

## Report to Sydney West Joint Regional Planning Panel

<b>JRPP No:</b>	<b>2011SYW045</b>
<b>DA No:</b>	<b>JRPP-11-650</b>
<b>Local Government Area:</b>	<b>Blacktown</b>
<b>Proposed Development:</b>	<b>7 multi-level residential flat buildings ranging in height from 2 - 5 storeys</b>
<b>Development Type:</b>	<b>"Regional Development" – Capital Investment Value &gt;\$20 million</b>
<b>Lodgement Date:</b>	<b>5 April 2011</b>
<b>Land/Address:</b>	<b>Lot 42, DP 1004176, H/N 8 Myrtle Street, Prospect</b>
<b>Land Zoning:</b>	<b>2(c) Residential pursuant to Blacktown Local Environmental Plan 1988</b>
<b>Applicant:</b>	<b>Turner Hughes Architects Pty Limited</b>
<b>Number of Submissions:</b>	<b>339 submissions (i.e. 112 individual submissions from 54 properties and 227 pro forma submissions) plus a petition containing 305 signatures</b>
<b>Report Author:</b>	<b>Rebecca Gordon, Town Planner</b>
<b>Recommendation:</b>	<b>Approval</b>
<b>Instructing Officers:</b>	<b>Judith Portelli, Manager Development Services &amp; Administration and Glennys James, Director City Strategy &amp; Development</b>



*Figure 1: Photomontage of the Proposed Development*

## **ASSESSMENT REPORT**

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## 1. Executive Summary

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- 1.1 Blacktown City Council is in receipt of a Development Application from Turner Hughes Architects Pty Ltd on behalf of Valiant Timber and Hardware Co Pty Ltd for the construction of 7 multi-level residential flat buildings ranging in height from 2 to 5 storeys containing basement car parking at Lot 42, DP 1004176, H/N 8 Myrtle Street, Prospect. The proposal has a Capital Investment Value of \$22.7 million.
- 1.2 The Development Application includes a total of 162 residential units comprising 29 x 1 bedroom units, 110 x 2 bedroom units and 23 x 3 bedroom units within 7 new residential apartment buildings. The apartment building fronting Myrtle Street is proposed to be 3 storeys, whilst the 3 apartment buildings adjoining the shopping centre will be 5 storeys. The 3 apartment buildings located along the eastern boundary all comprise 2 storey elements immediately adjacent to the neighbouring residential properties and then step up to a height of 3 storeys in the centre of the site. These units have been specifically designed to minimise overlooking and overshadowing of the neighbouring residential properties to the east. The 3 and 5 storey buildings are serviced with lift access internally. The foyers to all lifts have full glass for visual outlook.
- 1.3 The proposal will also be provided with 7,735sq.m of common open space which exceeds the minimum requirement of Blacktown Development Control Plan (BDCP) 2006 by 1,200sq.m. The common open space will be embellished with landscaping, BBQ facilities and a fitness equipment circuit. The buildings are well spaced permitting extensive landscaped areas between each building for both passive and active recreation areas. Along the eastern boundary there are a significant number of mature trees forming a landscaped buffer approximately 6 - 9 metres high. It is proposed that these trees will be retained and that additional supplementary planting will be undertaken along the eastern boundary to provide additional screening to the existing adjoining residents.
- 1.4 The proposed layout shows the apartment buildings positioned along a central private road, which provides access to a total of 250 car parking spaces, plus 2 washbays. The 250 spaces includes 106 spaces (i.e. 52 visitor and 54 resident) at ground level and 144 spaces (i.e. 13 visitor and 131 resident) within a single level basement carpark beneath Buildings A to D. The main entry/exit to the site is proposed off Myrtle Street. A secondary entry/exit, however, is available via the roundabout located on the adjoining shopping centre site. To control vehicular movements to and from the site, sliding security gates are proposed at the entry and exit points.
- 1.5 Prior to 1998 the subject site was zoned 4(c) Special Industrial pursuant to Blacktown Local Environmental Plan (BLEP) 1988 and was occupied by the Valiant Timber Yard. However as a result of concerns raised by residents regarding the incompatibility of the industrial zoning in the context of the surrounding residential properties, the land was rezoned from 4(c) Special Industrial to its current land zoning of 2(c) Residential. This zoning permits Residential Flat Buildings. The Applicant already enjoys the benefit of a Development Consent for 8 Apartment buildings containing a total of 107 units. The owner obtained a Construction Certificate and has undertaken initial site works, thereby preserving this Development Consent. However the Applicant considers the current Development Application proposal to be a far superior design. It should be noted that the 1998 Consent predates the stringent design criteria set out in State Environmental Planning Policy (SEPP) 65 and the Residential Flat Design Code (RFDC). On this basis the Applicant seeks approval for more contemporary lifestyle apartments and, if approved, would no longer proceed with the outdated Development Consent.

- 1.6 The proposed development constitutes "Regional Development" requiring referral to a Joint Regional Planning Panel (JRPP) as it has a Capital Investment Value of more than \$20m. As such, while Council is responsible for the assessment of the Development Application, determination of the application is the statutory responsibility of the Sydney West Joint Regional Planning Panel (JRPP). This report is accordingly forwarded to the Panel for its consideration.
- 1.7 As part of the assessment process the Development Application was referred to various internal sections of Council, the Local Traffic Committee, the Sydney Regional Development Advisory (SRDAC) and the Blacktown Police Local Area Command (LAC) for consideration. Council's Development and Drainage Engineers and Building Surveyors have raised no objection to the proposed development subject to appropriate conditions being imposed on any consent. Council's Sustainable Resources - Waste Services Section has also raised no objection provided that a private contractor is used for the waste collection services and that collection occurs twice a week.
- 1.8 Council's Traffic Section and the SRDAC/RTA have raised no objection to the proposal on traffic and parking grounds. The Traffic Assessment submitted with the application has also confirmed that the proposed development will not have unacceptable traffic implications in terms of the road network capacity and that the development will be acceptable in terms of traffic generation. Notably the Applicant has submitted amended plans to alter the "exit only" driveway to the roundabout within the shopping centre to provide entry and exit capabilities, the entry gates have been moved to allow for stacked parking off the roundabout and the exit to Myrtle Street has been angled to the west to deter right-turn movement onto Myrtle Street. Pursuant to the Crime Prevention Legislative Guidelines, the Applicant also submitted a formal Crime Safety/Prevention Audit which was referred to the Blacktown LAC. After conducting a Safer by Design Evaluation the Police determined that the crime rating for this development is "Low crime risk" but have recommended that appropriate conditions be imposed to address issues of surveillance, lighting, environmental maintenance, space/activity management, access controls and vehicular facilities.
- 1.9 A detailed assessment has been undertaken against the provisions of Blacktown DCP 2006 and the proposed development is compliant with the numerical provisions of Council's DCP with the exception of minor variations to the height and setback controls in the DCP. With regard to height, Building B has a ridge height of 16.9m at the eastern end of the building and Building D has a maximum ridge height of 17.5m at the south-eastern corner. As the site exceeds 5,000sq.m, favourable consideration may be given to development up to 5 storeys where suitable transition scales are demonstrated in respect of adjacent properties. A maximum height limit in terms of metres, however, is not specified for a 5 storey development. However if the 16m rule was to be applied, the minor variations of 0.9m and 1.5m respectively will only occur as a result of the proposed curved roof form of each building covering the lift overrun. These 2 variations do not lead to an increased yield in units or floorspace on the site. Further, only 3 of the 7 buildings are proposed to be 5 storeys in height and are proposed to be located in the middle of the site to minimise visual impact and overshadowing of the surrounding neighbourhood. The other variation is to the setback of the proposed development to the rear site boundary. Given that a detention basin is located at the rear of the site, a reduced setback ranging from 2.9m to 8.3m is proposed instead of the required 6m setback. This reduced setback will not be detrimental to adjoining neighbouring properties and the detention basin forms part of the open space for this site pursuant to a Land and Environment Court decision. The variation is not unreasonable in the circumstances.
- 1.10 Following receipt of the Development Application and after the Easter Holiday period, the proposal was notified to all owners and occupiers located within a 500m radius of the subject site. This equated to over 1,000 letters. The proposal was also advertised in the local papers

from 4 May to 31 May 2011. However, on request from the public, this exhibition period was extended for a further 2 weeks ending on 14 June 2011. As a result of the notification/advertising process, a total of 339 submissions (112 individual submissions from 54 properties and 227 pro forma submissions) and a petition containing 305 signatures were received objecting to the proposal. The main grounds for resident concern include height, bulk and scale, density, overshadowing, lack of common open space, lack of privacy and impact on the amenity of existing residents, noise generated from the development, lack of parking, traffic impact, stormwater drainage impacts, social impact, increased crime and devaluation of surrounding properties. The grounds for objection are noted and where necessary appropriate conditions will be imposed on any consent to ameliorate any potential concerns. However the grounds for objection are not considered sufficient to warrant refusal of the application.

- 1.11 As outlined above, the proposal is fully compliant with the common open space and car parking requirements of the DCP and 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. Overall it is considered that the Applicant has developed a modern contemporary design solution for the site that will not detract from the amenity of the Prospect area.
- 1.12 The proposal is consistent with the objectives of State Environmental Planning Policy (SEPP) 65 and satisfactorily achieves the 10 "design quality principles" listed under Part 2 of the SEPP. Council Officers have also assessed the Application against the design guidelines provided within the Residential Flat Design Code (RFDC). The development satisfactorily addresses the recommendations of the RFDC.
- 1.13 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. Site Description and Location**

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- 2.1 The subject site is located on the southern side of Myrtle Street, immediately adjacent to the local shopping centre. The subject site comprises of a single allotment, known as Lot 42, DP 1004176, H/N 8 Myrtle Street, Prospect. The development site has a frontage of approximately 77 metres to Myrtle Street, a depth of approximately 149 metres and a total site area of 1.427 hectares. The site has a fall of approximately 6 metres from the north-west corner to the south-east corner. The location of the subject site is shown in Figure 2 below.

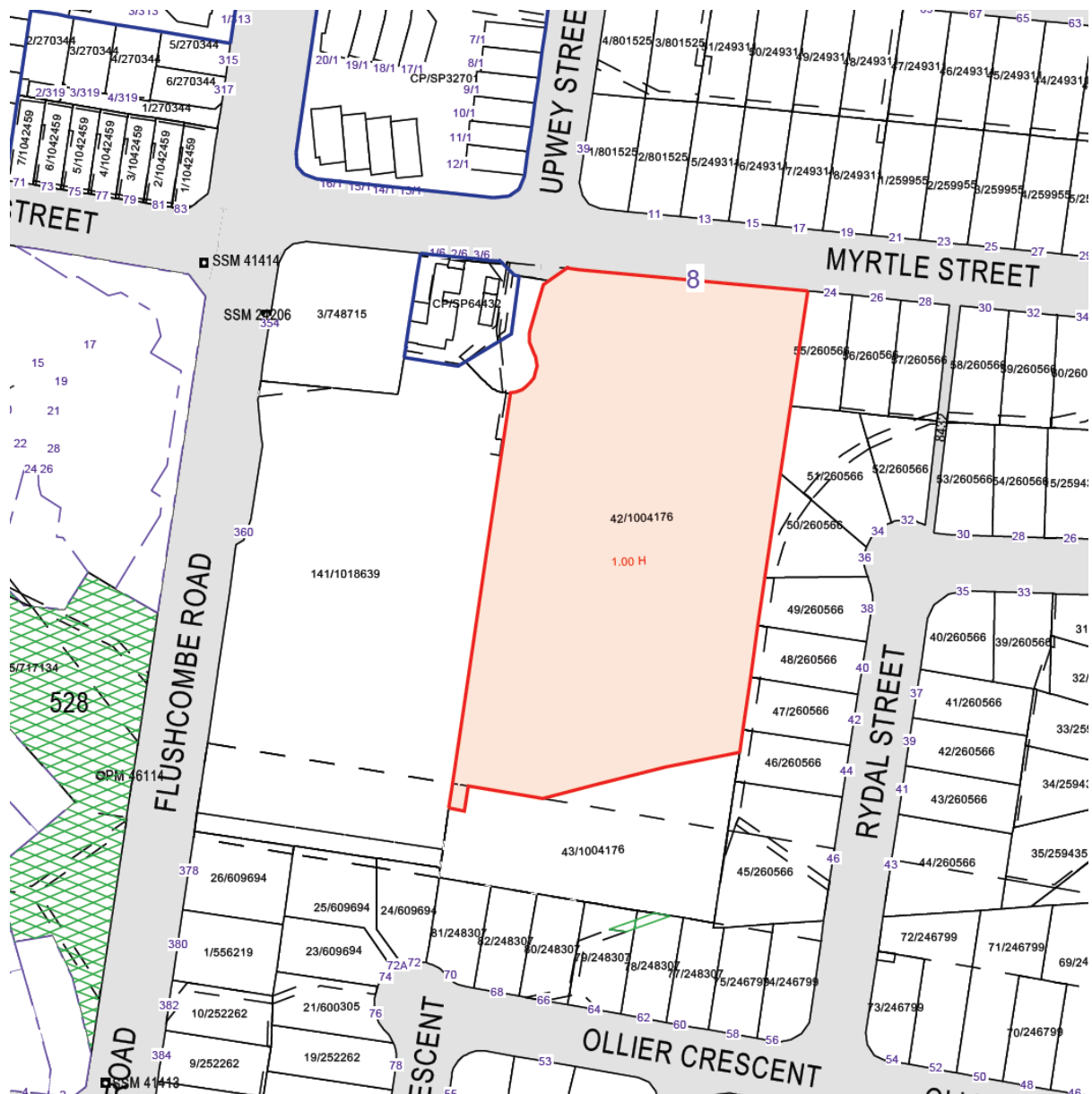


Figure 2. Location Map (Source: Blacktown City Council, November 2011)

- 2.2 The subject site is currently unimproved and has been cleared from its former use as a timber yard. The site is nominally fenced along Myrtle Street and adjacent to the adjoining supermarket site to prevent access, although the fence is in poor condition with holes allowing the site to be used by foot traffic. Graffiti on the supermarket wall is common. Standard 1.8 metre high fencing is located along the eastern boundary adjacent to the residential properties in Rydal Street. Although the site is unimproved, excavation works for an active approval (i.e DA-97-7076 and CC-03-2825) were undertaken in 2001.
- 2.3 A handful of small trees and shrubs exist in the body of the site. Along the eastern boundary, adjacent to the existing residential properties, there are also a significant number of mature trees forming a landscape buffer approximately 6 – 9 metres high.
- 2.4 There are 2 existing vehicular crossovers located near the eastern and western ends of the Myrtle Street frontage of the site. It is proposed that vehicular access to and from the development will be provided via a new two-way entry/exit driveway located towards the middle of the Myrtle Street site frontage. A right of carriageway also exists over the driveway and roundabout on the adjacent retail development located to the west of the site. It is

proposed that this existing access point will provide a “secondary” entry/exit to the development.

- 2.5 As shown in Figure 3 below, the subject site is zoned 2(c) Residential, while the land located immediately to the north, south and east is zoned 2(a) Residential and the land adjoining the western boundary is zoned 3(a) General Business. Given that the site is located within easy walking distance to a supermarket, shops, recreational facilities and public transport, it is considered to be ideally zoned for residential flat development.

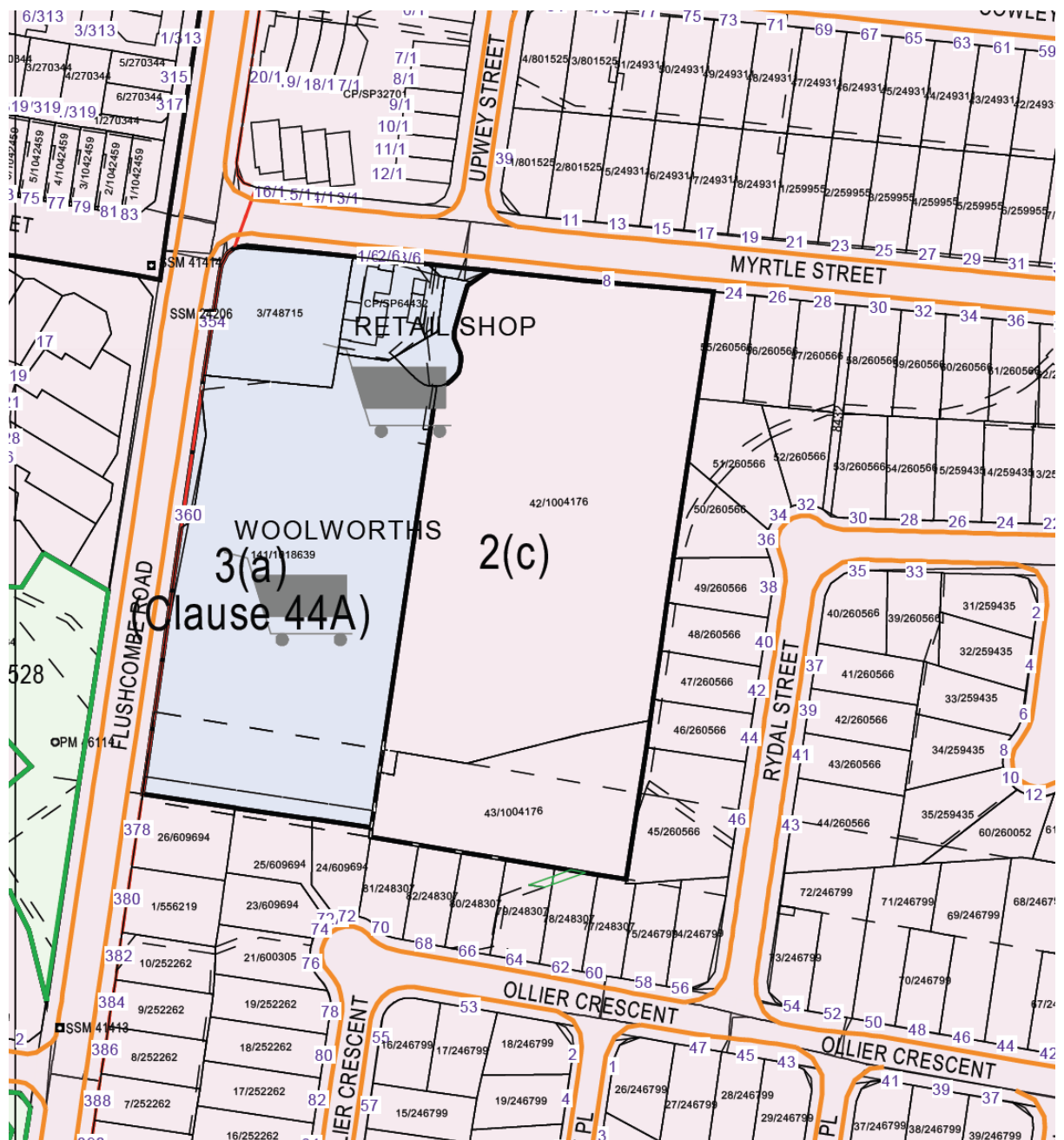


Figure 3. Zoning Plan (Source: Blacktown Local Environmental Plan 1988)

- 2.6 Directly opposite the site, on the northern side of Myrtle Street, is a mix of single and 2-storey residential dwellings. Several multi-unit developments are also located to the north of the site towards Flushcombe Road. Directly to the south of the site is a Council-owned stormwater detention basin which is heavily screened with matured trees. The detention basin creates a



buffer zone to an area of single storey detached residential dwellings. For further details regarding the basin, please refer to Section 3 of this report. The southern edge is also defined by an electrical easement that restricts building. Adjacent to the eastern boundary are predominantly single storey detached houses, while to the west is a large Woolworths supermarket, carpark for approximately 150 vehicles and small shopping complex. A service station is located on the corner of Flushcombe Road and Myrtle Street. The existing supermarket building has a zero setback alignment to the subject site. Within the general area there is also a large sportsfield which is located approximately 300 metres east along Myrtle Street. A high school is located approximately 1km to the north-east. An aerial view of the subject site and its surrounds is provided in Figure 4 below.



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

- 2.7 This “brownfield” site represents a unique opportunity to consolidate urban development in the Prospect locality, withdraw a vacant block eyesore and capitalise on existing infrastructure without significant effect on surrounding development. The site is zoned for residential flat



development and is within easy walking distance to a supermarket, shops, recreational facilities and public transport. The proposed development displays a contemporary and appropriate response to urban consolidation.

### **3. History of the Site**

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- 3.1 The land was originally zoned 4 (c) Service Industrial pursuant to Interim Development Order No. 49 - Municipality of Blacktown (1971). Then in 1984 the site was zoned part 3(g) Business (Comprehensive Local Centre) and part 4(e) Industrial (Special Industrial Business) under Blacktown Local Environmental Plan No. 78. In 1988 the site was zoned 4(c) Special Industrial pursuant to the introduction of Blacktown Local Environmental Plan (BLEP) 1988 and was occupied by the Valiant Timber Yard. Whilst Council then considered various industrial development proposals for the site, all were met with substantial public opposition from nearby residents. As such the site remained vacant.
- 3.2 In 1997 a Development Application (DA-97-4393) was lodged over the subject site (and the adjoining Woolworths shopping centre site) proposing warehouse units, bulky goods retail units and a retail development with a total of 308 car parking spaces. The activities proposed on the subject site were a permissible form of development under the 4(c) Special Industrial zoning.
- 3.3 As a result of advertising and neighbour notification of DA-97-4393, a significant number of submissions, were received objecting to this basically industrial-use proposal. Following their submissions, representatives of the Prospect Resident's Committee requested a meeting with Council Officers to discuss the proposed development. As indicated by the significant number of objections, the representatives explained that residents were clearly not in favour of an industrial development for the site despite the proposal being permissible in the zone. The representatives suggested that a preferable option would be a residential development on the site which was compatible with development in the area.
- 3.4 After careful consideration, the applicant lodged a Rezoning Application with Council seeking to rezone the area of the subject site from 4(c) Special Industrial to 2(c) Residential. A concurrent Development Application was also lodged, proposing the erection of a residential flat development comprising 130 units (i.e. DA-97-7076 and RZ-97-7077).
- 3.5 The Statement of Environmental Effects accompanying the rezoning request justified the zoning change as follows:

*"This application for a residential development on the site results from concerns raised by Council (on behalf of local residents) regarding the incompatibility of the industrial development in the context of the surrounding residential properties.*

*It has now become apparent that the original industrial zoning, whilst appropriate 20 - 30 years ago, has now resulted in an "island" zone surrounded by an established low density residential neighbourhood.*

*As an acknowledgment of this anachronism, the developer has examined suitable alternatives for the site. This application is the result of this work, and whilst the returns are not predicted to be as extensive as the industrial proposal, the developer accepts that a residential development would be more appropriate in this location.*

*Note also that the retail portion of the site facing Flushcombe Road does not form part of this application, and will be subject to a separate DA. The retail development will be complementary to the proposed residential complex, and will also be of benefit to the existing community."*

- 3.6 The Rezoning and Development Application were concurrently exhibited in early 1998. The Development Application comprised 130 units (121 x 2 bedrooms, 9 x 1 bedroom units) within 10 separate buildings, being a combination of 2 and 3 level designs. The development included 130 resident and 56 visitor car parking spaces, landscaping, and common open space areas within the site. The proposal also provided for an extensive stormwater detention basin at the rear of the site, within the High Voltage Transmission Line easement. The basin was designed to serve both the development and provide a substantial component in Council's own wider catchment stormwater management scheme.
- 3.7 One of the objectives of the 2(c) Residential zone in BLEP 1988 is to identify areas suitable for residential flat buildings in locations close to the main activity centres of the City. It was recognised that the subject site adjoined a proposed shopping centre which had been identified in Blacktown Development Control Plan 1992 as a "local centre", was located close to the Great Western Highway, and was within walking distance of bus routes located on both Flushcombe Road and Myrtle Street. Therefore, from a locational point-of-view, the subject site was considered suitable for residential flat development.
- 3.8 Whilst the local residents indicated that they would rather the site be developed for residential purposes as opposed to industrial purposes, there were still concerns over the proposed 2(c) Residential zoning because of the higher density form of development that could be accommodated. Not surprisingly, the local residents indicated that they would rather see the site be rezoned to 2(a) Residential which would provide for dwelling stock which was more reflective of the surrounding residential development which is predominantly of a single detached dwelling character.
- 3.9 The dilemma for the owner was that a 2(a) Residential zoning, whilst more consistent with the surrounding residential neighbourhood, would not provide the same economic returns of a 2(c) Residential zone. In this regard the applicant stated that a rezoning from 4(c) Special Industrial to 2(a) Residential would not be economically viable and therefore would not be pursued if the current proposed zoning change to 2(c) Residential was not supported by Council.
- 3.10 Council recognised that the Development Application for the 130 units represented the results of lengthy public consultation and a concerted effort by the applicant to propose a viable development. Considering the potential it provided with respect to drainage and its compliance with all other Council requirements, the proposal was considered worthy of Council's support and therefore granted development consent in April 1998.
- 3.11 Had Council not supported the proposed residential flat development, then the owner would have rightfully pursued the Development Application lodged for the retail development, warehouse units and bulky goods retail units (DA-97-4393) which was being held in abeyance until a decision was made on the proposed residential alternative.
- 3.12 It also should be noted that the subject development site (Lot 42, DP 1004176) retains some benefit from Lot 43, DP 1004176 (i.e. the stormwater detention basin at the rear of the site) given that it originally formed part of the development site. In this regard, following an appeal to the NSW Land and Environment Court in 2006 in relation to the conditions imposed on Development Approval No. 97-7076, it was determined by the Court that Lot 43 was to be transferred to Blacktown City Council's ownership in exchange for the site owners being granted:
- (a) an open space area/landscape credit of 1,018 m<sup>2</sup> which could be retained for the future development of Lot 42; and

- (b) a decrease in any Section 94 levies imposed by Council on any new development application by the amount of \$318,504 as compensation for the loss of their land as a result of the detention basin being transferred to Council.

A copy of the Consent Orders of the Court is included at **Attachment 2**.

- 3.13 Following this, the applicant lodged applications under Section 96 of the Environmental Planning and Assessment Act and former Section 102 of the Act to amend the development plans. The development in its amended form comprised 107 units in 8 buildings (i.e. a reduction of 23 units).
- 3.14 Excavation works were undertaken in 2001 which meant that the Development Approval (DA-97-7076) was activated. This means that construction activity, in accordance with the existing approval, can commence at any time.
- 3.15 The applicant has argued, however, that the current DA is far superior. In this regard the 1998 development consent pre-dates the current minimum standards for residential flat design as found under State Environmental Planning Policy 65 and the Residential Flat Design Code (RFDC). On this basis the applicant believes the current proposal should be supported as it will extinguish the existing outdated development consent which is non-compliant with contemporary residential flat design standards.

## **4. Development Proposal**

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- 4.1 Council is in receipt of a Development Application (DA) for the construction of 7 multi-level residential flat buildings ranging in height from 2 to 5 storeys. The application has been submitted by Turner Hughes Architects Pty Ltd on behalf of Valiant Timber and Hardware Co. Pty Ltd. The proposed development constitutes 'Regional Development' requiring referral to a Joint Regional Planning Panel (JRPP) for determination as the Capital Investment Value is >\$20million.
- 4.2 Block 'A' fronting Myrtle Street is proposed to be 3 storeys, whilst Blocks 'B', 'C' & 'D' which are located further back into the site adjacent to the adjoining shopping centre are all 5 storeys. The 3 apartment blocks located along the eastern boundary (Blocks 'E', 'F' & 'G') all comprise 2 storey elements immediately adjacent to the neighbouring residential properties, then step up to a height of 3 storeys in the centre of the site. These units have been specifically designed to minimise any overlooking and overshadowing of the neighbouring residential properties to the east. The 3 and 5 storey buildings are serviced with lift access internally. The foyers to all lifts have full height glass for visual outlook.
- 4.3 The proposed development will involve the construction of 7 new residential apartment buildings. A total of 162 residential units are proposed within the complex as follows:

Building	A	B	C	D	E	F	G	Total
1 bed	8	7	7	7	0	0	0	29
2 bed	13	26	26	26	6	6	6	109
3+ bed	0	2	2	2	6	6	6	24
Total	21	35	35	35	12	12	12	162

TABLE 1: Unit Mix and Yield

- 4.4 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. Each unit will also have access to secure storage both within the unit and in locked cages within the common property.
- 4.5 Buildings A, B, C and D have been oriented to capitalise on solar access and minimise heat loads from the east and west. Buildings E, F and G, although oriented with a long north-south axis, feature well protected (shaded) openings on the east and west elevations and all permit good cross-ventilation. The buildings will be heavily insulated and the development will feature rainwater harvest for site irrigation and car wash facilities. Landscaped areas will also feature drought-tolerant plant species and will largely be of indigenous varieties.
- 4.6 The buildings are well spaced, permitting extensive landscaped areas between each building. Active and passive recreation zones, including a fitness equipment circuit and barbeque areas, are also provided on site for use by residents. The proposed development has also taken into consideration the proximity of the site to the retail development to the west and the blank wall of the supermarket located on the common boundary. The development will also be fenced/gated and generally not accessible to the public beyond the public footpath without being visitors of the residents.
- 4.7 The apartment blocks have been distributed along a central private road, which provides access to a total of 250 car parking spaces plus 2 wash bays at various locations throughout the site. The 250 spaces includes 106 spaces (i.e. 52 visitor and 54 resident) at ground level and 144 spaces (i.e. 13 visitor and 131 resident) within a single basement carpark beneath Buildings A to D. The main entry/exit to the site is proposed off Myrtle Street. A secondary entry/exit, however, is available via the roundabout located on the adjoining shopping centre site. To control vehicular movements to and from the site, sliding security gates are proposed at the entry and exit points.
- 4.8 A copy of the development plans showing the height and external configuration of the proposed development, together with a site plan showing the relationship of the development to its site boundaries, have been included at **Attachment 3** of this report. The plan titled 'Section Through Block F' has been included to show the relationship between the proposed 2-3 storey flat buildings and the existing residential properties located adjacent to the eastern boundary. In this regard the sightline analysis reveals that the leading edge of the 2-storey eastern façade will shield any appreciation of higher sections of built form from neighbouring properties. Furthermore, only bedrooms address that boundary at the first floor level to maximise visual privacy to neighbouring properties. Supplementary planting to sections of the eastern boundary will also enhance screening properties of the existing vegetation.
- 4.9 A palette of materials and finishes has been selected to display a contemporary feel to the development. Finishes are durable, require low maintenance and are fit for purpose. Podium and ground plan finishes will comprise a combination of split-faced concrete blocks, rendered



and painted masonry in darker tones and natural timber screens. On upper levels lighter tones predominate with accent colours applied to selected building elements to delineate individual apartment buildings. Pre-finished insulated profiled metal sheeting faces large sections of east and west facades and will be coloured in muted grey tones with minimal reflective qualities. Any latent solar reflection off buildings to the east and south will be disrupted by the lower scale buildings along the eastern perimeter. Facade reflection to the north is negated by deep balcony recesses and any reflection to the west is mitigated by the supermarket structure and retail buildings sited in front of the development.

## 5. Planning Controls

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5.1 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 65 – Design Quality of Residential Flat Development
- (f) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (g) Blacktown Local Environmental Plan 1988
- (h) Blacktown Development Control Plan 2006

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

- (a) Residential Flat Design Code (RFDC)

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

**(a) Environmental Planning & Assessment Act 1979**

The proposed development falls under the jurisdiction of the Environmental Planning and Assessment (EP & A) Act 1979. For an assessment against the Section 79C 'Heads of Consideration' please refer to Section 6 of this report.

Section 5 of the EP & A Act 1979 contains the "Objects", which are as follows:

- (a) *"to encourage:*
  - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment, and*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land, and*
  - (iii) *the protection, provision and co-ordination of communication and utility services, and*
  - (iv) *the provision of land for public purposes, and*
  - (v) *the provision and co-ordination of community services and facilities, and*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
  - (vii) *ecologically sustainable development, and*

- (viii) the provision and maintenance of affordable housing, and*
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) to provide increased opportunity for public involvement and participation in environmental planning.”*

The proposed development is considered to be consistent with the aims and objectives of this Act. Specialist sub-consultant reports which have been undertaken in respect of this project confirm that the proposed development can proceed with minimal impact on the natural environment and waterways. Further, the development will not impact upon agricultural land, forests, minerals or adversely impact on the future development of Prospect, thereby meeting objective (a)(i) of the EP & A Act. The proposed development will not have detrimental social or economic impacts on the local community, also in compliance with Objective (a)(i).

The subject site is a large lot which, with this proposal, presents a comprehensive, consolidated development and will promote the more orderly and economic use of the land, thereby addressing Objective (a)(ii).

There is sufficient provision of existing utilities and infrastructure to support the proposed development, meeting Objective (a)(iii).

The proposed development will not impact upon any nearby land for public purposes. The proposal presents a quality development on a site that has been vacant for numerous years and will provide a link to the adjacent retail precinct. Such measures will ensure that the development will satisfy Objective (a)(iv) and Objective (a)(v) of the EP & A Act 1979, by not hindering the provision of land for public purposes and by providing for connection to future community services within adjacent public spaces.

Due to the isolated nature of vegetation on the site, and the disturbed nature of the land, it is not considered that development of the land will hinder the attainment of Objective (a)(vi) relating to the protection of the environment including threatened species and their habitats. The site is predominantly cleared with only a stand of Eucalyptus and Casuarina trees along the eastern boundary ranging in height from 6 - 9m. These trees are scattered along the boundary and do not form a continuous canopy with other trees or corridors in the area. It is therefore unlikely that they form the habitat to any significant fauna or endangered species. It is proposed that these trees will be retained by the development resulting in minimal if any impact to any fauna in the area. The development has been designed having regard to ecologically sustainable principles including water conservation initiatives and energy efficient design, thereby contributing to the conservation of resources and the attainment of Objective (a)(vi).

Whilst the development will not contain any units which are specifically identified as affordable units, the development will incorporate a mix of unit sizes, together with adaptable units, thereby broadening the diversity and cost of residential accommodation within the Blacktown area. The inclusion of one bedroom units within the development will provide for more affordable units within a central accessible location, meeting Objective (a)(viii).

**(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 forwarded to the Local Traffic Committee (LTC) for consideration. A copy of the DA was forwarded to the RTA, together with an invitation to consider the application at this meeting. In addition to considering the proposal at a LTC Meeting, the RTA also referred the matter to the Sydney Regional Development Advisory Committee for consideration. The SRDAC comments are discussed under Section 9 “External Referrals” below, while the LTC assessment and recommendations are summarised under Section 10 “Internal Referrals”. 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.

The proposed development is not located adjacent to or near any RTA controlled road and therefore was not required to address this matter.

**(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. A full discussion regarding site contamination can be found under Section 7.6 of this report. Suitable **conditions** will be imposed on any development consent issued to address site contamination and remediation related matters.

**(e) 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 to provide sustainable housing that is a long term asset to the community. It aims to provide a broader range of well-designed living units that enhances the quality of the living units, provides safer and healthier

environments, enhances community streetscapes and satisfies ecologically sustainable design principles. The SEPP also 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 on 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 Planning comments thereon.

***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.*

Located adjacent to a neighbourhood shopping precinct, the proposed development will deliver diversity of housing in a maturing low to medium density housing area. The design responds well to its context by locating the 5 storey buildings in the western portion of the site immediately adjacent to the retail shopping complex. Apartments located along the eastern boundary are 2 storeys and step up to 3 storeys in the centre of the site. This will minimise the perception of building bulk from the adjoining neighbours and minimise the risk of privacy issues. The regular building layout is similar to surrounding street layouts and the proposal maintains a high proportion of landscaped area. The new buildings will contribute to the quality and identity of the area and provide urban consolidation adjacent to existing infrastructure capable of accommodating increased density.

***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 proposal provides an appropriate scale in terms of the bulk, scale and height of the buildings that suit the scale of the street and surrounding buildings. The proposed building forms are consistent with Council's Development Control Plan (DCP) controls in providing the smaller-scaled buildings adjacent to the existing residential properties. Along Myrtle Street the proposal provides a transitional scale between the retail buildings to the west and the residential areas to the east. The three storey Block A is consistent with the height of the adjacent retail buildings and the buildings located along the eastern portion of the site (Blocks E, F and G) are also 3 storey, but step down to 2 storeys adjacent to the boundary. The third storey to Blocks E, F and G is setback so that it will virtually not be visible from the neighbouring residences. It should be noted that 3 storey development is permissible within 6m of the eastern boundary. The highest buildings (Blocks B, C and D) are positioned the furthest from adjoining residential properties with landscaped areas acting as a buffer.

### **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 development promotes a contemporary aesthetic reflecting development in other areas of Blacktown. The proposed building forms are well articulated with balconies and expansive glazed areas, providing a textured façade. A palette of materials and finishes has been selected to display a contemporary feel to the development. Finishes are durable, require low maintenance and are fit for purpose. Podium and ground plane finishes will comprise a combination of split-faced concrete blocks, rendered and painted masonry in darker tones and natural timber screens. On the upper levels lighter tones predominate with accent colours applied to selected building elements to delineate individual apartment buildings. Pre-finished insulated profiled metal sheeting faces large sections of east and west facades and will be coloured in muted grey tones with minimal reflective qualities. The central spine will create a sense of place for residents and connectivity to the park at the rear of the property and the shopping precinct to the west will be emphasized. The form of the building does not significantly overshadow any public or private open space at any time throughout the year.

### **Principle 4: Density**

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

Under the provisions of Blacktown Development Control Plan (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 a site. An assessment of the DA against the requirements of BDCP 2006 is provided under Section 7 of this report. Overall, the proposed development complies with the numerical requirements and

intent of the Residential DCP. It is worth noting, however, that with a development site area of 14,232 m<sup>2</sup> the floor space represents a floor space ratio (FSR) of 1.32:1.

As the development provides a mix of apartment living and townhouse style units it is able to reflect the same tapestry of development in the immediate vicinity. This is consistent with the desired future character for the area of having residential flat buildings close to main activity centres and transport nodes. Given the proposed massing and well articulated building form, it is believed that the proposed density will be appropriate for the site.

***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 development incorporates sound design principles in respect to ESD and sustainability. As it is efficiently planned the development is able to optimise the building envelope with less external and internal wall areas, less gross building area for the number of units and therefore consume less raw materials and embodied energy. Each dwelling of the proposal has ample solar access, cross ventilation capabilities and a great potential for energy minimisation. Water saving measures are to be incorporated. Some of the elements being implemented include a rainwater farm, 'zeroscape' landscaping, and water-wise fixtures and fittings. These will be conditioned in any consent issued. The development also has excellent access to public transport thereby minimising reliance on private vehicles.

***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.*

Landscaping themes within the development seek to provide a more casual presentation to the ordered aesthetic of the built forms. Curved and rounded shapes, arranged with a variety of spatial qualities, will provide residents with sections of lawn, manicured gardens, contemplative retreats, exercise zones and BBQ areas. The minimisation and rationalisation of vehicular movements through the site encourage pedestrian activity. The spine road is oriented north-south thereby permitting enhanced solar access. Ample building separation between apartment blocks will also facilitate sun penetration.

***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 ample public open space contributes to the capability of passive recreational activities around the development. Unit designs are rational, ample in size and well considered in respect to layout and use. Well designed townhouse style apartments on the eastern boundary not only respond to the adjacent low density uses but will also contribute to the diversity of residential use in the complex. The development affords a high degree of amenity to all users. The planning and arrangement of the buildings ensures that the majority of the units face north. The majority of units have generous outdoor balconies. The planning maximises natural cross ventilation throughout the site. The need for active heating and cooling systems is minimised. As the buildings are primarily constructed of in-situ concrete and masonry construction, all the units will have excellent acoustic and visual privacy.

**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.*

As the proposal is characterised by wide open spaces and regular building layouts, there is a high degree of pedestrian safety. Good visual surveillance is achieved by unit design overlooking public open spaces. It is proposed to restrict access to the site generally with additional security controls at building entries and carpark shutters such as video intercoms and access control systems. A full 'Safer by Design' Evaluation has been undertaken by the Blacktown Police Local Area Command and can be found under Section 7.2(i) of this report.

**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.*

Sydney, Blacktown and Prospect are all undergoing increased urban development, adjusting to increased population growth, shifting demographics and the realisation of community aspirations. This development will be a catalyst for contemporary development in the area capitalizing on a large site well positioned alongside a retail hub and public transport corridor. The site has long been underdeveloped and a haven for anti-social activity. Development will help to change the social dimension of the area and reposition the character of the area.

**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 applicant states that the development will present a contemporary and highly considered architectural solution to the community, with rich façade textures, a variety of materials, an integrated landscape solution and a coherent architectural aesthetic. The design will incorporate building elements and forms found in other developing areas of the Sydney metro area, but as yet unseen in the Prospect locale. Aesthetic clarity of the development is achieved through a consistent set of character elements applied to all buildings. In respect to Blocks A to D, the roof form wraps and encloses each cluster of dwellings, shielding the east and west facades from solar radiation and unifying each group as a separate identity. The use of individual highlight colouration also adds to the sense of place within the development, and the northern and southern facades are heavily articulated with balcony projections to further assist in environmental control. The same type of character elements and highlight colours are also applied to Blocks E, F and G.

Given that the development is very contemporary in style and incorporates elements not yet seen in the Prospect area, it was requested that the applicant provide details of other similar constructed developments so that Council Officers could view the end product. In this regard Council Officers wanted to ensure that the development would complement the existing built form in the surrounding area, and would not look too bulky. In response, the applicant attached images of similar scaled Sydney developments that are representative of the environmental qualities to be developed and architectural aesthetic proposed. A copy of these images can be found at **Attachment 4** to this report.

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.

**(f) Residential Flat Design Code (RFDC)**

In addition to the 10 'design quality principles' listed in Section (e) 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. It is noted that the numerical standards in the RFDC are guidelines only and therefore any minor variations should not warrant refusal of the application. The recommendations and main numerical guidelines from the RFDC are summarised in the table at **Attachment 5** to this report, together with Town Planning comments.

As demonstrated by the assessment at Attachment 4, the proposed development has satisfactorily addressed the recommendations of the RFDC. While there are 18 southerly orientated units (i.e. 11% as opposed to a maximum of 10% under the RFDC recommendations), 4 of the units have been provided with skylights thereby allowing additional solar access. This arrangement is considered acceptable for the small number of units proposed, and is considered to adequately meet the intent of the RFDC recommendations.



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 is discussed in detail under Section 7.2(i) of this report.

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

BASIX Certificates were prepared in March 2011 and 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. Recent changes to 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.

**(h) Blacktown Local Environmental Plan (BLEP) 1988**

The subject site is zoned 2(c) Residential pursuant to the provisions of Blacktown Local Environmental Plan (BLEP) 1988. The proposed development, being for a “*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 also requires that the development be *generally consistent with* one or more of the following objectives of the 2(c) Residential Zone:

- (a) *"to make general provision to set aside land to be used for the purposes of housing and associated facilities;*
- (b) *to identify areas suitable for residential flat buildings in locations close to the main activity centres of the City of Blacktown;*
- (c) *to enable redevelopment for medium density housing forms, including townhouses, villas, cluster housing, semi-detached housing and the like, as an alternative form of development to residential flat buildings;*
- (d) *to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours; and*
- (e) *to allow within the zone a range of non-residential uses which -*
  - (i) *are capable of visual integration with the surrounding environment;*
  - (ii) *either serve the needs of the surrounding population or the needs of the City of Blacktown without conflicting with the basic intent of the zone; and*
  - (iii) *do not place demands on public services beyond the level reasonably required for residential use;"*

The proposed development is considered to be consistent with objectives (a), (b) and (d). The development is for housing purposes (i.e. residential flat development), is located adjacent to the local community shopping centre and incorporates well designed passive recreational open space in conjunction with dwelling units.

The proposed development represents an appropriate redevelopment of an underutilised parcel of land, is not out-of-keeping with the commercial/retail development located

immediately to the west of the site and has been designed to be sympathetic to the existing detached dwellings located adjacent to the eastern boundary.

It therefore follows that the development is generally consistent with one or more of the zone objectives for the 2(c) Residential Zone [in particular objectives (a), (b) and (d)] and therefore is a permissible use with development consent.

**(i) 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 the Residential 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 proposal's compliance with the abovementioned Development Control Plan (DCP) is discussed in detail under Section 7 of this report. While the proposed development is generally compliant with the provisions of Council's DCP, it is acknowledged that variations are proposed to the height and setback controls of the DCP. However, given that the non-compliances are only minor, it is recommended that the development be supported in its current form. The non-compliances, including the applicant's justification for the variations, are discussed in detail under Section 7 of this report.

## 6. Section 79C Consideration

6.1 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 EPIs relating to the proposed development are summarised under Section 5 of this report. The proposal is considered to be consistent with the relevant SEPPs, 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 2(c) Residential 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, K, O, Q and R apply to the site. The proposed development is consistent with the desired future character of the area and is generally compliant with all of Council's numerical controls. A detailed assessment of the Application is provided under Section 7 of this Report.</p>	Yes
<p><i>b. the likely impacts of that development, including</i></p>	<p>An assessment of the key issues relating to the proposed development, is provided under Section 7 of</p>	Yes

<p><i>environmental impacts on both the natural and built environments, and social and economic impacts in the locality</i></p>	<p>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, as detailed in the 'Safer By Design Assessment' under Section 7.2(i) of this report, will also ensure that security and safety is maximised on and around the site.</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>	
<p><i>c. the suitability of the site for the development</i></p>	<p>The subject site is zoned 2(c) Residential and permits 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 site's close proximity to services, facilities, public transport and the major arterial road network also makes this a suitable site for higher density residential development.</p> <p>The site is currently 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. The site is therefore considered that suitable for the proposed development.</p>	<p>Yes</p>
<p><i>d. any submissions made in accordance with this Act, or the regulations</i></p>	<p>As noted under Section 11 of this Report, a total of 339 submissions (including 112 individual objections from 54 properties and 227 pro forma objections) and a petition containing 305 signatures were received objecting to the proposal. It is considered that 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>	<p>Yes</p>
<p><i>e. the public interest</i></p>	<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 11 of this report discusses in detail how concerns relating to height, bulk/scale, traffic, parking, noise, privacy, anti-social behaviour, drainage/flooding, etc have been addressed or can be controlled via suitable conditions</p>	<p>Yes</p>

	<p>of consent.</p> <p>It is considered that no adverse matters relating to the public interest arise from the proposal. The proposal provides high quality housing stock and has the favourable outcome of furthering the principles of urban consolidation.</p>	
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## 7. Council Assessment

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

7.2 **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. Although a formal staging plan has not been submitted, the applicant has indicated 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 does not contain any critical habitats or threatened species in accordance with the Threatened Species Conservation Act 1995. In this regard, only a handful of small trees and shrubs exist in the body of the site. These trees will require removal to accommodate the development.

Along the eastern boundary there are a significant number of mature trees forming a landscape buffer approximately 6 - 9 metres high. It is proposed that these trees will be retained and that additional supplementary planting will be undertaken along the eastern boundary to provide additional screening to the existing adjoining residents.

It is considered that the additional landscaping proposed throughout the development will be a significant improvement on the current state of the site.

**(c) Cultural Heritage**

There are no known Aboriginal archaeological sites on or near the subject property. Given that the subject site has been used for industrial purposes in the past, it is considered that the site would not have high cultural significance. It is also recognised that the site has been highly disturbed as part of the excavation works undertaken in 2001 as part of the existing Development Approval (i.e. DA-97-7076). 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 that 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).

**(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. In addition to considering any noise impacts from within the development itself, it was requested that the report also consider whether any external activities are likely to impact on the future residents of the development and, if so, how this could be treated.

In response, it was identified that the main source of noise disturbance will be from the loading dock associated with the immediately adjoining supermarket. Acoustic Studio Pty Ltd was therefore engaged by the applicant to undertake a noise assessment of the impact of the adjacent supermarket loading dock on the proposed residential development. The assessment was carried out in accordance with the relevant Australian Standards and the publications of the NSW Department of Environment Climate Change and Water (DECCW), and provides recommendations for appropriate internal noise level criteria for the new development. Compliance with these limits will ensure that operational noise from the adjacent loading dock will not impact negatively on the proposed development.

As part of the assessment it was noted that the residential units most likely to be affected by noise emanating from the loading dock are those proposed in Block D and facing south, due to their proximity to the loading dock and the orientation of the windows. The approved hours of operation for the supermarket and associated loading dock are Monday to Saturday: 7am to 12 midnight and Sunday: 8am to 9pm. Deliveries are permitted to occur Monday to Friday: 6am to 10pm, Saturday: 7am to 10pm and Sunday: 8am to 9pm. The supermarket operator has indicated, however, that deliveries typically occur between 6am and 1pm. The supermarket operator has advised that some deliveries might occur outside of the mentioned times, but rarely do deliveries occur after 6pm. All deliveries are made at the back of the loading dock, facing the proposed development.

A survey of the existing noise environment around the proposed development was conducted on Thursday 9 and Friday 17 June 2011. Based on conversations with the proponent and the supermarket operator, it is also understood that noise emanating from the operations of the existing loading dock will include noise from trucks arriving, reversing, loading/unloading and departing from the loading dock. After conducting a site inspection and reviewing the architectural plans for the proposed development, the Acoustic Assessment indicates that noise impacts from operations associated with the adjacent supermarket loading dock will be as follows:

- (i) noise from loading dock operations breaking into the habitable spaces facing south within Block D in the proposed development; and
- (ii) sleep disturbance in bedrooms facing south within Block D due to short-term duration noises emanating from the loading dock during the early morning period (i.e. before 7am).

The Acoustic Assessment indicates that noise emanating from the loading dock will be variable in nature, including busy and quiet periods during its operational times. In the absence of specific internal noise criteria within Council's Development Control Plan, noise criteria according to the Australian Standards and other relevant guidelines and documents was therefore proposed for the residences. Following this an acoustic analysis was undertaken which draws the following conclusions:

"Windows closed" situation

- (i) All bedrooms within units D-X1, D-X2 and D-X3 comply with *recommended* noise levels.
- (ii) Living rooms within units D-X1 and D-X2 comply with recommended noise levels.
- (iii) Living rooms within unit D-X3 will comply with recommended noise levels if windows incorporate acoustic seals so that the overall performance is Rw 35.
- (iv) All bedrooms and living rooms within units D-X1, D-X2 and D-X3 comply with *maximum* noise levels.

"Windows open" situation

- (i) All bedrooms and living rooms within units D-X1, D-X2 and D-X3 do not comply with *recommended* noise levels being 35dBL with windows open. Therefore windows need to be closed. This may mean that alternative forms of ventilation need to be considered like air conditioning. This will be conditioned accordingly in any consent granted by the JRPP. In the case of living rooms in unit D-X3, windows incorporate acoustic seals so that the overall performance is Rw 35.
- (ii) All bedrooms and living rooms within units D-X1, D-X2 and D-X3 comply with *maximum* noise levels being 50dBL.

In this regard the internal noise assessment has determined that the *recommended* noise levels will be generally met with windows closed. However, with windows open, only the proposed *maximum* noise levels being 15dBL more than the recommended level, will be achieved. To achieve compliance with *recommended* noise levels, i.e. to reduce noise back to 35dBL, windows are to be kept closed at all times. This may mean that alternative forms of ventilation, like air conditioning, will need to be considered for units D-X1, D-X2 and D-X3. It is therefore recommended that a **condition** be imposed on any consent to address this matter.

The Acoustic Assessment also looked at the issue of 'sleep disturbance' and concluded that the loading dock has the potential to create some sleep disturbance in the event that the bedroom windows are open. However, considering that deliveries to the loading dock cease at 10pm when the "night-time" period starts, the Acoustic Assessment concludes that any impact of loading dock operations in terms of its contribution to sleep disturbance will be negligible.

In addition to assessing the impact of the external activities on the future residents of the development, the applicant was also requested to comment on any likely noise

generating activities from within the proposed development that may potentially impact on the future occupants of the development or the existing adjoining/nearby residents. The applicant provided the following response:

- (i) It is recognised that surrounding residents will experience noise disturbance during the construction period. While this is unavoidable, Council Officers will no doubt recommend that standard **conditions** of consent be included on any consent to ensure that noise does not exceed the limit prescribed in the Protection of the Environment Operations (POEO) Act 1997. A further **condition** will be imposed to ensure 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, Saturdays; with no such work to be undertaken at any time on Sundays or public holidays.
- (ii) It is believed that the proposed dwelling units will not generate any unreasonable noise impacts. In this regard Blocks E, F and G present as 2 storey “townhouse” style dwellings to the eastern boundary and are no different to any other medium density development in respect to noise generation. It is therefore believed that attenuation measures are unwarranted. In an urban environment there is an expectation that residents will abide by the same laws as everyone else. The applicant has indicated that, unlike other environments, however, the adjoining neighbours will have a single point of contact for complaints (i.e. the estate manager) should that be necessary.
- (iii) The vehicular accessway has been centrally positioned on the site. It is considered that vehicular movements will therefore have minimum impact on neighbouring properties. Neighbours to the east are further shielded from vehicular movements by Blocks E, F and G. Internal traffic calming measures (i.e. speed humps) will also dissuade unruly behaviour. Pit lids will be of heavy duty construction, bolt fixed to prevent removal and should not generate any noise.
- (iv) The basement garage doors are located some 50 metres from the nearest dwellings, are shielded by Blocks E, F and G, will be of commercial grade, and are located below final road level. The operation of the basement garage doors will therefore have no impact on surrounding residents. The Estate Manager will further ensure the overall upkeep of the development and will be required to maintain the doors in good working order at all times.
- (v) The garbage collection points are also centrally located on site. Appropriate **conditions** will be imposed on any development consent to control collection activities and times.
- (vi) Given that the proposal is for residential purposes, it is not anticipated that the development will cause any unreasonable noise impacts. The applicant also recognises that it is in the best interest of all residents to minimise noise generation, and that the on-site Estate Manager will assist in addressing any noise disturbance issues.

An assessment of the submitted information indicates that the proposed development will not generate any unreasonable noise impacts, and that appropriate measures can be adopted to protect the amenity of the future residents of the development.

**(e) Roads, Access and Pedestrian Pathways**



The subject site is not affected by any DCP road pattern, road widening or access restrictions. In this regard Myrtle Street is classified as a local road and permits unrestricted vehicular access from this frontage. It is proposed that the main vehicular access to the site will be provided from Myrtle Street via a new internal roadway which will run through the centre of the site. The roadway will provide access to the basement carpark level, and to the car parking spaces 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** will be imposed on any consent to ensure that the accessway is constructed to appropriate Engineering standards. Council's Engineering and Traffic Sections have reviewed the proposed plans and have advised that the carriageway width and overall design are appropriate for a private access road.

A "secondary" vehicular entry/exit point will also be available via the roundabout located on the adjoining shopping centre site. In this regard a right-of-carriageway (ROW) was created by DP 1018639 which benefits the subject site. The Local Traffic Committee (LTC) initially advised that this secondary access point (originally proposed as an "exit only") should be restricted to "emergency access" only. After reconsidering the matter, however, it was agreed that the "secondary" access point should be redesigned to allow 2-way movements. This matter is discussed in detail under Section 8 of this report. Sliding security gates, together with an intercom security system, are proposed at both vehicular access points to restrict access to residents and their visitors only.

The proposed development also provides pedestrian pathways to provide accessibility and permeability into and around the site and the adjacent shopping centre. Concerns were initially raised in relation to the location of the pedestrian access point near the roundabout, given the potential for pedestrian/vehicular conflicts in this area. The applicant has argued, however, that the pedestrian access arrangements are appropriate for the following reasons:

- (i) The roundabout forms the function of a traffic calming device and will heighten the awareness of drivers to pedestrian activity.
- (ii) The design accommodates a footpath which extends along the eastern edge of the roundabout to Myrtle Street, providing safe movement of pedestrians to the shops. Another footpath trims the eastern edge of the parking spaces to the south of the entry providing access to the supermarket. There is no obvious need for pedestrians to cross at the roundabout in this location, as only a landscape buffer trims the western edge of the roundabout.
- (iii) There is suitable area directly outside the entry gate to serve as a refuge for pedestrians waiting for a suitable time to cross the driveway to Myrtle Street.

For these reasons Council Officers agree that the pedestrian access arrangements in and around the site are satisfactory.

**(f) Car Parking**

A Traffic and Parking Assessment Report, prepared by 'Varga Traffic Planning Pty Ltd', was submitted with the Application. The report identifies that the existing kerbside parking restrictions in the vicinity of the site are as follows:

- (i) "no stopping" restrictions along both sides of Myrtle Street in between Flushcombe Road and Upwey Street;

- (ii) generally unrestricted kerbside parking elsewhere in Myrtle Street including along the site frontage and throughout the local area; and
- (iii) bus zones at regular intervals along both sides of Flushcombe Road.

In accordance with the DCP, the proposed development requires that parking be provided at the rate of 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 the above parking rates yields an off-street parking requirement of 250 car parking spaces (i.e. 185 residential spaces and 65 visitor spaces). The proposed development makes provision for a total of 250 off-street parking spaces and therefore complies with Council's minimum parking requirement. Of the 250 spaces, 106 (i.e. 54 for residents and 52 for visitors) will be provided at ground level and 144 (i.e. 131 for residents and 13 for visitors) will be provided within the single basement carpark located beneath Buildings A to D.

As a **condition** of any consent the applicant will be required to provide an overall parking tenancy plan to show the location of the parking spaces in relation to the associated units and to demonstrate that all residents will be provided with convenient and accessible on-site parking.

The Traffic and Parking 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 carpark 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. 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 provision.

**(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. In the event that a new sub-station is required for the development, details regarding its location and design will be required prior to the release of any Construction Certificate (CC). A suitable **condition** will be imposed on any consent to address this matter.

**(h) *Drainage and Flooding***

Given that the active approval for the site (i.e. DA-97-7076) provides 253m<sup>3</sup> of on-site detention (OSD), the drainage plans originally lodged with the current DA were designed to the same capacity.

On 20 April 2011 a meeting was held between Council Officers and the applicant regarding the adequacy of the proposed OSD system. In this regard Council explained that the original approval was granted on the basis that a basin would be constructed within the subject development site, with this basin contributing to the OSD requirements of the development given that the basin was to remain in private ownership. However, since then Land and Environment Court action initiated by the landowner has resulted in the designated basin area (i.e. Lot 43) being transferred from the developer's private ownership to Council's ownership for use as a community OSD basin. As such, the previous OSD concessions are no longer available to the developer.

The proposed new development requires substantially more OSD capacity than the existing active approval. In this regard Council's Flooding and Drainage Engineers have calculated that the minimum acceptable OSD storage for the site would be 488m<sup>3</sup>. This volume reflects the fact that the land no longer benefits from the basin that formed part of the land in the original application. Hence the applicant is now required to contain the whole of the on-site stormwater detention generated by this proposal within the subject land. This would allow sufficient on-site capacity, while also preventing any impact on downstream owners. The applicant was also advised that, as part of the stormwater design, the overflow from the detention tank(s) should first be directed to the Council basin at the rear of the site, rather than the adjoining properties in Rydall Street.

On 3 May 2011 the applicant submitted amended drainage plans for Council's consideration. Following a review of the plans, Council's Flooding and Drainage Engineers advised that further revisions were required to the amended OSD plans. In this regard concerns were raised regarding the sediment control measures, the pipe sizes, the inlet pits, the measures employed to protect the downstream property owners, overland flow, etc.

The applicant submitted amended plans to address the identified drainage concerns, but on 4 July 2011 Council's Drainage and Flooding Engineers advised that a Flood Study, including flood modelling, was required. In this regard a detailed assessment of the overland flow issue was required not only to ensure appropriate floor levels could be set for the proposed buildings on site, but to ensure the backyards of adjoining properties could be appropriately protected.

Council Officers met with the applicant on 27 July 2011. At that meeting it was acknowledged that the basin alone could not solve the drainage problems and that the applicant would be required to increase the OSD storage capacity on site. Council Officers were concerned, however, that an increase in OSD (i.e. an increase to the under-building tank sizes) could result in the buildings along the eastern boundary having increased finished floor levels (FFL's) which in turn could create potential privacy concerns. Any additional significant impact would therefore require re-advertisement in the local newspapers and re-notification to the immediately affected neighbours.

On 1 September 2011 a revised set of drainage plans were received by Council addressing the identified OSD concerns. It was noted that the ground floor level of Block E (i.e. adjacent to the eastern boundary) had been raised by 465mm to be identical to Block F (RL 60.125). While the FFL had been amended, it was noted that the

parapet height of Block E remained unchanged at RL 67.35. It was determined by the Development Services Unit that the changes did not warrant re-notification for the following reasons:

- (i) Only Block E (i.e. the rear building adjacent to the eastern boundary) has been amended.
- (ii) The amended floor level of Block E is identical to Block F (i.e. the middle building adjacent to the eastern boundary). In this regard the floor level of Block E has been raised 465mm. Blocks E and F therefore both now have an RL of 60.275.
- (iii) The floor level of Block G (i.e. the front building adjacent to the eastern boundary) is RL 61.10 and therefore is greater than Block E (and F).
- (iv) While the floor level has been amended, the parapet height of Block E remains unchanged. The overall height of the Block E and the shadow diagrams as notified to the neighbours are therefore unaffected.
- (v) The amended floor level means that Block E will have no greater impact than the other 2 buildings proposed along the eastern boundary.

On 18 October 2011 advice was received indicating that Council's Flooding and Drainage Engineers have no objections to the overall stormwater drainage plans subject to appropriate conditions of consent. A copy of the draft determination, which includes the recommended **conditions** to address the remaining flooding/drainage issues, is included at Attachment 1 to this report.

**(i) *Crime Prevention through Environmental Design***

In April 2001 the NSW Department of Infrastructure, Planning and Natural Resources (now the Department of Planning and Infrastructure) introduced Crime Preventative Legislative Guidelines to Section 79C of the Environmental Planning and Assessment Act 1979. These guidelines require consent authorities to ensure that development provides safety and security to users and the community. The guidelines contain two parts: Part A details the need for a formal crime risk assessment (Safer by Design Evaluation) and Part B outlines basic Crime Prevention Through Environmental Design (CPTED) principles and strategies. The 4 basic principles outlined in CPTED that are required to be considered are surveillance; access control; territorial reinforcement and space management. The Safer by Design and CPTED guidelines are crime prevention strategies that focus on the design, planning and structure of our cities and neighbourhoods. They both aim to reduce opportunities for crime by employing design and space management principles that reduce the likelihood of essential crime ingredients from intersecting. The guidelines are based on the belief that the physical environment can be changed or managed to produce a behavioural effect that will in turn reduce the fear and incidence of crime.

The DCP states that major DAs 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.

Following lodgement of the DA with Council, the Blacktown Police Local Area Command (LAC) was provided an opportunity to view the application and invited to undertake a 'Safer by Design' and CPTED evaluation. In accordance with the DCP, the applicant was also requested to submit a formal Crime Safety/Prevention Audit. During the initial assessment of the DA it was also requested that the following identified concerns be addressed as part of the audit:

- (i) What measures will be put in place to ensure the safety of those using the common open space area located at the rear of the site.
- (ii) It is noted that the adjacent supermarket is constructed on the boundary. As such, what measures are proposed to ensure that the blank wall is not a target for graffiti.
- (iii) Please confirm whether pedestrian access will be available from the site directly into the detention basin area.

Following this, the applicant submitted a “Crime Prevention Through Environmental Design (CPTED) Report” addressing ‘Part B Principles for Minimising Crime Risk’ of the document entitled *Crime Prevention and the Assessment of Development Applications – Guidelines* under Section 79C of the Environmental Planning and Assessment Act 1979 (Department of Urban Affairs and Planning, 2001). The submitted report demonstrates that the potential to commit crime can be reduced or in many cases eliminated altogether. As indicated above, there are 4 basic principles outlined in CPTED that are required to be considered: surveillance; access control; territorial reinforcement and space management. A summary of these 4 basic principles and the key points from the evaluation are summarised below:

(i) *Layout and Natural Surveillance*

The subject site is located within an existing residential neighbourhood and close to an established supermarket and local shops. The internal layout of the site has been designed to create a series of semi-private spaces shared by the residents of the development. The layout of these spaces has been designed with clear division between vehicle and pedestrian access. The raised pedestrian access will allow for continuous surveillance of the vehicle space regardless of obstructions like parked cars. The same pedestrian link provides easy access around the site and contains no blind corners or areas of entrapment. The walkway is at the same level as the podium recreation areas which provide visual interest along the way but also allows for a general level of surveillance of the recreation areas.

A secondary pedestrian path has been located along the western edge of the site. The pathway provides a clear and active link along the western boundary adjacent to the shopping centre. This link will provide active surveillance of the common open spaces as well as of the shopping centre interface. Landscaping treatment is proposed to dress the shopping centre wall. Together with the active nature of the space and the residents’ sense of ownership, there should be no issue with graffiti as currently seen.

The residential units have outlook in all directions, although visual access from the upper levels to the existing residential properties to the east is restricted. All of the shared spaces of the development have passive surveillance by way of being overlooked by units.

There is a large Council detention basin to the south. This basin is currently accessed by a pathway off Ollier Crescent. The proposed scheme will provide a number of units (Block D) with direct outlook over the basin. A visual connection will also be available from the internal accessway to the basin. The development will therefore reduce opportunities for wrongdoing in the basin, as visual surveillance of the basin is presently lacking.

The applicant was requested to advise what measures will be put in place to ensure the safety of those using the common open space area located at the rear

of the site. The applicant has advised that the site will be enclosed by a security fence and will restrict access to residents and their guests. Landscaping has also been designed to include low shrubs adjoining pathways to provide good visual surveillance from both users at ground level and residential units in Building D above. The common area will be embellished with recreational facilities to ensure that the space is a part of the active life of the residents.

Corridors within the buildings have been designed as single straight runs with only minor articulation in the walls to prevent any hiding places. The corridors have windows at each end with the lift foyer being located near the main spine.

(ii) *Lighting, Technical and Formal Surveillance*

The lighting scheme for the proposed development will meet the requirements of AS1158 (1999) at all hours. The proposed lighting will be of a high quality and will be vandal-resistant which will minimise the requirement for replacement or maintenance. All lighting will be evenly lit. Effective lighting will be provided to the car parking areas to reduce opportunities for crime, while the building corridors will have access to natural light and sensor controlled lighting at night.

The applicant believes that CCTV cameras are not warranted for the proposed development, although it is recognised that the placement of cameras may deter some crime such as property damage. The report indicates that if CCTV is proposed by building management, the system should be actively monitored.

The development will employ a full-time building manager. The building manager's office is directly connected to the basement near the main vehicle and pedestrian entries. This location will create an observing presence and enhance natural surveillance in the carpark.

(iii) *Landscaping and Surveillance*

The safety objective of "to see and be seen" is important in landscaped areas to allow for open sight lines. Landscaping on the publicly accessible pedestrian spine has therefore been limited to planter boxes. The selected plant species around the site will also provide screening without obscuring views into the recreation spaces or car parking areas. Fencing around the site will be of an open style as to not obstruct the view of the area beyond.

Given the adjacent supermarket is constructed on the boundary, the applicant was requested to advise what measures would be adopted to discourage graffiti on the blank wall. The applicant has indicated that the site will be enclosed by a security fence. Access will therefore be restricted to residents and their guests. Footpath access to Block C and D runs past the wall ensuring constant visual surveillance. The section of wall between Block C and D is also exposed to nearby apartments. To discourage graffiti attacks, however, the supermarket wall will be lined with appropriate landscape treatment of reasonable height. Any incidence will be quickly reported to the building manager who will be responsible for maintaining common property and the cleaning of graffiti.

(iv) *Access Control*

Boundary fencing will be provided around the perimeter of the site. Controlled access points, for both pedestrian and vehicle access, will be provided at the main

entry on Myrtle Street and the secondary access point located adjacent to the roundabout on the Woolworths supermarket site.

The two access points will be controlled by an electronic card system. The same system will be used to control access to the individual building foyers and lifts. Residents will have a general awareness of other residents on their floor which will create a greater sense of security. All units will also be provided with video intercom to allow for controlled access of visitors.

The basement parking will be restricted to residents parking only and will be access controlled with a remote activated shutter at each entry. Residents will have dedicated storage within their units and additional lockable storage will be available within the basement. This resident controlled storage will reduce the opportunities for inter-resident theft. Residents will also have the option of upgrading to garaged car spaces.

The applicant has confirmed that there will be no direct access to Council's basin located at the rear of the site. However, the fencing proposed along the southern boundary will maintain visual surveillance of the basin from the subject property. Should Council wish, the applicant has raised no objection to providing a gate between the subject land and the Council basin for maintenance purposes, locked and accessible only by the Building Manager.

(v) *Territorial Reinforcement*

The hierarchy of space is comprised of 3 space types: private, public and semi-public space. An objective of CPTED is to develop transitional (semi-public) areas between public and private property.

The central spine of the development is the backbone of the hierarchy and is the most public of the spaces within the development as it will be used frequently by all residents. Surface and landscaping treatment has been designed to maintain an open feel to this spine. From the spine residents will transition to their private spaces by way of the building foyers. The building foyers have a direct outlook to the spine but also afford a level of privacy with measures to restrict access to residents and their visitors only.

Landscaping of the recreation spaces has been designed to create zones of use and to allow for the creation of personal space within these zones for an individual or small group.

(vi) *Natural and Organised Guardianship*

Places that feel owned and cared for are more likely to be used, enjoyed and revisited. Once completed, a building manager will be appointed to manage the building and any vandalism to property, including graffiti. Any maintenance issues will be addressed at the earliest opportunity to encourage appropriate use and to signify safety of the space.

(vii) *Activity and Space Management*

Space and Activity Management strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All spaces, even well planned and well-designed areas, need to be effectively used and maintained to maximise



community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

The layout of the buildings, together with the employment of an on-site building manager, will provide a sense of control as the residential community develops. The developer has indicated that a clear maintenance routine will be established to ensure that the safety measures continue.

Overall, it is believed that the proposal has been designed to minimise potential crime risks and has appropriately addressed concerns relating to: potential areas of concealment, lighting of the circulation spaces and basement carpark, vegetation/planting, access barriers (e.g. gates and bollards), technical surveillance (e.g. security intercoms to apartments), restricted access to basement parking, signage and rapid maintenance management measures. Provided these measures are implemented, it is considered that the proposed development is not likely to create or exacerbate crime risk.

On receipt of the applicant's "Crime Prevention Through Environmental Design (CPTED) Report", a copy was forwarded to the Blacktown LAC for consideration as part of their assessment. The Police reviewed the above assessment and forwarded a response to Council on 17 October 2011.

The NSW Police Safer by Design Evaluation process is based upon Australia and New Zealand Risk Management Standard ANZS4360:1999. It is a contextually flexible, transparent process that identifies and quantifies crime hazards and location risk. Evaluation measures include crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socio-economic conditions (relative disadvantage), situational hazards and crime opportunity.

The Crime Prevention Officer indicated that the site currently poses a number of negative aspects. These range from: potential to steal from a motor vehicle, vehicle theft, break and enter, malicious damage, anti-social behavior, neighbourhood disputes and assaults. The Police also indicated that young people from Mitchell High School (approximately 1km north-east along Keyworth Drive) could potentially cause problems if they loiter around the shops next door to the units. The Police advised that the existing old fencing would require replacement and that measures would need to be employed to discourage graffiti on the external walls of the buildings, the fences and the full-length glass panels in the foyer. There was also concern that the glass panels could be targeted for breakage. Having the site in close proximity to the shops may also increase anti-social behavior.

After conducting a Safer by Design Evaluation, however, the Police determined that the crime rating for this development is "Low crime risk". The Blacktown LAC therefore advised that no objections were raised to the proposed development, but have recommended that appropriate conditions be imposed to address the identified areas of concern. A summary of the Crime Prevention Officer's recommended conditions of consent are provided below.

■ *Surveillance - Recommended Conditions of Consent*

- The entry doors for each block of flats are to be designed so that a person exiting has clear visibility to the outside before they leave the building.
- Lift entries should have secure access for residential tenants only.
- Resident access be by way of keypad or swipe card, as this will restrict other persons entering the private areas of the development.

- ☐ CCTV be installed throughout the residential development, and in and around the lifts.
- ☐ The Police will require information on any CCTV systems. If it is the intention of the developer to install CCTV, a further report will be required providing the following information:
  - ☐ The number of video surveillance systems to be installed.
  - ☐ Whether a qualified consultant has been involved in the planning and placement of video surveillance systems.
  - ☐ Where footage and equipment for the system will be stored and who will maintain the footage and equipment.
- ☐ Appropriate signage is to be erected to inform residents and visitors of the existence of CCTV.

■ *Lighting - Recommended Conditions of Consent*

- ☐ The developer is to install appropriate lighting to enhance security of the car parking facilities, fence lines, entry and exit points, lift areas, foyers, key pedestrian walkways and garbage disposal areas. This lighting should be of the highest standards to enable face recognition if and/or when CCTV cameras are installed.
- ☐ Flood lighting/sensor lighting is to be provided throughout the whole development for security reasons.
- ☐ Lighting needs to be vandal resistant.
- ☐ The ceiling of the basement carpark should be painted white as this will enhance the lighting operating in these types of carparks.
- ☐ The ground level parking areas should be provided with adequate lighting to assist residents/visitors walking to their vehicles at night. This will also allow them to see any potential dangers/hazards and will eliminate any dark areas.
- ☐ A lighting maintenance policy needs to be established for the development at the conclusion of the construction phase.
- ☐ Appropriate lighting to be installed in the residents' dedicated lockable storage area within the basement.
- ☐ A copy of all lighting details should be submitted to the Police and Blacktown City Council prior to the commencement of construction.

■ *Territorial Reinforcement - Recommended Conditions of Consent*

- ☐ Transitional areas between public and private property/space must be clearly defined.
- ☐ Appropriate signage is to be erected around the site (e.g. trespassers will be prosecuted, surveillance systems in operation, security personnel on ground etc).
- ☐ Warning signs are to be provided in the carpark areas. Signs are to be clear and prominent, and should warn people not to leave their valuables in their cars (e.g. 'Lock it or Lose it' signage).

- Warning signs should be displayed around the perimeter of the site to alert intruders of the security treatments in place.
- Warning signs are to indicate where people are allowed to go and where they are not allowed to go (e.g. restricted areas for maintenance staff, cleaners, etc).
- Clear signage is to be provided to show directions for visitors (e.g. carpark, foyer, exercise area, lifts, unit and block numbers, etc).
- Safety signs are required to ensure the fire escapes are clearly labelled and appropriate signage is placed around the unit blocks.

■ *Environmental Maintenance - Recommended Conditions of Consent*

- To address concerns regarding the potential for graffiti/vandalism of the supermarket blank wall constructed on the boundary, appropriate landscaping/"green" screens are to be provided. Continuous maintenance of the landscaped areas is to be undertaken.
- A detailed landscaping plan has been provided which indicates that numerous large trees and shrubs will be planted. Regular maintenance must be undertaken to ensure they do not result in concealment opportunities in and around the ground level areas. Regular maintenance is also required to ensure the 'visual' aspect of the development is not reduced, as this may lead to urban decay. Regular maintenance will therefore need to be a priority.
- Sightlines must be kept free from obstructions. If a lack of natural surveillance occurs this would quickly encourage anti-social behaviour and criminal offences, specifically malicious damage to the area. The 'fear of crime' would also no doubt increase if there is sign of malicious damage, rubbish, broken bottles etc around the development. Regular maintenance and up-keep of the site must therefore be adhered to.
- Information is required in relation to the management of vegetation, gardens, planter boxes, communal areas, the BBQ area and fitness equipment once the development is occupied.

■ *Space/Activity Management - Recommended Conditions of Consent*

- Security measures need to be taken for the protection of the car spaces located on the ground level.
- It is strongly recommended that spear fencing be erected on the perimeter fence lines of the development. This will deter potential offenders from climbing over into areas they should not access.

■ *Access Control - Recommended Conditions of Consent*

- It is strongly suggested that CCTV cameras be located at entry/exit points, lift areas and within the basement/ground level carparks.
- Proposed landscaping/gardens for the site will require continual maintenance to assist with clear sightlines when required. This will reduce opportunities for concealment.
- Fire escapes are to be clearly labelled and appropriate signage placed around the site.

- ☐ Australian Standard security screen doors are to be fitted to all balconies.
- ☐ Appropriate lighting is required inside the foyers, stairwells, lift areas and carparks to ensure clear visibility and effective CCTV footage.
- ☐ The outer building walls are to be graffiti proofed/vandal proofed to deter any anti-social criminal behaviour.
- ☐ New fencing is to be erected around the perimeter of the site (i.e. remove any existing hole-ridden fences). The fencing is to be strong and must adhere to height restrictions.
- ☐ Appropriate lighting to be installed along all pedestrian pathways to ensure clear visibility and to increase safety.
- ☐ Public, semi-public and private spaces are to be separated by using physical and symbolic barriers to attract, channel or restrict resident (or visitor) movements in and around the development.
- ☐ Spaces must be designed to attract, rather than discourage people from gathering.
- ☐ To enhance safety and security, a duress alarm should be placed within each lift in case of emergency.
- ☐ The street number must be displayed prominently at the front of the premises to comply with the Local Government Act 1973, Section 124, Order 8. The street number is to be visible at night.
- ☐ The letterbox system should be vandal resistant and secure.
- ☐ The power board should be housed within a cabinet to restrict tampering with the power supply.
- ☐ Power boards are to be secured with a lock set approved by the electricity authority.

■ *Vehicular Facilities/Traffic - Recommended Conditions of Consent*

- ☐ Surveillance to be installed to allow viewing of all carparking areas.
- ☐ Appropriate lighting to be installed around the carparking areas.
- ☐ Carpark spacing is to be indicated and appropriate signage is to be installed to direct drivers to the appropriate carpark spaces (e.g. visitors parking should be allocated and residential car spaces should be numbered corresponding with unit numbers so there is no conflict between residents). Signage and/or painted descriptions on the ground or wall should be provided.
- ☐ The ceiling of the basement carpark should be painted white as this will enhance the lighting operating.

Based on the Crime Prevention Officer's assessment, the Police have no objections to the proposed development subject to the abovementioned recommended conditions of consent. 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 are followed, it does hope that by applying the

recommendations that criminal activity will be reduced and the safety of members of the community and their property will be increased.

**(j) Section 94 Contributions**

Section 94 Contributions are applicable as per Council's Contributions Plan No. 3 for Development in the Established Areas. Section 94 contributions have been based on the population being increased by 403.1 persons, equating to \$554,666 as a base amount valid at Base CPI March 2005.

This is equivalent to a base contribution amount of \$3,424 per residential unit. The above figure is the base contribution only (i.e. Base CPI March 2005) and is updated to the relevant CPI at the time of payment.

The subject land enjoys a credit for Section 94 Contributions. Lot 43, DP 1004176 was originally part of the original development site until the owner sought to have Council acquire Lot 43. A Section 96 Application was lodged to the consent, however the 'deemed refusal' of that application resulted in an appeal to the Land and Environment Court of NSW.

The parties were able to negotiate a mutually satisfactory position which is reflected in the Consent Orders shown at **Attachment 2**.

Council acquired Lot 43, with the owner reducing the cost of Lot 43 which was validated by valuation reports to the same value of the indexed Section 94 Contributions, which was \$318,504. As such, any consent granted will impose conditions based on the increase in population generated by the subject DA, however crediting the \$318,504 amount that has already been paid as per the Consent Orders.

**7.3 Compliance with 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 the 2(c) Residential zone is 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 5** to this report, while a full discussion of the proposed development against the relevant requirements of BDCP - *Part C: Chapter 7: Residential Flat Buildings* follows:

**(a) Section 7.1 – Definition**

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

**(b) Section 7.2 – Statutory Provisions**

The proposed development is permissible under Blacktown Local Environmental Plan 1988, complies with the provisions 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 5 of this report.

**(c) 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 based upon 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.

**(d) Section 7.5.1 – Development Site Parameters**

The subject site has a frontage of approximately 77 metres to Myrtle Street and a depth of approximately 149 metres, and therefore well exceeds the minimum 30m frontage and minimum 30m depth requirements of the DCP. The total area of the site is 1.427 hectares and is therefore significantly larger than the 1,000sq.m minimum site area requirement of the DCP. Given the generous size of the site, it is believed that there is sufficient area to accommodate the proposed development while providing adequate open space areas, parking arrangements, setbacks and other siting requirements.

**(e) Section 7.5.2 – Height**

The DCP states that on sites zoned 2(c) Residential the height limit is 4 storeys, with a secondary control of a maximum height of 16m (excluding lift towers, stairwells, roof structures, etc). 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 carpark projects 50cm or more above ground level, then it is considered an above ground storey.

Notwithstanding this, the DCP goes on to say 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. A maximum height limit in terms of meters, however, is not specified for 5 storey development.

In terms of the proposed development, the following height limits have been applied:

- (i) Across the Myrtle St frontage, Buildings A and G vary in height from 2 storeys to 3 storeys in height and provide a transition between the retail development to the west and the residential areas to the east.
- (ii) Building A is 3 storeys high and has a maximum height of 11.4m. Its ridge height is similar to the parapet height of the adjoining retail development.
- (iii) The front facade of Building G reduces in bulk from 3 storeys in height along its western edge to two storeys adjacent to the eastern boundary. The parapet height of the 2 storey portion of the building is comparable with the ridgeline of the adjacent single storey residence.
- (iv) Both of these buildings (A and G) respect the heights of the neighbouring buildings.
- (v) The buildings located adjacent to the existing residential dwellings (i.e. Blocks E, F and G) are 2 storeys stepping back to 3 storeys within the centre of the site. Block F is the tallest of these buildings with a ridge height of 11.9m.
- (vi) Development along the eastern edge of the site, immediately adjacent to the existing detached dwelling-houses, has been limited to 2 storeys only (instead of 3 storeys as permitted by the DCP).
- (vii) Transitional scales of 2-3 storey buildings to the north and eastern edges of the site have been incorporated to respect adjoining residential properties. Consideration has been given to the scale, amenity and visual privacy of the

neighbouring residences in the design of Buildings E, F and G. These buildings have split levels following the slope of the natural ground line, thereby reducing the overall height and bulk. They present as 2 storeys along the boundary, with a parapet height of approximately 5.5m. A third storey, containing only bedrooms, is setback a further 3.5m. This arrangement prevents overshadowing, visual intrusion and overlooking of the neighbouring properties.

- (viii) Of the 7 buildings proposed, only 3 are 5 storeys in height (Buildings B, C and D). The taller buildings are located in the middle of the site to minimise visual impact and overshadowing on the surrounding neighbourhood.
- (ix) Building B has a ridge height of 16.9m at the eastern end of the building and Building D has a maximum ridge height of 17.5m at the south-east corner. The 2 breaches to the 16m height limit (i.e. 0.9 & 1.5m respectively) are caused by the curved roof form of each building covering the lift overrun. The lift cores have been located towards the eastern end of these buildings to relate to the circulation spine and position this maximum height well within the body of the site such that it has no impact on neighbouring properties. The proposed roof form, an enclosing curved wrap over roof, is a striking contemporary aesthetic that unifies all the buildings on the site and provides shielding from solar radiation to both east and west facades. Using this form to hide the lift overrun and other plant on the roof provides the development with a highly considered architectural solution, with no affect on adjoining properties.
- (x) The breaches to the height limit are considered very minor, especially given that a height limit in metres, is not specified for 5 storey development. The 2 variations in height occur in the middle of site, do not add to the overall bulk of the development as a whole and have not led to an increased yield in units or floor space on the site. Buildings B, C and D are also well shielded by surrounding development (i.e. Woolworths to the west, the detention basin to the south and Blocks E, F and G to the east).
- (xi) The detention basin to the south provides a substantial separation between the subject site and neighbouring residential properties. As a result there will be no impact in terms of overshadowing or overlooking.
- (xii) The basement parking does not extend further than 500m above the natural ground line at any point.

The subject site has a developable area of 1.427 hectares and therefore well exceeds the 5,000sq.m minimum land size requirement. Given that 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.

**(f) 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 portions of the development fronting a public road. There are no minimum setback requirements to 'private' internal roads.

In terms of setbacks, the proposed development fully complies with the minimum front setback requirement of 9 metres and the side setback requirement of 6 metres in accordance with the provisions of the DCP. In this regard the proposed development provides 9.0m - 13.1m front setbacks for Building A and 9.0m-10.8m front setbacks for Building G. One open balcony (i.e. Unit G-01) projects into the setback by 1.0m as permitted by the DCP.

The rear setback, however, varies from 2.9m - 8.3m. Under the provisions of the DCP, the minimum rear setback should be 6 metres. Given that a detention basin is located at the rear of the site, the reduced setback does not have a detrimental impact on the neighbouring properties. In this regard the distance between the proposed development and the neighbouring properties at the rear is 43.6m - 56m. Given that the detention basin can be included as part of the open space calculations for the site (as per the Land and Environment Court judgement in relation to a previous approval for the site), the variation is considered worthy of support. Lot 43 was originally part of the development site and the current approval on the site (DA77/7076) established a minimum rear setback of 2.8m. Furthermore, given that Lot 43 is legally able to be used for the open space calculation, it is argued that it is also relevant in the rear setback measurements. The detention basin is a purely utilitarian area of open space - it is not used for any recreational purposes and effectively acts as a buffer between the subject site and adjoining properties. The objectives of BDCP 2006 to ensure sufficient separation between sites and buildings for visual and acoustic privacy, and the maintenance of solar access, are met.

**(g) 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. If no common open space is provided on the rooftop (as is the case here), then the ground level common open space must be increased to 70%.

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 Officers' calculations indicate that the development (i.e. comprising of 29 x 1 bedroom units, 110 x 2 bedroom units and 23 x 3 bedroom units) must be provided with a total of 6,535sq.m of common open space. The current proposal provides:

- (i) 5,775sq.m of common open space at the ground floor level. This exceeds the minimum requirement of 4,575sq.m (i.e. 70% of 6,535sq.m). Note: The total ground level common open space includes 1,018sq.m of area from Lot 43 as per the Court Order (see comments under Section 3 of this report for further details).
- (ii) 1,960sq.m of private balcony/terrace area. Given that 30% of the total common open space is calculated to be 1,960sq.m, the proposed development complies with this requirement.

As such, the total amount of common open space provided as per the DCP requirement is calculated to be 7,735sq.m. The common open space on site therefore exceeds the minimum requirement of the DCP by 1,200sq.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 deck areas, BBQ facilities and a fitness equipment circuit.

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 are appropriately embellished in accordance with the submitted landscape plans.

**(h) 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 fully complies with this requirement.

**(i) Section 7.6.1 - Site Planning and Landscaping**

Landscape plans, prepared by an appropriately qualified firm, have been submitted as part of the application. Landscaping themes within the development by means of curved and rounded shapes, arranged with a variety of spatial qualities, will provide residents with sections of lawn, manicured gardens, contemplative retreats, exercise zones and BBQ areas. Supplementary planting to sections of the eastern boundary will enhance screening properties of the existing vegetation. Plant species

selected for the development are drought-tolerant and largely of indigenous varieties.

Suitable **conditions** will be imposed on any consent to ensure that a suitable detailed landscape design, incorporating appropriate plant species, 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.

**(j) Section 7.6.2 – Protection of Views**

Having regard to the nature of the land surrounding the site and the type of adjoining land uses, it is believed that there are no significant landscape views across or through the site that will be affected by the proposed development.

**(k) Section 7.6.3 – Visual and Acoustic Privacy**

Consideration has been given to prevent any overlooking from the upper levels of the proposed buildings to adjoining residential properties. The main area of concern was to maintain visual privacy to the residences located along the eastern boundary. There are 7 residences to the east, the majority with private open space located in the rear of their properties abutting the boundary of the site. The exception is H/N 24 Myrtle Street whose house and garage are built within 1m from the side boundary. There is an existing zone of mature trees located along the boundary that currently provides significant screening. The proposed buildings (E, F and G) along the eastern boundary present as 2 storey buildings with a third level (Level 2) setback a further 3.5m from the parapet. Living areas have been restricted to the ground level with only bedrooms located at Level 1 and Level 2. No terraces or balconies are proposed at upper levels of these east-facing units. The sightline assessment (see diagram 00.157.MP03 at **Attachment 3**) shows that the height of the Level 1 parapet and an inaccessible roof at Level 2 will prevent any overlooking from the upper levels of Buildings E, F and G to the private open spaces or windows in the neighbouring houses. The diagrams further show that the third storey portions of these buildings will be hardly perceptible from the neighbouring properties.

Residences to the south are separated from the subject site by a landscaped detention basin (Lot 43) with mature trees along the southern boundary providing a continuous landscape buffer. These will prevent any overlooking from balconies at the upper levels of buildings on the site.

In regard to visual privacy within the development, the proposed buildings on the site comply with all the requirements of separation between buildings, with a minimum of 12m between windows and balconies and up to 18.8m between balcony and balconies to Blocks B, C and D. Windows and balconies of living areas have generally been offset so that occupants have visual and acoustic privacy between the buildings. Common open space areas are located between Buildings B and C and between C and D. These are separated from adjacent private open space by landscaping, block walls and timber screens, thus providing visual privacy. Due to changes in levels across the site, there are no living areas at the same level as the vehicular access, thus minimising reflected noise and privacy issues.

**(l) Section 7.6.4 – Orientation**

The proposed development optimises the northern aspect for the 4 largest buildings (Blocks A - D). Utilising a long rectangular building design has maximised the number of units that receive general solar access. The unit plans in these buildings maximise northerly aspect not only to the living areas, but also to the bedrooms.

**(m) Section 7.6.5 – Parking Provision**

As outlined under Section 7.2(f) above, the proposed development is to be provided with 1 car space per 1 or 2 bedroom dwelling, and 2 car 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 185 residential spaces and 65 visitor spaces. The proposed development provides 250

car parking spaces in accordance with these requirements and is therefore considered satisfactory. Parking spaces to Blocks A - D are located in the basement carpark. Blocks E, F and G will have access to ground level parking adjacent to the unit block. 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.

**(n) Section 7.6.6 – Vehicle and Pedestrian Access**

The issue of vehicular and pedestrian access has been addressed in detail under Section 7.2(e) of this report. The main pedestrian access to the site is located at approximately the midpoint of the Myrtle Street frontage. An entry pavilion provides a clear and secure entrance that is separate to the vehicular access to the site. A secondary pedestrian entry is provided along the western boundary to allow for access to/from the adjacent retail development. Vehicular entry to the site is via the main entrance on Myrtle Street. An exit (left-turn only) is also provided at this location. A secondary vehicular entry/exit is provided at the western boundary feeding into the existing Woolworths roundabout.

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

**(o) Section 7.6.7 – Public Road Access and Construction**

The issue of public road access has also been addressed under Section 7.2(e) of this report. Concrete path paving will be provided in accordance with Blacktown Council's standard for the full frontage of the site along Myrtle Street and will also continue around the corner within the boundary of the site along the access road and roundabout of the adjacent retail development. The new proposed vehicle crossing on Myrtle Street has been located to avoid disturbance to any existing trees and services. Appropriate **conditions** will be imposed on any consent granted to ensure all roadworks are undertaken to Council's satisfaction.

**(p) 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. The common accessway within the site is 6.5m wide and has been designed to provide for access for cars and garbage trucks. A truck turning area is provided at the southern end ensuring that all vehicles can enter and exit the site in a forward direction. 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 garbage trucks. Suitable **conditions** will be imposed on any consent to address construction of the private accessway.

**(q) 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 7.2(h) Council's Flooding and Drainage Engineers have agreed that all flooding and drainage matters are now satisfactory. Their recommended drainage **conditions** are included at Attachment 1 to this report.

A separate **condition** will be imposed on any consent requiring that any rainwater tanks be provided below ground level to ensure that they do not detract from the overall aesthetics of the development.

**(r) Section 7.6.10 – Fencing and Screen Walls**

The applicant is proposing to install dark grey powdercoated fencing. The fencing will be integrated with planter beds to mitigate its appearance and promote landscaping to public frontages. The applicant has advised that the existing lapped and capped timber fence to the eastern boundary will be retained and supplemented by a 600mm high lattice screen to enhance visual separation of neighbouring properties. Council considers that this is insufficient and recommends that all fences along the eastern boundary of the site be replaced with new 1.8m high lapped and capped timber fencing with 300mm of lattice fixed on top. All fencing is to be undertaken at the full cost to the applicant prior to occupation of the development. This will be conditioned on any consent granted.

Within the development, masonry walls with timber fences will separate private open spaces from common areas.

It is recommended that as a **condition** of any consent granted that all fencing details be submitted to Council for separate approval prior to the release of any Construction Certificate. The design and selection of fencing should take into account a range of considerations including:

- (i) The level of security to be provided by the fencing.
- (ii) Provisions for vandal-proofing the fencing.
- (iii) Needs and formal agreements between neighbours and the developer.
- (iv) Options to minimise/eliminate the potential for graffiti.
- (v) Ongoing maintenance of the fence.
- (vi) Recommendations of the CPTED Evaluation undertaken by the Blacktown Police Crime Prevention Officer.

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.

A further **condition** will also be imposed stating that all new fencing must be provided at full cost to the developer.

**(s) Section 7.6.11 – Podium Design**

There are no areas of the podium which project more than 0.5m above natural ground level. The only part of the podium that is visible is the eastern end of Buildings A - D and these are softened by landscaped edges as depicted on the landscape drawings.

**(t) 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 16 units within Buildings A, B, C and D which are adaptable (i.e. 10%) and therefore complies with the requirement of the DCP.

There is a continuous access path from the entrance of the development on Myrtle Street to these units via ramps and lifts. 16 accessible car spaces have been provided

for these units. 5 disabled visitor spaces have been provided in accordance with AS 2890.1 in the basement adjacent to the lift core.

Standard **conditions** will be imposed on any consent to ensure the proposed 16 units are accessible and that the correct number of disabled car parking spaces is provided.

**(u) Section 7.6.13 – Safety and Security**

As outlined under Section 7.2(i) of this report, a formal safety and security assessment has been undertaken by the NSW Police Service. The Police have advised that they have no objections to the proposed development subject to appropriate conditions and have advised that the 'Safer by Design' rating for the proposed development is classified as "Low". The Police recommendations will form **conditions** of any consent granted.

**(v) 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.

**(w) Section 7.7.2 - Unit Types in the Development**

The development incorporates a mix of unit types including 29 x 1 bedroom units (18%), 110 x 2 bedroom units (68%) and 23 x 3 bedroom units (14%). The unit mix has been determined by likely market expectations and demand, and is considered appropriate for its location. 10% of units are accessible in accordance with the DCP and the Australian Standard.

**(x) Section 7.7.3 – Floor to Ceiling Height**

The floor to ceiling heights of all habitable and non-habitable rooms are in compliance with the DCP.

**(y) 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. Accordingly, passenger lifts have been provided to Blocks A, B, C and D. There are no lifts proposed for Blocks E, F or G as these buildings are only 3 storeys in height.

**(z) 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 balconies have been provided with dimensions in excess of 2.5m x 3m. All of the balconies comply with the SEPP 65 requirement of a minimum 2m dimension. Only two unit types do not achieve a minimum width of 2.5m (i.e. Unit Types 3B-5 and 3B-5a). These balconies, however, have a width of 2.2m and exceed 12sq.m in area, providing adequate and usable private open space. In accordance with the DCP these balconies have not **been** included in the common open space calculations.

Balconies are an important design feature of the development and generally have framed clear glazing which provide a strong contrast to the rest of the building. A dominate architectural feature of Buildings A, B, C and D is the solid coloured balustrading which occurs on the northern elevations and creates a strong identity for each building.

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

**(aa) 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:

- (i) At least 50% of the principal 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.
- (ii) 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.
- (iii) 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 and are included at **Attachment 3** to this report. As indicated by the shadow diagrams, there will be minimal overshadowing impact on the neighbouring residential properties. In this regard the neighbours to the east will not receive any overshadowing until after 2.00pm in midwinter. The residential properties to the south will not be affected at any time during the year.

The development's common open space will receive adequate solar access during midwinter. With the inclusion of Lot 43 (as per the Court decision), the development achieves 3 hours of direct sunlight in midwinter to 58% of the common open space, 43% of which occurs within the subject site.

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 9.00am and 3.00pm in midwinter. As detailed in the RFDC assessment at **Attachment 5** to this report, the applicant has submitted information which demonstrates that 71% of the units will achieve the minimum 3 hours of direct sunlight between 9.00am and 3.00pm in midwinter.

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

**(bb) Section 7.7.7 - Natural Ventilation**

At least 60% of the units should have good cross ventilation. This requirement reflects the minimum guidelines under the RFDC. As detailed in the RFDC assessment at **Attachment 4** to this report, the building accommodates a large number of corner apartments and Buildings E, F and G contain exclusively cross-over townhouse style apartments, resulting in 67% of apartments (total of 108) that are naturally cross ventilated. The proposed development is therefore satisfactory in terms of natural ventilation.

**(cc) 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 National Construction Code Building Code of Australia (BCA) Volume 1. A suitable **condition** will be imposed on any consent granted to address this matter.

It is worth noting, however, that the following measures have already been incorporated into the design of the development to meet energy efficiency requirements:

- (i) The provision of an appropriate level of solar access to units, through the orientation of the development in a northerly direction.
- (ii) The provision of cross ventilation to units, through dual aspect units.
- (iii) The provision of sun protection to specified windows and use of balcony overhangs to provide sun protection on the northern elevations.
- (iv) The use of a concrete framed structure which will assist in the thermal inertia of the building and will soften the heating and cooling spikes which can occur with lighter structures.
- (v) The incorporation of AAA rated appliances into wet areas.
- (vi) The use of a rainwater farm to collect stormwater.
- (vii) The irrigation of all on-site landscaping with stored water.

**(dd) Sections 7.7.9 and 7.7.10 - Provision for Services**

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 can be accommodated. In the event a new electricity substation is required, the applicant will need to submit details prior to the release of any Construction Certificate (CC). A **condition** will be imposed requiring that, in the event any electricity substation, plant equipment or the like is required at ground level, details are to be submitted for the separate approval of Council prior to the release of any CC.

**(ee) Section 7.7.11 - Waste Management**

A central garbage storage area has been located within the basement areas of Blocks A, B, C and D. The garbage rooms for Blocks E, F and G are located at ground level adjacent to the central access road. Each garbage area has been designed to accommodate the appropriate number of waste receptacles.

It is proposed that the garbage rooms will be constructed in accordance with Council's requirements and will be provided with appropriate signposting, ventilation and artificial lighting. All bins will be cleaned internally and externally on a regular basis (i.e. at least every 3 months), and the garbage collection areas will also be cleaned on a regular basis.

It has been nominated that waste collection will occur twice weekly for general putrescible waste and once a week for recycled wastes. Collection will be made on the internal access road early morning by a private waste management company. In this regard the building manager will move the waste bins from the garbage rooms to the designated collection points located adjacent to the internal access road prior to arrival of the collection vehicle. The building manager will then return the waste bins to the garbage rooms after emptying.

All waste generated for the development will be managed by the appointed building manager. The role of the building manager will be to:

- (i) monitor and report on waste and recycling generation to users;
- (ii) appoint relevant contractors to maintain storage areas;
- (iii) manage collection schedules by Waste Contractors;
- (iv) appoint a landscape Contractor to manage green wastes generated, via on site measures;
- (v) maintain written evidence of a valid and current contract with a licensed collector for waste and recycling collection and disposal; and
- (vi) maintain signage within and around garbage areas, bins and recycled waste types etc.

Access to/from the site has been designed to accommodate a typical Council and/or Waste Contractor collection vehicles. In this regard it is proposed that the longest truck to service the site will be a medium rigid truck of 9.5m in length. A truck turning bay has been provided at the far southern end of the internal access road to ensure vehicles can enter and exit the site in a forward direction. It is noted that currently a 9 metre long stopping zone exists before the entry gates off Myrtle Street. It is recommended that this zone be extended to 10 metres to ensure collection vehicles do not obstruct the public roadway when entering the site. It is recommended that this matter be addressed via a suitable **condition** of any consent.

**(ff) 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.

The SEE as originally submitted to Council indicated that retractable clothes lines would be installed on the proposed balconies. This arrangement, however, is unacceptable to Council from a visual/amenity point of view. A standard **condition** will therefore 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.

**7.4 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 Applications). For further details regarding the notification/exhibition process, please refer to Section 11 of this report.

**7.5 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 Turner Hughes Architects dated 23 March 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 the 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.

#### 7.6 **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 Site Contamination Report 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.

As part of this application, Environmental Earth Sciences NSW was therefore engaged to undertake a further review and update the findings of the 2004 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 2004 report, a desktop study and a detailed site investigation were conducted. The desktop study identified the site as particularly vulnerable to land contamination due its close proximity to a service station to the north-west of the site. Those chemicals of concern were as follows: aromatic hydrocarbons (PAHs), organochlorine pesticides (OCPs), heavy metals including tin, phenols associated with the former sawmill operation, total petroleum hydrocarbons (TPH) and benzene, toluene, ethyl benzene and xylene (BTEX). The site investigation and laboratory analysis from the soil samples collected across the site were found to be below the site criteria for heavy metals and phenols, therefore considering the site to be suitable for the proposed residential land use. The report also suggested that due to the results of soil analyses below guideline levels, the potential for significant impact upon ground water related to on-site activities would appear to be minimal. Additionally, a soil stockpile (approximately 300m<sup>2</sup>) located in the south-eastern corner of the site was also confirmed to be suitable for on-site use.

Based on observations during a site walkover on 25 November 2010, Environmental Earth Sciences did not discover any obvious changes in land use in the time elapsed, specifically noting that there appeared to be no visual changes in vegetation or landform; that the two concrete piles remain on site with no interactions with its surroundings; and the soil stockpile present on site was tested in the previous report and can be suitable for on-site use.

The Site Contamination Addendum Report concludes that the original findings in the report are still relevant and may be relied upon for this current Development Application. On this basis the site is considered suitable for residential development.

#### 7.7 **Compliance with BDCP 2006 – Part R 'Soil Erosion and Sediment Control Guidelines'**

As part of this application Environmental Earth Sciences NSW was engaged to undertake a salinity assessment of the application site. In order to assess the salinity constraints the following scope of works was undertaken:

- (a) Desktop review of climate data, land use and vegetation maps, geological and soil maps, and information from a series of database for soil and groundwater.
- (b) Site inspection confirming landforms and features surrounding the site which may influence the salinity impacts of the site, and inspection of any visual signs of salinity such as distressed vegetation or salts visible in soils.
- (c) Excavation of 6 boreholes to a maximum depth of 3.5m BGL.
- (d) Undertake limited soil laboratory analysis for pH, electrical conductivity, sulphate, chloride and cation exchange capacity.
- (e) Present a summary of the findings in a Salinity Report outlining potential issues that need consideration during the development.

Field observations and laboratory results indicate that the soils across the site are slightly to moderately saline, but that the chloride and sulphate concentrations are non-aggressive. In response to these findings it is recommended that any future development of the site should include good drainage, ensure subsoils are not left at the surface and that waterwise gardening techniques are employed in landscaped areas. It is also recommended that developers select materials and building techniques suitable for moderately saline environments and seek advice from manufacturers or engineers if unsure.

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.

## **8. Traffic Assessment**

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- 8.1 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 dated 10 March 2011 and submitted as part of the application. The report assesses the traffic and parking implications of the proposal, reviews the road network and traffic conditions in the vicinity of the site, estimates the traffic generation potential of the development proposal, assesses the traffic implications of the development proposal in terms of road network capacity, and assesses the adequacy of the off-street car parking provision. An assessment of the on-site resident and visitor parking arrangements is provided under Section 7.2(f) of this report, while details regarding the potential traffic generation are provided below.
- 8.2 The M4 Motorway and the Great Western Highway are both classified by the Roads and Traffic Authority (RTA) as *State Roads*. These roads provide the key east-west road links in the Western Sydney area and typically carry 3 traffic lanes in each direction in the vicinity of the site. Prospect Highway/Blacktown Road is also classified by the RTA as a *State Road* and provides the key north-south road link in the area, linking the M4 Motorway and the Great Western Highway to the Blacktown CBD. It typically carries one traffic lane in each direction in the vicinity of the site with additional lanes provided at key locations. Myrtle Street is a local, unclassified road which performs the function of a local *collector road*. Kerbside parking is generally permitted on both sides of the road.
- 8.3 The key traffic controls which apply to the road network in the vicinity of the site are:
  - (a) a 60 km/h speed limit which applies to Flushcombe Road;
  - (b) a 50 km/h speed limit which applies to Myrtle Street and all other local roads in the area;
  - (c) roundabouts in Myrtle Street where it intersects with Flushcombe Road and also Upwey Street;

- (d) speed humps located at regular intervals along Myrtle Street.
- 8.4 Peak period traffic surveys were undertaken to provide an indication of the existing traffic conditions on the road network in the vicinity of the site. The results of the traffic surveys reveal that:
- (a) two-way traffic flows in Myrtle Street (east of Upwey Street) are typically in the order of 250 vehicles per hour (vph) during the morning peak period, increasing to 390 vph during the afternoon peak period; and
  - (b) two-way traffic flows in Myrtle Street (west of Upwey Street) are typically in the order of 310 vehicles per hour (vph) during the morning peak period, increasing to 470 vph during the afternoon peak period.
- 8.5 The traffic generation potential of the development proposal is provided by reference to the RTA's publication Guide to Traffic Generating Developments, Section 3 - Landuse Traffic Generation (October 2002). The RTA Guidelines are based on extensive surveys of a wide range of land uses and nominates a traffic generation rate of 0.29 peak hour vehicle trips/dwelling for high density residential flat buildings in Sub-regional Centres. The RTA Guidelines define a high density residential flat building as 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 car parking and are located in close proximity to public transport services. The building may contain a component of commercial use. The above traffic generation rate includes visitor, staff, service/delivery and on-street movements such as taxis and pick-up/set-down activities.
- 8.6 Application of the above traffic generation rate to the development proposal yields a traffic generation potential of approximately 47 vehicle trips (separate journeys) per hour. The Traffic Consultant has determined that the projected increase in traffic activity will not have any unacceptable traffic implications in terms of road network capacity. In this regard an assessment using INTANAL (i.e. a traffic program widely used by the RTA) has determined that:
- (a) The Myrtle Street and Upwey Street intersection currently operates at Level of Service "A" under the existing traffic demands, with total average vehicle delays in the order of 4 seconds/vehicle.
  - (b) Under the projected future traffic demands expected to be generated by the development proposal, the Myrtle Street and Upwey Street intersection will continue to operate at Level of Service "A", with increases in average vehicle delays of less than 1 second/vehicle.
  - (c) Under the projected future traffic demands expected to be generated by the development proposal, the Myrtle Street and proposed site access driveway intersection is expected to operate at Level of Service "A", with average vehicle delays in the order of less than 1 second/vehicle.
  - (d) Vehicles approaching the site from the west via a right-turn into the site will not cause any appreciable delays for eastbound through-traffic in Myrtle Street.
- 8.7 In addition, the Traffic Consultant has noted that the incidence of kerbside parking in this section of Myrtle Street is minimal, such that eastbound through-traffic would be able to pass a vehicle that may be waiting to turn right into the site. It has also been noted that there is excellent driver sight distance/visibility in both directions along this section of Myrtle Street. The Traffic Assessment therefore concludes that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. In particular, it has been

determined that the proposed right-turn movement into the site will not have any unacceptable traffic implications in terms of either road network capacity or road safety.

- 8.8 A copy of the application, together with the supporting plans and Traffic Assessment, was referred to Council's Local Traffic Committee (LTC) for consideration on 17 May 2011. The DA was also considered at the SRDAC Meeting on 4 May 2011. The SRDAC raised no objection to the proposal. Details of the SRDAC's response are provided under Section 9 of this report. At the LTC meeting, however, it was determined that the proposed "exit only" via the existing Woolworths roundabout to the west of the site should be restricted to "emergency access" only and should be controlled by a gate or similar. Furthermore, it was considered beneficial if a new roundabout was constructed at the Myrtle Street entry to the site with a median island between the existing roundabout at Upwey Street and the new roundabout at the development access.
- 8.9 The LTC also recommended that the corner of the internal roadway and exit from the basement carpark be splayed in order to allow easy vehicular exit from the basement. It was also recommended that "No Stopping" restrictions be provided at the proposed turning area located at the far southern end of the internal road. The applicant submitted amended plans on 29 June 2011 to provide the required splayed driveway. The applicant also indicated that no objection was raised to the proposed "No Stopping" zone. A suitable condition will therefore be imposed on any development consent to address this matter.
- 8.10 In response to the other LTC issues, the applicant argued that there was no mention of these issues during pre-lodgement discussions. The applicant pointed out that the Woolworths roundabout was specifically constructed for access to the residential site when the supermarket development was built. There is no other reason that a roundabout exists in that position. The applicant also pointed out that the existing approval (i.e. DA-97-7076) was lodged and approved on the basis that unrestricted access was available via the existing roundabout.
- 8.11 In respect to the requested new roundabout on Myrtle Street, the applicant submitted a supplementary report from Varga Traffic Consulting on 29 June 2011 arguing its superfluous nature and supporting the traffic management measures already proposed by the application.
- 8.12 The Traffic Consultant has indicated that all traffic associated with the development is expected to approach/depart the site from the west, proceeding to/from Flushcombe Road. Council considers this finding to be unrealistic given that there is access via Myrtle Street and Harrod Street out to Blacktown Road. Council is of the view that whilst the majority of vehicular movement will come from Flushcombe Road some will approach/depart via the opposite way. Having said that, it will have a negligible effect on the analysis of traffic on Myrtle Street. A capacity analysis of the operating performance of the proposed access arrangements using both INTANAL and SIDRA capacity analysis programs was undertaken by the applicant's Traffic Consultant which has found that vehicle delays at the proposed access driveway on Myrtle Street would be minimal. In particular, the capacity analysis found that:
- (a) delays to eastbound through traffic in Myrtle Street would be absolutely minimal, typically in the order of 1 second per vehicle, or less;
  - (b) delays to vehicles turning right into the site would also be minimal;
  - (c) there would not be any delays at all to westbound through traffic in Myrtle Street; and
  - (d) delays to vehicles exiting the site via a left-turn would also be absolutely minimal.
- 8.13 Overall, both of the modelling programs indicate that the total average vehicle delay at the proposed Myrtle Street access driveway would be in the order of 1 second per vehicle. As

such, it was argued that the provision of an additional roundabout in Myrtle Street would have no benefit to traffic flows.

- 8.14 The Traffic Consultant also noted that, if a roundabout was provided in Myrtle Street at the site access driveway, it would unnecessarily inconvenience those residents located on the northern side of Myrtle Street, as access to those properties would be restricted to left-turn-only movements in/out of the driveways due to the need to provide central median islands in Myrtle Street as part of the proposed roundabout design.
- 8.15 Given the absence of any vehicle delays to road users, and the inconvenience that a roundabout would cause to residents living on the opposite (northern) side of Myrtle Street, the applicant requested that Council reconsider the recommendations of the LTC.
- 8.16 The supplementary report prepared by Varga Traffic Planning Pty Limited was considered at the LTC meeting held on 12 July 2011. At that meeting the LTC further reviewed the need for a roundabout at the main entry/exit to the proposed development on Myrtle Street. While the local Police representative believed that a roundabout was needed from an operational point of view, both Council and the RTA agreed that a roundabout was not justified based on the traffic numbers at this location. The LTC did advise, however, that the following amendments were required to the submitted plans:
- (a) The access point off the Woolworths roundabout is to be redesigned to allow 2-way movements. The entry/exit point is to be available for both residents and visitors. The boom gate is to be located well within the property boundary so that a vehicle does not overhang into the Woolworths roundabout when operating the security system.
  - (b) No right-turn movements are permitted out of the site onto Myrtle Street. The driveway must therefore be redesigned/angled to deter this right-turn movement. Appropriate signage would also be required to advise residents/visitors that it is “left-turn out only”.
- 8.17 On 1 September 2011 the applicant submitted amended plans. The “exit only” driveway to the common roundabout within the shopping centre had been adjusted to provide entry and exit capabilities, the entry gates were moved to allow for stacking space off the roundabout, and the exit to Myrtle Street was angled to the west.
- 8.18 On 20 September 2011 Council’s Traffic Section advised that they no longer have any objections to the proposal and consider that the proposed angle of the exit driveway off Myrtle Street is sufficient to physically discourage or prevent right-turn out movement. The position/angle of the proposed driveway must also be provided in such a way that it will physically prevent right-turn movements from the proposed exit driveway. Suitable conditions will be imposed on any consent to address this matter.

## 9. External Referrals

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

Agency	Comments
Roads & Traffic Authority (RTA)	SEPP (Infrastructure) 2007 states that the RTA must be made aware of and be allowed to comment on development nominated as ‘traffic generating development’ under Schedule 3 of the SEPP. Given that the proposed development provides parking for more than 200 vehicles and is listed under Column 2 of Schedule 3, the proposal was forwarded to Council’s Traffic Management Section for consideration at a Local Traffic Committee (LTC)

	<p>meeting. A letter was sent to the RTA on 14 April 2011 in accordance with Clause 104 of the SEPP inviting them to attend the LTC meeting.</p> <p>Following this, the RTA decided to forward the DA to the Sydney Regional Development Advisory Committee (SRDAC) for consideration at their meeting of 4 May 2011. The SRDAC advised that no objections were raised to the proposed development. However, the following comments were provided for consideration in the determination of the DA:</p> <ol style="list-style-type: none"> <li>1. A Construction Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of any Construction Certificate (CC).</li> <li>2. The developer shall be responsible for all public utility adjustment/relocation works necessitated by the above work and as required by the various public utility authorities and/or their agents.</li> <li>3. The car parking provision is to be to Council's satisfaction. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage.</li> <li>4. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS.</li> <li>5. All vehicles are to enter and leave the site in a forward direction.</li> <li>6. All vehicles are to be wholly contained on site before being required to stop.</li> <li>7. All works/regulatory signposting associated with the proposed development are to be at no cost to the RTA.</li> </ol> <p>It is recommended that the items listed under points 1 - 5 and 7 be addressed via suitable <b>conditions</b> of any consent. In terms of item 6, it has been noted that the longest truck to service the site will be a 9.5m long medium rigid truck. Currently a 9 metre long stopping zone exists before the entry gates off Myrtle Street. It has therefore been recommended that, as a <b>condition</b> of any consent, this zone be extended to 10 metres to ensure that collection vehicles do not obstruct the public roadway when entering the site.</p>
Blacktown Police Local Area Command (LAC)	<p>As part of the assessment process, the DA was referred to the Blacktown Police Local Area Command (LAC) – Crime Prevention Officer on 15 April 2011. The Crime Prevention Officer was invited to view the application, undertake a 'Safer by Design Evaluation', and provide comments on the proposal.</p> <p>On 17 October 2011 Council received a response from the Police advising that the rating for this development had been classified as "Low crime risk". While potential issues were identified with the development, the Blacktown LAC has no objection to the proposal subject to recommended conditions of consent.</p> <p>While the NSW Police do not guarantee that the areas evaluated will be free from criminal activity, it does hope that by using their recommendations that criminal activity will be reduced and that the safety of the community and their property will be increased.</p> <p>For further details regarding the 'Crime Prevention Through Environmental Design (CPTED)' and 'Safer By Design' Evaluation, and the recommended conditions of consent, please refer to Section 7.2(i) of this report.</p>



## 10. Internal Referrals

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

Section	Comments
Engineering and Drainage	<p>An active approval (DA-97-7076) exists over the site, which provides 253m<sup>3</sup> of on-site detention (OSD). The applicant argued that the current proposal should therefore also only require 253m<sup>3</sup> of OSD. The drainage plans originally lodged with the DA were therefore designed accordingly.</p> <p>On 20 April 2011 a meeting was held between Council Officers and the applicant regarding the adequacy of the proposed OSD system. In this regard Council explained that the original approval was granted on the basis that a basin would be constructed and form part of the subject development site as private property but would also serve regional detention requirements. Therefore at the time the development had full benefit of an OSD basin having a capacity of 2,850m<sup>3</sup>. However, since then Court action has resulted in the designated basin area (i.e. Lot 43) being acquired by Council pursuant to the Court Orders and as such the basin was no longer a private OSD facility that could be used for the development of this land as this basin was now in Council's ownership for use as a community OSD basin. As such, the previous concessions are no longer available to the developer.</p> <p>The proposed new development requires substantially more OSD capacity than the existing active approval. In this regard Council's Flooding and Drainage Engineers have calculated that the minimum acceptable OSD storage for the site would be 488m<sup>3</sup>. This would allow sufficient on-site capacity, while also preventing any impact on downstream owners. The applicant was also advised that, as part of the stormwater design, the overflow from the detention tank(s) should first be directed to the Council basin at the rear of the site, rather than the adjoining properties in Rydall Street.</p> <p>On 3 May 2011 the applicant submitted amended drainage plans for Council's consideration. Following a review of the plans, Council's Flooding and Drainage Engineers advised that further revisions were required to the amended OSD plans. In this regard concerns were raised regarding the sediment control measures, the pipe sizes, the inlet pits, the measures employed to protect the downstream property owners, overland flow, etc. In addition to these concerns, Council's Development Services Unit (DSU) Engineers requested that the written agreement of the relevant downstream property owner (i.e. Lot 50, DP 260566) be obtained so that a drainage easement could be created through their property. It was also requested that the vehicular access grades and locations be designed to comply with AS2890 and Council's standards, as a non-compliance was noted at the exit point adjacent to the Woolworths roundabout.</p> <p>On 29 June 2011 the applicant submitted amended plans to address the identified drainage concerns. The plans were also amended to provide the required access gradients. In terms of the easement, the applicant advised that an additional easement was not required given that the works undertaken in accordance with the active approval for the site (i.e. DA-97-7076 and CC-03-2825) already provide the necessary pipe connections and easement requirements.</p> <p>On 4 July 2011 Council's Drainage and Flooding Engineers advised that, in order to properly assess the overland flow issue from Council's basin, a Flood Study including flood modelling needed to be undertaken by the applicant. In this regard a detailed assessment of the overland flow issue was required, not only to ensure that appropriate floor levels could be set for the proposed buildings on site, but to ensure the backyards of adjoining properties could be appropriately protected.</p> <p>Council Officers met with the applicant on 27 July 2011. At that meeting it was</p>

	<p>acknowledged that the basin alone could not solve the drainage problems and that the applicant would be required to increase the OSD storage capacity on-site. Council Officers were concerned, however, that an increase in OSD (i.e. an increase to the under-building tank sizes) could result in the buildings along the eastern boundary having increased finished floor levels (FFLs), which in turn could create potential privacy concerns. Any major increase in the FFLs would require re-advertisement in the local newspapers and re-notification to the immediately affected neighbours.</p> <p>On 1 September 2011 a revised set of drainage plans were received by Council addressing the identified OSD concerns. It was noted that the ground floor level of Block E (i.e. adjacent to the eastern boundary) had been raised by 465mm to be identical to Block F (RL 60.275). While the FFL had been amended, it was noted that the parapet height of Block E remained unchanged at RL 67.35.</p> <p>It was determined by the Development Services Unit that the changes did not warrant re-notification for the following reasons:</p> <ul style="list-style-type: none"> <li>• Only Block E (i.e. the rear building adjacent to the eastern boundary) had been amended.</li> <li>• The amended floor level of Block E is identical to Block F (i.e. the middle building adjacent to the eastern boundary). In this regard the floor level of Block E has been raised 465mm. Therefore the finished floor levels of Blocks E and F will both now have an RL of 60.275. Although the floor level rose to meet the drainage requirements the overall height remained unchanged.</li> <li>• The floor level of Block G (i.e. the front building adjacent to the eastern boundary) is RL 61.10 and therefore is greater than Block E (and F).</li> <li>• While the floor level has been amended, the parapet height of Block E remains unchanged. The overall height of Block E and the shadow diagrams as notified to the neighbours are therefore unaffected.</li> <li>• The amended floor level means that Block E will have no greater impact than the other 2 buildings proposed along the eastern boundary.</li> </ul> <p>On 18 October 2011 advice was received indicating that Council's Flooding and Drainage Engineers have no objections to the overall stormwater drainage plans subject to appropriate conditions of consent. A copy of the draft determination, which includes the recommended <b>conditions</b> of the Engineers to address the remaining flooding/drainage issues, is included at Attachment 1 to this report.</p> <p>Standard <b>conditions</b> to address soil erosion and sediment control, stormwater quality control, traffic control, construction of the internal accessway pavement and footpath works etc have also been recommended by the DSU Engineers and are included in the draft determination.</p>
Building	<p>Council's Building Surveyors have advised that they have no objection to the approval of the application, subject to the imposition of appropriate <b>conditions</b> of consent. All recommended conditions of consent are included in the draft determination at Attachment 1 to this report.</p> <p>It should also be noted that, following recent amendments 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 National Construction Code Building Code of Australia (BCA) Volume 1. A suitable <b>condition</b> will be imposed on any development consent to address this matter.</p>
Traffic	<p>The proposed development is nominated as 'traffic generating development' under</p>

	<p>Schedule 3 of the Infrastructure SEPP, and is therefore required to be considered at a relevant Local Traffic Committee Meeting. Given that the proposed development provides parking for more than 200 vehicles and is listed under Column 2 of Schedule 3, it was requested on 14 April 2011 that the application be considered at a Local Traffic Committee (LTC) meeting. Letters were sent to both the RTA and the Blacktown Police LAC advising them of the DA and inviting them to attend the meeting.</p> <p>The proposed development was considered at the LTC Meeting on 17 May 2011. The Committee's assessment is provided below:</p> <ul style="list-style-type: none"> <li>• The proposed 6.5m wide accessway/internal roadway is adequate for cars and small trucks to enter and exit the site in a forward direction.</li> <li>• Concern is raised in relation to the proposed "exit" through the shopping centre as this will mix residential and commercial traffic. It will also promote parking in the shopping centre carpark by the residents of the proposed development or vice versa. As such, it is recommended that this access be used as an emergency access only and that appropriate controls (e.g. a gate or similar) be installed.</li> <li>• Unrestricted access is to be provided at the main entry/exit driveway onto Myrtle Street. In this regard no provision has been made to separate vehicles turning right into the proposed development and vehicles travelling through on Myrtle Street in the westerly direction at the proposed entry/exit driveway.</li> <li>• A roundabout with a median island between the existing and new roundabout would be appropriate at this location.</li> <li>• The corner at the internal roadway and the exit from the basement carpark for Block A appears too tight and needs to be splayed in order for easy vehicular exit from the basement of Block A.</li> <li>• The proposed turning area located at the far southern end of the internal road has been designed to accommodate the swept turning path requirements of a 9.5m long rigid truck. The turning area appears to be satisfactory, however, "No Stopping" signs need to be erected to prevent residents or visitors parking in this area.</li> <li>• The additional traffic generated by this development can be accommodated within the existing road network capacity.</li> <li>• As per the Blacktown City Council DCP, the required number of car parking spaces is 250 for this development. The development complies with this requirement.</li> <li>• Generally the design of car parking areas, aisle widths, driveway widths, manoeuvring areas, sight distances, blind aisles etc are to conform to AS 2890.1-2004.</li> </ul> <p>While the Committee raised no objection to the proposal on traffic grounds, the following recommendations were therefore made:</p> <ul style="list-style-type: none"> <li>• The proposed "exit only" through the shopping centre is not supported. However, this may be used for emergency access and needs to be controlled by a gate or similar.</li> <li>• A roundabout needs to be constructed at the proposed entry/exit driveway on Myrtle Street with a median island between the existing roundabout at Upwey Street and the new roundabout at the development access. If any existing driveway on the northern side of Myrtle Street is affected by the new roundabout, the developer will need to provide an on-site turning facility in the respective properties to facilitate forward directional vehicular exit into the</li> </ul>
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	<p>roundabout.</p> <ul style="list-style-type: none"> <li>• The corner at the internal roadway and the exit from the basement carpark for Block A must be splayed in order for easy vehicular exit from the basement of Block A.</li> <li>• “No Stopping” restrictions are to be provided at the proposed turning area that has been provided at the far southern end of the internal road.</li> </ul> <p>On 29 June 2011 the applicant submitted a supplementary report from Varga Traffic Consulting responding to the issues identified by the LTC. Details of the supplementary report are provided under Section 8 of this report. In this regard the applicant argued that the Woolworths roundabout was specifically constructed for access to the residential site when the Woolworths development was constructed. It was also argued that the proposed roundabout would unnecessarily inconvenience neighbouring properties to the north of Myrtle Street and therefore should not be adopted. The supplementary report was considered at the LTC meeting held on 12 July 2011.</p> <p>At that meeting the LTC further reviewed the need for a roundabout at the main entry/exit to the proposed development on Myrtle Street. While the local Police representative believed that a roundabout was needed from an operational point-of-view, both Council and the RTA agreed that a roundabout was not justified based on the traffic numbers at this location.</p> <p>The LTC did advise, however, that the following amendments were required to the submitted plans:</p> <ul style="list-style-type: none"> <li>• The access point off the Woolworths roundabout is to be redesigned to allow 2-way movements. The entry/exit point is to be available for both residents and visitors. The boom gate is to be located well within the property boundary so that a vehicle does not overhang into the Woolworths roundabout when operating the security system.</li> <li>• No right-turn movements are permitted out of the site onto Myrtle Street. The driveway must therefore be redesigned/angled to deter this right-turn movement. Appropriate signage would also be required to advise residents/visitors that it is “left-turn out only”.</li> </ul> <p>On 1 September 2011 the applicant submitted amended plans. The “exit only” driveway to the common roundabout within the shopping centre had been adjusted to provide entry and exit capabilities, the entry gates were moved to allow for stacking space off the roundabout, and the exit to Myrtle Street was angled to the west.</p> <p>On 20 September 2011 Council’s Traffic Section advised that they no longer had any objections to the proposal and consider that the proposed angle of the exit driveway off Myrtle Street is sufficient to physically discourage and prevent right-turn out movements. The position/angle of the proposed driveway must be provided in such a way that it will physically prevent right-turn movements from the proposed exit driveway. Suitable <b>conditions</b> will be imposed on any consent to address these matters.</p>
Waste	<p>A copy of the proposed development was referred to Council’s Coordinator Sustainable Resources on 15 April 2011 for comment. In response it was requested that the applicant submit additional information to confirm that the height of the basement can accommodate the garbage trucks and the lift of the skip bins.</p> <p>The applicant has advised that all garbage bins will be moved to the central private access road for collection. As such, there will be no garbage trucks accessing the basement carpark. Further details regarding the waste collection arrangements are included under Section 7.2(ee) of this report.</p>

	<p>Following a review of the applicant's waste management proposal, Council's Coordinator Sustainable Resources advised that no objections were raised subject to the following conditions being included in the Strata Management Agreement:</p> <ul style="list-style-type: none"> <li>• After collection, the bins must be moved back to the bin storage areas as soon as practical and before 5pm on the day of collection.</li> <li>• The recycling skips are to be collected on a different day to the garbage skips, otherwise the size of the dedicated collection areas will make manoeuvring of the skips difficult.</li> <li>• As the development will utilise the services of a private contractor, residents will not be entitled to access Council's household clean-up collection.</li> </ul> <p>An advisory <b>condition</b> will be imposed on any consent advising that a copy of the Strata Management Agreement be submitted to Council for separate approval, prior to the release of any linen plan relating to the site.</p>
Strategic Planning (Commercial Centres Planner)	<p>Given that the development adjoins a shopping centre and provides vehicular and pedestrian links directly between the subject site and the shops, the DA was referred to Council's Commercial Centres Planner on 15 April 2011 for comment.</p> <p>Council's Commercial Centres Planner noted that the site is zoned 2(c) and that the development is permissible with consent. As the adjoining land zoned 3(a) General Business has already been developed, it was advised that there are no specific strategic planning issues.</p>
Environmental Health Unit	<p>A copy of the DA, supporting reports and plans were referred to Council's Environmental Health Unit (EHU) on 14 April 2011 as part of the assessment process.</p> <p>A Site Contamination Report was submitted as part of the previous consent granted over the site (i.e. DA-97-7076). As part of the current DA, a Site Contamination Report addendum was therefore prepared. Details regarding the Site Contamination assessment are included under Section 7.6 of this report.</p> <p>Council's EHU has recommended that all due diligence be taken to comply with the recommendations contained within Chapter 7 of the submitted Site Contamination Assessment prepared by Environmental Earth Sciences dated 16 December 2010. A suitable <b>condition</b> will be imposed on any consent to address this matter. Standard operational <b>conditions</b>, to ensure compliance with the Protection of the Environment Operations (POEO) Act 1997, have also been recommended by the EHU and will be included on any consent granted.</p> <p>Although an Acoustic Report was not submitted as part of the original DA, Council's EHU was requested to also comment on any potential acoustic issues. To address this concern, the applicant was requested to submit a Noise Impact Assessment for Council's consideration. The applicant was advised that the assessment should consider the potential noise impacts associated with the proposed development (e.g. air conditioners, mechanical plant, etc) and any potential impacts the adjoining supermarket may have on the future residents of the development. An Acoustic Report was submitted to Council on 13 July 2011 and referred to the EHU for consideration.</p> <p>A review of the Noise Impact Assessment, prepared by Acoustic Studio dated July 2011, revealed that the only potential noise generating source was the loading dock located on the adjacent supermarket site. Details regarding the Acoustic Assessment are included under Section 7.2(d) of this report.</p> <p>In conclusion, the internal noise assessment determined that the <i>recommended</i> noise levels of 35dBL will be generally met with windows closed. However, with windows open, only the proposed <i>maximum</i> noise levels 50dBL, i.e. 15dBA more than the recommended noise level, will be achieved. To achieve compliance with the <i>recommended</i> noise levels, windows are to be kept closed at all times. An</p>

	<p>alternative form of ventilation will therefore need to be considered for Units D-XI, D-X2 and D-X3, namely mechanical ventilation such as air conditioning. The Acoustic Assessment therefore recommends that a <b>condition</b> be imposed on any consent to address this matter. It is recommended that this matter be included as a <b>condition</b> of any consent granted.</p> <p>Prior to finalising an assessment, the applicant was also requested to give further consideration to the potential noise impacts (if any) of the proposed development on the existing surrounding premises. This matter has also been addressed under Section 7.2(d) of this report. Where necessary, appropriate conditions of consent have also been recommended.</p>
Land Projects Committee	The proposed development was considered at the Land Projects Committee meeting held on 2 May 2011. The Land Projects Committee represents Council's interests, as an adjoining landowner. No objections were raised to the development proposal.

## 11. Public Comment

- 11.1 The notification process was undertaken in accordance with *Blacktown Development Control Plan (BDCP) 2006 – Part K (Notification of Development Applications)*. Given there was likely to be strong public interest in this application, the standard 2 week notification period specified under BDCP – Part K was extended to a period of 4 weeks. The Development Application, plans, supporting reports and a scale model were therefore placed on public exhibition and advertised in local newspapers from 4 May to 31 May 2011.
- 11.2 The notification process was delayed until after the Easter holiday period to ensure residents were not away when the letters were sent out. As part of the public notification process, all property owners and occupiers located within a 500m radius of the subject site were notified of the proposal. This equated to over 1,000 letters. Following a request by a member of the public, Council agreed to a further 2 week extension to the public exhibition period. In this regard all submissions were to be received by 14 June 2011.
- 11.3 As a result of the notification/advertising process, a total of 339 submissions (i.e. 112 individual submissions from 54 properties and 227 pro forma submissions) and a petition containing 305 signatures were received objecting to the proposal. Maps highlighting the location of all properties located within a 500m radius of the subject site, and the location of individual objectors, pro forma objectors and petitioners located within a 500m radius of the subject site, are provided at **Attachment 6**. It should be noted that an additional 28 individual objectors, 153 pro forma objections and 80 petitioners have not been plotted on the maps due to either no address being provided or the objector residing more than 500m from the development site. The issues raised within the submissions are summarised below, together with Town Planning comments thereon.
- 11.4 **The Joint Regional Planning Panel (JRPP) Process**
- (a) *Fortunately Barry O'Farrell dismantled the JRPP after the elections. Sadly this problem development was started before the State elections, hence we need to be vigilant as always.*

### Town Planning comment:

- It is believed that the objector may be confusing this issue with the April 2011 decision to dismantle Part 3A of the Environmental Planning and Assessment Act 1979. At the time it was widely publicised that the change would give increased planning powers back to local councils, a move which would result in more weight being given to local impacts and community feedback.

- Regionally Significant development is defined by the type of development and/or its Capital Investment Value (CIV). These DAs are assessed by Council but determined by the JRPP. On 1 October 2011 the Government increased the CIV criteria from \$10 million to \$20 million, which will return DAs of less than \$20 million to Council for assessment and determination. The JRPPs, however, have not been dismantled. The JRPP will still determine Regionally Significant development of more than \$20 million CIV and Council will assess these DAs and make recommendations to the Panel. These new provisions only apply to new DAs, not ones submitted prior to October 2011. The Myrtle Street DA has a CIV of \$23 million and, therefore, had it been submitted after 1 October 2011 it would still be a DA to be assessed by Council and determined by the JRPP.

### 11.5 Zoning and Location

- (a) *Prospect is a family orientated area made up of detached houses on their own quarter acre blocks. High-rise development does not suit the residential area and should not be allowed. There are no other units in the area. The site should be rezoned for townhouses or house and land packages. The developer will earn just as much if they do it right. The site should be back zoned to 2(a) Residential.*

#### **Town Planning comment:**

- As discussed under Section 3 of this report, these issues were considered in length when the applicant lodged a Rezoning Application with Council seeking to rezone the area of the subject site from 4(c) Special Industrial to 2(c) Residential. At the time the local residents indicated that they would rather see the site be rezoned to 2(a) Residential which would provide for dwelling stock which was more reflective of the surrounding residential development which is predominantly single detached dwellings.
- The dilemma for the owner was that a 2(a) Residential zoning, whilst more consistent with the surrounding residential neighbourhood, would not provide the same economic returns of a 2(c) Residential zone. In this regard the applicant stated that a rezoning from 4(c) Special Industrial to 2(a) Residential would not be economically viable and therefore would not be pursued if the current proposed zoning change to 2(c) Residential was not supported by Council.
- The subject site adjoins an existing shopping centre, is located close to the Great Western Highway, and is within walking distance of bus routes located on both Flushcombe Road and Myrtle Street. Therefore, from a locational point-of-view, the subject site has been identified as being suitable for residential flat development. It was on this basis that the 2(c) Residential zoning was supported. Had Council not supported the rezoning (and previous DA for residential flat development), then the owner would have rightfully pursued a DA which was lodged for commercial development, warehouse units and bulky goods retailing (DA-97-4393). The proposed residential use of the site, although high density, is considered a far better outcome for the local community.
- The proposed development proposal has been designed to be consistent with the 2(c) zoning of the site and is a permissible form of development with consent. As there is no other land zoned for residential flat development in the locality, the site is able to provide diversity in residential accommodation suitable for first homeowners, “empty-nesters” and families who prefer estate managed developments.

- (b) *While the site is in need of redevelopment, the developer should consider the impact on residents and propose a design that will contribute to the local environment rather than detract from it.*

**Town Planning comment:**

- A Statement of Environmental Effects (SEE) has been submitted with the application which considers the potential impacts on the locality. The applicant believes that the proposed development will benefit the community as a whole and will contribute to the local environment through a number of measures as follows:
    - The design is well considered, respecting external perception of bulk and scale, minimisation of overshadowing of adjoining residents, visual privacy for all residents, and increasing landscaped area from that currently approved.
    - The development will contribute to the economic viability of the community shopping centre.
    - Construction will create jobs and investment in the local community.
    - A vacant block of land capable of harboring anti-social, illegal and unsafe practices will be eliminated from the community;
    - Increased stormwater management and control will result in the delivery of additional on-site detention measuring 488,000,000 litres.
    - Nearly 5,000sq.m of landscaped area will be developed and maintained.
    - Greater diversity of residential living will be available in the area with the development of apartments.
    - An injection of Section 94 contributions generated by the development will further benefit community infrastructure development.
- (c) *A more appropriate use on site would be a small shopping arcade (i.e. ground level shops and first floor professional offices). This would be more in keeping with the adjoining retail and would provide some competition for Woolworths. Other acceptable uses on the site could include a post office, community hall, or indoor sporting complex.*

**Town Planning comment:**

- As discussed under Section 3 of this report, a Development Application (DA-97-4393) was lodged over the subject site (and the adjoining Woolworths shopping centre site) in 1997 proposing warehouse units, bulky goods retail units and a retail development with a total of 308 car parking spaces. The activities proposed on the subject site were a permissible form of development at the time under the then 4(c) Special Industrial zoning.
- As a result of advertising and neighbour notification of DA-97-4393, a significant number of submissions were received objecting to this basically industrial-use proposal. Following their submissions, representatives of the Prospect Resident's Committee requested a meeting with Council officers to discuss the proposed development. As indicated by the significant number of objections, the representatives explained that residents were clearly not in favour of an industrial development for the site despite the proposal being permissible in the



zone. The representatives suggested that a preferable option would be a residential development on the site which was compatible with development in the area.

- It was direct result of public opposition to a non-residential form of development over the site that a Rezoning Application was lodged with Council seeking to rezone the area of the subject site from 4(c) Special Industrial to 2(c) Residential. Shopping arcades, community halls and indoor sporting complexes are prohibited forms of development in the 2(c) Residential zone and therefore could not be supported by Council.

(d) *If the developer genuinely wanted to attract “empty nesters” he would build a retirement village, not an oversized apartment block.*

**Town Planning comment:**

- The development is suitable for empty-nesters who do not wish to live in an Aged Care facility and do not wish to maintain a property or garden. At present there is no “apartment option” in Prospect for long-time residents who do not wish to leave an area in which they are familiar and may have friends and family.
- (e) *Manly Council recently acquired a former TAFE site from DET for Community Purposes. Blacktown Council should do the same and establish the site as a child care centre and adult education centre.”*

**Town Planning comment:**

- Section 94 of the EP & A 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 Contributions Plan (CP) No. 3 – Open Space within Established Areas.
  - Under the CP it has been calculated that the proposed development will generate an increase in population of 403.1 persons. If approved, the developer will therefore be required to pay a substantial Section 94 contribution as outlined under Section 7.2(j) of this report. This money will then be used to directly fund community public open space in the area.
  - The subject site is zoned 2(c) Residential and therefore has not been identified under any CP for public recreation or community purposes. It would therefore be inappropriate for Council to acquire this site.
- (f) *Approval of the development would set an undesirable precedent and allow other 3-5 storey development to be built.*

**Town Planning comment:**

- The scale of the proposed development is permissible under the Blacktown DCP and therefore will not set any precedents. As there are no other sites zoned 2(c) Residential in the immediate locality, this form of development would not be permissible on other sites.
- (g) *The development is contrary to zone objective (b): “to identify areas suitable for residential flat buildings in locations close to the main activity centres of the City of Blacktown”. The subject site is outside the railway and city centre precinct, and therefore is not a suitable location for residential flat development. The development is*

*also contrary to the BLEP objective which states that development should be capable of visual integration with the surrounding environment.*

**Town Planning comment:**

- To be a permissible form of development, Clause 9(3) of the LEP requires that the proposed development be *generally consistent with one or more* of the objectives of the 2(c) Residential Zone. The zone objectives are:
  - (a) *"to make general provision to set aside land to be used for the purposes of housing and associated facilities;*
  - (b) *to identify areas suitable for residential flat buildings in locations close to the main activity centres of the City of Blacktown;*
  - (c) *to enable redevelopment for medium density housing forms, including townhouses, villas, cluster housing, semi-detached housing and the like, as an alternative form of development to residential flat buildings;*
  - (d) *to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours; and*
  - (e) *to allow within the zone a range of non-residential uses which -*
    - (i) *are capable of visual integration with the surrounding environment;*
    - (ii) *either serve the needs of the surrounding population or the needs of the City of Blacktown without conflicting with the basic intent of the zone; and*
    - (iii) *do not place demands on public services beyond the level reasonably required for residential use;"*
- The proposed development is considered to be consistent with objectives (a), (b) and (d). The development is for housing purposes (i.e. residential flat development), is located adjacent to the local community shopping centre and incorporates well-designed passive recreational open space in conjunction with dwelling units.
- The proposed development represents an appropriate redevelopment of an underutilised parcel of land, is not out-of-keeping with the commercial/retail development located immediately to the west of the site and has been designed to be sympathetic to the existing detached dwellings located adjacent to the eastern boundary.
- It therefore follows that the development is generally consistent with one or more of the zone objectives for the 2(c) Residential Zone [in particular objectives (a), (b) and (d)] and therefore is a permissible use with development consent.
- In terms of visual integration with the surrounding environment, the proposal presents 2 and 3 storey buildings fronting Myrtle Street and the adjoining eastern boundary, which is comparable to surrounding built forms. The taller buildings are located in the body of the site alongside a large supermarket. The stepped building form down to 2 storeys on the eastern boundary acts as an appropriate buffer to adjoining existing detached housing on that boundary. The proposal presents a contemporary apartment aesthetic common in other areas around Sydney. Colours proposed will blend with the background and the development

is not out of place sitting alongside the community retail centre. Significant landscaped areas are proposed to street frontages and boundary setbacks.

#### 11.6 Previous Applications

- (a) *Blacktown Council gave approval for the development of the site back in 1998 and then in 2003 for 2-3 storey units. After 8 years, it is hard to understand why the owner of the site has not gone ahead and developed the site with the 2-3 storey buildings which he has approval for. His greed and disrespect for the area has the application now at 5 storeys.*

##### **Town Planning comment:**

- In 1998 development approval was granted over the site for 130 units (121 x 2 bedrooms, 9 x 1 bedroom units) within 10 separate buildings, being a combination of 2 and 3 level designs. In 2003 the applicant lodged an application under Section 96 of the Environmental Planning and Assessment Act to amend the development plans. The development in its amended form comprised 107 units in 8 buildings (i.e. a reduction of 23 units). The former applications were not refused by Council.
  - Excavation works were undertaken in 2001 which meant that the original Development Approval (DA-97-7076) has been activated. This means that construction activity, in accordance with the existing approval, can commence at any time.
  - Economic viability of any approved development, however, is a matter for the developer to assess. The applicant indicates that the cost of construction, coupled with sales prices the market is willing to bear in the area, for an inferior residential product has resulted in the reassessment of the proposed development and a redesign to produce a development that incorporates better living spaces, more landscaping, more energy efficient housing, more secure undercover parking and a design compliant with the NSW Residential Flat Design Code (which was not in place in 1998).
- (b) *In 2002 the Residents Action Group fought for almost 2 years to stop a previous application to build 3 x 6 storey flat buildings over the site. The previous application proposed 154 units and 246 car spaces. Our objection was successful and the applicant discontinued with his plans. Within Council document EP230127 (File DA-02-3027/DCP 02-3418) it is recommended that the similar application be refused for the following reasons: (inter alia)*

*... v. The very strong objections from surrounding residents, particularly on the grounds that the bulk and height of the proposal is significantly out of character with surrounding residences, is considered valid.*

*vi. The proposal is not considered to be in the public interest.*

*As a result, the DA for high density units was rejected by Council. Given very little has changed with this current application, we would expect that Council would have no alternative but to recommend that the JRPP reject the DA. The developer continues to disregard the overwhelming opposition from local residents, despite 2 previous rejections.*

**Town Planning comment:**

- It should be noted that DA-02-3027 and DCP 02-3418 were not determined by Council as both applications were withdrawn by the applicant.
- Notwithstanding this, it should be noted that the current proposal bears no resemblance to the previous schemes. The current proposal presents 2 and 3 storey buildings to Myrtle Street, and 2 storey elevations present to the eastern boundary, shielding any appreciation of the taller buildings beyond for adjoining residents. The current proposal incorporates better living spaces, more landscaping, more energy efficient housing, greater stormwater storage capacity, more secure undercover parking than previously sought and a design compliant with the NSW Residential Flat Design Code. Unlike the previous scheme, the proposed heights are also generally compliant with the requirements of the DCP (see Section 7.3(e) of this report).

## 11.7 Height

- (a) *Even though the 5 storey buildings are setback and are located adjacent to Woolworths, they are still too high for the area. The 5 storey buildings are not in keeping and are out-of character with the surrounding area, which currently has no high rise or development over 2 storeys. There are only single and 2 storey dwellings in the area. The tall towers will dwarf all surrounding homes. Nothing higher than the nearby townhouses and 2 storey units should be allowed. The trees just won't grow tall enough to block out the 5 storey buildings. The roofline of the 5 storey blocks will be visible from most of the surrounding suburb, dramatically impacting on the suburb's physical landscape. No amount of landscaping will ever make a difference or will be able to address the visual impact.*

### **Town Planning comment:**

- The issue of height is discussed under Section 7.3(e) of this report. As discussed, the proposed development is generally compliant with the maximum height limit of 16m stipulated under the DCP and provides appropriate transitions in scale across the site. Council's DCP states that, for that part of the residential flat building development closest to the single lot housing, the maximum height limit is 3 storeys. Development along the eastern edge of the site, immediately adjacent to the existing detached dwelling-houses, however has been limited to 2 storeys instead of 3 storeys as permitted by the DCP.
  - Transitional scales of 2-3 storey buildings to the north and eastern edges of the site have been incorporated to respect adjoining residential properties. Consideration has been given to the scale, amenity and visual privacy of the neighbouring residences in the design of Buildings E, F and G. These buildings have split levels following the slope of the natural ground line, thereby reducing the overall height and bulk. They present as 2 storeys along the boundary with a parapet height of approximately 5.5m. A third storey, containing only bedrooms, is setback a further 3.5m. This arrangement prevents overshadowing, visual intrusion and overlooking of the neighbouring properties.
  - Of the 7 buildings proposed, only 3 are 5 storeys in height (Buildings B, C and D). The taller buildings are located in the middle of the site to minimise visual impact and overshadowing on the surrounding neighbourhood. Buildings B, C and D are also well shielded by surrounding development (i.e. Woolworths to the west, the detention basin to the south and Blocks E, F and G to the east) and therefore will not be unacceptably dominant.
  - The proposed development is compliant with current design codes and the RFDC. Mature screen trees of 6 - 9m in height exist on the eastern and southern boundaries and will be retained and supplemented where gaps occur. Given that 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.
- (b) *The 2 - 3 storey portion of the development is acceptable and more appropriate for the area. The plans should be amended to a maximum height of 2 - 3 storeys, given the buildings are just so close to the surrounding homes. Even the Department of Housing indicated that serious consideration was being given to the negative impact of extending their nearby development above 2 storeys.*

### **Town Planning comment:**

- External perception of height, bulk and scale was a careful consideration in the master planning of the proposal. As discussed in point (a) above, the taller buildings have been positioned in the body of the site and towards the retail precinct, and are well shielded from the existing detached dwellings.
  - The proposed site is zoned for residential flat development and is large enough to accommodate 5 storey development. In this regard the DCP states 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 1.427 hectares and therefore well exceeds the 5,000sq.m minimum land size requirement. Given that 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.
- (c) *Prospect is not a main centre like Blacktown. In Blacktown residential flat buildings 3 or more storeys are only located near the railway or closer to the CBD. The development is located outside the railway centre precinct, which will oppose State Planning Policies for “ecologically sustainable development”.*

**Town Planning comment:**

- As part of the former Rezoning Application to rezone the subject site from 4(c) Special Industrial to 2(c) Residential, Council was required to consider whether a 2(c) zoning would be appropriate in this location.
- One of the objectives of the 2(c) Residential zone in BLEP 1988 is to identify areas suitable for residential flat buildings in locations close to the main activity centres of the City. It was recognised that the subject site adjoined a proposed shopping centre which had been identified in Blacktown Development Control Plan 1992 as a "local centre", was located close to the Great Western Highway, and was within walking distance of bus routes located on both Flushcombe Road and Myrtle Street. Therefore, from a locational point-of-view, the subject site was considered suitable for residential flat development.

## 11.8 Bulk and Scale

- (a) *The bulk and scale is excessive, is out-of-character for the area and is not in keeping with the existing dwellings. Aesthetically the development will be an eyesore. The proposal is an overdevelopment of the subject site.*

**Town Planning comment:**

- As discussed under Section 11.7(a) - (c) above, a 2 storey height limit has been applied along the eastern edge of the site to respect adjoining residential properties and eliminate any potential privacy and overshadowing impacts. The taller buildings have been positioned in the body of the site adjacent to the shopping centre, and are well shielded from the surrounding dwellings.
- The proposed development is generally compliant with the DCP in respect to height and setbacks, and complies with the requirements of the RFDC.
- In the absence of a floor space ratio (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 provision is the

primary means of controlling the maximum unit yield achievable over the site and, as such, a non-compliance would suggest that the unit yield is too high for the site. Given that the proposed development complies with the open space provisions of Council's DCP, it is considered that the proposal is not an overdevelopment of a 2(c) zoned site.

### 11.9 Design

- (a) *The design does not support SEPP 65 principles.*

**Town Planning comment:**

- An assessment under the 10 design principles of SEPP 65 is provided under Section 5.3(e) of this report. It is believed that the proposed development complies with the design principles outlined under the SEPP (and with the recommendations of the RFDC).

### 11.10 Density

- (a) *162 units is far too many for a site of this size. There will be too many people in such a small area. At the LTC meeting the RTA also made the comment that the proposal appears to be an overdevelopment of the site.*

**Town Planning comment:**

- The proposed development is compliant with the recommendations of the RFDC and with the prescriptive requirements outlined in Council's DCP for residential flat buildings. The proposal complies with the height limits (apart from 2 minor point encroachments), setback controls, common open space and car parking provisions of the DCP.
- Council has no adopted density standards in the DCP. Such standards are often artificial and give an applicant the unrealistic perception that compliance with a density provision automatically means that a certain number of housing units are appropriate on a site and that approval will result. This approach ignores the important amenity and design considerations that are essential to be satisfied to enable a development to be compatible with and fit in well with its surrounding residential environment.
- Accordingly, Council's DCP is predicated around compliance with amenity and design requirements/elements and not a density standard. Full compliance by a development with all the requirements of BDCP 2006 is taken as a reflection of an acceptable density being proposed on a development site.
- In the absence of a floor space ratio (FSR), building envelope or density control within BDCP 2006, full compliance with the common open space controls is considered particularly essential. Compliance with the common open space provisions is the primary means of controlling the maximum unit yield achievable over the site and as such, a non-compliance would suggest that the unit yield is too high for the site. Given that the proposed development complies with the open space provisions of Council's DCP and with the other main prescriptive DCP controls, it is considered that the proposal is not an overdevelopment of a 2(c) zoned site.

- (b) *The development lacks adequate common open space throughout the complex.*

**Town Planning comment:**

- The proposed development (i.e. comprising of 29 x 1 bedroom units, 110 x 2 bedroom units and 23 x 3 bedroom units) must be provided with a total of 6,535sq.m of common open space. The current proposal provides 5,775sq.m of common open space at the ground floor level (Note: This includes 1,018sq.m of area from Lot 43 as per a previous the Court decision) and 1,960sq.m of private balcony/terrace area. As such, the total amount of common open space provided as per the DCP requirement is calculated to be 7,735sq.m. The common open space on site therefore exceeds the minimum requirement of the DCP by 1,200sq.m. Even excluding the 1,018sq.m credit from Lot 43, the proposal would still exceed the minimum DCP requirements.
  - 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 deck areas, BBQ facilities and a fitness equipment circuit. Overall the proposed common open space areas are well designed, functional and easily accessible to all residents.
- (c) *The Department of Housing Master Plan for the Housing Commission on the corner of Great Western Highway and Flushcombe Road is seeking to remove the existing 3 bedroom dwellings and replace them with 1 and 2 bedroom dwellings. This will already increase densities in the area.*

**Town Planning comment:**

- Each application must be considered on its merits. The subject site is zoned for residential flat units, and community infrastructure makes suitable allowances for existing and proposed development potential.
- The Traffic Report indicates that the projected increase in traffic activity will not have any unacceptable traffic implications in terms of road network capacity, and the services required for the development (e.g. water, sewer, electricity, etc) can easily be accommodated. Any increase in density is therefore unlikely to have any negative impact on the locality.

#### 11.11 Setbacks

- (a) *A 6m setback from our back fence is not enough for such a large development.*

**Town Planning comment:**

- The proposed 6m side setbacks are fully compliant with the requirements of Council's DCP and the RFDC. It should also be noted that the development has been limited to 2 storeys adjacent to the eastern boundary (instead of 3 storeys as permitted by the DCP). By way of comparison, if a 2 storey 'Integrated Housing' development or 'Townhouse' development was constructed, the permissible setback would reduce to 900mm or 2.3m respectively as per Part C of the DCP. A 6m setback is therefore considered appropriate and generous for the height of the adjoining built form.



### 11.12 Overshadowing

- (a) *Our properties will be overshadowed. The shadow diagrams clearly show an increase in overshadowing for residents on the eastern side of the development (Rydal Street). Residents in Myrtle Street and Ollier Street will be overshadowed. The proposed development will block out the little sunlight that we currently get. The 9am and 3pm shadow diagrams underestimate the impact, not showing how we might be affected at other times of the day. Can we be certain the shadow diagrams accurately show the extent of overshadowing.*

**Town Planning comment:**

- 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 in accordance with the DCP and are included at **Attachment 2** to this report. The shadow diagrams were generated using CAD software and are believed to be accurate.
  - As indicated by the shadow diagrams, there will be minimal overshadowing impact on the neighbouring residential properties. In this regard the neighbours to the east will not receive any overshadowing until after 2pm in midwinter. The residential properties to the south will not be affected at any time during the year. It should be noted that the diagrams show the shadows on 21 June (i.e. the shortest day of the year) and therefore are a worst case scenario.
- (b) *The high-rise buildings will result in loss of natural sunlight to our property and to our backyard swimming pool. The pool temperature will be colder and my children are not going to have the same enjoyment out of the pool. My house will have continuous shadow and will get more mould more frequently. Clothes on our lines will never dry and our backyards will be in constant shadow. Natural sunlight is essential for maintaining good health and warding off depression.*

**Town Planning comment:**

- As indicated in 11.12(a) above, the shadow diagrams submitted with the Development Application demonstrate compliance with the requirements of the DCP. The property cited is already heavily shaded by existing screen trees to the common boundary. Shadow diagrams show the property is unaffected by overshadowing of the proposed development until 2pm in midwinter. There is no evidence that the proposed development will affect either the adjoining pool temperature or ability to dry clothes.
- (c) *The tall trees and lattice provided to address privacy will shadow my backyard.*

**Town Planning comment:**

- Council will be requiring the applicant to construct a new 1.8m high lapped and capped timber fence with 300mm permeable lattice topping along the entire eastern boundary of the subject land. This fence will be at full cost to the applicant. This fencing is considered to be standard fencing and will not adversely affect the amenity of adjoining residents. The trees are existing and will maximise privacy to adjoining owners. Any additional trees/landscaping provided along the eastern boundary will cause no greater overshadowing impacts than currently experienced by the existing 6 - 9m high trees.

### 11.13 Privacy and Amenity

- (a) *A development of this size and height will result in a loss of privacy for nearby residents, especially those immediately backing onto the development. The units will have a direct view into our bedroom, bathroom, kitchen/dining, living areas and backyards. People in the apartments will be able to look straight into our backyards. This means we will be unable to enjoy our yard, entertain or use the swimming pool. I want peace of mind that my children can play in the backyard without being watched.*

**Town Planning comment:**

- Consideration has been given to prevent any overlooking from the upper levels of the proposed buildings to adjoining residential properties. The main area of concern was to maintain visual privacy to the residences located along the eastern boundary. There are 7 residences to the east, the majority with private open space located in the rear of their properties abutting the boundary of the site. The exception is H/N 24 Myrtle Street whose house and garage are built within 1m from the side boundary.
  - There is an existing zone of mature trees located along the boundary that currently provides significant screening. The proposed buildings (E, F and G) along the eastern boundary present as 2 storey buildings with a third level (Level 2) setback a further 3.5m from the parapet. Living areas have been restricted to the ground level with only bedrooms located at Level 1 and Level 2. No terraces or balconies are proposed at upper levels of these east facing units.
  - The sightline assessment (see diagram at **Attachment 3**) shows that the height of the Level 1 parapet and an inaccessible roof at Level 2 will prevent any overlooking from the upper levels of Buildings E, F and G to the private open spaces or windows in the neighbouring houses. The diagram further shows that the third storey portions of these buildings will be hardly perceptible from the neighbouring properties.
  - Overall, the potential for intrusion on visual privacy is no different than if the development were townhouses or 2 storey detached dwellings.
- (b) *The lattice fencing will eventually deteriorate with wear and tear. The proposed trees will not be enough of a privacy screen. The leaves from the tall trees will block the gutters. I already clean up constantly after the existing trees. Once a plantation of trees mature, the roots will affect the foundations of my home.*

**Town Planning comment:**

- The applicant has advised that, to date, the landowner has received no complaints from any neighbours as to either the condition of the boundary fence or the nuisance of tree roots emanating from the existing boundary trees.
- It is recommended that, as a **condition** of any consent granted, all fencing details be submitted to Council for separate approval prior to the release of any Construction Certificate. The design and selection of fencing should take into account a range of considerations including the level of security/privacy to be provided by the fencing and the ongoing maintenance of the fence.
- As indicated in Section 11.13(a) above, the development has been designed such that the overall potential for intrusion on visual privacy is no different than if the development were townhouses or 2 storey detached dwellings. In fact, given

that the development provides a 6m side setback (as opposed to a 2.3m side setback for townhouses or a 900mm side setback for detached dwellings) it is believed that there will be minimal privacy concerns.

- Notwithstanding this, it is still recommended that additional landscaping/screen planting be provided along the eastern boundary to further enhance the existing residents' privacy. Details of the proposed plant species will be required to be provided on the detailed landscape plans submitted as part of any Construction Certificate. It is recommended that, when selecting the tree/plant species, consideration be given to the potential for excessive leaf litter or potential destructive root growth. Suitable **conditions** will be imposed on any consent to address these matters.

(c) *The 3 - 5 storey buildings will spoil the amenity of the area. This is contrary to the BLEP objective which states that development must not interfere with the amenity of surrounding residential areas.*

**Town Planning comment:**

- It is acknowledged that the surrounding area consists predominantly of single residential dwellings, although a number of medium density developments also exist in the area.
- Whilst the density proposed is not in keeping with the general density of housing in the area, it should be recognised that the site was previously zoned for industrial purposes and that the current zoning of the site is a significant downzoning.
- The layout and orientation of the units have also been designed to minimise privacy and shadowing impacts on adjoining land. In this regard the building elements proposed along the eastern property boundary are 2 storeys in height, while the taller buildings have been located adjacent to the adjoining supermarket. It is also recognised that traffic generation from the development would be considerably lower than for an industrial development proposal for the site. It is therefore considered that the proposed development will not significantly impact on the amenity of the area.
- The applicant has also indicated that the proposed development will increase the amenity of the area for the following reasons:
  - It will provide increased stormwater management by way of the 488cu.m OSD tank and controlled runoff.
  - It will provide over 5,000m<sup>2</sup> of landscaped areas (a substantial increase from that already approved).
  - Section 94 contributions will be levied for community infrastructure.
  - The proposal will provide diversity of housing product in the area.
  - It will eliminate a vacant block of land currently the subject of vagrancy, vandalism and anti-social behavior.
  - Increased visual surveillance will be provided to Council's stormwater basin located at the rear of the site.

- (d) *There will be problems associated with lights being left on all night. This extra light will beam into the back rooms of our house and cause us disturbance. The cars' headlights will also beam into our windows, and revving motors and squealing tires will affect us considerably.*

**Town Planning comment:**

- The potential for light pollution from this development is no different than if the development were townhouses or 2 storey detached dwellings. The first floors are occupied only by bedrooms and ensuites where lights are expected to be on for short or sporadic times. Residents will be parking into spaces facing the built form and therefore no headlight will shine across the eastern boundary. Only 10 visitor spaces (total) are positioned in between the building blocks and will be used sporadically.
- There is no evidence to suggest that vehicles will be revving their motors or squealing their tires, given that the internal roadway will only support vehicles to travel at low speeds. Any complaints, however, can be reported to the on-site Building Manager. The provision of CCTV, as recommended by the local Police, will further deter any anti-social behaviour on site. This is already proposed to be conditioned as part of the Police requirements in any consent issued.

**11.14 Views**

- (a) *Currently we have a view of the Prospect bushland. The development will obscure all views to the bushland. From my house I currently enjoy the beautiful landscape views of native gum trees. This will be replaced with ugly concrete buildings. The nice residential outlook that we currently have will be replaced with gigantic apartment buildings."*

**Town Planning comment:**

- The subject site is currently unimproved, is underutilised and is in need of redevelopment.
- There are no significant views across the subject site to any landform. A handful of small trees and shrubs exist in the body of the subject site, and along the eastern boundary there are a significant number of mature trees forming a landscape buffer approximately 6 – 9 metres high. It is expected that these trees will mature to 12 - 16m in height, which will contribute to the visual amenity of nearby neighbours. Additional landscaping is also proposed throughout the site to "soften" the development and provide increased amenity for the residents.

**11.15 Wind**

- (a) *The height of the development will restrict any air flow or wind reducing ventilation.*

**Town Planning comment:**

- The site analysis recognises that the prevailing breezes and the fractured built form, running with a long east-west axis, will permit cross ventilation of the site. The design and height of the development is therefore not expected to restrict air flow to surrounding dwellings.

**11.16 Construction**

- (a) *Can we be guaranteed that earthmoving activities will not have a detrimental effect on the foundations of surrounding properties? Vibrations from the number of heavy*

*equipment that will be needed to build so many blocks at once will undoubtedly cause vibrations, cracking and movement in the surrounding properties.*

**Town Planning comment:**

- Standard **conditions** of consent governing construction activities have been included in the draft determination at Attachment 1 of this report. The applicant has also advised that a dilapidation report will be conducted on adjoining properties prior to commencement of construction activities. This matter will be addressed as a **condition** of any consent.
- (b) *Members of my family have breathing and sinus issues, and are worried about the levels of dust and pollution during the construction phase. We are also concerned about construction noise.*

**Town Planning comment:**

- It is recognised that surrounding residents will experience some noise and pollution disturbance during the construction period. While this is unavoidable, standard **conditions** will be included on any consent to ensure that noise and pollution does not exceed the limits prescribed in the Protection of the Environment Operations (POEO) Act 1997. A further **condition** will be imposed to ensure 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, Saturdays; with no such work to be undertaken at any time on Sundays or public holidays.
- (c) *The developer mentions that 250 whatever jobs will be created by the proposal. Yes for the short term, but not for the long term.*

**Town Planning comment:**

- In the long term the increase in population within the retail catchment will help to sustain jobs within the local shopping centre. The proposed development will also employ an on-site manager/permanent security, maintenance and gardening staff and contract waste removal.

#### 11.17 Noise

- (a) *The development will result in noise pollution from the increased traffic and the number of people in the area. There will be unacceptable noise from loud music, parties, shouting, revving cars and general domestic disharmony that living in very close proximity to your neighbours brings. There will a high level of noise as vehicles travel alongside our fences.*

**Town Planning comment:**

- The vehicular accessway has been centrally positioned on the site. It is considered that vehicular movements will therefore have minimum impact on neighbouring properties. Neighbours to the east are further shielded from vehicular movements by Blocks E, F and G. Internal traffic calming measures (i.e. speed humps) will also dissuade unruly behaviour. Pit lids will be of heavy duty construction, bolt fixed to prevent removal and should not generate any noise.
- It is believed that the proposed dwelling units will not generate any unreasonable noise impacts. In this regard Blocks E, F and G present as 2 storey “townhouse”

style dwellings to the eastern boundary and are no different to any other medium density development in respect to noise generation.

- In an urban environment, there is an expectation that residents will abide by the same laws as everyone else. The applicant has indicated that unlike other environments, however, the adjoining neighbours will have a single point of contact for complaints (i.e. the Building Manager) should that be necessary.
- (b) *Local residents will be impacted by the noise and disruption of private trucks collecting the rubbish.*

**Town Planning comment:**

- The garbage collection points and all vehicular movements will be contained to the body of the site. Garbage collection activities will therefore be shielded by Blocks E, F and G. Appropriate **conditions** will be imposed on any development consent to control collection activities and times. In this regard it is recommended that garbage collection does not occur before 6.00am. This is considered necessary, not only to protect the existing local residents, but also the future residents of the site.

#### 11.18 Parking

- (a) *The development provides inadequate car parking. In this regard, 184 resident spaces are proposed for 162 units. Due to the poor public transport system, it is reasonable to assume that each unit will have at least 2 cars. As such, a minimum of 324 resident car spaces should be provided. If the number of resident car spaces is not increased, the visitor car spaces will be used by residents. Visitors will then be forced to park in Myrtle Street or the Woolworths carpark. Overflow resident parking will also occur in the Woolworths carpark or on the street. There are already problems with on-street parking due to insufficient spaces in Woolworths for customers. On-street parking will be reduced even further. The existing residents need to access the on-street spaces. Why should residents have to fight for parking outside their own homes.*

**Town Planning comment:**

- In accordance with the DCP, the proposed development requires that resident parking be provided at the rate of 1 space per 1 or 2 bedroom dwelling, and 2 spaces per 3 or more bedroom dwelling. Application of these parking rates yields an off-street parking requirement of 185 residential spaces. The proposed development is compliant with the DCP in respect to parking calculations and provision, and is supported by the Traffic Report submitted with the application.
- Given that the proposed development complies with Council's minimum on-site parking requirements, there is no reason to expect that residents would park in the Woolworths carpark or on the street which would cause unnecessary inconvenience. It is considered unreasonable that the applicant be requested to increase the on-site parking provision beyond the adopted minimum requirements, especially given that Council's DCP parking requirements exceed those of the RTA. The RTA only require parking at the rate of 0.6 space per 1 bedroom unit, 0.9 space per 2 bedroom unit, 1.4 space per 3 bedroom unit and 1 space per 5 units of visitor parking. Therefore a total of 181.5 spaces would be required if assessed under the RTA requirements.
- The subject site is also located within walking distance of bus routes on both Flushcombe Road and Myrtle Street.

- (b) *We already have problems accessing our own driveway now with customers of Woolworths parking across our driveway and walking across to the shops due to there being no car parking at Woolworths. We are worried that given insufficient parking on site, that we will permanently have cars parked across our driveway. If more cars are forced to park on the street it will make this area a high traffic zone and dangerous for pedestrians and hazardous for motorists.*

**Town Planning comment:**

- As discussed under 11.18(a) above, the proposed development is compliant with the DCP in respect to parking calculations and provision, and is supported by the Traffic Report submitted with the application. For the reason given above, there is no reason to expect that residents or their visitors will park on the street when convenient on-site parking is available.
  - It is understood that the Woolworths supermarket basement carpark often floods, thereby reducing the number of available on-site carparking spaces available for customers to the site. This issue, however, does not relate to the current proposal and therefore does not warrant refusal of the application. Any parking non-compliances associated with the Woolworths supermarket should be addressed as a separate issue.
- (c) *One only has to see all the cars parked on Wye and Tenby Streets which are from the Camelot townhouses development on the corner of those 2 streets, to see what happens when there isn't enough car spaces on site.*

**Town Planning comment:**

- As discussed under 11.18(a) above, the proposed development is compliant with the DCP in respect to parking calculations and provisions, and is supported by the Traffic Report submitted with the application. For the reason given above, there is no reason to expect that residents or their visitors will park on the street when convenient on-site parking is available.
- (d) *Shopping trolleys are regularly left in the street when Woolworths customers either need to park in the surrounding streets or when people take them to take their shopping home. This situation will get worse if the development goes ahead and parking gets more limited.*

**Town Planning comment:**

- It is unclear as to how the proposed development will exacerbate the existing “shopping trolley” problem, particularly as the development has a direct link to the Woolworths site without the need to use public roads. It is believed that this is a management issue for Woolworths and does not warrant refusal of the application. Any future ongoing problems should be separately referred to Woolworths at which time they can determine if an alternate solution (e.g. coin/token operated trolleys) should be installed.
- In addition, the use of shopping trolleys without return will be discouraged within the development and will be administered by the body corporate.

#### **11.19 Traffic and Access**

- (a) *Due to the quantity of residents living in the flat blocks there will be a large influx of vehicle traffic along Myrtle Street. This will result in congestion along Myrtle Street during peak times such as weekday mornings when parents drive their children to*

*school, people travelling to and from work, weekends driving to sport, etc. Taking into account the extra traffic, a number of large trucks travel along this street (deliveries to the Supermarket and shops) and all vehicles will have to drive carefully while negotiating the roundabout, especially being so close to the driveway entry of the building site. The development will also result in a massive and unsustainable influx in the local population, which in turn will attract more traffic and congestion to the area, and increase travel times to and from work. The existing road network will not be capable of dealing with such a significant increase in traffic. Myrtle Street is already a death trap to cross. An increase in traffic will make it impossible to cross the road.*

**Town Planning comment:**

- A Traffic and Parking Assessment Report was undertaken by Varga Traffic Planning Pty Limited (Ref: 10271 dated 10 March 2011) and submitted with the application. Peak period traffic surveys were undertaken and reveal that:
  - two-way traffic flows in Myrtle Street (east of Upwey Street) are typically in the order of 250 vehicles per hour (vph) during the morning peak period, increasing to 390 vph during the afternoon peak period; and
  - two-way traffic flows in Myrtle Street (west of Upwey Street) are typically in the order of 310 vehicles per hour (vph) during the morning peak period, increasing to 470 vph during the afternoon peak period.
- Application of the RTA's traffic generation rate to the development proposal yields a traffic generation potential of approximately 47 vehicle trips per hour. The Traffic Consultant has determined that the projected increase in traffic activity will not have any unacceptable traffic implications in terms of road network capacity. In this regard an assessment using INTANAL (i.e. a program widely used by the RTA) has determined that:
  - The Myrtle Street and Upwey Street intersection currently operates at Level of Service "A" under the existing traffic demands, with total average vehicle delays in the order of 4 seconds/vehicle.
  - Under the projected future traffic demands expected to be generated by the development proposal, the Myrtle Street and Upwey Street intersection will continue to operate at Level of Service "A", with increases in average vehicle delays of **less than** 1 second/vehicle.
  - Under the projected future traffic demands expected to be generated by the development proposal, the Myrtle Street and proposed site access driveway intersection is expected to operate at Level of Service "A", with average vehicle delays in the order of **less than** 1 second/vehicle.
  - Vehicles approaching the site from the west via a right-turn into the site will not cause any appreciable delays for eastbound through-traffic in Myrtle Street.
- As such, there is no evidence to suggest that the development will significantly alter any prevailing traffic conditions. Further details regarding the traffic assessment are provided under Section 8 of this report. It should also be noted that the development plans and supporting traffic and parking report were also considered by the RTA at a Sydney Regional Development Advisory Committee (SRDAC) Meeting and at a Local Traffic Committee (LTC) Meeting. No objections were raised by either Committee in terms of traffic generation.



- (b) *Since the last DA in 2003 the area around Clark Street and Patricia Street has been developed with many townhouse complexes and the traffic has increased exponentially. The increase in population density in the last 8 years has had a significant impact on traffic in the area. There are already daily queues at the Myrtle Street/Flushcombe Road roundabout, as this is the only exit from the estate. It is becoming increasingly dangerous as cars leaving Clare Street perform 'U' turns at the roundabout. This will only increase as the housing estate nearby is redeveloped. There are also congestion issues when exiting from Upwey Street onto the roundabout at Myrtle Street and onto Flushcombe Road in the morning. The Flushcombe Road roundabout cannot cope with any additional traffic flow, and the roundabout on Myrtle Street is too small to cope with any increase in traffic. With another 200+ cars this will become a bottleneck for residents.*

**Town Planning comment:**

- Full details regarding the traffic assessment can be found under Section 8 of this report. Traffic surveys indicate that the Myrtle Street and Upwey Street intersection currently operates at Level of Service "A" under the existing traffic demands with total average vehicle delays in the order of 4 seconds/vehicle. Under the projected future traffic demands expected to be generated by the development proposal, the Myrtle Street and Upwey Street intersection will continue to operate at Level of Service "A", with increases in average vehicle delays of less than 1 second/vehicle. The proposed development will therefore not generate any significant traffic delays in the area.
- (c) *The increase in traffic on Flushcombe Road will mean that Ashby Street will become a popular turn-off for people to get to Myrtle Street and will also increase traffic for Rydal Street from that direction. The traffic in Myrtle Street will mean that current residents will turn off into Rydal Street to cut through and get home to surrounding streets. Rydal Street has the bus coming through every half hour, plus with more cars, this will be unsafe for children and will be impossible for cars to exit their driveways. The congestion on Myrtle Street and Flushcombe Road will also force people to take shortcuts and exit the area through Lancelot Street. The traffic will bank up Flushcombe Road, making it difficult to exit from Ashby Street in the mornings.*

**Town Planning comment:**

- Full details regarding the traffic assessment can be found under Section 8 of this report. The traffic surveys indicate that the roads surrounding the site will continue to operate at Level of Service "A" and will experience minimal delays (i.e. less than 1 second) as a result of the proposed development. As such, there is no evidence that the proposed development will alter traffic conditions or force vehicles to take indirect routes.
- (d) *The exit from the development should be from the Western Highway side of Woolworths. We have enough trouble now getting out of the estate.*

**Town Planning comment:**

- The subject site has frontage only to Myrtle Street. While a right-of-way (ROW) permits vehicles to access the site via the roundabout located on the adjoining Woolworths supermarket site, the subject site does not have any legal right to gain access through the adjoining site to Flushcombe Road.
- (e) *It is already difficult to exit the Woolworths carpark. The development will only put further pressure on an existing problem. The traffic at the Woolworths roundabout is*

*already at an unreasonable level. With the increase in traffic it would become difficult if not dangerous and frustrating for the local community.*

**Town Planning comment:**

- It is believed that the proposed development will have minimal impact on the adjoining retail parking given residents will be able to walk to and from the shopping facilities. The main entry/exit to the development is located on the Myrtle Street frontage. The Woolworths roundabout will be used as a secondary entry/exit, or for vehicles wishing to turn right and travel east on Myrtle Street. As highlighted in the submitted Traffic Report (see Section 8 of this report) limited cars are expected to head east on Myrtle Street and, as such, it is unlikely that unreasonable delays will be experienced at this location. The security gates have also been relocated to allow adequate stacking space off the roundabout. This will ensure that vehicles do not overhang into the roundabout and obstruct vehicular movements when entering the site.

- (f) *An influx in population would result in increased waiting times at the petrol stations. The queues at these petrol stations frequently block traffic on Flushcombe Road and at the entrance point to Woolworths.*

**Town Planning comment:**

- Full details regarding the traffic assessment can be found under Section 8 of this report. The traffic survey has determined that the projected increase in traffic activity will not have any unacceptable traffic implications in terms of road network capacity. The issues experienced at the local petrol stations are an existing problem and therefore do not warrant refusal of the application.

- (g) *There will be traffic queues in Myrtle Street as 412.5 cars (i.e. 2.5 cars per unit) wait for the automated gates to open into the complex.*

**Town Planning comment:**

- Application of the RTA's traffic generation rate to the development proposal yields a traffic generation potential of approximately 47 vehicle trips per hour. Taking into account that this includes in and out movements, and that the site has 2 entry/exit points, it is considered unlikely that more than 1 vehicle will be required to queue at the security entry gates at any one time. To ensure any queued vehicles do not overhang the public roadways or obstruct vehicles using the Woolworths roundabout, the security gates have been located well within the property boundaries.

- (h) *The location of the driveway on Myrtle Street is dangerous. The entrance should be closer to the Woolworths roundabout. The traffic in Myrtle Street makes it difficult to exit our driveway. The proposed entry/exit, being directly opposite our driveway, will make this even more difficult.*

**Town Planning comment:**

- The Myrtle Street entry/exit point is centrally located along the Myrtle Street frontage and is therefore well separated from the adjoining properties. The location of the driveway is not considered to be dangerous, especially given there is excellent driver sight distance/visibility in both directions along this section of Myrtle Street.

- As recommended by the Local Traffic Committee (LTC), the driveway off Myrtle Street must be designed to discourage/prevent right-turn movements out of the site. Suitable **conditions** will be imposed on any consent to address this matter.
- (i) *We are concerned about potential car accidents happening if a third roundabout is constructed in front of our house. The extra roundabout in Myrtle Street will cause more havoc with 3 roundabouts within 1 block. We are also wondering if the street is wide enough to accommodate a third roundabout in the proposed location.*

**Town Planning comment:**

- There is no proposal for a third roundabout in Myrtle Street.
- (j) *I fear that the Woolworths carpark would become a traffic thoroughfare for residents exiting the development and trying to avoid the Myrtle Street exit. The additional traffic will make the Woolworths carpark a high traffic zone, a danger to pedestrians/shoppers and a hazard for motorists. I have concerns about the traffic flow exiting into a shopping centre carpark. Would this not be a fire hazard?*

**Town Planning comment:**

- The submitted Traffic Report (refer to Section 8 of this report) indicates that the proposed development will not significantly alter the prevailing traffic conditions. Application of the RTA's traffic generation rate to the development proposal yields a traffic generation potential of only 47 vehicle trips per hour. Given that the site has 2 entry/exit points, this will result in very little additional traffic utilising the Woolworths roundabout. The concerns raised are therefore considered unjustified.
- (k) *The proposed Wet and Wild Water Theme Park will ultimately impact on traffic in the area. With the proposed Wet and Wild, Flushcombe Road will not be able to cope."*

**Town Planning comment:**

- Any impacts resulting from the traffic generation of the proposed Wet and Wild Water Theme Park will be considered as part of that Application. This matter does not relate to the subject development proposal and therefore does not require further consideration.
- (l) *Myrtle Street should be extended easterly right through to Prospect Highway to alleviate the rat racing of local streets. In a westerly direction it should meet up with Clare Street, which then needs to be extended to intersect with Reservoir Road. This would give more options for traffic in the area, and prepare for the increased volume of traffic anticipated from the Department of Housing redevelopment and future Wet and Wild Theme Park. Council has ignored the residents of Prospect by not widening the high traffic zone of Flushcombe Road and the future Myrtle Street access to that embarrassing goat track Council calls Blacktown Road, Prospect Highway come Seven Hills Road. If the proposal is approved, an influx of 300 plus residents will have to share the access to the M2, M4 and local surrounds.*

**Town Planning comment:**

- These wider strategic issues fall outside the scope of the DA and therefore do not warrant refusal of the application. It is noted that the 2 lane section of Prospect Highway, to the south of Blacktown Road, is a "State" road and its construction and upgrading is controlled by the NSW Government (RTA). Blacktown City

Council has continuously lobbied the State Government about the unacceptable state of this section of road for decades, but with no success.

#### 11.20 Emergency Response

- (a) *In the event of an emergency, could the Police and Fire Brigade access the area and evacuate everyone in a safe and quick manner.*

**Town Planning comment:**

- The proposed development makes suitable allowances for emergency procedures and evacuation. Buildings are designed to accommodate the provisions of the BCA, fire stairs are located to satisfy “deemed to satisfy” provisions in both the apartment buildings and the carpark, and alternate paths of egress exist on either side of each tower to both the Woolworths roundabout and Myrtle Street.

#### 11.21 Pedestrians

- (a) *Children walking to/from Shelley Public School will be put at greater risk when crossing the road at Myrtle Street into Oaktree Grove, due to the increase in traffic.*

**Town Planning comment:**

- The submitted Traffic and Parking Report indicates that the majority of vehicles exiting the site are expected to turn left and head west on Myrtle Street towards Flushcombe Road. Given that only low traffic volumes are expected to exit the site and head east along Myrtle Street, it is believed that the development will not impact on pedestrian movements around the local public school.
- (b) *An increase in traffic would lead to driver frustration, impair driver judgment and result in serious repercussions for the safety of pedestrians, especially young children and the elderly.*

**Town Planning comment:**

- The traffic assessment summarised under Section 8 of this report indicates that the projected increase in traffic activity will not have any unacceptable traffic implications in terms of road network capacity.
  - Given that the Myrtle Street and Upwey Street intersection will continue to operate at *Level of Service “A”*, with increases in average vehicle delays of less than 1 second/vehicle, it is believed that the increase in traffic will not lead to further unacceptable frustration.
  - The proposal also includes additional traffic calming measures and additional footpaths which will improve pedestrian safety around the site.
- (c) *Pedestrian access to Woolworths is already problematic. There would be hazards to pedestrians in the Woolworths carpark due to the added traffic.*

**Town Planning comment:**

- As discussed above, it is believed that the proposed development will have minimal impact on the adjoining retail parking given that residents will be able to walk to and from the shopping facilities. The main entry/exit to the development is located on the Myrtle Street frontage. The Woolworths roundabout will be used as a secondary entry/exit, or for vehicles wishing to turn right and travel east on Myrtle Street.

- The proposed development will assist in increasing safe pedestrian access to Woolworths by constructing a new footpath on the eastern side of the Woolworths roundabout from Myrtle Street.

#### 11.22 Waste/Pollution

- (a) *We continually have to clean up rubbish dumped in our front yard or blown into our yard by the wind. The development will result in more rubbish and littering in the area. The build-up of rubbish on the site could lead to an increase in vermin.*

**Town Planning comment:**

- The proposed development will remove a derelict site from the Prospect area, eliminating an existing “dumping site”. The site will be managed by a body corporate charged with the responsibility for maintaining the property and its grounds. Garbage enclosures are located in secure shelters or in the basement and will be vermin-proofed as per the regulations.
- (b) *The extra traffic will affect the current air quality which is currently under stress with the smell from Eastern Creek rubbish dump and the smell of the nearby Red Lea Poultry Farm.*

**Town Planning comment:**

- There is no evidence that the additional traffic volumes will alter the prevailing air quality in the area.
- (c) *Bins in the area are damaged or set alight when placed out for collection. What will happen when you add an additional 160 bins to this area? Will there be a central rubbish collection point?*

**Town Planning comment:**

- The Waste Management arrangements are discussed under Section 7.3(ee) of this report. A central garbage storage area has been located within the basement areas of Blocks A, B, C and D. The garbage rooms for Blocks E, F and G are located at ground level adjacent to the central access road. Each garbage area will be well ventilated and vermin-proofed as per the regulations. All bins will be cleaned internally and externally on a regular basis (i.e. at least every 3 months), and the garbage collection areas will also be cleaned on a regular basis.
- It has been nominated that waste collection will occur twice weekly for general putrescible waste and once a week for recycled wastes. Collection will be made by a private waste management company. The building manager will be responsible for moving the waste bins from the garbage rooms to the designated collection points on the internal accessway. The building manager will then return the waste bins to the garbage rooms after emptying. There will be no bins placed out on the public roadway for collection.

#### 11.23 Stormwater

- (a) *Many of the homes in the area have already suffered severe cracking, requiring major engineering repairs and underpinning due to the movement and response of our clay soil in adverse weather cycles experienced in recent years.*

**Town Planning comment:**

- A Geotechnical report has been carried out on the site. The structural design of the development superstructure will take into account its findings. Additionally, standard **conditions** of consent governing construction activities will be imposed on any consent granted. The applicant has also indicated that a dilapidation report will be conducted on adjoining properties prior to commencement of construction activities. This matter will also be addressed via a suitable **condition** of any consent.

(b) *The high-rise development and concrete surfaces will have a detrimental effect on water run-off to neighbouring properties and will add to flooding problems in the area.*

**Town Planning comment:**

- A Stormwater Assessment accompanies the Development Application which proposes measures to manage stormwater runoff. The proposal incorporates on-site detention (OSD) to a capacity of 488,000,000 litres. This is an increase of 235,000,000 litres (or a 92% increase) from the OSD approved as part of DA-97-7076 (i.e. the existing active approval over the site).
  - At present the site has no controlled runoff and no water is directed into the Council basin. Upon development of the site, stormwater will be captured, treated and directed to managed stormwater facilities, thereby reducing the risk of flooding. The developer has worked closely with Council Flooding and Drainage Engineers to ensure an acceptable design solution has been developed for the site.
  - Further details regarding the flooding and drainage assessment can be found under Section 7.2(h) of this report.
- (c) *Will the stormwater be released into the drainage easement at the rear of the site. This design could cause flooding in the easement or to adjoining backyards and residences.”*

**Town Planning comment:**

- As part of the drainage solution for the site, the applicant was required to provide 488,000,000 litres of OSD capacity. All stormwater will therefore be stored on the subject site within the OSD tanks. Council Flooding and Drainage Engineers have carried out a flood study to ascertain the likely affect in a 1:100 storm event. It should be noted that the properties to the east of the subject site are already affected by a stormwater easement and an overland flowpath from the Council basin. The proposed development does not alter this arrangement.
- (d) *Woolworths already suffers flooding in the basement carpark. The basement carpark is kept permanently closed because it gets flooded – we have only known it to be opened once for parking in the 4 years we have lived in our home. How can the developer be certain the same won't happen to the planned basement carpark, therefore forcing residents to park on the street.*

**Town Planning comment:**

- The proposed drainage design makes adequate provision in carpark grades to accommodate a “freeboard” of 500mm to prevent inundation. This is 200mm greater than the Council minimum requirement. As such, it is highly unlikely that the proposed basement carpark will be impacted by any flood waters.
  - Woolworths has elected to close the basement carpark due to ongoing issues of vandalism and theft from customer’s vehicles, and not as a result of stormwater issues. There has been no evidence to suggest that there is a lack of on-site customer parking as a result of the closure of the basement. Council Officers in the Enforcement Unit have investigated the issues raised by public submissions relating to the basement carpark and has resolved as follows:
    - *The basement carpark is to be closed as there is generally no demand for its use except it will be opened during peak times at Christmas, Easter etc.*
    - *There was identified security risks for customers especially when it was not being fully utilised and Council Officers considered it appropriate to limit its use.*
    - *Council will continue to monitor the situation and respond to any community concerns.*
- (e) *The water runoff will be diverted to the road which could cause flooding and be a hazard to motorists. It will also affect access and traffic flow.*

**Town Planning comment:**

- No stormwater will be diverted to the road network. Further details regarding the flooding and drainage assessment can be found under Section 7.2(h) of this report.

**11.24 Services and Facilities**

- (a) *There are currently a lack of services and facilities in the area for the existing population. There is no local neighbourhood or community centre to provide a focal point for the area, a service which would be imperative with an increased population of the magnitude proposed. Council should consider the greening of this site for the future development of our environment, and not add to the carbon imprint this will have on all our lives and health.*

**Town Planning comment:**

- Section 94 of the EP & A 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 Contributions Plan (CP) No. 3 – Open Space within Established Areas.
  - Under the CP it has been calculated that the proposed development will generate an increase in population of 403.1 persons. If approved, the developer will therefore be required to pay a substantial Section 94 contribution as outlined under Section 7.2(j) of this report. This money will then be used to directly fund community public open space in the area. It should be noted that the money cannot be used to fund public facilities not identified within a CP.
  - As part of developing CP No. 3 Council would have identified the best locations for the required public recreation facilities. Those identified sites would have then 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 public recreation facilities will be provided on the nominated sites. The subject site is zoned 2(c) Residential and therefore has not been identified for public recreation or community purposes.
- (b) *There will be an enormous strain on the existing local infrastructure in the area which is already at capacity. The development will place demands on public services and infrastructure beyond the level reasonably required for residential use. The education and health systems will be most affected.*

**Town Planning comment:**

- 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 can be accommodated.
  - The proposed development is compliant with the site zoning which has been in place for many years. The subject site is located within an established area, and is one of the last remaining sites to be developed. It is believed that the increase in population will have minimal impact on the existing established services in the area.
- (c) *There is 1 loop bus service in this part of Prospect. The hundreds of extra residents will cause extra congestion for commuters and school children.*

**Town Planning comment:**

- Extra commuters will not only sustain the viability of existing bus services but may also give rise to increased frequency of buses in the area to the benefit of the broader community.
- (d) *The local schools are currently at full capacity already. Any additional students of this potential mass will lower the quality of education as children are forced to learn in overcrowded classes.*

**Town Planning comment:**



- The projected population is anticipated to be 403 persons of which only a small percentage are likely to be school aged children. It is therefore unlikely that the number of additional students will cause any significant impacts.
  - The issue of school allocation and funding, however, is a State Government matter that is outside the scope of the proposal.
- (e) *Blacktown's growth is expected to increase 60% in the next 20 years. As more people move into the area, Blacktown Hospital will feel the strain."*

**Town Planning comment:**

- The issue of public health provisions is a State Government matter that is outside the scope of the proposal.

#### **11.25 Safety/Security and Social Issues**

- (a) *Such a large and sudden increase in population will lead to a range of social problems including: increased crime, vandalism, graffiti, lighting of fires in rubbish bins, drug use and inappropriate disposal of syringes, domestic problems, violence, gang membership, car theft, and break and enter. The development will magnify existing anti-social behaviour, and create additional social problems. It will not be safe to go out in the area or to the shops at night. There are not enough Police to deal with the extra crime. The crime statistics indicate that the "steal from a dwelling in Blacktown" rate has already gone up from 755 incidents in 2009 to 865 incidents in 2010 (i.e. an increase of 14.6%). Has the development taken into account 'Safer By Design' considerations?*

**Town Planning comment:**

- A "Crime Prevention Through Environmental Design (CPTED)" Report was prepared to accompany the Development Application which assesses the development's ability to prevent or deter crime through design. A copy of the report was forwarded to the Blacktown LAC for consideration as part of their "Safer By Design" Evaluation. While the Crime Prevention Officer indicated that the site currently poses a number of negative aspects (e.g. potential to steal from a motor vehicle, vehicle theft, break and enter, malicious damage, anti-social behavior, neighbourhood disputes and assaults), it was determined that the crime rating for this development is "Low - crime risk". The Blacktown LAC therefore advised that no objections were raised to the proposed development, but have recommended that appropriate conditions be imposed to address the identified areas of concern. The Crime Prevention Officer's recommended conditions of consent are detailed under Section 7.2(i) of this report, and suggest that appropriate measures such as CCTV, motion sensor lighting, signage, vandal proof fencing, low maintenance landscaping etc be provided for the development.
- (b) *We purchased an investment property in a block of 4 storey units. When built it was a very attractive development. Within 10 months, however, it was nothing more than a virtual slum with junk mail strewn everywhere and the balconies used as a veritable laundry. This development is likely to be the same.*

**Town Planning comment:**

- Estate management by the body corporate is a significant element in maintaining the amenity of the development, and the attractiveness of the estate for residents, tenants and investors alike. There is no evidence to believe the management of this estate will emulate that of a poorly run estate. Appropriate **conditions** will also be imposed on any consent to ensure that letterboxes are provided in accordance with Australian Standards and that hanging of laundry on the balconies be prohibited within the strata by-laws. The employment of an on-site Building Manager will ensure that any vandalism to property, including graffiti, is managed appropriately and that all maintenance issues are addressed at the earliest opportunity.
- (c) *The development will create a huge amount of garbage and there will be discarded furniture as tenants are constantly changing. There is concern that rubbish like this will end up in the easement and become a burning ground for the children in the area.*

**Town Planning comment:**

- The Waste Management arrangements are discussed under Section 7.3(ee) of this report. The estate will be managed by a Building Manager who will be responsible for the maintenance of the property and waste management.
  - It has been nominated that waste collection will occur twice weekly for general putrescible waste and once a week for recycled wastes. Collection will be made by a private waste management company.
  - A fence encloses the site on the southern boundary and as such there will be no direct access available to the Council basin from the estate.
- (d) *The majority of units are likely to be rented out. Poor maintenance and upkeep of the building will result in broken windows and blocked sewers not being repaired. This will also see an increase in crime and gangs forming. This is why the government is splitting up the people living in the local Housing Commission, because of the groups that have formed.*

**Town Planning comment:**

- Like all areas of Sydney, the proposed development is likely to bring a mix of renters and owner occupiers. 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 employed Building Manager will ensure that security, cleanliness, general repairs and waste collection are managed appropriately, and that the amenity of the area is maintained. Appropriate measures will also be put in place to ensure the long term upkeep of the development and that all security systems and lighting are regularly inspected and maintained at optimum levels. The Building Manager will also serve as the point of contact for any complaints received.
- (e) *The shops and medical centre are always covered in unsightly graffiti. When the area is repainted (almost on a monthly basis) the site is quickly targeted again. The Woolworths carpark is constantly subject to vandalism and is a haunt for drug users. The development will attract more vandalism and graffiti in the area. The tall tower blocks will also be a target for graffiti.*

**Town Planning comment:**

- Given that the adjacent supermarket is constructed on the boundary, the applicant was requested to advise what measures would be adopted to discourage graffiti on the blank wall. The applicant has indicated that the site will be enclosed by a security fence. Access will therefore be restricted to residents and their guests. Footpath access to Blocks C and D runs past the wall, ensuring constant visual surveillance. The section of wall between Blocks C and D is also exposed to nearby apartments.
  - To discourage graffiti attacks, however, the supermarket wall will be lined with appropriate landscaping/"green" screens in accordance with the Local Police recommendations.
  - Any incidence will be quickly reported to the Building Manager who will be responsible for maintaining common property and for all graffiti removal. Quick repainting/removal (within 24hrs) of "graffiti tags" has proven to be the best deterrent on other developments.
- (f) *We live directly behind Woolworths. On a weekly basis we have to put up with drug addicts and vandals in the back and underground carpark. They graffiti and blow up cars. If this development goes ahead, they will have another carpark to do the same in. Attempts by shop owners to employ security guards to prevent drug use and other anti-social activities have been unsuccessful. The Woolworths carpark has been boarded up to prevent drug users from using the space.*

**Town Planning comment:**

- The site will have restricted access to residents and their visitors. The basement carpark will be fitted with security shutters and the capacity for individual garages. The Body Corporate will engage a Building Manager who will be responsible for maintenance of the estate and for the employment of a security guard should that be warranted.
  - The Crime Prevention Officer at Blacktown Police has also recommended that appropriate measures including CCTV, motion sensor lighting, signage, vandal proof fencing, low maintenance landscaping etc be provided to enhance security and safety around the site. The recommended **conditions** of consent, as detailed under Section 7.2(i) of this report, will be included on any consent granted.
  - In terms of the existing situation, it is recommended that local residents formally raise this matter with the Local Police.
- (g) *The alleyway between Rydal and Myrtle Streets is currently home to drunks who like to hang out and leave smashed bottles. It is a dangerous area to walk through. The units will become a dumping ground for the people living there. The Council currently does not cope in maintaining the upkeep of the alleyway.*

**Town Planning comment:**

- The site has no direct access to the walkway mentioned, and there is no evidence that the proposed development will exacerbate this existing situation. The on-site Building Manager will ensure, however, that the subject site does not become a "dumping ground".
- (h) *Occupiers of the units will be able to see directly into my backyard. This is a huge security concern. Our properties are more likely to be burgled as the residents of the*

*development will be able to see directly into our backyards and will know when we are not home.*

**Town Planning comment:**

- The proposed development has been designed to prevent any overlooking from the upper levels of the proposed buildings to adjoining residential properties. In particular, the proposed buildings (E, F and G) located along the eastern boundary have been carefully designed to maintain visual privacy to the existing adjoining residents.
  - There are 7 residences to the east, the majority with private open space located in the rear of their properties abutting the boundary of the site. The exception is H/N 24 Myrtle Street whose house and garage are built within 1m from the side boundary.
  - Proposed buildings E, F and G present as 2 storey buildings with a third level (Level 2) setback a further 3.5m from the parapet. Living areas have been restricted to the ground level with only bedrooms located at Level 1 and Level 2. No terraces or balconies are proposed at upper levels of these east-facing units.
  - Overall the potential for intrusion on visual privacy is no different than if the development were townhouses or 2 storey detached dwellings. There is no visual access to adjoining properties from the second floor apartments. Furthermore, there is no reason to believe that any future resident of the development will have a tendency for crime related activity.
- (i) *Given that apartments are less expensive than detached dwellings, we are concerned at the type of occupants the apartments will attract. It is likely the units will attract people from low economical status and less desirable tenants. There is also fear that the development will attract residents of a similar socio-economic status to the nearby social housing. The area already struggles with the Housing Commission so close by, and we do not need more units attracting this type of tenant. Research has documented that high-density public housing in Australia is linked with unemployment, high incidence of mental illness, increased crime (specifically theft, assault and vandalism), and the perception amongst the community of these estates as 'ghettos' (Spiller Gibbins Swan (SGS) Pty Ltd. (2000). Public Housing Estate Renewal in Australia, project number 212. Australian Housing Research Fund.) There is fear that the proposed development will attract more anti-social behaviour, which will compromise the safety of residents. The units will create a 'ghetto' area with such a high number of people clustered together, and most of the units are expected to be rentals and some units have been designated for low income families. This form of housing could bring a "slummy" or "housing commission" feel to the area.*

**Town Planning comment:**

- Like all areas of Sydney, the proposed development is likely to bring a mix of renters and owner occupiers. 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, or if they are from a high or low economic standing, the employed Building Manager will ensure that security, cleanliness, general repairs, and waste collection is managed appropriately, and that the amenity of the area is maintained. Appropriate measures will also be put in place to ensure the long-term upkeep of the

development and that all security systems and lighting are regularly inspected and maintained at optimum levels. The Building Manager will also serve as the point of contact for any complaints received.

- Further to this, the Blacktown Police Crime Prevention Officer has made appropriate recommendations to enhance security and safety around the site. These will form **conditions** of any consent granted.
- The applicant has also indicated that significant capital value will be invested in this development which, although not precluding first home buyers, will establish a market expectation comparable to townhouses in the area.

(j) *Even Housing NSW is moving away from concentrated living. Their future redevelopment of the nearby public housing site is likely to be on a decentralised model, mixing public in amongst private housing in single and 2 storey dwellings in keeping with the character of the local area.*

**Town Planning comment:**

- The land is zoned for residential flat development and has been designed to comply with the provisions of Council's DCP and with the RFDC. The population projections for Sydney require an increase in density in existing established areas if we are to accommodate the expected growth, capitalise on existing infrastructure, minimise urban sprawl, and develop a sustainable solution for our community. This development will assist in absorbing some of the population growth without significant impact on infrastructure or community resources.

(k) *The representative from the Public Housing Department, at a recent meeting, stated that Public Housing may buy up to 20 of the proposed units. This will only add to the anti-social problems.*

**Town Planning comment:**

- The applicant has advised that the design was not predicated on public housing purchase or design guidelines. The development proposed is of a very high quality and incorporates best practice in apartment design and amenity. Significant capital value will be invested in this development which, although not precluding public housing, will establish a market expectation comparable to townhouses in the area. Notwithstanding this, there is no evidence to suggest that the future owners/tenants of the development will add to any anti-social problems in the area.
- The employment of an on-site Building Manager, together with appropriate security measures as recommended by the Blacktown Police Crime Prevention Officer, will also ensure that a safe living environment is created.

#### 11.26 Property Values

(a) *High rise buildings in the middle of mainly 1 storey dwellings would be a negative rather than a positive selling point. The apartments will lower property values in the area. The value of my newly purchased home will reduce as the sale price of the units will lower the median house price of the suburb and result in a perception that properties in Prospect are worth less. This will result in significant financial loss. We were assured the property would grow in value over time due to inflation, however, this won't be the case if the development goes ahead. Owners will find it difficult to sell their properties if this development goes ahead. A number of real estate agents have confirmed that our*

*home could decrease in value by as much as 15% and possibly decrease further as the buildings age and deteriorate. If the development goes ahead, I and my neighbours would expect to be financially compensated.*

**Town Planning comment:**

- The surrounding land values would already be influenced by the existence of an undeveloped and derelict site adjoining their properties. The land has been zoned for apartment living for many years and there exists an active approval to construct 107 apartments on the site. Prospective purchasers would already be aware of this situation learned in “due diligence” carried out prior to purchase of properties in the area.
  - Given that the site was previously zoned for Industrial purposes and has now been zoned 2(c) Residential for a number of years, it would be a reasonable expectation that the site would always be developed for a more intense use than single detached dwellings. It is therefore reasonable to expect that the surrounding property values would have been reflective of this. As such, there is no evidence that the proposed development will lower property values in the area, when the site has always been capable of a more intense form of development. Any form of compensation would therefore not be warranted.
  - The applicant has obtained advice from real estate agents in the area who cite that the removal of a vacant and derelict site currently harbouring anti-social activity will have a positive impact on land values in the area, particularly with a development of such high quality.
- (b) *The units are likely to be leased and tenants generally take less pride and care in their homes. This will result in the area appearing neglected and unattractive which will decrease the value of surrounding homes.*

**Town Planning comment:**

- Like all areas of Sydney, the proposed development is likely to bring a mix of renters and owner occupiers. It should be noted, however, that investors are equally keen to protect their assets and monitor leased apartments regularly.
- Regardless of whether the occupiers are renters or owners, the employed Building Manager will ensure that security, cleanliness, general repairs, and waste collection is managed appropriately, and that the amenity of the area is maintained. Appropriate measures will also be put in place to ensure the long term upkeep of the development and that all security systems and lighting are regularly inspected and maintained at optimum levels.

#### 11.27 Further Amendments

- (a) *The developer may submit amendments to alter the design without consultation with the wider community.*

**Town Planning comment:**

- A Section 96 Application must be lodged with Council for any amendment proposed after the determination is made. While some minor changes may not warrant renotification, any Section 96 Application received will be considered on its merits and will be publicly notified if it is deemed that there will be an impact on property owners and occupiers.

## 12. General Comments

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- 12.1 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 and is unlikely to have any significant environmental, social or economic impacts on the locality or surrounding neighbourhood.
- 12.2 The subject site benefits from a previous Development Consent for the construction of 8 apartment buildings comprising 107 units. The current approval (DA-97-7076) was granted by Council on 27 April 1998 and later amended via a Section 96 amendment in April 1999. The Applicant has obtained a Construction Certificate and undertaken initial site works, thereby preserving the current consent. The approved development, however, has not proceeded beyond the initial site works and if the current Development Application is approved it will supersede this previous consent. The Applicant will be required to surrender the old Development Consent prior to any Construction Certificate being issued for the current Development Application. This will be **conditioned** in any consent granted. The Applicant seeks approval for the construction of modern and contemporary apartments and has indicated that if the Development Application is approved it is their intention to no longer proceed with the outdated Development Consent.
- 12.3 The proposed development is consistent with the objectives of the 2(c) Residential zone [in particular objective (b)] and therefore is a permissible use with Development Consent. The proposal also has a high level of compliance with the requirements of Blacktown DCP 2006 Parts A and C. Apart from the minor variation to the building setback to the rear site boundary and minor height variation to 2 apartments from the 16m height rule (but not necessarily applicable to sites over 5,000sq.m as no height is specified for 5 storey units), the proposed development fully complies with the provisions of Blacktown Council's DCP. In this regard the proposal complies fully 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, parking and stormwater drainage. Overall the proposal presents a quality development on a site that has been vacant for many years and will provide a link to the adjacent retail precinct.
- 12.4 A Traffic Assessment has been submitted with the Application confirming that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. The proposed development has also been found to be acceptable in terms of traffic generation. Under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 the proposed development, however, is nominated as traffic generating and therefore was referred to the SRDAC for comment. The RTA/SRDAC have raised no objections to the proposal subject to conditions being imposed on any consent. The Applicant has submitted, as requested by Council's Traffic Engineers, amended plans which alter the exit-only driveway to the common roundabout within the shopping centre to provide entry and exit capabilities, the entry gates have been moved to allow for stacked parking off the roundabout and the exit to Myrtle Street has been angled to the west to deter right-turn movements on to Myrtle Street. These amended plans will be approved as part of any consent granted.
- 12.5 The proposal is consistent with the objectives of State Environmental Planning Policy 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 RFDC. Whilst not strictly meeting 1 of the recommendations of the RFDC, that is exceeding the maximum 10% of units which can be south facing by 1% (or 4 units), these 4 units will be provided with skylights to allow for additional solar access. Therefore the intent of this recommendation has been met. Council Officers also believe that the proposal, in its current layout, has design merit and should be supported despite this minor non-compliance. To

insist on full compliance with the RFDC guidelines in this instance would alter the appearance, shape and layout of the proposed buildings. Furthermore, it is noted that the numerical standards in the RFDC are guidelines only and therefore minor variations should not warrant refusal of the Application.

- 12.6 As a result of the exhibition process, a total of 339 submissions and a petition of 305 signatures were received objecting to the proposal. The objectors' main concerns included height, bulk and scale, density, overshadowing, lack of common open space, loss of privacy, impact on the amenity of existing residents, noise, lack of parking, traffic impact, stormwater drainage impacts, social impact and devaluation of properties. Where appropriate conditions of Consent have been recommended to address resident concerns, however, overall, the grounds for objection are not considered sufficient to warrant refusal of the Application.
- 12.7 As such it is recommended that the proposed 7 multi-level residential flat buildings over basement car parking be approved subject to the conditions at **Attachment 1** to this report.

#### 12.8 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) of 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.

### 13. Recommendation

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- 13.1 The Development Application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at Attachment 1.
- 13.2 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





GLENNYS JAMES

DIRECTOR CITY STRATEGY AND DEVELOPMENT