. The new roundabout will also provide an alternate means for westbound patrons wishing to access the McDonalds Restaurant and Woolworths Service Station. It is also likely to help provide breaks in the flow of traffic on Merriville Road thereby allowing vehicles to turn right out of the McDonalds Restaurant and Woolworth Service Station access driveway with a far greater degree of safety.

- viii. *Accidents regularly occur at this part of Merriville Road. This section of road is in the top 5 black spots in the QHLAC, and is one of the most dangerous intersections in the north-west.*

Independent Traffic Consultant's Comment:

- The statement that the intersection (Windsor Road and Merriville Road intersection) is one of the most dangerous should be addressed by the RTA as Windsor Road is a state road. This matter is beyond the scope of this current DA and cannot be conditioned on consent.

Planning Comment:

- As addressed by the comments above, the traffic modelling undertaken by both the applicant and Council indicates that the proposed development will not cause an unreasonable increase in traffic. The proposed new roundabout will also assist in managing some of the existing traffic issues in Merriville Road, and therefore should reduce the potential for any accidents in this part of Merriville Road.
- The DA was referred to the Quakers Hill Police Local Area Command and the Roads & Traffic Authority (RTA) as part of the assessment process. While the Police did raise concerns in relation to the anticipated volume of traffic to be generated by the proposal, they did not provide any comments or evidence to support this statement. Similarly, the RTA did not provide any comments in relation to the accident history of the Merriville Road/Windsor Road intersection. Instead the RTA advised in their correspondence dated 21 January 2011 that they have no objection to the proposal in its amended form, subject to appropriate conditions including a condition requiring that the right turn lane on Windsor Road be lengthened by an additional 50 metres at full cost to the developer.

- ix. *The traffic will increase the risk of accidents to both vehicles and pedestrians.*

Independent Traffic Consultant's Comment:

- While the law of averages would suggest with an increase in vehicle movements and pedestrian activity the potential for conflict will increase, there is no supporting evidence in the traffic report prepared by Vaga Traffic Planning (the applicant's traffic consultant) to indicate this statement is true. Provision will need to be made for the safe movement of pedestrians and will need to be addressed as a condition of any consent.

Planning Comment:

- All emerging suburbs generate additional traffic. In this area, however, the majority of any traffic increase will be from a result of the growth of The Ponds and the surrounding suburbs rather than the proposed mixed-use development.
- Pedestrians will be catered for by way of the introduction of a "refuge" crossing at the roundabout and additional signage to direct pedestrians to the "controlled" intersection at Windsor/Merriville Road. These matters will be addressed as suitable **conditions** of any consent granted.
- x. *Local traffic already finds it difficult to turn right onto Merriville Road from Manor Street. With additional traffic, impatience and risk taking to turn onto Merriville Road, accidents will occur.*

Independent Traffic Consultant's Comment:

- The movement of vehicles to and from Manor Street is unrelated to the proposed development. The reported vehicle generation, associated with the proposed development, which will pass Manor Street is 14 in the AM peak and 10 in the PM peak, which should have minimal impact on traffic movements at Manor Street.

Planning Comment:

- Access out of Manor Street is an existing issue and has no relation to the proposed development. The provision of a new roundabout at the entry to the development site, however, will help to inject "breaks" into the traffic flow which in-turn will allow a much improved opportunity for vehicles to turn right onto Merriville Road.
- xi. *Traffic is often banked up along Windsor Road, preventing traffic from turning into Merriville Road. Traffic waiting to turn right into Merriville Road from Windsor Road already encroaches into one of the main stream lanes, which holds up traffic even further. If the development is approved, this problem could increase significantly.*

Independent Traffic Consultant's Comment:

- The RTA has requested an extension of the right turn bay in Windsor Road to accommodate any increase in right turn volumes with the development. Any increase in length of the right turn bay, should the development not go ahead, would need to be addressed by the RTA (now RMS).

Planning Comment:

- This comment suggests that traffic often queues through the intersection thereby preventing right hand or left hand turns into Merriville Road. Given Windsor Road is a RMS (former RTA) controlled road, this issue would need to be addressed by the RMS.
- The applicant has provided modelling that indicates that the additional traffic turning right into Merriville Road from Windsor Road is expected to be less than 20vph (i.e. less than 1 car per cycle). The increase in queue length in the right-turn bay would therefore be only 1 passenger car unit (i.e. 6 metres). The applicant has indicated that although the request for a 50 metre long extension of the right-turn storage bay appears to be unwarranted, no objections are raised

to undertaking the works to the RTA's requirements. This matter will be addressed as a **condition** of any consent granted. The required extension will provide the relief required to satisfy any traffic "hold-ups" at the intersection.

- xii. *The shops will increase traffic flows and will attract residents from outside the local area.*

Independent Traffic Consultant's Comment:

- The shops will generate vehicular traffic but the anticipated generation of 103vph (for both residential and commercial/retail traffic), is not considered excessive. The shops may attract non local patrons, however, the extent of trip deviation necessary to access the proposed shops is generally considered to be a deterrent to casual patronage.

Planning Comment:

- To determine the potential traffic generation of the development proposal, a review of the Road and Traffic Authority's publication *Guide to Traffic Generating Developments, Section 3 – Landuse Traffic Generation (October 2002)* was undertaken. The RTA's Guidelines are based on extensive surveys of a wide range of land uses and nominates the following traffic generation rates which are applicable to the development proposal:
 - Commercial Premises - 2.0 peak hour vehicle trips per 100sq.m GFA; and
 - High Density Residential Flat Buildings in Sub-Regional Centres – 0.29 peak hour vehicle trips/dwelling.
 - The RTA Guidelines do not nominate a traffic generation rate for small, local shops, referring only to major regional shopping centres incorporating supermarkets and department stores. For the purpose of this assessment, the traffic generation rate of 2.0 peak hour vehicle trips/100sq.m GFA nominated for commercial premises has been adopted in respect of the retail component of the development proposal.
 - Application of the above traffic generation rates to the commercial and residential components of the development proposal yields a traffic generation potential of approximately 103 vehicle trips per hour during commuter peak periods. It has been concluded from the applicant's traffic assessment and Council's own assessments that 103 vehicle trips per hour will not have a significant impact on the existing road network.
 - The proposed development proposes 805sq.m of retail development and 1,338 sq.m of commercial development. The number and size of the commercial/retail tenancies is consistent in scale to a local neighbourhood centre and is not considered sufficient to cause traffic related problems.
- xiii. *The existing unit buildings have already developed the area to the point of saturation.*

Independent Traffic Consultant's Comment:

- The current vehicle numbers in Merriville Road provide considerable spare capacity, as prescribed by AUSTRROADS guidelines, before saturation will be

achieved. The guidelines would suggest that each lane is capable of sustaining in excess of 830vph.

Planning Comment:

- As part of the traffic study undertaken by Varga Traffic Planning, peak period traffic surveys were undertaken to provide an indication of the existing traffic conditions on the local road network. The traffic surveys revealed that 2-way traffic flows in Merriville Road is typically in the order of 900 vehicles per hour during the morning peak period and 1,200 vehicles per hour during the afternoon peak period.
- Using the INTANAL program (which is widely used by the RTA) it was revealed that the Windsor Road and Merriville Road signalised intersection currently operates at Level of Service “B” under the existing traffic demands with total average vehicle delays in the order of 20 to 25 seconds per vehicle.
- Under the projected future traffic demands expected to be generated by the development proposal, the Windsor Road and Merriville Road intersection will continue to operate at Level of Service “B”, with increases in average vehicle delays of less than 1 second per vehicle.
- Council’s own independent traffic modelling confirms that the proposed development will not have any appreciable effect on the operational performance of the adjacent road network. Based on the above, it is concluded that the local road network can accommodate the proposed development.
- The applicant has also advised that the demand for residential unit accommodation is very strong and as such, there is no perceived "saturation" point. The applicant has advised that the development would not occur if there is no demand.

(g) Pedestrians & Bus Zone

- No provision has been made for the bus stops, mail zone or the right hand turn movement out of the McDonalds/Woolworths Service Station. There are also no suitable pedestrian crossings or safe points to cross Merriville Road.*

Independent Traffic Consultant’s Comment:

- The location of bus stops and post boxes in close proximity of the development will be reassessed and located accordingly once a determination has been made on the development. Council may recommend that the developer relocate or contribute to the relocation by others, should relocation be considered necessary.
- Provision will need to be made for the safe movement of pedestrians and Council will provide such a condition in close proximity to the proposed development, should consent be given to the application. The current pedestrian crossing on Merriville Road at Perfection Avenue may require further enhancement by introducing zig-zag approach markings, a speed reduction, etc. Such actions, however, would need to be addressed separately to the current DA and tabled at the Regional Traffic Committee Meeting.

- The RTA objects to the current access arrangements on Merriville Road to McDonalds and the Woolworths Service Centre and has requested a median be constructed between Windsor Road and the proposed development access roundabout.

Planning Comment:

- The location of the bus stops and post box will be determined when preparing the final construction drawings. No issues are foreseen with the relocation of the bus stop currently located in close proximity to the proposed roundabout. Any decision on relocation, however, should involve input from the bus operators. Generally, the consideration of post box locations will require appreciation of any proposed parking restrictions and the lane configuration on Merriville Road. It is recommended that a suitable **condition** be imposed requiring that these matters be addressed prior to the release of any Construction Certificate.
 - In addition to the existing controlled traffic light intersection at Windsor Road, a pedestrian "refuge" crossing will be provided within the new roundabout located at the entry to the development site. Final details will be required prior to release of any Construction Certificate. New and additional signage to direct pedestrians to the traffic light controlled intersection at Windsor Road will also be provided. Suitable **conditions** will be imposed on any consent to address these matters.
 - The McDonalds Restaurant and Woolworths Service Station currently operate under conditions of development consent that were issued some years ago. Any proposal to erect a median on Merriville Road and alter the existing access arrangements is considered to be outside the scope of this Application. Given that this matter cannot simply be addressed as a condition on any consent granted, Council's Manager Transport and City Projects has indicated that this matter would need to be dealt with separately.
 - The proposed new roundabout, however, will provide an alternate means for westbound patrons wishing to access the McDonalds Restaurant and Woolworths Service Station. It will also help to provide breaks in the flow of traffic on Merriville Road thereby allowing vehicles to turn right out of the McDonalds Restaurant and Woolworth Service Station access driveway with a far greater degree of safety.
- ii. *Existing traffic conditions make it very difficult to cross Merriville Road and at the Vinegar Hill Road/Perfection Avenue roundabout to reach the local primary schools. There are significant safety concerns for the school children. One child has already been lost due to a road accident.*

Independent Traffic Consultant's Comment:

- Pedestrian safety is of paramount concern on the road network and with the increasing traffic volumes on Merriville Road (e.g. from the development of The Ponds Estate), Council is currently addressing the need for safe road crossings. However, this matter is beyond the scope of this current DA and cannot be conditioned on consent. The current pedestrian crossing on Merriville Road at Perfection Avenue may require further enhancement by introducing zig-zag approach markings, a speed reduction, etc. Such actions, however, would need

to be addressed separately to the current DA and tabled at the Regional Traffic Committee Meeting.

Planning Comment:

- The proposal provides for the addition of a "refuge" crossing within the proposed new Merriville Road roundabout. The additional crossing will help to improve the current situation. Other issues relating to Vinegar Hill Road and Perfection Avenue are outside the scope of this Application and therefore require separate consideration.
- iii. *There are safety concerns for the school children and adults who walk to/from the Windsor Road T-way to catch buses. The proposed development will make it more dangerous for children walking to/from school or getting off the school buses opposite the site, with the additional vehicles and the commercial vehicles on the already congested roads.*

Independent Traffic Consultant's Comment:

- Pedestrian safety is of paramount concern on the road network and with the increasing traffic volumes on Merriville Road, Council is currently addressing the need for safe road crossings. This current pedestrian state on Merriville Road, in close proximity to the development, is exacerbated by the presence of commuter parking for the transitway on Windsor Road. Adequate pedestrian provision will certainly be **conditioned** by Council should consent be given to the current DA, and the removal of commuter parking in Merriville Road will require consideration. However, the crossing of Windsor Road to access the transitway is beyond the scope of the current DA. Council would need to make representation to the RTA to progress any action at the intersection of Windsor Road and Merriville Road.

Planning Comment:

- As indicated above, an existing signalised pedestrian crossing is provided at the intersection at Windsor Road. The signalised crossing is provided to assist pedestrians to cross the road safely. Consideration of any alternate pedestrian crossings (e.g. overbridge or underpass) fall outside the scope of this DA and would be a matter for the RMS to consider given Windsor Road is a state controlled road.
- School buses are fitted with flashing warning lights which are activated at the time children are getting on and off buses. The warning lights alert motorists in the vicinity of the bus to the possibility of children on the road. On busy or congested road vehicle speeds should already be low, but if not the warning lights alert motorists to adjust their speed accordingly.
- To further assist pedestrians and school children in the vicinity of the development site, a pedestrian "refuge" crossing will be provided within the new roundabout on Merriville Road. Final details of the refuge will be required prior to release of any Construction Certificate, and will be required to be approved by Council's Traffic Management Section. It is proposed that signage will also be provided to direct pedestrians to the traffic light controlled intersection at Windsor Road. Suitable **conditions** will be imposed on any consent to address these matters.

- As indicated by the independent traffic consultant, the current pedestrian situation is exacerbated by the presence of commuter parking in Merriville Road. While the issue is not significantly detrimental at this time, Road Delay Solutions have recommended that this issue be monitored by Council and if necessary impose parking restrictions along Merriville Road. It has been pointed out, however, that investigations into the impact of the parking restrictions would need to be assessed as any such regulatory action may force commuters to find alternative residential on-street parking within the precinct which in turn may cause amenity impacts for residents.
- iv. *The speed limit in the area should be reduced to 20km/hr because it is so dangerous to cross the roads.*

Independent Traffic Consultant's Comment:

- Speed limits and regulations are developed to supplement the judgement of both motorists and pedestrians in determining if speeds are considered reasonable and proper for a particular roadway environment. Speed limits are imposed to promote better traffic flow and road safety. However, should speed limits be perceived as unreasonable they will be disobeyed by motorists and fail to achieve their desired function. Enforcement of slow speed restrictions is also a matter of concern, given that without enforcement, they are quite often disobeyed. Speed limits require diligent study of the current roadway and traffic conditions before consideration of any change. Both the pedestrian and vehicle generations proposed by the current DA would not appear to warrant any such consideration of change to speed limits, at this time. Rather, the existing state of the road environment may require review by Council and key stakeholders outside the scope of the current development application.

Planning Comment:

- Merriville Road is already a 50km/h local road. Both the pedestrian and vehicle generations proposed by the current DA would not appear to warrant a change to the existing speed limit at this time. Any proposal to change the speed limit would therefore fall outside the scope of this Application

(h) Parking Areas

- i. *The development provides inadequate on-site parking. Every unit will have a minimum of 2 vehicles. The extra cars will therefore park in the surrounding narrow streets, making the streets even more congested. There is already inadequate parking on Merriville Road. The T-Way does not provide commuter parking, and as such Merriville Road is parked out on both sides by commuters using the "bullet bus" service.*

Independent Traffic Consultant's Comment:

- The proposed on-site parking outlined in the DA meets both Council's DCP and RTA guidelines. The intrusion of on-street parking is a consequence of many factors. Generally, on-street parking currently, in the vicinity of the proposed development, can be attributed to commuter parking. The consideration of timed parking restrictions can effectively reduce the incidence of long term parking while bans can eliminate on-street parking. Such action, however, would require a study of the impacts and the effects on the surrounding local roads as it

is found that such restrictions simply relocate the incidence of on-street parking to adjacent streets.

Planning Comment:

- Based on Council's DCP requirements the proposed development generates the need for 377 car parking spaces (i.e. 226 resident car spaces, 80 visitor car spaces, 67 retail/commercial car spaces and 4 courier spaces). By way of comparison, the RTA's publication *Guide to Traffic Generating Developments, Section 5 – Parking Requirements for Specific Land Uses* requires that the proposed development be provide with approximately 300 car parking spaces.
 - The proposed development provides for a total of 406 car parking spaces (i.e. 397 basement car spaces and 9 ground level car spaces) and therefore well exceeds both Council's minimum parking requirements and the RTA Guidelines. It has therefore been determined that the proposed development provides adequate on-site parking.
 - The issue of inadequate commuter parking for the North-Western transitway is a matter for the State Government to address. Council, however, recognises that the presence of commuter parking in Merriville Road is something that must be monitored. While the issue is not significantly detrimental at this time, it has been recommended that if necessary in the future, parking restrictions should be imposed along Merriville Road. It has been pointed out, however, that investigations into the impact of the parking restrictions would need to be assessed as any such regulatory action may force commuters to find alternative residential on-street parking within the precinct which in turn may cause amenity impacts for residents.
- ii. *During hotel functions there is currently no parking available along Merriville Road. Where will visitors to the development park?*

Independent Traffic Consultant's Comment:

- The proposed on-site parking outlined in the DA meets both Council's DCP and RTA guidelines.

Planning Comment:

- Based on Council's DCP requirements the proposed development generates the need for 377 car parking spaces. This includes 80 visitor car parking spaces. By way of comparison, the RTA's publication *Guide to Traffic Generating Developments, Section 5 – Parking Requirements for Specific Land Uses* requires that the proposed development be provide with approximately 300 car parking spaces.
 - Given the proposed development provides for a total of 406 car parking spaces, it has been determined that the proposed development provides adequate on-site parking for both residents and visitors.
 - It is considered that it is the responsibility of the Ettamogah Hotel to manage parking during "function" times.
- iii. *On-street parking in the local streets is already an issue. Often the streets are reduced to a single travel lane because of the number of cars parking on the*

street from the existing units. This is a serious safety issue, as drivers are required to reverse down roads, to move into a side street or someone's driveway to let another car through. The Quakers Hill Police Local Area Command have also commented on the heavy parking congestion on the local residential streets as a result of the 4 storey units. On street parking on both sides of the street, then reduces the roads to a single traffic lane which is especially difficult for emergency vehicles (Police, Ambulance and Fire Services). A lack of on-site parking will place a great burden upon existing residential streets and adjoining retail premises, and will increase risk factors to pedestrians and children in the area.

Independent Traffic Consultant's Comment:

- The proposed on-site parking outlined in the DA meets both Council's DCP and RTA guidelines. The intrusion of on-street parking is a consequence of many factors. Generally, on-street parking currently, in the vicinity of the proposed development, can be attributed to commuter parking. The consideration of timed parking restrictions can effectively reduce the incidence of long term parking while bans can eliminate on-street parking. Such action, however, would require a study of the impacts and the effects on the surrounding local roads as it is found that such restrictions simply relocate the incidence of on-street parking to adjacent streets.

Planning Comment:

- As discussed under Section 13.4(h)(i) above, it has been determined that the proposed development provides adequate on-site parking. It is therefore unlikely that the existing on-street parking problems will be exacerbated by the proposed development.
 - The independent traffic consultant has indicated that the lack of on-street parking in the vicinity of the site can be attributed to commuters accessing the North-Western transitway. The issue of inadequate commuter parking associated with the transitway is a matter for the State Government to address. Council, however, recognises that the presence of commuter parking in Merriville Road is something that must be monitored. While the issue is not significantly detrimental at this time, it has been recommended that if necessary in the future, parking restrictions should be imposed along Merriville Road. It has been pointed out, however, that investigations into the impact of the parking restrictions would need to be assessed as any such regulatory action may force commuters to find alternative residential on-street parking within the precinct which in turn may cause amenity impacts for residents.
 - Existing issues regarding difficult for emergency vehicles (Police, Ambulance and Fire Services) is deemed to be outside the scope of this Application. This matter would need to be separately monitored and managed by Council and the emergency services management groups, and if appropriate on-street parking restrictions would need to be applied.
- iv. *The parked cars block resident's driveways. The parked cars also make it dangerous for residents leaving their driveways, for coming out of Manor Street, for vehicles approaching the lights, and vehicles leaving the McDonalds.*

Independent Traffic Consultant's Comment:

- The proposed on-site parking outlined in the DA meets both Council's DCP and RTA guidelines. The intrusion of on-street parking is a consequence of many factors. Generally, on-street parking currently, in the vicinity of the proposed development, can be attributed to commuter parking. The consideration of timed parking restrictions can effectively reduce the incidence of long term parking while bans can eliminate on-street parking. Such action however, would require a study of the impacts and the effects on the surrounding local roads as it is found that such restrictions simply relocate the incidence of on-street parking to adjacent streets.
- The RTA objects to the current access arrangements on Merriville Road to McDonalds and the Woolworths Service Centre and has requested a median be constructed between Windsor Road and the proposed development access roundabout

Planning Comment:

- As discussed under Section 13.4(h)(i) above, it has been determined that the proposed development provides adequate on-site parking. It is therefore unlikely that the existing on-street parking problems will be exacerbated by the proposed development. It has also been determined that many of the existing on-street parking problems can be attributed to commuters associated with the North-Western transitway and therefore is beyond the scope of this DA.
 - In accordance with the recommendations of the RTA, "No Stopping" restrictions will be imposed along the site's frontage, extending to the existing restrictions on the approach to Windsor Road. As such, there will be no on-street parked vehicles to obscure motorists view when exiting the McDonald's access driveway on Merriville Road.
- v. *The shop fronts along Merriville Road will create congestion as people try to park along the single lane road. The Ettamogah Hotel is also concerned that the general public may utilise the hotel's car park to access the proposed retail/commercial tenancies.*

Independent Traffic Consultant's Comment:

- The proposed on-site parking outlined in the DA meets both Council's DCP and RTA guidelines. The intrusion of on-street parking is a consequence of many factors. Generally, on-street parking currently, in the vicinity of the proposed development, can be attributed to commuter parking. The consideration of timed parking restrictions can effectively reduce the incidence of long term parking while bans can eliminate on-street parking. Such action however, would require a study of the impacts and the effects on the surrounding local roads as it is found that such restrictions simply relocate the incidence of on-street parking to adjacent streets.

Planning Comment:

- In accordance with the recommendations of the RTA, "No Stopping" restrictions will be imposed along the site's frontage. As such, vehicles will not be permitted to stop outside the shopfronts.

- The development provides adequate on-site parking in excess of Council's minimum DCP requirements. Appropriate signage will be displayed to direct customers to the on-site parking which is conveniently located immediately below the retail/commercial tenancies. A suitable **condition** will be imposed on any consent granted to address all signage requirements. It is considered unlikely that customers will park within the Ettamogah Hotel, when more convenient parking is available on-site.
- vi. *Ramps and parking areas could be desirable areas for skateboarders and bike riders. Conflicts with vehicular movements could lead to potential injuries or death.*

Planning Comment:

- Skateboard and bike riding within the public and communal areas of the site will be prohibited. Signs and CCTV will be installed where necessary to discourage these activities, and security guards/the Building Manager will enforce a strict no riding policy. In this regard, any persons caught disobeying such direction will be escorted from the premises immediately. Boom gates and speed-humps will also be installed on all ramps leading to the basement car parks, to discourage any skateboard/bike activity.
- (i) **Loading & Unloading**
- i. *There is nowhere for trucks to load and unload to the shops, which will create more traffic problems. The Quakers Hill Police Local Area Command also raise concerns given there are only 2 loading bays for the retail/commercial premises. Delivery vehicles may therefore park in adjacent commercial premises or within the basement. Furthermore, if the 2 loading bays are utilised a truck may attempt to access the basement car park only to find that there are insufficient clearance heights. Trucks would therefore be required to reverse out causing potential traffic conflicts.*

Planning Comment:

- Given the size and nature of the commercial/retail tenancies, the majority of deliveries will be undertaken by light commercial vehicles such as white vans, utilities and the like. Designated loading/unloading bays have been provided within the basement area of each building to accommodate these small delivery vehicles. In addition, 2 truck loading/unloading bays have been provided at the ground level. The light commercial vehicles, however, will not be permitted to utilise the 2 ground level loading bays. These loading/unloading areas have been redesigned to accommodate 12.5m long rigid trucks, and will be used solely by large delivery vehicles including removalist trucks associated with the residential units.
- Appropriate signage and operating procedures will be required to ensure that all loading/unloading activities associated with the development occur in the designated areas. Signage will also be displayed to advise of clearance heights and access restrictions for large vehicles. Strict **conditions** will be imposed on any consent granted to address loading/unloading operations and the associated signage requirements. A further **condition** will also be imposed requiring that all loading/unloading activities, associated with the commercial/retail tenancies,

occur outside the core business trading hours to help eliminate any potential conflict with customers and residents. Given that the majority of deliveries will be undertaken in the basement by small delivery vans, it is not anticipated that the out-of-hour delivery activities will impact on the amenity of the future residents of the development.

- ii. *The internal roundabout will be difficult for large vehicles to negotiate. The width, together with a central water feature, will prevent vehicles from being able to mount the roundabout and perform U-turns.*

Planning Comment:

- The internal roundabout has been redesigned to accommodate 12.5m long rigid trucks and will permit vehicles to perform a U-turn without any conflict with the central design features.

(j) Public Transport

- i. *The proposal will cripple the already inadequate local public transport system. Our buses are already overloaded and with the increase in numbers, the buses will not be able to handle the demand causing increased frustrations. A lack of adequate public transport (i.e. north-west rail link) already causes problems, without the proposed extra residents.*

Independent Traffic Consultant's Comment:

- Any such claims will require considerable study of the current public transport network. However, the vehicle generation and proposed public transport mode share proposed by the development of 198 residential units is not considered excessive and will not have a significant impact on the capacity of the public transport network. It is projected the proposed DA will generate 103 vehicle trips per hour with only 12 public transport trips per hour envisaged.

Planning Comment:

- There are current plans in place to expand the public transport system throughout the North-West Growth Centre. In the long term, the provision of the north/west railway and improved bus services will help satisfy the public transport demands.

(k) Public Facilities & Utilities

- i. *The increase in population will put extra pressure on local amenities and facilities which are already lacking, such as schools, open space, parks, sporting fields and children's playgrounds. Instead of feeding developer greed, the Council should try and nurture the community by providing a community garden, a bike track, parkland or children's playground. The site should be used for something like a children's play palace (Eg. 'Lollipops'), a child care centre or a medical centre.*

Planning Comment:

- Section 94 of the EP& Act 1979 permits Council to require developers to pay monetary contributions, provide capital works (works in kind), and/or dedicate land in order to help fund the increased demand for public amenities and public

services generated through their developments. The subject site is located within the Parklea Release Area. Under the Parklea Release Area (PRA) Contribution Plan (CP), Section 94 contributions are levied for open space, community facilities, trunk drainage, major roads and local roads.

- Under the CP it has been calculated that the proposed development will generate an increase in population of 488.7 persons. If approved, the developer will therefore be required to pay substantial Section 94 Contributions (i.e. a base figure of over \$3M as indicated under Section 8.2, point j. of this report). The base figure has been based on the increase in population and the developable area of the site, and will be indexed at the time of payment. This money will then be used to directly fund services and facilities for the local community. It should be noted, however, that the CP does not cover facilities such as school, which are allocated and funded by State Government.
 - The subject site is zoned 3(b) Special Business and therefore has not been identified for public recreation or community purposes. An open space study (Parklea release Area Open Space Study 1990) and community facilities study (Parklea Release Area – Community Facilities Assessment – March 1009), however, have been undertaken by Council. The types of community and recreation facilities, and the number of items required by the incoming population in the release area were identified as part of these Studies. Some of the facilities identified for the PRA include neighbourhood centres, long day care centres, pre-schools, a branch library and leisure centre. Included in the cost of providing open space, recreation and community facilities is also the cost of acquiring the land required to provide these facilities, constructing the half width road fronting the proposed reserves and facilities, and the cost of cycle facilities in or adjacent to these areas.
 - As part of these studies, Council identified the best locations for the required community and recreation facilities. The identified sites have been specifically zoned for their intended use. By zoning the land, the incoming population can be aware at the time they purchase their property that community and recreation facilities will be provided on the nominated sites. The location and identification of open space areas and community facilities are contained within Appendix “E” and “F” of Section 94 Contribution Plan No. 5 Parklea Release Area.
 - While the zoning of the subject site would allow private recreation facilities (e.g. “Lollipops”) with development consent, Council can only assess the development proposal lodged by the private land owner. The proposed commercial/retail floor space, however, is likely to be occupied by uses such as a butcher, bakery, greengrocer, chemist, newsagent, dry cleaner, hairdresser, real estate agent, professional services (e.g. doctor, dentist, accountant, etc), take-away food shops and cafes/restaurants which will provide benefit to the local community.
- ii. *The local primary school is operating at full capacity and would be unable to cope with any increase in student population. The local schools can’t even provide for the existing residents and are already overcrowded. The school already has 12 demountable buildings.*

Planning Comment:

- As indicated above, this is a State Government matter that is outside the scope of the proposal. The applicant has indicated that if this is an existing problem, local residents should lobby their state parliament member through the Kellyville Ridge Community Association.
- iii. *There is currently no high school in Kellyville Ridge. Glenwood High School is already over populated and doesn't have enough buildings to support the rising number of students. Any further pressure on the existing high school will result in poor education and social problems for students.*

Planning Comment:

- As indicated above, this is a State Government matter that is outside the scope of the proposal. The applicant has indicated that if this is an existing problem, the Kellyville Ridge Community Association should lobby the state government.
- iv. *Resources such as water, sewer and other infrastructure will be further stretched.*

Planning Comment:

- In response to the notification process Sydney Water provided standard information advising that water, wastewater and recycled water services in the area have the capacity to service the proposed development. Standard **conditions** will be imposed on any consent granted to ensure that a Water Servicing Coordinator is engaged to ensure the applicant makes satisfactory arrangements for the provision of these services by obtaining a Section 73 Certificate and manage the servicing aspects of the development. Standard **conditions** will also be imposed on any consent requiring that the developer liaise with the other service providers (e.g. phone, gas and electricity). It is noted, however, that provision has already been made for a new electricity sub-station in the front south-west corner of the site.
- As indicated in point 13.4(k)i. above, the developer will also be required to pay substantial Section 94 contributions which will be used to fund open space, community facilities, trunk drainage, major roads and local roads in the Parklea Release Area.

(l) Economic Impact

- i. *The development will have a negative economic impact on other like businesses in the locality. Local businesses will suffer bankruptcy.*

Planning Comment:

- As discussed under Section 8.3, point (a) of this report, the land uses developed on the subject 3(b) zoned site must support and be of a scale and nature that does not directly compete with the Rouse Hill Town Centre. To ensure this occurs, the 3(b) zone is designated to accommodate uses such as commercial offices, light industrial activities and business support services. Only limited retailing activities are permitted in the 3(b) zone. In this regard, retail development in the 3(b) zone is limited to shops which service the daily convenience needs of workers and residents in the area, and shops which specialise in bulky goods.

- While a Planning Proposal was adopted by Council earlier this year to insert a site-specific clause into Clause 41A of BLEP 1988 to permit shops on the subject site, this was “subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m” (see Sections 4.8-4.10 and 6.3(k) of this report). The purpose of the LEP amendment was to permit “general retailing” over the site up to a maximum floor area of 2,000sq.m.
 - The proposed mixed-use development proposes 1,338sq.m of commercial floor space and 805sq.m of retail floor space. The proposed scale of the development is considered to be consistent with a “small neighbourhood centre” and therefore will serve the daily convenience needs of the surrounding neighbourhood catchment and people working in the area.
 - As part of the development application, the applicant also submitted an Economic Statement in relation to the commercial/retail component of the development. The Economic Statement was prepared by Byrnes PDM and is summarised under Section 8.3, point (c) of this report. The report concludes that the proposed small neighbourhood centre will not have an adverse economic impact on the Rouse Hill Town Centre or the Stanhope District Centre, and will contribute positively to the services in the area and meet a need for daily convenience shopping of the existing and growing Kellyville Ridge population.
- ii. *The Rouse Hill Town Centre and Stanhope Shopping Village already provides more than adequate retail.*

Planning Comment:

- The Economic Statement, prepared by Byrnes PDM and summarised under Section 8.3, point (c) of this report, indicates that given the size and nature of the proposal the proposed development will cater for the daily convenience needs of the neighbourhood and will not compete with the Rouse Hill Town Centre or the Stanhope District Centre, where “top up” or “impulse” shopping is not the core purpose of the centre.
- Both the Rouse Hill Town Centre and the Stanhope District Centre, provide a wider range of retail services and therefore a more traditional shopping experience. The proposed development provides limited floor space and will therefore serve the daily needs of residents and workers within the immediate area only.

(m) Bulk, Scale & Overdevelopment

- i. *The bulk and scale of the proposal is inappropriate and unacceptable in the proposed location, and out of character with nearby residential development. The existing area is low density. This matter has previously been considered by the Land & Environment Court in its consideration of the proposed Bulky Goods Retail Centre. In this regard, it was found that the bulk and scale of the Bulky Goods Retail Centre would overpower the adjoining single and 2-storey residential dwellings in Merriville Road and Clonmore Street, that the 11.5m high blank walls would provide unattractive views for residents and that the height, bulk and scale of the development would create an unacceptable impact on resident’s amenity.*

Planning Comment:

- Development Application No. 03-292 was lodged with Council for consideration of a large bulky goods retail centre on the subject site. The application was considered by Council at its meeting of 1 October 2003 and later refused on the grounds that it was inconsistent with the stated objectives and purpose of the 3(b) zone, Clause 34(a) of BLEP, Council's retail hierarchy, REP 19 and draft SEPP 66, and was likely to result in delay of the development of bulky goods retail outlets in the Mungerie Park Regional Centre (now Rouse Hill Town Centre). Furthermore, it was considered that the location of the site was inappropriate given that it was isolated from any other similar forms of development, adjoined low density residential development, and was prominently located at the entry to the residential estate. The proposed height, bulk and scale of the building were also considered to be out-of-character, monolithic and unsympathetic with adjoining and nearby low density residential properties. The development was therefore not considered to be in the public interest. This decision was later upheld by the NSW Land and Environment Court (L & E Court).
- It could be said that the previous proposal constituted what could loosely be termed as a "large box". The external facade was made up by large blank walls that lacked any articulation. This was further exacerbated by the height of the blank walls. A photomontage of the proposed bulky goods retail centre is included at **Attachment 11** of this report.
- The Kellyville Ridge Community Association (KRCA) has pointed out that while the Bulky Goods Retail Centre was not an attractive building, it did essentially meet the requirements of the DCP at 2 storeys and an overall height of 11.5m. Even so, the L & E Court still found that it would impose on the adjoining residential properties and have an adverse impact on the amenity of the area. Given the current proposal seeks approval for 4 large buildings approximately 19 metres in height (i.e. measured from the ground floor level to the top of the roof-top shade structures and lift shafts), the KRCA believes that the established views of the Court are reason alone to refuse the current DA.
- It should be noted that each application must be considered on its own individual merits, and that refusal of a previous development proposal on the grounds of bulk and scale does not warrant refusal of this current mixed-used high-rise development. Whilst the Court's determination provides some guidance as to how the issue should be given consideration and due weight, an assessment of the individual merits of the proposal must be undertaken.
- It is believed that the bulk and scale, and visual impacts upon adjoining and nearby residences are far less with this proposal. As discussed under Section 8.3, point 4.(d)ii., and Section 8.4, point (a)v. of this report, the development responds well to the existing surrounding development and has been designed to address overshadowing, privacy and amenity impacts on the adjoining residential properties.
- The ground floor level typically has an R.L of 46.70m and the floor level of the roof top terraces have an R.L of 62.40m. This means that the overall height of the development, when measured from the ground floor to the floor of the roof top terrace, is 15.7m. Although higher than the previous bulky goods proposal, the buildings step away from the adjoining residences and have significantly less visual impact on the residences. In this regard, the proposed development has a height ranging from 2 to 5 storeys. Development along the western edge of the

site has been limited to 2 storeys only and is of a comparable bulk and scale to the existing adjoining detached single and 2-storey dwelling houses. It is believed that a 2 storey height restriction along the western boundary also helps to significantly reduce the perceivable bulk and scale of the development when viewed from the existing residential dwellings. The upper levels step up to 5 storeys, but have been well setback from the western boundary. The 5 storey elements have also been setback from the Merriville Road frontage. Where the western edge adjoins Clonmore Street (i.e. across the road from land zoned 2(a) Residential), the proposal has been limited to a maximum height of 3 storeys.

- Along the northern, eastern and southern boundaries, the development is predominantly 5 storeys. Overall, the 5 storey height is considered appropriate having regard to the site being at the core of the local centre and predominantly surrounded by intense land uses, including 4-storey residential development, a Woolworths service station and McDonalds fast food restaurant which includes tall and prominent identification signage, and a large hotel establishment with a predominant 3-4 storey feature element on the opposite side of Merriville Road. Although located at the gateway to the Kellyville Ridge residential estate, the immediate area surrounding the site is not characterised by low density residential development but is of mixed use character.
 - Along the northern and western boundaries (i.e. adjoining the residential zoned land) the development is of a comparable bulk and scale to the existing adjoining development. This allows the proposal to fit in more sympathetically with its surroundings. The current development proposal has been also architecturally designed, and provides interesting facade treatments. The proposal has a well resolved building form and a high degree of architectural definition with a design that positively responds to the provisions of SEPP 65.
 - Unlike the Bulky Goods Retail Centre proposal, substantial architectural treatment has been incorporated into the proposed design. The extensive glazed facades along Merriville Road together with the balconies provided on each level of the building, help to reduce the bulk and scale of the design by emphasising the horizontal elements. The other building facades have also been visually divided into smaller elements by horizontals and verticals, helping to 'soften' the visual impact of the building and reduce the overall perceived bulk of the development. For these reasons, it is believed that the bulk and scale of the proposal is acceptable for this location.
- ii. *The proposal is a massive over development of the site, and would be heavily detrimental to the local community. The area will be severely over populated. In the original 'Safer By Design Evaluation' the Police LAC also advised that the development was too dense.*

Planning Comment:

- Since receiving the original comments from the Crime Prevention Officer at Quakers Hill LAC, the maximum height of the development has been decreased from 8 storeys to 5 storeys, and the number of units has been amended from 268 to 198. This is a decrease of 70 units (i.e. a decrease by 26%). It is believed that the amended proposal is more in keeping with the existing built environment (as discussed under Point 13.4(m)i. above) and with market expectations.

- As discussed throughout this report, residential flat buildings (RFB's) are a permissible form of development in the 3(b) zone with development consent. In the absence of any development controls for this form of development in the commercial zones outside the Blacktown CBD, the development has been assessed against the controls for an RFB in residential zones. Given that in residential areas the surrounding land uses are typically of a more sensitive nature than in commercial zones, it is considered that there would be no negative impacts in applying the residential controls to a commercial context.
 - Given the proposed development generally complies with the DCP requirements for RFBs in residential areas, especially in terms of height, setbacks, provision of open space, overshadowing and parking, it is considered that the proposal is not an overdevelopment of the site (see also comments under Section 13.14 point (m)iv. below). As indicated above, the developer will also be required to pay Section 94 monetary contributions in order to help fund the increased demand for public amenities and public services generated through their developments.
 - The current proposal for 17 retail/commercial tenancies and 198 residential units is also not considered excessive for a 1.358 hectare site or for the location of the site. In this regard, the site benefits from being located near established infrastructure such as the Rouse Hill Town Centre and the bus T-way along Windsor Road.
 - The north/west sector was designated some years ago as a growth area to support & supplement the housing demand as projected by both State & Federal Governments. The demand for housing in the area is high and as such, the proposal will support such demand without effecting the existing or planned growth in the area.
- iii. *The proposal will alter the existing streetscape. The developers are saying it will be an "iconic entrance" to Kellyville Ridge, but we already have the Ettamogah Hotel and McDonalds.*

Planning Comment:

- Currently the large site is overgrown and contains a derelict motel building. The proposed development will alter this existing streetscape by removing these undesirable elements and providing an architecturally designed building that will be located at the "gateway" to the suburb of Kellyville Ridge. The proposed development would support these "iconic" buildings and will add to the identity of the area.
- iv. *The development provides inadequate provision for open space.*

Planning Comment:

- In the absence of a FSR, building envelope or density control within BDCP 2006, full compliance with the common open space controls 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 for the site.

- Under the DCP for residential flat buildings, the proposed development is required be provided with a total of 7,930sq.m of common open space. The current proposal provides:
 - 3,316sq.m of common open space at the ground floor level (Note: This exceeds the minimum 3,172sq.m which must be provided at ground level);
 - 4,968sq.m of private balcony/terrace area, but given only 30% of the total common open space requirement can comprise of useable balconies/terraces, the balcony contribution to the open space is calculated to be 2,379sq.m;
 - 3,687sq.m of roof top open space, but given only 30% of the total common space requirement can comprise roof top open space, the roof terrace contribution to the open space is calculated to be 2,379sq.m.
- As such, the total amount of common open space provided as per the DCP requirement is calculated to be 8,074sq.m (i.e. 3,316sq.m + 2,379sq.m + 2,379sq.m). The common open space on site therefore exceeds the minimum requirement of the DCP by 144sq.m.
- The DCP also requires that at ground level there be a designated active area which is appropriately embellished with children's play equipment, gazebo, BBQ facility, seating, lighting and the like. To demonstrate compliance with this requirement, the applicant has submitted detailed landscape plans. The plans indicate that the common areas will be embellished with suitable plantings and landscape features which complement the height, scale, design and function of the development. The ground level common areas will also be provided with a range of recreation features including water features, permanent seating, sculpture gardens, gazebos, pergolas, bbq and raised planter boxes. The central courtyard space to Building 'B', located in the north-east portion of the site, will also be provided with a children's play area. Overall the proposed common open space areas are well designed, functional and easily accessible to all residents. The design of the common recreation areas are also believed to be conducive to indoor/outdoor use, and are appropriate for this form of development.

(n) **Design and Appearance**

- i. *The development will be an absolute eyesore. We already have far too many units with their gaudy colours.*

Planning Comment:

- There are some general rules to good design, which can be achieved through compliance with Council's DCPs. The architects explored a number of design options. The current proposal was considered the optimum design to balance both the existing built form and the expectations of the people who will occupy the completed buildings. The design of the development has taken into account that 3 very different land uses adjoin the common boundaries (i.e. commercial/retail to the east, high density residential to the north, and low density detached dwelling houses to the west). In this regard, the development has been limited to 2 storeys adjacent to the western boundary and 3 storeys at the Clonmore Street frontage. It is considered that the proposed site layout and

building design acknowledges the diverse character of the area and responds to this context in an appropriate manner.

- Substantial architectural treatment has been incorporated into the design to provide a development which is aesthetically pleasing. The extensive glazed facades along Merriville Road together with the balconies provided on each level of the building, help to reduce the bulk and scale of the design by emphasising the horizontal elements. Some vertical elements, such as blade walls, have also been used to help accentuate the overall identity of the building.
 - Curved building facades, cantilevered awnings, balconies and other design features have been used to highlight the entry into the site from Merriville Road. The curved corner elements help to 'soften' the building. A variety of shapes, material and colours have also been used to provide visual interest to the development. Along the northern and western boundaries, the development is of a comparable bulk and scale to the existing adjoining development, and helps the proposal to fit in more sympathetically with its surroundings.
 - The use of quality finishes will also add to the visual interest of the buildings. The materials and colours have been selected to give the buildings an identity, and to 'soften' the apparent bulk and scale of the development. A variety of materials will be used, including rendered and painted finishes for the facade walls, a combination of solid balustrades as well as glazed balustrade treatments, and Alucobond cladding for partial walls. Balcony balustrades are of various types and serve differing purposes. Painted and rendered solid walls work as compositional devices to divide facades, whilst the glass plate balustrades allow for maximum views.
 - The overall grey and colour white colour scheme, coupled with a large amount of glazing, will help give the proposal a modern look whilst not overpowering its surroundings. The feature colours will add interest and a sense of identity to the building. The development will also be complemented with soft landscaping, street trees, planter boxes, stencilled finished concrete surfaces, various pavement patterns and colours, and timber decks, adding to the overall aesthetics of the development.
- ii. *The historical value of Kellyville Ridge (Merriville Rise) will be lost in this ugly high-rise building.*

Planning Comment:

- This matter was referred to Council's Heritage Advisor for comment. As discussed under Section 8.2, point (c) of this report, Council's Heritage Advisor indicated that the nearest Heritage Item to the subject site is Merriville House and Gardens: State Heritage Item (SHI) 00091, which is located approximately 500 metres away on the corner of Cavenah and Eire Way. While the proposed development will not be visible from Merriville House and Gardens, an inspection of the site revealed that the ridge line and treescape, within which the SHI is located, is visible from Windsor Road.
- To address this matter, it was recommended that a Visual Assessment be carried out to determine whether the proposed development will impact on significant views to the Merriville House and Gardens treescape, and what measures (if any) are required to enable the views of the treescape indicating the location of

Merriville House to remain visible from Windsor Road and its intersection with Merriville Road.

- In response, the applicant undertook a visual inspection of the area. Comments in relation to the issues raised, together with a series of photographs of the housing forms immediately adjacent to the SHI and the view from the Windsor Road/Merriville Road intersection, were then submitted for Council's further consideration.
- Merriville House and Gardens is located over 500 metres from the Windsor Road/Merriville Road intersection. While the association between the naming of Merriville Road and Merriville House is recognised, the applicant indicated that it is difficult to understand the alleged significance of the "visual" link between Windsor Road and the treescape when the only direct view is from the middle of Windsor Road (i.e. when standing on the centre median). A visual inspection of the area also indicated that the McDonalds Restaurant, Woolworths Service Station and a number of residential flat buildings fronting Windsor Road significantly obstruct any view from Windsor Road towards the Merriville House and Gardens treescape. Given the view to the 'treescape' has also been compromised by the established development over both the immediate and localised area, the applicant believed that any modulation or reduction in height to the proposed development would "not" provide a better view to the tree-line. The topography of Kellyville Ridge, and in particular the contour between the proposed site and Merriville House, is such that even a single-level development over the land would block any direct view to the 'treescape'.
- To support the preservation of this significant historical link to the area, the applicant did however submit the following suggestions for Council's consideration:
 - The applicant install a plaque at the entry to the proposed Mixed-use Development indicating the location of Merriville House and its significance to the naming of Merriville Road;
 - The applicant provide a 'Tourist Information Board' within the proposed retail precinct of the proposed development providing details as to the significance of Merriville House, the Battle at Vinegar Hill and Windsor Road.
 - Give the proposed mixed-use development the name "Merriville Place" in recognition to the historical significance of its location.
- Council's Heritage Team Leader agreed that the visual link exists now only because the subject site is cleared, and it would be unreasonable to restrict development/reduce the overall height on this basis. It has been recommended, however, that the applicant's first 2 suggestions form **conditions** of any consent granted. It has also been requested that the 'Tourist Information Board' include details of Mungerie House which is a heritage item in The Hills Shire Local Government Area. Details of the suggested plaque and 'Tourist Information Board' will be required to be submitted to Council for separate approval, prior to the release of any Construction Certificate. This matter will be addressed as a **condition** of any consent granted. In terms of the third recommendation, Council's Heritage Team Leader is not supportive of naming the development

Merriville Place as it would confuse the fact that the site is located on Merriville Road (which is not the alignment of the original driveway into Merriville House).

(o) **Glare and Overshadowing**

- i. *The potential for overshadowing is immense. The proposed development will create shadows over the surrounding properties.*

Planning Comment:

- As discussed under Section 8.4, point xxvii. of this report, shadow diagrams showing the impact of the proposal on the subject site and on adjoining sites between 9.00am and 3.00pm on 21 June have been submitted with the Application. The shadow diagrams have been provided at hourly intervals, have been prepared by a qualified professional, have been based on survey information and include finished ground level details.
 - The shadow diagrams clearly demonstrate that there will be no adverse shadow impacts on any adjoining property. The shadows fall towards Merriville Road and as such, the residential flat building located to the north will not be overshadowed by the proposed development. The detached dwelling houses located adjacent to the western boundary will be partially affected by shadows at 9.00am on 21 June, but by 10.00am 100% of the neighbouring properties principle area of private open space will receive unrestricted solar access. The proposed development is therefore acceptable in terms of its overshadowing impact on neighbouring residential properties. The impact on the commercial properties adjacent to the eastern boundary is also minor. At 2.00pm the shadows are contained completely within the development site. It is only at 3.00pm that there is partially overshadowing of the adjoining commercial properties. A copy of the shadow diagrams can be found at **Attachment 2** of this report.
- ii. *The standard of residential amenity for future occupants is likely to be well below acceptable standards in terms of internal overshadowing of units.*

Planning Comment:

- The Residential Flat Design Code (RFDC) and Council's DCP both require that at least 70% of the units receive a minimum of 3 hours of direct sunlight between 9am and 3pm in midwinter. As discussed under Section 6.3 point g. of this report, the applicant has submitted information which demonstrates that 72% of the units will achieve the minimum 3 hours of direct sunlight between 9am and 3pm. The proposed development is therefore considered satisfactory in terms of solar access.
- iii. *The proposal may cause glare for passing motorists, therefore creating traffic hazards.*

Planning Comment:

- The applicant has indicated that where appropriate "anti-glare" glazing will be used to minimise any glare affect. A **condition** will also be imposed on any consent issued, stating that the reflectivity of the external glass used in the building must not exceed 20% reflectivity.

(p) **Noise**

- i. *The units will cause a lot more noise and will increase traffic noise. Delivery vehicles all hours of the night will also increase noise levels. Noise will echo throughout and from the development. The increase in noise will have a negative impact on the local area.*

Planning Comment:

- As part of the assessment process, the applicant was requested to submit an Acoustic Assessment to identify any likely noise generating activities from the proposed development that may impact on the future occupants of the development and the adjoining/nearby residents. The Assessment was also required to advise what measures should be adopted within the design of the development to reduce any noise impacts and therefore the likelihood of complaint. Noise generated from the commercial/retail tenancies, car movements, loading/unloading activities and from mechanical equipment were required to be considered as part of the assessment. The findings of the submitted Acoustic Report are discussed under Section 8.2, point (d) of this report.
- In terms of any noise impacts from within the development itself, the Assessment indicates that the main source of noise will be the mechanical plant. While plant selection for the development is unknown at this stage, it is anticipated that the mechanical ventilation/air-conditioning and refrigeration equipment would be required to operate late at night. As such, all equipment would need to be selected and positioned to ensure compliance with the DECCW's recommended "acceptable noise levels" (ANLs) for residential premises located in a "Suburban" area. Given background noise levels in the area are relatively high, the Acoustic Consultant believes that the criteria could be achieved through the use of conventional noise control methods (e.g. selection on the basis of quiet operation and where necessary, providing enclosures or localised barriers). The applicant has also indicated that mechanical plant could be located in the basement or adjacent the central core to minimise noise disturbance. This matter will be addressed via a **condition** of any development consent.
- It is anticipated that there will not be any unreasonable impacts on surrounding properties in terms of traffic noise or delivery vehicle noise. In this regard, the vehicular entry/exit access point to the development is located in the central part of the site directly opposite the Ettamogah Hotel, well away from adjoining properties. Vehicles are then directed to the basement car parking areas, thereby eliminating any potential noise impact on existing residents.
- 2 truck loading bays (i.e. designed to accommodate 12.5m long rigid trucks) are proposed at street level, on either side of the proposed internal road roundabout. It is intended that these loading bays will be used by large trucks only (e.g. commercial/retail delivery trucks and removalists), and will be clearly signposted accordingly. It is anticipated that the majority of deliveries to the small retail/commercial tenancies will be undertaken by light commercial vehicles and vans. These vehicles will access designated loading/unloading spaces in the basement car parks and will be undertaken after hours to eliminate any conflicts with customer vehicles. These light commercial vehicles will not be permitted to access the street level loading bays which will be specifically designated for large

vehicles. It should also be noted that the street level loading docks will also not be used by waste collection vehicles. In this regard, separate waste collection points have been nominated within each basement car park. Given that the majority of deliveries will be undertaken within the basement car park, it is anticipated that there will be very little noise impacts. Furthermore, it should be noted that the street level loading bays are well separated from any neighbouring properties. It is recommended, however, that a suitable **condition** be imposed on any consent to ensure that no late night deliveries are undertaken by large trucks in order to protect the amenity of the future on-site residents, especially those located immediately adjacent to the loading docks.

- Given the retail/commercial uses are located centrally within the development, it is anticipated that any noise impacts from these uses will be limited to the subject site. The submitted Acoustic Assessment indicates that the proposed commercial/retail hours of operation are 8am – 10pm seven (7) days per week. Given that the proposal is for a mixed-use development and that late night operations may have the potential to impact on the future residents of the development, it is recommended that trading till 10.00pm be limited to Thursday-Saturday nights only. On Sundays to Wednesdays it is recommended that all retail/commercial activities cease operations at 9.00pm. This matter will be addressed via a **condition** of any consent.
- While it is recognised that the existing adjoining residents will experience additional noise, it is believed that the noise impacts will not be unreasonable and will be typical of a residential area that permits high density housing.
- ii. *The side of our property directly faces the development. If a 5 storey development is built, our lounge room, kitchen, pergola, living areas and 1 bedroom will directly face the development. To reduce noise, especially from traffic and trucks in the loading bay, we would have to invest heavily in improved glazing of minimum acoustic rating of RW34 on all the windows mentioned.*

Planning Comment:

- While the maximum height of the development is 5 storeys, it should be noted that the upper levels have been well setback from the western boundary (adjoining the existing detached dwellings) to eliminate potential overlooking and amenity impacts. In this regard, level 3 has been setback a minimum of 11 metres (when measured from the boundary to the planter boxes) and levels 4 and 5 have been setback over 20 metres (when measured from the boundary to the roof top terraces).
- It is therefore anticipated that the main impact will be from the proposed 6 ground level and corresponding 2nd level units in Building “C”, which are located adjacent to and are orientated towards the living and outdoor private open spaces of the adjoining single storey and 2-storey dwelling. However, given that the units are setback 6 metres from the boundary, that 1.8m fencing and landscaping will be provided along the common boundary, and that the units will be used for residential purposes, it is anticipated that no unreasonable noise impacts will be experienced.
- The issue of traffic noise and noise associated with loading/unloading activities, is addressed under Point 13.4(p)i. above. Given that the loading bay is setback 35

metres from the common boundary, that large truck deliveries are likely to be infrequent, and that the loading docks will not be utilised late at night, it is unlikely that the existing adjoining residents will experience unreasonable noise impacts.

- It should be noted, however, that the applicant is seeking to provide a pedestrian pathway directly adjacent to the objector's property. This is to provide the local community pedestrian access to the site from Clonmore Street. Council Officers are concerned that pedestrian movements (especially late at night if patrons are returning from the Ettamogah Hotel) in this location could cause unnecessary disturbance to the occupants of the adjoining dwelling and therefore recommend that as a **condition** of any consent, the public pedestrian access point be closed/gated at 9.00pm each night. Details of the gates/barriers and who will be responsible for managing them will be required to be submitted for Council's separate approval prior to the release of any Building Construction Certificate, and will also be addressed as a **condition** of any consent granted.
- iii. *The existing noise in the area can be quite intense. The 24 hour McDonalds means that residents are subject to 24 hour traffic and noise. There is also a lot of noise from the Ettamogah Pub.*

Planning Comment:

- During the public exhibition period, both the Ettamogah Hotel and McDonalds engaged separate Acoustic Consultants to review the submitted Acoustic Assessment. As a result of this process, valid deficiencies with the report were identified. In this regard, McDonalds were concerned that while boundary fencing would provide some additional acoustic shielding to the ground level residents, that residents residing on the upper floors had not been provided with suitable attenuation measures. McDonalds were also concerned that the report had not taken into account potential sleep disturbance impacts associated with the 24/7 operations of McDonalds and the Service Station, had not taken into account traffic noise intrusion from Windsor Road and had not considered the night-time activities associated with the Ettamogah Hotel. The Ettamogah Hotel also raised similar concerns, especially given the acoustic assessment had been undertaken in mid-winter and therefore did not provide a true reflection of the noise levels throughout the year. It was also pointed out that a substantial number of bedroom windows were proposed to face the Ettamogah Hotel.
- The applicant was therefore requested to submit an amended Acoustic Report which considered whether any external activities (e.g. traffic on Windsor Road or from the adjacent 24 hour McDonald's or nearby Ettamogah Hotel) would impact on the future residents of the development and if so, how this could be treated.
- The amended Acoustic Report indicates that the proposed residential development will potentially be impacted by traffic noise from Merriville Road and Windsor Road, and by operational noise from the adjoining and nearby retail/commercial activities. As such, the report recommends that in order to meet internal noise levels, improved glazing of at least Rw 40 (i.e. double glazing) should be provided to the windows and glazed doors of any living room or bedroom addressing the eastern and southern boundaries of the site (i.e. facing Merriville Road, with a line of sight to Merriville Road or facing the existing Woolworths Petrol Station and McDonalds restaurant). In addition to this, the revised Acoustic Assessment recommends that acoustic louvers be located on the

balconies facing Merriville Road and Windsor Road to assist in controlling noise emitted from the surrounding commercial premises. The Acoustic Consultant believes that the provision of double glazing and acoustic louvers will adequately address the concerns raised by Council and on behalf of the Ettamogah Hotel and McDonalds.

- iv. *The standard of residential amenity for future occupants is likely to be well below acceptable standards in terms of high levels of acoustic disturbance. The Quakers Hill Police LAC also indicated that the close proximity of units to one another may lead to an increase in neighbour disputes, especially noise related issues.*
- While it cannot be guaranteed that neighbour disputes over noise related issues will not occur, the proposed development has been designed to maximise future resident's internal amenity. In this regard, the room layouts have been designed to achieve a comfortable living environment for residents, and promote good visual and acoustic privacy.
 - As indicated in Point 13.4(p)iii. above, however, the proposed residential development will potentially be impacted by traffic noise from Merriville and Windsor Roads, and by operational noise from the adjoining and nearby retail/commercial activities. To address this concern, it has therefore been recommended that double glazing be provided to the windows and glazed doors of any living room or bedroom addressing the eastern and southern boundaries of the site, and that acoustic louvers be located on the balconies facing Merriville Road and Windsor Road.
 - Concerns were also raised in relation to the potential noise impacts associated with the proposed children's play area located within the central courtyard of Block "B" (north-east corner). To address this concern, the Acoustic Assessment has recommended that the bedroom windows to the ground floor units be fitted with double glazing (Rw40). Further to this, it is recommended that all bedroom windows located adjacent to any internal courtyard be installed with double glazing, given that barbeque facilities and the like will be installed in these areas. The Acoustic Assessment also recommends that signage be displayed requesting that no noisy activities or amplified music be undertaken in the courtyard/playground area at any time, and that the operating hours of the playground be limited to 7.00am - 7.00pm on any day.
 - Subject to these matters being addressed, it is believed that future residents will not experience any unreasonable noise disturbance. It is therefore recommended that these matters be included as **conditions** of any consent.
- v. *Will the Police enforce the road rules in Merriville Road and Conrad Road? Not just speed, but also noise from bass speakers and illegal exhaust systems.*

Planning Comment:

- This is a matter outside the scope of the proposed development. In the event excessive noise or anti-social activities occur on a public road, residents should report the incident to the Local Police who will deal with the situation appropriately.

(q) **Views**

- i. *The highrise buildings will block our view. If a 5 storey building is approved, my view will be obstructed which will affect the enjoyment of the use of my land. Views from my property of bushland will be obscured.*

Planning Comment:

- The residents of the adjoining residential flat development, currently have a view overlooking the subject overgrown site and dilapidated motel. There is no bushland surrounding the subject site. Nor are there are significant views to preserve. Any “bushland” views would have to be far into the distance, and are likely to be in areas earmarked for future urban development within the North West Sector.
- Refusal of the Application on these grounds is therefore considered unreasonable. Although the objectors would no longer be able to overlook a large vacant site, it is unlikely that the enjoyment of their properties would be negatively affected given the proposed development will be constructed of high quality materials and will be embellished with large landscaped areas and recreational features.

(r) **Privacy and Amenity**

- i. *The potential for overlooking is immense. There won't be any privacy to the neighbours. People chose to live in a house so they can enjoy their privacy. My loungeroom, kitchen, pergola, living areas and 1 bedroom will directly face the proposed 5 storey development. As such, my privacy will be seriously compromised. My children will be intimidated by the number of units facing our backyard. We will be required to close the curtains all the time to protect our privacy, which will restrict sunlight into our house. We would also have to invest in new higher fencing to ensure greater privacy.*

Planning Comment:

- In the absence of any specific controls for residential flat buildings in small local centres, the application has been designed to satisfy the minimum controls for residential flat buildings in Residential Zones. In residential areas, the surrounding land uses are typically of a more sensitive nature than in commercial zones and as such, it is considered that there would be no negative impacts in applying the residential controls to a commercial context.
- It is considered that there will be no overlooking/privacy impacts to the residential flat building located to the north of the site given that the buildings are provided with a minimum 12 metre distance separation (i.e. 6 metre rear setback to each site). Given commercial/retails uses are located to the east and south of the site, it is considered that there will be no overlooking/privacy impacts in either of these directions.
- Given that the proposed development complies with the minimum 6 metre side and rear setbacks, and has been limited to a maximum of 2 storeys adjacent to the existing detached dwelling houses (as opposed to 3 storeys as per the residential DCP) it is also believed that the privacy of the adjoining dwellings will not be negatively impacted. It should be noted that the upper levels step up to 5 storeys, but have been well setback from the western boundary to eliminate

potential overlooking and amenity impacts. In this regard, level 3 has been setback a minimum of 11 metres (when measured from the boundary to the planter boxes) and levels 4 and 5 have been setback over 20 metres (when measured from the boundary to the roof top terraces). Standard **conditions** will be imposed to ensure that suitable boundary fencing and screen planting is also provided to further protect the adjoining resident's privacy.

- ii. *The applicant is clearly seeking to maximise the number of units whilst offering low standards of amenity and a significant potential for future conflict between adjoining, incompatible landuses.*

Planning Comment:

- As indicated in Point 13.4(r)i. above, the application has been designed to meet the minimum controls for residential flat buildings in Residential Zones. As such, it is considered that the proposed development (especially at the interface with its boundaries) is compatible with the adjoining landuses.
- The developer considers the current proposal to be a "balanced development" that has given careful consideration to the existing built form on the adjoining sites. General compliance with the residential flat building controls for Residential Zones suggests that the proposed development is not an overdevelopment of a commercially zoned site.

(s) **Construction**

- i. *If approved, the construction process (noise, heavy traffic, parking) will impact significantly on Merriville Road and the local residents.*

Planning Comment:

- Any consent issued will include standard **conditions** to ensure that any objectionable noise, dust, concussion, vibration or other emission from the development works does not exceed the limit prescribed in the Protection of the Environment Operations Act 1997.
- Standard **conditions** will also be imposed to ensure that the hours of any offensive noise-generating development works are limited to between 7.00am to 6.00pm, Mondays to Fridays: 8.00am to 1.00pm, Saturday; and no such work to be undertaken at any time on Sundays or public holidays. The developer will also be unable to do any construction work on Saturdays and Sundays on weekends adjacent to a public holiday.
- Further **conditions** will also be imposed to ensure that appropriate hoarding, awnings or protective barriers are erected between the site and any public land, and that building and construction materials, plant and equipment and the like are not placed or stored at any time on Council's footpath, roadway or any public place. Truck movements will also be controlled by way of suitable conditions and a management plan to protect the residential amenity.
- It is believed that Council's standard "During Construction" **conditions** of consent, will ensure that the construction works do not unreasonably impact on the established residential area.

(t) **Environment**

- i. *The proposal will destroy natural habitats and the rural environment.*

Planning Comment:

- Although the site is a large 1.358 hectare vacant site, it is by no means considered to be within a rural environment. The subject site is zoned 3(b) Special Business. The site does not contain any significant vegetation or habitats, and is surrounded by a mix of urban/suburban land uses including detached dwelling houses, high density residential flat buildings and retail/commercial premises.
- It is not considered that development of this large vacant site will further destroy any rural amenity. Prior to the mid 1990s, Kellyville Ridge was predominantly a rural area, but since then Kellyville Ridge has been undergoing intense urban/suburban development.

(u) **Pollution**

- i. *A development of this scale will add a lot of pollution to the area, and will impact on the environment. The pollution will be a major health risk, as my children suffer from asthma. The built environment will mean there is no fresh air, or peace and quiet.*

Planning Comment:

- As indicated in point 13.4(s) above, any consent issued will include standard **conditions** to ensure that noise, dust and other emissions from the development do not exceed the limit prescribed in the Protection of the Environment Operations Act 1997. Other **standard** conditions will also be imposed to ensure that suitable soil erosion, stormwater and waste minimisation measures are put in place during both the construction and operation phases of the development.
- As indicated in point 13.4(p) above, the proposed development is not expected to cause any unreasonable noise impacts. The subject site will also be remediated to remove existing contaminants from the soil as discussed under Section 8.7 of this report. The applicant has indicated that the proposed development will embody "state-of-the-art" building finishes, fitments and construction techniques to minimise any pollution affects.
- Kellyville Ridge currently contains no convenience shopping. The proposed development will provide a small retail/commercial neighbourhood centre to serve the daily convenience needs of the locals residents and workers in the area. It could be argued that this type of local convenience could in turn reduce car travel in the area. It should also be noted that local and regional planning strategies encourage the development of small neighbourhood centres that are supported by higher density residential development and public transport routes, as they have less impact on the environment than the conventional "urban sprawl".
- It is not uncommon that both adults and children can suffer from asthma when living in an urban/suburban environment. It is likely, however, that the local residents would experience higher levels of air pollution from the volume of traffic using Windsor Road each day, than from the proposed mixed-use development.

- ii. *The use of gas, electricity and other amenities will contribute to the ozone layer and carbon footprint.*

Planning Comment:

- Whether the proposal was for a conventional subdivision of 450sq.m allotments or for higher density housing, the future occupants would depend on electricity, gas and other services to live a comfortable standard of life. Until affordable alternate sources of power generation are available, it is considered reasonable that future occupants should have access to these services. Gas is considered a "clean/green" power source. The developer has indicated that hot water on site will be generated from gas operated instantaneous heaters.
- iii. *There will be an increase in rubbish given no public rubbish bins exist on the footpaths.*

Planning Comment:

- The developer has advised that street bins will be provided for the proposed development. Separate bin storage areas will also be provided for the commercial/retail and residential uses. Waste/recycling collection will be undertaken by a private contractor twice a week. This matter will be addressed via suitable **conditions** of consent.

(v) Waste/Garbage Disposal

- i. *The proposed development should provide larger commercial style bins where the operator is responsible for bringing the bins to and from the garbage truck. The garbage bins associated with the residential flat building opposite us, are often left out the front of the units from one week to the next.*

Planning Comment:

- Each building has been provided with its own resident garbage room which is located on the first basement level. Separate garbage loading areas are proposed adjacent to each of the 4 garbage rooms to accommodate the garbage collection needs of the proposed development. As such, there is no need to wheel the garbage bins to street level for collection.
- The developer has also advised that the development will be under the control of a full-time building manager who will ensure that the separate commercial/retail bins are appropriately stored in the dedicated bin storage areas before and after collection. Waste removal (i.e. both garbage and recyclable materials) for the entire development will be undertaken by a private contractor. The formal agreement with the private contractor will ensure that no bins are left at street level. This matter will be addressed via a suitable **condition** of consent.

(w) Social Issues/Anti-Social Behaviour

- i. *The proposal will have social implications and will result in an increase in anti-social behaviour. We are already witnessing problems associated with high density residential flats and from the Hotel, including break and enter, theft, graffiti, vandalism, damage to private property, destruction of public facilities, litter, broken glass, gangs, cars hooning and speeding, and egging of cars.*

Planning Comment:

- As discussed under Section 8.2, point (i) of this report the applicant has submitted a detailed response to the ‘Crime Prevention Through Environmental Design’ (CPTED) assessment undertaken by the Crime Prevention Officer at Quakers Hill Police LAC. This information was forwarded to the Quakers Hill LAC, and in July 2011 the Police advised that the Quakers Hill LAC no longer has any objections to the proposed development subject to appropriate conditions. In this regard, the Crime Prevention Officer was satisfied that most of the CPTED principles can be met (i.e. security, natural/passive and controlled surveillance, environmental maintenance, landscaping, territorial re-enforcement, space/activity management, lighting, access control measures, general maintenance, fencing and graffiti management). The Crime Prevention Officer, however, did indicate that there were still some concerns in relation to the security of the basement car park and therefore recommended that roller doors and other measures be installed. Provided these concerns can be addressed, the Police have agreed that the ‘Safer by Design’ rating for the development can be classified as “Low”.
- Section 8.2, point (i) of this report provides the specific details as to how anti-social behaviour will be identified and managed. In summary the development will adopt the following measures:
 - A fully integrated CCTV camera system including back to base 24 hour video surveillance to be monitored by a professional security company;
 - Security mirrors;
 - Panic alarm points;
 - An internal “resident only” card-key security system;
 - Appropriate signage;
 - Vandal proof security lighting and/or motion activated lighting;
 - Security roller doors to the basement car park;
 - A full-time (onsite) Building Manager (Note: This role could involve the employment of more than 1 person working different shifts),
 - Employment of 24/7 uniformed security guards;
 - A “Graffiti Management Plan” which will ensure graffiti is removed no later than 48 hours of notification; and
 - A “total” maintenance program to ensure the long term up-keep of the development, and to ensure all buildings, public areas, landscaping, the children’s play area, security systems and lighting are regularly inspected and maintained at optimum levels. The maintenance program will also ensure that security, cleanliness and general repairs are managed appropriately, and that areas are not left unattended for long periods thereby substantially increasing the opportunity for graffiti or anti-social behaviour.
- Council Officers believe that the level of security proposed for this DA far exceeds that provided for the surrounding unit developments. As such, there is no

evidence to suggest that the level of crime, vandalism or anti-social behaviour will increase as a direct result of this development being constructed. As indicated under Section 8.2(i)i. of this report the developer will engage the services of a professional security advisor at the CC stage to develop an overall safety and security management plan for the site. The applicant has advised that the recommendations of the Police will be adopted and that details regarding the number of security personnel to be employed, the hours of operation, details of the on-site Building Manager and their responsibilities, etc will all be addressed in the safety and security management plan. A copy of the Plan will be issued to all emergency services groups and the Police inviting them to:

- Review and comment on the Plans that will be developed at the CC stage; and
 - Attend the property on completion to inspect and comment on any “short-fall” elements of the Plans.
- Appropriate **conditions** will be imposed on any consent to ensure that this occurs.
- ii. *Antisocial behaviour will only be compounded with such a high density complex in such close proximity to a pub. With a pub in close proximity, the overdevelopment will attract all sorts of people and visitors and therefore increase drunkard, disorderly behaviour. The Crime Prevention Officer at Quakers Hill LAC initially raised concerns given the development is located directly opposite the Ettamogah Hotel and adjacent to a 24hr McDonalds restaurant. In this regard, the Police indicated that residents in the area are already experiencing noise, malicious damage and anti-social behaviour as a by-product of these existing establishments, especially on Friday and Saturday nights. A large number of additional residents in close proximity will increase such problems. The Police also raised concerns regarding the ability for patrons from these establishments to gain access and use the development as a “thoroughfare” at night (especially Friday and Saturday nights), or use the communal areas for criminal activities, particularly drug use, which could result in a needle-stick injury to a child/resident.*

Planning Comment:

- It is recognised that the residents of Kellyville Ridge are already experiencing anti-social from unruly patrons leaving the Ettamogah Hotel and 24 hour McDonalds. The developer believes, however, that the establishment of a new development over the largely vacant 1.358 hectare site and derelict motel will provide the mechanism to control such behaviour. In this regard, patrons will no longer have a remote location to congregate or partake in anti-social behaviour.
- As indicated under point 13.4(w)i. above, the proposed development will incorporate a range of measures, including back-to-base CCTV, vandal proof security lighting, and will employ a full-time Building Manager and 24 hour uniformed security guards on Thursdays-Sundays, to enhance safety and security around the site. The additional security, especially on Friday and Saturday nights, will ensure the well-being of all occupants, visitors and the established homes within the area. As discussed under Section 8.2, point (i) of this report the Local Police are now satisfied that the ‘Safer by Design’ rating for the development can

be classified as “Low” and have no objections to the development subject to conditions.

- While there would be benefit to the wider community if unrestricted pedestrian access was available between Merriville Road and Clonmore Street, Council Officers are also concerned that the site could be used as a “thoroughfare” and that pedestrian movements through the site could cause unnecessary disturbance for adjoining neighbours (especially late at night when patrons are returning from the Ettamogah Hotel). For this reason, it has been recommended that as a **condition** of any consent that the public pedestrian access point provided along the Clonmore Street frontage be closed/gated at 9.00pm each night. Details of the gates/barriers would be required to be submitted for Council’s separate approval prior to the release of any Building Construction Certificate, and will be addressed as a **condition** of any consent. The provision of appropriate security gates in this location also means that the potential for any unauthorised access will be eliminated.
 - Since the Police’s original comments, the development plans have been redesigned so that public access is no longer available to central courtyard areas of each building. In this regard, an internal “resident only” card-key security system has been incorporated to provide clear delineation between public and private areas. In terms of the central courtyard to Building ‘A’ (south-east corner), this area will be accessible to the general public during business hours to allow access to the ground level commercial/retail tenancies. It is proposed that after hours, access to this area will be available only via the resident-only card-key system. Appropriate **conditions** will be imposed on any consent to address these matters.
 - While patrons of the Ettamogah Pub and 24 hour McDonalds would have access to the central on-site public areas at night, it is believed that the provision of suitable lighting, CCTV and the employment of security personnel will help to deter criminal activities and drug use in these areas. A “total” maintenance program will also ensure that security, cleanliness and general repairs are managed appropriately, and that areas are not left unattended for long periods so that opportunities for graffiti or anti-social behaviour are decreased.
 - The developers are also proposing to establish a regular review process with the management of the Ettamogah Hotel, McDonalds and Woolworths Service Station to ensure any identified anti-social behaviour or nuisance activity is managed in an appropriate manner.
- iii. *The Police initially raised concerns that the rooftop common open spaces would provide an opportunity for glass bottles to be thrown onto the rooftop or driveway of McDonalds or the adjacent service station.*

Planning Comment:

- The rooftop areas will only be accessible to residents by way of security key-card access, and will be serviced by way of CCTV cameras. Whilst there is a potential for bottles and/or missiles to be thrown from the rooftop areas, it is believed that this location is no different to many similar locations throughout Sydney where the responsibility for both residents and their visitors to protect the public and property from unlawful activity is an unwritten law that the users of these locations would be expected to up-hold. By-laws in any future Strata Plan can

reinforce the prohibition of these unlawful activities. Given the rooftop areas will only be accessible by resident-only key-cards and that CCTV will monitor these areas, it is believed that the potential for anti-social behaviour or missile throwing will be significantly reduced.

- iv. *While some CCTV cameras are proposed, they will not prevent alcohol fuelled people from smashing glass bottles.*

Planning Comment:

- On their own, the CCTV cameras will not control the situation. However, with the employment of 24/7 security and a full time Building Manager there is every opportunity to control such issues. The total maintenance program for the site will also ensure that all public areas are suitably maintained, and that security, cleanliness and general repairs are managed appropriately.
- v. *With a further increase in the number of units in the area, the socio-demographics of the area will change. The development will bring a transient population with no vested interest in the area. Most will probably be renters who will not look after the properties. The existing residents of the flat developments are a lower class of people who have no control of their teenage children, hence the problems in the area.*

Planning Comment:

- In accordance with Principle 9 of SEPP 65 (Social dimensions and housing affordability) the proposed development has been designed to suit the social mix and needs of the community. The development also provides a mix of unit types (i.e. 1, 2 and 3+ bedroom) to cater for different budgets and housing needs.
 - Like all areas of Sydney, the proposed development is likely to bring a mix of renters and owner occupiers. The developer has indicated, however, that it is anticipated that a significant proportion of the units will be owner occupied who will have a vested interest in the area and the management of the development.
 - Regardless of whether the occupiers are renters or owners, the “total” maintenance program for the site which is to be endorsed by Council prior to the issue of any Occupation Certificate, will ensure the long term up-keep of the development, and will ensure all buildings, public areas, landscaping, the children’s play area, security systems and lighting are regularly inspected and maintained at optimum levels. The maintenance program will also ensure that security, cleanliness and general repairs are managed appropriately.
 - The statement regarding the existing flat developments is a mother-hood statement that has no foundation, and therefore cannot be used as grounds to refuse the current Application. The level of security and safety proposed for this DA also far exceeds that provided for the surrounding unit developments.
- vi. *The proposal is a future step to building a disastrous high-rise, low-income housing project. It’s not going to be the type of area that Blacktown Councillors would want to live in.*

Planning Comment:

- The proposed mixed-use high-rise development is a permissible form of development in the 3(b) Special Business Zone with development consent. The proposed development has been architecturally designed as per the requirements of SEPP 65, and responds well to the mix of land uses adjoining each boundary. The units are diverse in design and orientation, have been designed to provide high levels of amenity to the future occupants, and have access to high-quality recreational spaces and facilities on site.
- Although the proposal will provide an alternative type of housing to the area, it is not considered that the architecturally designed development is typical of “low-income” housing. While most of the units have 2 bedrooms to reflect market demand (with 129 x 2 bedroom units provided), the provision of 41 x 1 bedroom and 28 x 3 bedroom apartments provides reasonable housing choice and affordability for the community.
- Given the proposed development has been designed to generally meet all statutory requirements, and has been found to be satisfactory in terms of safety/security, traffic, parking, noise, solar access, ventilation, internal amenity and the like, it is believed that the development will provide a desirable environment to live in.

(x) Crime and Safety

- The development will increase the current crime rate and road fatalities in the area. There’s no police station within close proximity to this “overpopulated” area, which means there will be more social problems – e.g. fencing smashed, fighting , drunks, violence. Since the new flat developments in Kilbenny and Clonmore Street have been occupied there have been cars racing around the streets, screeching their tyres and residents having eggs thrown at their cars. An increase in the number of units will increase the number of these types of incidents.*

Planning Comment:

- As discussed under Section 8.2, point (i) of this report the applicant has submitted a detailed response to the ‘Crime Prevention Through Environmental Design’ (CPTED) assessment undertaken by the Crime Prevention Officer at Quakers Hill Police LAC. This information was forwarded to the Quakers Hill LAC, and in July 2011 the Police advised that the Quakers Hill LAC no longer has any objections to the proposed development subject to appropriate conditions. In this regard, the Crime Prevention Officer was satisfied that most of the CPTED principles can be met (i.e. security, natural/passive and controlled surveillance, environmental maintenance, landscaping, territorial re-enforcement, space/activity management, lighting, access control measures, general maintenance, fencing and graffiti management). The Crime Prevention Officer, however, did indicate that there were still some concerns in relation to the security of the basement car park and therefore recommended that roller doors and other measures be installed. Provided these concerns can be addressed, the Police have agreed that the ‘Safer by Design’ rating for the development can be classified as “Low”.
- The level of security proposed for this DA far exceeds that provided for the surrounding unit developments (e.g. CCTV, security sensor lighting, 24/7 security patrols, employment of an on-site Building Manager, etc). As such, there is no

evidence to suggest that the level of crime will increase as a direct result of this development being constructed. A professional security advisor will also be engaged at the CC stage to ensure all levels of security are addressed and that the design and ongoing management provides a safe environment for all users and residents.

- The Quakers Hill Police LAC acknowledge that residents in the area are already experiencing noise, malicious damage and anti-social behaviour. The Police have indicated, however, that this is primarily a by-product of the existing Hotel establishment and 24 hour McDonalds. There is no evidence to suggest that these existing problems will be exacerbated by the proposed development.
- ii. *The Crime Prevention Officer raised concerns that the proposed development could see an increase in vehicle theft and theft from vehicles.*

Planning Comment:

- Although the Quakers Hill Police have downgraded the ‘Safer by Design’ rating of the development to “low”, some concerns still remain in relation to the security of the basement car park and the potential for a high level of theft to occur in this area. Accordingly, the Police have recommended that a roller shutter out-of-hours system be installed at the entry points of the basement car park and at the segregation points between the commercial/visitor and residential parking areas. The Crime Prevention Officer has also indicated that chain link fencing should not be provided to segregate resident parking, as this will not deter the ‘would be’ thief. Ideally, masonry walls from floor to ceiling with a roller shutter and appropriate locking mechanisms should be provided. However, if this is not a viable option the Police strongly recommend that welded mesh security fencing be installed to segregate each parking compound.
- The applicant has advised that access to the resident-only section of the basement car park will be provided via a card-key. In this regard, an internal security roller door will be provided to segregate the resident and non-resident parking spaces. This will ensure the probability for car theft, break and enter, and malicious damage is decreased or eliminated altogether. The applicant has also advised that some tenants will have the option to purchase “caged” car spots. In this regard, any separation fencing for the car spaces will be provided in accordance with the BCA. The applicant has noted the Police suggestion for “masonry” walls to divide and secure the individual parking bays, however, has indicated that such provision may create building code issues. The applicant has therefore indicated that the option for masonry walls will be assessed and determined at the CC stage.
- While unrestricted access must be available to the basement car parks during business hours, to allow visitors and customers to access the non-resident parking areas, the applicant has advised that roller doors and a card-key system will be installed at the entry/exit points to restrict after-hours access to the basement car park. In this regard, any non-resident wishing to gain access to the basement car parks outside normal business hours, will need to contact the on-site security guard/building manager. While final details will be finalised at CC stage, the applicant has indicated that roller shutter doors will control out-of-hour access to the basement car parks and boom-gates will be installed to control

normal daily use. This will ensure that the Police concerns regarding vehicle theft and car jacking are significantly minimised or eliminated.

- However, given this matter remains an outstanding concern for the Police, it is recommended that as a **condition** of any consent granted, the applicant be required to liaise with the Quakers Hill Crime Prevention Officer to develop a satisfactory design solution which addresses this remaining concern.
- iii. *The park on Waterford Street is being misused. There are empty alcohol bottles, broken glass and home-made smoking pipes, which is most unpleasant for a family park with children's play equipment. The proposed development will increase these existing problems.*

Planning Comment:

- The Quakers Hill Police LAC acknowledge that residents in the area are already experiencing noise, malicious damage and anti-social behaviour. The Police have indicated, however, that this is primarily a by-product of the existing Hotel establishment and 24 hour McDonalds. There is no evidence to suggest that any existing problems will be exacerbated by the proposed development. Given this is an existing problem, it is believed that the development could not be refused on these grounds. Furthermore, the proposed development has aimed to address existing problems in the area by providing CCTV, security sensor lighting, 24/7 security patrols, employment of an on-site Building Manager, etc. For further details, please refer to Section 8.2, point (i) of this report.
- iv. *High density residential next to a petrol station might be a risk in the event of fire.*

Planning Comment:

- The applicant has advised that prior to completion of the development, a detailed Emergency Evacuation and Management Plan will be prepared in accordance with Australian Standard Emergency Control Organisation and Procedures for Buildings, Structures and Workplaces. Such plan will be issued to all occupants by way of a “fixed” sign within the tenancy, unit or commercial office. As part of the emergency plan, an “audio” system will be installed at strategic locations (e.g. car park entry/exits, lift door access, select public areas) to ensure the safety of residents and the public in the event of an emergency. The system will also have provision for “back-to-base” contact.
- Emergency and general exit points will be well sign-posted to ensure all patrons know where to go in the event of an emergency. Periodically, a “mock” evacuation of the premises would be undertaken to ensure all parties are aware of the plan guidelines in the event of an emergency. It is proposed that the on-site Building Manager would coordinate the timing of any “mock” evacuation procedure.
- As a **condition** of any development consent, it is recommended that the plan be developed in conjunction with a specialist consultant and that a copy of the plan be submitted to Council and the Police for comment prior to the release of any Building CC.

(y) **Laundry Facilities**

- i. *The Quakers Hill Police have noted that only the ground floor units have access to a courtyard area. There is no provision for the other units to dry washing, apart from hanging on the balcony which would create a ghetto feel, or rely heavily upon clothes dryers. Apart from placing a burden on the environment, noisy appliances can lead to disharmony between residents.*

Planning Comment:

- The development does not propose communal laundry or outdoor drying facilities, as it is considered that these type of facilities will not be utilised for fear of theft. As such, internal laundry facilities with mechanical drying appliances are proposed within each unit. A standard **condition** will be imposed on any consent issued, requiring that as a condition of any future Strata Application, the Strata Management Plan must contain a restriction that no hanging of clothes is permitted on the balconies.
- While the unit layouts generally provide a high level of amenity for all residents, and generally promote good visual and acoustic privacy, it is recognised that some noise disturbance will be experienced. It is generally accepted, however, that this will be experienced with this form of housing.

(z) **Letterboxes**

- i. *The letterboxes provided for the existing units in Kellyville Ridge are inadequate in size and do not comply with the Australia Post recommendations. None of them have provisions for junk mail or newspapers. The result is rubbish blowing around the streets. If the development is approved, please ensure that the letterboxes are of a post office preferred specification and that they have adequate provision for junk mail and newspapers.*

Planning Comment:

- Letterboxes will be provided in appropriate locations for all residents, shops and commercial premises. The applicant has indicated that it is envisaged that an illuminated and tamper-proof “letter box” wall will be provided in a prominent location so as to minimise vandal attacks. Each box will be appropriately numbered and provided with a key lock. Details regarding the location, size and construction detail for the street numbers and letter-box wall will be determined at the CC stage. A standard **condition** will be imposed, however, requiring that the letterboxes comply with the Australia Posts requirements for size.
- The proposed development will also be under the control of a fulltime Building Manager. The applicant has advised that any unwanted “junk mail” will be collected on a regular basis by the Building Manager and disposed of as necessary. As such, the potential for rubbish blowing around the area will be eliminated.
- A “total” maintenance program will also be adopted for the site to ensure the long term up-keep of the development, and to ensure all buildings, public areas, landscaping, the children’s play area, security systems and lighting are maintained at optimum levels. The maintenance program will also ensure the cleanliness of the area.

(aa) **Property Values**

- i. *House/property values will drop dramatically as a result of this development.*

Planning Comment:

- No evidence has been submitted to support this claim. Although the development is ‘mixed-use’ in nature, the height, bulk, form and finishes have been designed to complement the surrounding suburban environment, and therefore will have minimal impact on the amenity of the existing area. Traffic modelling also indicates that there will be no negative impacts in terms of traffic generation. As such, a refusal of this application could not be sustained on these grounds.
- The applicant has also discussed that matter with local real estate agents and has advised that there has not been any appreciable drop in property values by the development of other high rise development in the area. The market has remained strong for properties in the immediate area.

- ii. *People buying into the area will possibly stay clear of this particular location, due to a fear that the majority of homes will become rentals and not owner occupied.*

Planning Comment:

- Like all areas of Sydney, the proposed development is likely to bring a mix of tenants and owner occupiers. The developer has indicated, however, that it is anticipated that a significant proportion of the units will be owner occupied who will have a vested interest in the area and the management of the development.
- Regardless of whether the occupiers are tenants or owners, the “total” maintenance program for the site will ensure the long term up-keep of the development, and will ensure all buildings, public areas, landscaping, the children’s play area, security systems and lighting are regularly inspected and maintained at optimum levels. The maintenance program will also ensure that security, cleanliness and general repairs are managed appropriately, and that the amenity of the area is maintained.
- The applicant has indicated that as per other similar projects within the immediate area, people buy when the property suits their specific needs be it for investment purposes or to live in. This property will be no different. It will support the local housing demand and provide a variety of housing options for the community.

- iii. *There is already a high vacancy rate, with many units not even sold or rented out.*

Planning Comment:

- The applicant has discussed that matter with local real estate agents and has advised that the local agents disagree with this statement. The recent completion and purchase of units in Kilbenny Street suggest the market to be strong.

- iv. *What happens if the units don’t sell? Will they turn them into housing commission?*

Planning Comment:

- The applicant was requested to respond to this matter and has advised that the completed development will not be offered as "housing commission" accommodation or any other such "affordable" housing. The applicant has also advised that the "on-completion" value of the project would be outside the budget constraints of the NSW Department of Housing. As such, the completed project will always remain in the local housing market.

(bb) Other Matters

- i. *The development is a waste of community money and taxes.*

Planning Comment:

- No community money or taxes have been used to fund the purchase of the land or the development of the project. All development funds will be privately sourced by the developer who has already successfully completed a number of projects within the Kellyville Ridge area.
- As discussed under Section 13.4(k) above, the developer will be required to pay substantial Section 94 Contributions (i.e. a base figure of over \$3M as indicated under Section 8.2, point (j) of this report) prior to release of any Construction Certificate for the development. The base figure has been based on the increase in population and the developable area of the site, and will be indexed at the time of payment. This money will then be used to directly fund services and facilities for the local community.

14 General Comments

- 14.1 The application has been comprehensively assessed against the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 and is considered to be satisfactory. The proposal is considered to have acceptable environmental, social and economic impacts on the locality and surrounding neighbourhood.
- 14.2 The DA plans originally submitted to Council in September 2009 proposed 23 ground level retail and commercial tenancies, 268 residential units within 4 buildings ranging in height from 2 storeys to 8 storeys, and 495 basement car parking spaces. An assessment of the original plans identified a number of issues and deficiencies with the proposal, including significant non-compliances with Council's DCP and SEPP 65. The proposal, being for 17 retail/commercial tenancies, 198 residential units within 4 buildings ranging in height from 2 storeys to 5 storeys, and 397 basement car parking spaces, was amended in response to the issues raised as a result of the detailed and rigorous assessment by Council Officers, the RTA and the Quakers Hill Local Area Police Command.
- 14.3 The revised proposed development is consistent with the objectives of the 3(b) Special Business zone [in particular objectives (a) and (d)] and therefore is a permissible use with Development Consent. The proposal also complies with Clause 41A of BLEP 1988 which permits shops on the subject site, "subject to the condition that the total gross floor area of all of the shops does not exceed 2,000sq.m".
- 14.4 The proposal demonstrates a high level of compliance with the requirements of Blacktown DCP 2006 Parts A, C and D. Apart from minor variations to the front setback requirement to Merriville Road (for the second floor only), the internal distance separation requirement and

the solar access requirement to the ground level common open space the proposed development fully complies with the provisions of Blacktown Council's DCP. In this regard, the proposal fully complies with the common open space and 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 and stormwater drainage. Overall the proposal presents an acceptable form of development on a site that has been vacant for many years.

- 14.5 The issue of height has also been discussed in detail within the report. While the Business Zones DCP states that the height of any building within a local centre should not exceed 2 storeys, it has been recognised that "Residential Flat Buildings" typically exceed 2 storeys in height and that this form of development is not listed as a prohibited land use in the 3(b) zone under the LEP. It is therefore considered unreasonable to insist that this permissible form of development be restricted to 2 storeys only. The DCP suggests that on larger sites there is an opportunity to incorporate residential units into a retail/commercial development. In the absence of any specific controls for residential flat buildings in local centres, the Business Zones DCP states that the residential standards outlined in Part C of the DCP (Development in the Residential Zones) should be applied. In residential areas, the surrounding land uses are typically of a more sensitive nature than in commercial zones and as such, it is considered that there would be no negative impacts in applying the residential controls to a commercial context.
- 14.6 Given that the proposed development is a permissible form of development in the 3(b) Special Business zone, that the proposed heights comply with the controls for residential flat development in residential areas, and that a maximum height limit of 2 storeys has been applied closest to the single lot housing (as opposed to 3 storeys which would be permitted if the site was zoned 2(c) Residential), it is believed that the height of the development is sympathetic to the adjoining existing development and will have an acceptable impact on the surrounding land uses. Given the proposed development has also demonstrated a high degree of compliance with the other requirements of the DCP, and has provided varied heights across the site to address concerns relating to bulk and scale, it is recommended that the variation be supported.
- 14.7 The proposal is also consistent with the objectives of State Environmental Planning Policy (SEPP) 65 and satisfies 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). In this regard, the development complies with all of the numerical recommendations of the RFDC except for the distance separation requirement. It should be noted, however, that the main non-compliance is within the internal courtyard of one building, is limited to point encroachments only and is mainly at the 5th floor level. Furthermore, the non-compliance does not compromise the amenity or privacy of the proposed apartments as windows have been offset. Given the dual orientation of the units, solar access and natural ventilation is also not reduced by the variation. While the RFDC recommends that a greater building separation should be provided at the 5th floor level, in reality the occupants at the 5th floor will experience no greater amenity impacts than those occupants residing at the 4th floor. The amenity of the units, whilst not strictly meeting all of the numerical standards of the RFDC, does meet its intent. It is therefore strongly considered that the proposal in its current layout has design merit and should be supported despite the minor non-compliance with the distance separation requirement. 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 (as is the case here) should not warrant refusal of the application.

- 14.8 A Traffic Assessment has been submitted with the Application confirming that the proposed mixed-use 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. Modelling undertaken by Varga Traffic Planning P/L indicates that even under the 5 and 10 year scenarios, queuing in Merriville Road is not expected to reach the proposed new roundabout.
- 14.9 Despite the findings of the applicant's traffic report, Council Officer's were concerned that the proposed development may exacerbate the existing traffic problems in the area. Council therefore resolved at its Ordinary Meeting on 9 February 2011 that Council undertake its own detailed multi-day traffic count at the intersection of Merriville Road and Old Windsor Road. The queue length survey indicated that the maximum number of vehicles queuing back from the intersection at any one time (one signal cycle) is 17 vehicles which is approximately 100m. Based on the queue length survey, the existing queue length will finish just short of the proposed roundabout which will be located approximately 114m from the Windsor Road traffic signals. Traffic modelling also confirmed that the proposed development will not have any appreciable effect on the operational performance of the adjacent road network and that queue lengths will be adequately managed by the proposed lane configuration.
- 14.10 Under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 the proposed development is nominated as traffic generating and therefore was referred to the SRDAC for comment. The former RTA and SRDAC have raised no objections to the proposal subject to conditions being imposed on any consent, including that the right turn lane on Windsor Road be lengthened by an additional 50 metres at full cost to the developer. The RTA's recommendations will form **conditions** of any consent granted.
- 14.11 The RTA also recommended that a median be constructed in Merriville Road from Windsor Road to the proposed roundabout to minimise congestion and reduce the likelihood that traffic will queue from Merriville Road onto Windsor Road. Whilst it is acknowledged that there are traffic related issues associated with the ingress/egress arrangements to the McDonald's Restaurant and the Woolworths Service Station from Merriville Road, the applicant argued that this is an existing problem and therefore falls outside the scope of the application. Council Officers agree that any proposal to construct a median in Merriville Road should be dealt with separately, at which time McDonalds, Woolworths and any other affected parties would need to be consulted directly.
- 14.12 While it recognised that there is a significant amount of traffic in the area and there are traffic management issues that must be addressed, it should be recognised that many of the traffic related issues are existing ones and would require attention regardless of the proposed Development Application. Evidence indicates that the traffic issues in the area are not caused by the proposed development, and the proposed development will not further exacerbate the existing traffic issues. It should be recognised that the provision of a new roundabout on Merriville Road will help to resolve some of the existing problems on Merriville Road. It will assist right hand turn movements into and out of the Ettamogah Hotel site and will provide an alternate route for westbound traffic wishing to enter the McDonalds/Woolworths site via a right-turn off Merriville Road. In this regard, the roundabout will enable customers to undertake a U-turn and enter the site via a simpler and safer left-turn into the McDonalds/Woolworths site. This will also help to reduce the

likelihood of traffic queuing back to Windsor Road. The roundabout is also likely to help provide breaks in the flow of traffic on Merriville Road thereby allowing vehicles to turn right out of the McDonalds Restaurant and Woolworth Service Station access driveway with a far greater degree of safety. The installation of “No Stopping” restrictions across the frontage of the site will further improve safety at the McDonalds/Woolworths site access driveway.

- 14.13 Given the overwhelming number of traffic related objections received as a result of the public notification process, Council engaged an independent traffic consultant to undertake an assessment of the proposal. In response, Road Delay Solutions Pty Ltd was engaged to review the applicant’s Traffic Report and its validation, and Council’s assessment of the applicant’s Traffic report. Road Delay Solutions Pty Ltd concluded that Blacktown City Council had adequately addressed all traffic issues pertaining to the proposed Development Application. Road Delay Solutions P/L did recommend, however, that an assessment of the traffic implications and operational performance of the road network subject to the planned expansion of the NWGC be undertaken.
- 14.14 Council’s Manager Transport and City Projects has advised that a further review of the road network impacts under the demands of the NWGC expansion is unnecessary given Council’s own independent assessment was based on traffic volumes which well exceed those quoted in Road Delay Solution’s independent Traffic review. In this regard, Council’s modelling was based on 988 vehicles heading east and 1153 vehicles heading west along Merriville Road during the am peak period. In comparison, the independent assessment was based on only 459 vehicles heading east and 579 vehicles heading west during the same period. Council’s assessment therefore addresses all concerns and indicates that a further review is unwarranted at this time.
- 14.15 The proposed development was notified to all property owners and occupiers located within a 500m radius of the subject site and located within the Blacktown City Council LGA. The Hills Shire Council and all nearby property owners/occupiers located along the eastern side of Windsor Road were also notified of the proposal. This equated to approximately 850 letters. The Development Application was also advertised in the local newspapers and placed on public exhibition between 1 December 2010 and 25 January 2011. The notification process was undertaken in accordance with Blacktown Development Control Plan 2006: Part K – Notification of Development Applications. Given the overwhelming public interest in the application, the standard 2 week notification period specified under BDCP Part K was extended to 8 weeks.
- 14.16 As a result of the notification/exhibition process a total of 892 submissions (i.e. 219 individual submissions from 127 properties and 673 pro forma submissions from 393 properties) were received objecting to the proposal. The main grounds for resident concern include height, bulk, scale, design, overshadowing, noise, privacy, crime and safety, traffic, parking and impacts on property values. The grounds for objection are noted and where necessary appropriate conditions will be imposed on any consent to ameliorate any potential concerns. It is also noted that many of the objections relate to existing issues that would require attention regardless of the proposed Development Application. The grounds for objections are therefore not considered sufficient to warrant refusal of the application.
- 14.17 In light of the above, it is recommended that the proposed redevelopment, being for the demolition of the old Lochinvar Motel, staged subdivision and construction of a mixed-use development comprising 17 ground level retail/commercial tenancies, 198 residential units and 2 levels of basement car parking be approved subject to the conditions at **Attachment 1** to this report.

14.18 Political Donations Disclosure

In accordance with the provisions of Section 147 of the Environmental Planning and Assessment Act 1979, a Disclosure Statement must be lodged in certain circumstances in relation to any planning application, i.e. a Development Application, an application to modify a consent, and an application to make an environmental planning instrument or development control plan. A Disclosure Statement of a reportable political donation or gift must accompany a planning application or submission (including a submission either objecting to or supporting the proposed development) if the donation or gift is made within 2 years before the application or submission is made. If the donation or gift is made after the lodgement of the application, a Disclosure Statement must be sent to Council within 7 days after the donation or gift is made. The provision also applies to an associate of a submitter. In accordance with Section 147(3) if the Act a Disclosure Statement has been submitted to Council in respect of the subject Development Application indicating that no political donations have been made by either the landowner or the applicant.

15 Recommendation

- 15.1 The subject Development Application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at **Attachment 1**.
- 15.2 That further investigatory action be undertaken by Council's Traffic Management Section (TMS) into the current pedestrian crossing on Merriville Road at Perfection Avenue to determine whether further enhancement (e.g. introduction of "zig-zag" approach markings and a speed reduction) is required in this location.
- 15.3 The applicant and objectors be advised of the Sydney West Joint Regional Planning Panel's decision.

REBECCA GORDON

TOWN PLANNER

JUDITH PORTELLI

MANAGER DEVELOPMENT SERVICES AND ADMINISTRATION

TREVOR TAYLOR

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