

Report to Sydney West Joint Regional Planning Panel

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

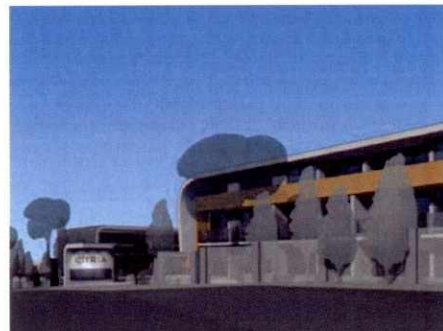


Figure 1: Photomontage of the Proposed Development

ASSESSMENT REPORT

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1. Executive Summary

- 1.1 Blacktown City Council is in receipt of a Development Application 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

- 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.

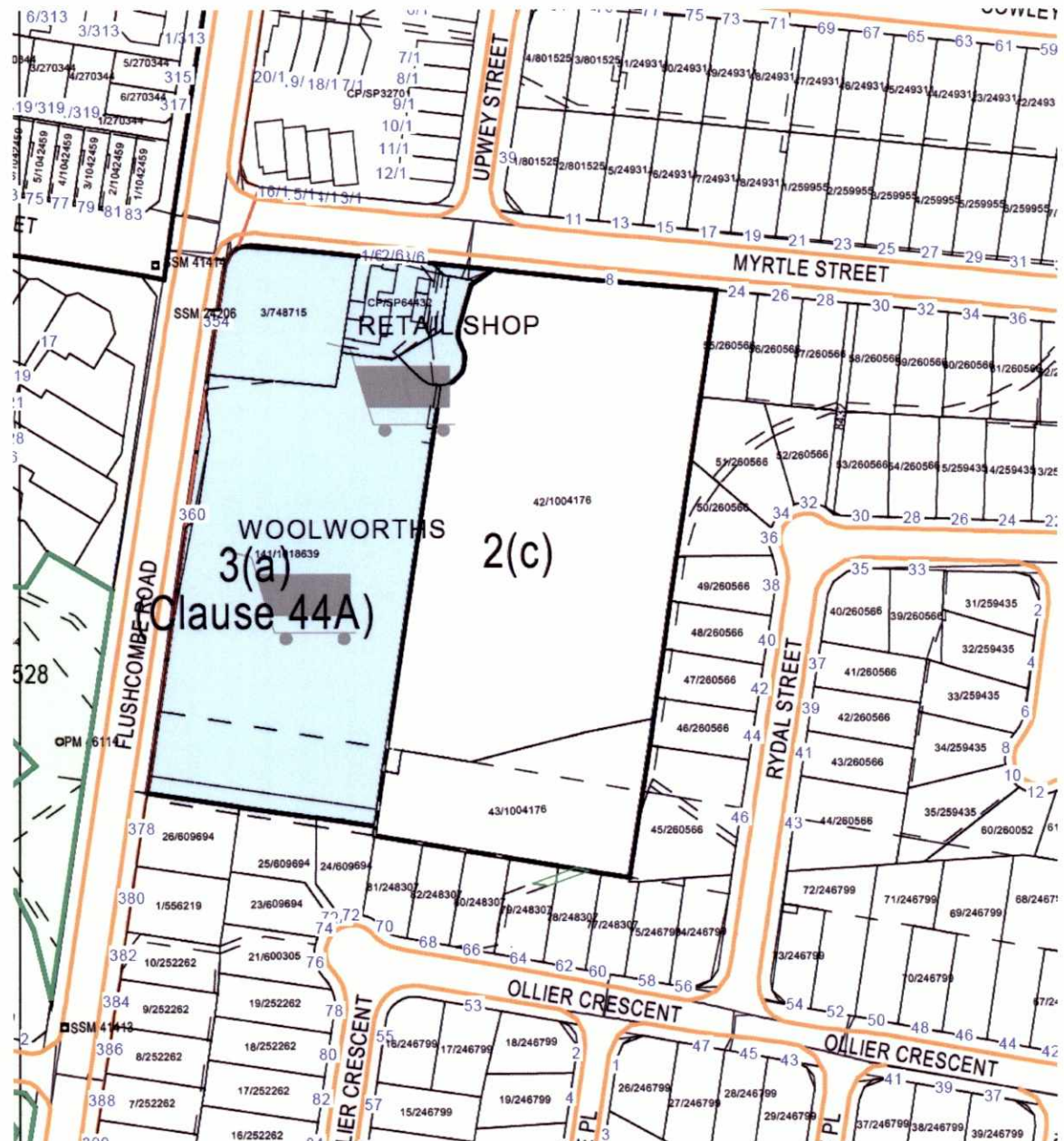


Figure 3. Zoning Plan (Source: Blacktown Local Environmental Plan 1988)

- 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

- 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 m² 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

- 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

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 m² 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 253m³ 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 488m³. 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