

600mm. It should be noted that the front setbacks apply to those portions of the development fronting a public road. There are no minimum setback requirements to 'private' internal roads.

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

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

**(g) Section 7.5.4 – Common Open Space**

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

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

In order to encourage the provision of usable and adequate open space for each unit, the area of any balcony, ground level courtyard or terrace with a width of 3m or more and a depth of 2.5m or greater may be included as part of the required common open space calculation. However, in the calculation of the total required common open space for any development, no more than 30% of the total common open space may occur on balcony or terrace areas, and no more than 30% of the total common open space may occur on the roof of any building. A minimum of 40% of the total common open space requirement must be located at ground level. The front setback, small pockets of open space with an area less than 10sq.m, parking areas, garbage area, etc must not be included in the calculations. If no common open space is provided on the rooftop (as is the case here), then the ground level common open space must be increased to 70%.

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

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

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

As such, the total amount of common open space provided as per the DCP requirement is calculated to be 7,735sq.m. The common open space on site therefore exceeds the minimum requirement of the DCP by 1,200sq.m.

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

The plans indicate that the common areas will be embellished with suitable plantings and landscape features which complement the height, scale, design and function of the development. The ground level common areas will also be provided with deck areas, BBQ facilities and a fitness equipment circuit.

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

**(h) Section 7.5.5 – Separation Between Buildings**

The DCP requires that the minimum separation distance between elements of buildings shall be 12m. The separation between the external walls of each building fully complies with this requirement.

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

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

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

Suitable **conditions** will be imposed on any consent to ensure that a suitable detailed landscape design, incorporating appropriate plant species, is developed for the site. Further **conditions** will be imposed to ensure that all public areas and pedestrian walkways are suitably illuminated from dusk to dawn. Details of the method of illumination and the spacing between lights will be required on the detail landscape plans, and will be addressed as a **condition** of any consent.



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

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

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

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

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

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

**(l) Section 7.6.4 – Orientation**

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

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

As outlined under Section 7.2(f) above, the proposed development is to be provided with 1 car space per 1 or 2 bedroom dwelling, and 2 car spaces per 3 or more bedroom dwelling. Visitor parking is to be provided at the rate of 1 space per 2.5 dwellings (or part thereof). Application of these parking rates yields an off-street parking requirement of 185 residential spaces and 65 visitor spaces. The proposed development provides 250

car parking spaces in accordance with these requirements and is therefore considered satisfactory. Parking spaces to Blocks A - D are located in the basement carpark. Blocks E, F and G will have access to ground level parking adjacent to the unit block. Standard **conditions** will be imposed on any consent granted to ensure that the car parking areas are provided in accordance with Australian Standard 2890.1.

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

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

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

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

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

**(p) Section 7.6.8 – Accessways**

The internal private road is defined as the "accessway". The DCP indicates that all accessways shall be constructed to Council's standards appropriate to the type and volume of traffic it is anticipated to carry. The common accessway within the site is 6.5m wide and has been designed to provide for access for cars and garbage trucks. A truck turning area is provided at the southern end ensuring that all vehicles can enter and exit the site in a forward direction. Council's Traffic Engineers have advised that they have no objection to the width and design of the internal private accessway and have advised that it is also suitable for garbage trucks. Suitable **conditions** will be imposed on any consent to address construction of the private accessway.

**(q) Section 7.6.9 – Water Management**

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

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



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

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

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

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

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

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

Each of the above elements require a detailed review to ensure the optimum solution/selection of materials and management is employed to not only control graffiti attacks but also provide the level of security required and minimise ongoing maintenance issues.

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

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

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

**(t) Section 7.6.12 – Disabled Access Provision**

In accordance with the DCP at least 10% of the total number of units must be designed for persons with a disability. The proposed development provides 16 units within Buildings A, B, C and D which are adaptable (i.e. 10%) and therefore complies with the requirement of the DCP.

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

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

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

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

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

**(v) Section 7.7.1 – Building Design: General**

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

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

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

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

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

**(y) Section 7.7.4 - Passenger Lift Access**

The DCP states that passenger lift access is required for any residential flat building containing 4 or more levels, including the basement. Accordingly, passenger lifts have been provided to Blocks A, B, C and D. There are no lifts proposed for Blocks E, F or G as these buildings are only 3 storeys in height.

**(z) Section 7.7.5 – Balconies**

There are no minimum size requirements for balconies. In order to include the balcony space as part of the total common open space requirements, however, the majority of balconies have been provided with dimensions in excess of 2.5m x 3m. All of the balconies comply with the SEPP 65 requirement of a minimum 2m dimension. Only two unit types do not achieve a minimum width of 2.5m (i.e. Unit Types 3B-5 and 3B-5a). These balconies, however, have a width of 2.2m and exceed 12sq.m in area, providing adequate and usable private open space. In accordance with the DCP these balconies have not **been** included in the common open space calculations.

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

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



**(aa) Section 7.7.6 - Internal and External Shading and Solar Access**

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

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

Shadow diagrams showing the impact of the proposal on the subject site and on adjoining sites between 9.00am and 3.00pm on 21 June have been submitted with the Application and are included at **Attachment 3** to this report. As indicated by the shadow diagrams, there will be minimal overshadowing impact on the neighbouring residential properties. In this regard the neighbours to the east will not receive any overshadowing until after 2.00pm in midwinter. The residential properties to the south will not be affected at any time during the year.

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

In terms of solar access to the residential units, the RFDC also requires that at least 70% of the units receive a minimum of 3 hours of direct sunlight between 9.00am and 3.00pm in midwinter. As detailed in the RFDC assessment at **Attachment 5** to this report, the applicant has submitted information which demonstrates that 71% of the units will achieve the minimum 3 hours of direct sunlight between 9.00am and 3.00pm in midwinter.

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

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

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

**(cc) Section 7.7.8 - Energy Performance and Sustainability**

A BASIX Certificate was submitted with the Development Application. However, a recent change to the legislation means that BASIX Certificates are now only required for Class 1 dwellings. As such, any future Construction Certificate (CC) relating to the development is not required to comply with the submitted BASIX Certificate. Instead,

any approved development will be required to demonstrate compliance with Section J of the National Construction Code Building Code of Australia (BCA) Volume 1. A suitable **condition** will be imposed on any consent granted to address this matter.

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

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

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

Standard **conditions** will be imposed on any consent to ensure that the developer liaises with the appropriate service providers at the relevant stages of construction to ensure the required services can be accommodated. In the event a new electricity substation is required, the applicant will need to submit details prior to the release of any Construction Certificate (CC). A **condition** will be imposed requiring that, in the event any electricity substation, plant equipment or the like is required at ground level, details are to be submitted for the separate approval of Council prior to the release of any CC.

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

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

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

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



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

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

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

**(ff) Section 7.7.12 - Laundry Facilities**

The development does not propose communal laundry or drying facilities as it is considered that these type of facilities will not be utilised for fear of theft. As such, internal laundry facilities with mechanical drying appliances are proposed within each unit.

The SEE as originally submitted to Council indicated that retractable clothes lines would be installed on the proposed balconies. This arrangement, however, is unacceptable to Council from a visual/amenity point of view. A standard **condition** will therefore be imposed on any consent issued requiring that, as a condition of any future Strata Application, the Strata Management Plan must contain a restriction that no hanging of clothes is permitted on the balconies.

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

The proposed development was placed on public exhibition and notified to local residents in accordance with Blacktown Development Control Plan 2006 – Part K (Notification of Development Applications). For further details regarding the notification/exhibition process, please refer to Section 11 of this report.

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

As required by this part of the DCP, a Waste Management Plan (WMP) prepared by Turner Hughes Architects dated 23 March 2011 has been submitted which provides the following details:

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

(d) ongoing management.

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

#### 7.6 **Compliance with BDCP 2006 – Part Q 'Contaminated Land Guidelines'**

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

As part of this application, Environmental Earth Sciences NSW was therefore engaged to undertake a further review and update the findings of the 2004 investigation. In this the consultant reviewed the original report, carried out a site inspection, and prepared an addendum to the original report to advise whether the conclusions of the original report still held true for the proposed use of the site.

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

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

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

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

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



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

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

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

## **8. Traffic Assessment**

---

- 8.1 State Environmental Planning Policy (Infrastructure) 2007 nominates the proposed development as being "traffic generating development". A Traffic and Parking Assessment was therefore prepared by Varga Traffic Planning Pty Limited dated 10 March 2011 and submitted as part of the application. The report assesses the traffic and parking implications of the proposal, reviews the road network and traffic conditions in the vicinity of the site, estimates the traffic generation potential of the development proposal, assesses the traffic implications of the development proposal in terms of road network capacity, and assesses the adequacy of the off-street car parking provision. An assessment of the on-site resident and visitor parking arrangements is provided under Section 7.2(f) of this report, while details regarding the potential traffic generation are provided below.
- 8.2 The M4 Motorway and the Great Western Highway are both classified by the Roads and Traffic Authority (RTA) as *State Roads*. These roads provide the key east-west road links in the Western Sydney area and typically carry 3 traffic lanes in each direction in the vicinity of the site. Prospect Highway/Blacktown Road is also classified by the RTA as a *State Road* and provides the key north-south road link in the area, linking the M4 Motorway and the Great Western Highway to the Blacktown CBD. It typically carries one traffic lane in each direction in the vicinity of the site with additional lanes provided at key locations. Myrtle Street is a local, unclassified road which performs the function of a local *collector road*. Kerbside parking is generally permitted on both sides of the road.
- 8.3 The key traffic controls which apply to the road network in the vicinity of the site are:
  - (a) a 60 km/h speed limit which applies to Flushcombe Road;
  - (b) a 50 km/h speed limit which applies to Myrtle Street and all other local roads in the area;
  - (c) roundabouts in Myrtle Street where it intersects with Flushcombe Road and also Upwey Street;

(d) speed humps located at regular intervals along Myrtle Street.

8.4 Peak period traffic surveys were undertaken to provide an indication of the existing traffic conditions on the road network in the vicinity of the site. The results of the traffic surveys reveal that:

(a) two-way traffic flows in Myrtle Street (east of Upwey Street) are typically in the order of 250 vehicles per hour (vph) during the morning peak period, increasing to 390 vph during the afternoon peak period; and

(b) two-way traffic flows in Myrtle Street (west of Upwey Street) are typically in the order of 310 vehicles per hour (vph) during the morning peak period, increasing to 470 vph during the afternoon peak period.

8.5 The traffic generation potential of the development proposal is provided by reference to the RTA's publication Guide to Traffic Generating Developments, Section 3 - Landuse Traffic Generation (October 2002). The RTA Guidelines are based on extensive surveys of a wide range of land uses and nominates a traffic generation rate of 0.29 peak hour vehicle trips/dwelling for high density residential flat buildings in Sub-regional Centres. The RTA Guidelines define a high density residential flat building as a building containing 20 or more dwellings. This does not include aged or disabled persons housing. High density residential flat buildings are usually more than 5 levels, have basement level car parking and are located in close proximity to public transport services. The building may contain a component of commercial use. The above traffic generation rate includes visitor, staff, service/delivery and on-street movements such as taxis and pick-up/set-down activities.

8.6 Application of the above traffic generation rate to the development proposal yields a traffic generation potential of approximately 47 vehicle trips (separate journeys) per hour. The Traffic Consultant has determined that the projected increase in traffic activity will not have any unacceptable traffic implications in terms of road network capacity. In this regard an assessment using INTANAL (i.e. a traffic program widely used by the RTA) has determined that:

(a) The Myrtle Street and Upwey Street intersection currently operates at Level of Service "A" under the existing traffic demands, with total average vehicle delays in the order of 4 seconds/vehicle.

(b) Under the projected future traffic demands expected to be generated by the development proposal, the Myrtle Street and Upwey Street intersection will continue to operate at Level of Service "A", with increases in average vehicle delays of less than 1 second/vehicle.

(c) Under the projected future traffic demands expected to be generated by the development proposal, the Myrtle Street and proposed site access driveway intersection is expected to operate at Level of Service "A", with average vehicle delays in the order of less than 1 second/vehicle.

(d) Vehicles approaching the site from the west via a right-turn into the site will not cause any appreciable delays for eastbound through-traffic in Myrtle Street.

8.7 In addition, the Traffic Consultant has noted that the incidence of kerbside parking in this section of Myrtle Street is minimal, such that eastbound through-traffic would be able to pass a vehicle that may be waiting to turn right into the site. It has also been noted that there is excellent driver sight distance/visibility in both directions along this section of Myrtle Street. The Traffic Assessment therefore concludes that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. In particular, it has been



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

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

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

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

## 9. External Referrals

---

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

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



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

## 10. Internal Referrals

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

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



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

	<p>Schedule 3 of the Infrastructure SEPP, and is therefore required to be considered at a relevant Local Traffic Committee Meeting. Given that the proposed development provides parking for more than 200 vehicles and is listed under Column 2 of Schedule 3, it was requested on 14 April 2011 that the application be considered at a Local Traffic Committee (LTC) meeting. Letters were sent to both the RTA and the Blacktown Police LAC advising them of the DA and inviting them to attend the meeting.</p> <p>The proposed development was considered at the LTC Meeting on 17 May 2011. The Committee's assessment is provided below:</p> <ul style="list-style-type: none"> <li>• The proposed 6.5m wide accessway/internal roadway is adequate for cars and small trucks to enter and exit the site in a forward direction.</li> <li>• Concern is raised in relation to the proposed "exit" through the shopping centre as this will mix residential and commercial traffic. It will also promote parking in the shopping centre carpark by the residents of the proposed development or vice versa. As such, it is recommended that this access be used as an emergency access only and that appropriate controls (e.g. a gate or similar) be installed.</li> <li>• Unrestricted access is to be provided at the main entry/exit driveway onto Myrtle Street. In this regard no provision has been made to separate vehicles turning right into the proposed development and vehicles travelling through on Myrtle Street in the westerly direction at the proposed entry/exit driveway.</li> <li>• A roundabout with a median island between the existing and new roundabout would be appropriate at this location.</li> <li>• The corner at the internal roadway and the exit from the basement carpark for Block A appears too tight and needs to be splayed in order for easy vehicular exit from the basement of Block A.</li> <li>• The proposed turning area located at the far southern end of the internal road has been designed to accommodate the swept turning path requirements of a 9.5m long rigid truck. The turning area appears to be satisfactory, however, "No Stopping" signs need to be erected to prevent residents or visitors parking in this area.</li> <li>• The additional traffic generated by this development can be accommodated within the existing road network capacity.</li> <li>• As per the Blacktown City Council DCP, the required number of car parking spaces is 250 for this development. The development complies with this requirement.</li> <li>• Generally the design of car parking areas, aisle widths, driveway widths, manoeuvring areas, sight distances, blind aisles etc are to conform to AS 2890.1-2004.</li> </ul> <p>While the Committee raised no objection to the proposal on traffic grounds, the following recommendations were therefore made:</p> <ul style="list-style-type: none"> <li>• The proposed "exit only" through the shopping centre is not supported. However, this may be used for emergency access and needs to be controlled by a gate or similar.</li> <li>• A roundabout needs to be constructed at the proposed entry/exit driveway on Myrtle Street with a median island between the existing roundabout at Upwey Street and the new roundabout at the development access. If any existing driveway on the northern side of Myrtle Street is affected by the new roundabout, the developer will need to provide an on-site turning facility in the respective properties to facilitate forward directional vehicular exit into the</li> </ul>
--	---



	<p>roundabout.</p> <ul style="list-style-type: none"> <li>• The corner at the internal roadway and the exit from the basement carpark for Block A must be splayed in order for easy vehicular exit from the basement of Block A.</li> <li>• “No Stopping” restrictions are to be provided at the proposed turning area that has been provided at the far southern end of the internal road.</li> </ul> <p>On 29 June 2011 the applicant submitted a supplementary report from Varga Traffic Consulting responding to the issues identified by the LTC. Details of the supplementary report are provided under Section 8 of this report. In this regard the applicant argued that the Woolworths roundabout was specifically constructed for access to the residential site when the Woolworths development was constructed. It was also argued that the proposed roundabout would unnecessarily inconvenience neighbouring properties to the north of Myrtle Street and therefore should not be adopted. The supplementary report was considered at the LTC meeting held on 12 July 2011.</p> <p>At that meeting the LTC further reviewed the need for a roundabout at the main entry/exit to the proposed development on Myrtle Street. While the local Police representative believed that a roundabout was needed from an operational point-of-view, both Council and the RTA agreed that a roundabout was not justified based on the traffic numbers at this location.</p> <p>The LTC did advise, however, that the following amendments were required to the submitted plans:</p> <ul style="list-style-type: none"> <li>• The access point off the Woolworths roundabout is to be redesigned to allow 2-way movements. The entry/exit point is to be available for both residents and visitors. The boom gate is to be located well within the property boundary so that a vehicle does not overhang into the Woolworths roundabout when operating the security system.</li> <li>• No right-turn movements are permitted out of the site onto Myrtle Street. The driveway must therefore be redesigned/angled to deter this right-turn movement. Appropriate signage would also be required to advise residents/visitors that it is “left-turn out only”.</li> </ul> <p>On 1 September 2011 the applicant submitted amended plans. The “exit only” driveway to the common roundabout within the shopping centre had been adjusted to provide entry and exit capabilities, the entry gates were moved to allow for stacking space off the roundabout, and the exit to Myrtle Street was angled to the west.</p> <p>On 20 September 2011 Council’s Traffic Section advised that they no longer had any objections to the proposal and consider that the proposed angle of the exit driveway off Myrtle Street is sufficient to physically discourage and prevent right-turn out movements. The position/angle of the proposed driveway must be provided in such a way that it will physically prevent right-turn movements from the proposed exit driveway. Suitable <b>conditions</b> will be imposed on any consent to address these matters.</p>
Waste	<p>A copy of the proposed development was referred to Council’s Coordinator Sustainable Resources on 15 April 2011 for comment. In response it was requested that the applicant submit additional information to confirm that the height of the basement can accommodate the garbage trucks and the lift of the skip bins.</p> <p>The applicant has advised that all garbage bins will be moved to the central private access road for collection. As such, there will be no garbage trucks accessing the basement carpark. Further details regarding the waste collection arrangements are included under Section 7.2(ee) of this report.</p>

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



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

## 11. Public Comment

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

- (a) *Fortunately Barry O'Farrell dismantled the JRPP after the elections. Sadly this problem development was started before the State elections, hence we need to be vigilant as always.*

**Town Planning comment:**

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

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

### 11.5 Zoning and Location

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

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

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



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

**Town Planning comment:**

- A Statement of Environmental Effects (SEE) has been submitted with the application which considers the potential impacts on the locality. The applicant believes that the proposed development will benefit the community as a whole and will contribute to the local environment through a number of measures as follows:
  - The design is well considered, respecting external perception of bulk and scale, minimisation of overshadowing of adjoining residents, visual privacy for all residents, and increasing landscaped area from that currently approved.
  - The development will contribute to the economic viability of the community shopping centre.
  - Construction will create jobs and investment in the local community.
  - A vacant block of land capable of harboring anti-social, illegal and unsafe practices will be eliminated from the community;
  - Increased stormwater management and control will result in the delivery of additional on-site detention measuring 488,000,000 litres.
  - Nearly 5,000sq.m of landscaped area will be developed and maintained.
  - Greater diversity of residential living will be available in the area with the development of apartments.
  - An injection of Section 94 contributions generated by the development will further benefit community infrastructure development.

- (c) *A more appropriate use on site would be a small shopping arcade (i.e. ground level shops and first floor professional offices). This would be more in keeping with the adjoining retail and would provide some competition for Woolworths. Other acceptable uses on the site could include a post office, community hall, or indoor sporting complex.*

**Town Planning comment:**

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

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

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

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

**Town Planning comment:**

- The development is suitable for empty-nesters who do not wish to live in an Aged Care facility and do not wish to maintain a property or garden. At present there is no "apartment option" in Prospect for long-time residents who do not wish to leave an area in which they are familiar and may have friends and family.

(e) *Manly Council recently acquired a former TAFE site from DET for Community Purposes. Blacktown Council should do the same and establish the site as a child care centre and adult education centre."*

**Town Planning comment:**

- Section 94 of the EP & A Act 1979 permits Council to require developers to pay monetary contributions, provide capital works (works in kind), and/or dedicate land in order to help fund the increased demand for public amenities and public services generated through their developments. The subject site is located within Contributions Plan (CP) No. 3 – Open Space within Established Areas.
- Under the CP it has been calculated that the proposed development will generate an increase in population of 403.1 persons. If approved, the developer will therefore be required to pay a substantial Section 94 contribution as outlined under Section 7.2(j) of this report. This money will then be used to directly fund community public open space in the area.
- The subject site is zoned 2(c) Residential and therefore has not been identified under any CP for public recreation or community purposes. It would therefore be inappropriate for Council to acquire this site.

(f) *Approval of the development would set an undesirable precedent and allow other 3-5 storey development to be built.*

**Town Planning comment:**

- The scale of the proposed development is permissible under the Blacktown DCP and therefore will not set any precedents. As there are no other sites zoned 2(c) Residential in the immediate locality, this form of development would not be permissible on other sites.

(g) *The development is contrary to zone objective (b): "to identify areas suitable for residential flat buildings in locations close to the main activity centres of the City of Blacktown". The subject site is outside the railway and city centre precinct, and therefore is not a suitable location for residential flat development. The development is*



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

**Town Planning comment:**

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

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

#### 11.6 Previous Applications

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

**Town Planning comment:**

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

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

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

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



**Town Planning comment:**

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

### 11.7 Height

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

**Town Planning comment:**

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

**Town Planning comment:**