

Report to Sydney West Joint Regional Planning Panel

JRPP No.	Item 2013SYW059
Council DA No:	JRPP-13-965
Proposed Development:	Construction of a Neighbourhood Retail Centre
Development Type:	"Regional Development" – Capital Investment Value > \$20 million
Lodgement Date:	31 May 2013
Land/Address:	Lots 1074 and 1075 DP 1119679, Riverbank Drive, The Ponds
Land Zoning:	3(a) General Business pursuant to Blacktown Local Environmental Plan 1988
Value Of Development:	\$22.9 million
Applicant:	Australand C/- Urbis
Report Author:	Melissa Parnis, Town Planner
Instructing Officers:	Judith Portelli, Manager Development Services & Administration and Glennys James, Director City Strategy and Development
Date Submitted to JRPP:	1 November 2013
Date Considered by JRPP:	5 December 2013



Figure 1: Photomontage (Source: Australand, 2013)

ASSESSMENT REPORT

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1 Executive Summary

- 1.1 Blacktown City Council is in receipt of a Development Application (DA) from Urbis on behalf of Australand for the construction of a Neighbourhood Retail Centre, basement and at-grade car parking as well as associated landscaping at Lots 1074 and 1075 DP 1119679, Riverbank Drive, The Ponds.
- 1.2 The proposal seeks approval for the construction of a retail centre of 7,188sqm of Gross Floor Area, which consists of a 4,085sqm supermarket, 20 - 25 specialty retail tenancies varying in size from 26sqm to 402sqm and two 22sqm kiosks, within a covered mall with pedestrian access from Riverbank Drive, The Ponds Boulevard and the parking area to the west.
- 1.3 The development will provide a total of 296 car parking spaces in addition to the existing approved shared car parking with the Council Community Resource Hub, including a mixture of at-grade parking and one level of basement car parking. Primary access to the carpark is provided through the shared car parking with the approved Community Resource Hub on Riverbank Drive, with a second access point provided on The Ponds Boulevard. The proposal also provides for a loading bay area which shares a common vehicle access with the underground carpark gaining access from The Ponds Boulevard.
- 1.4 The proposed hours of operation are:
 - Supermarket: Monday to Sunday – 6am to midnight
 - Specialty tenancies: Monday to Sunday – 6am to midnight
 - Loading dock: Monday to Saturday – 7am to 10pm
Sunday and Public Holidays – 8am to 10pm

However on assessment it is considered that these hours should be limited to 10pm for the supermarket and speciality shops and 8pm for the use of the loading dock, given the surrounding residential context of the site. This will be included as a condition in any consent granted.
- 1.5 The proposed development constitutes 'Regional Development' requiring referral to a Joint Regional Planning Panel (JRPP) for determination in accordance with Schedule 4A of the Environmental Planning and Assessment Act 1979 as the proposed development has a Capital Investment Value of more than \$20 million. As such, while Council is responsible for the assessment of the DA, determination of the Application will ultimately be made by the Sydney West JRPP.
- 1.6 The subject site is currently zoned 3(a) General Business pursuant to Blacktown Local Environmental Plan 1988. The proposal is permissible within the zone with development consent.
- 1.7 The subject Development Application was notified in accordance with Blacktown Development Control Plan 2006 Part K – Notification of Development Applications to adjoining and nearby property owners and occupants within a 400m radius of the site for a period of 14 days from 25 June 2013 to 9 July 2013. An advertisement was also placed within the local newspaper and notification signs were erected on the development site advising of the public notification. In response to the public exhibition, 10 individual submissions were received as well as 1 submission from the John Palmer Public School P&C. Further, a late submission was received from the NSW Department of Education and Communities objecting to the proposal on 28 August 2013.
- 1.8 The objections mainly concern traffic impact, car parking, impact on the John Palmer Public School, noise impacts, over-development, safety concerns, construction impact, overshadowing

and the devaluation of property values. It is considered that the grounds for objection are insufficient to warrant refusal of the Application. These concerns have been addressed by the Applicant and have been responded to in Section 9 of this report. While the objections raise important issues, it is considered that appropriate conditions can be imposed to address any valid concerns.

- 1.9 The proposed development has been assessed against the relevant matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, including suitability of the site and the public interest, and is considered satisfactory. The proposed development is considered satisfactory with regard to key issues such as Built Form, Access, Stormwater Drainage, ESD, Site Contamination, Salinity, Social and Economic Impacts and the like, subject to the imposition of suitable conditions of consent to satisfactorily control the development.
- 1.10 In light of the above, it is recommended that the Sydney West Joint Regional Planning Panel approve the DA subject to the imposition of suitable conditions of consent. Recommended conditions are provided at Attachment 2 to this Report.

2 Location

- 2.1 The subject site is located approximately 11km north of the Blacktown CBD.
- 2.2 The site is located at the eastern boundary of The Ponds urban release area and is adjacent to the suburb of Kellyville Ridge.
- 2.3 The site is bounded by Riverbank Drive to the north, the John Palmer Public School to the south, The Ponds Boulevard to the east and the approved Ponds Community Resource Hub to the west of the site. Low density residential development is located opposite the site to the north and east.

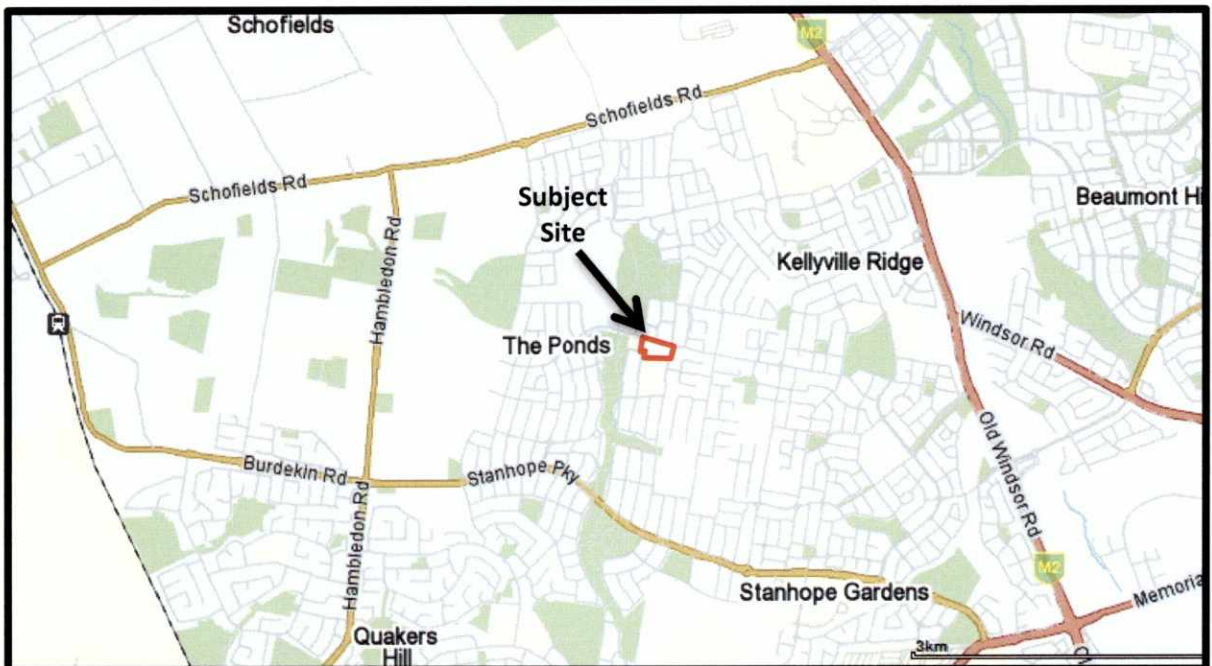


Figure 2. Location Context (Source: Whereis, 2013)

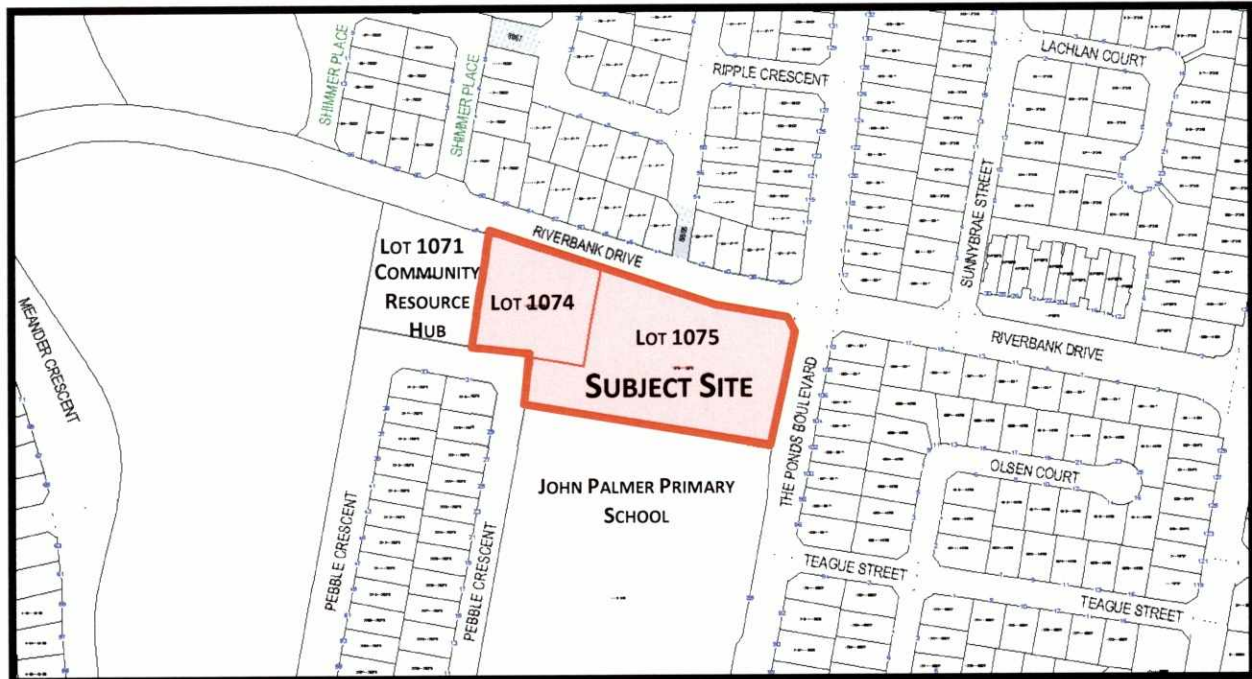


Figure 3. Location Plan (Source: Blacktown City Council, 2013)

3 Site Description and Locality

- 3.1 The subject site, being at Lots 1074 and 1075 DP 1119679, is located on the corner of Riverbank Drive and The Ponds Boulevard, within The Ponds Release Area.
- 3.2 The Ponds and surrounding Stanhope Gardens and Kellyville Ridge areas have been subject to numerous Development Applications for the subdivision, residential development and associated facilities to support the residential development, such as schools and open space.
- 3.3 The area of the subject site is approximately 1.36 hectares.
- 3.4 The site is bounded by Riverbank Drive to the north, the John Palmer Public School to the south, The Ponds Boulevard to the east, Pebble Crescent to the south-west and the approved Ponds Community Resource Hub to the west. Low density residential development is located opposite the subject site to the north, south-west and east.
- 3.5 The land slopes from east to west, with a fall of approximately 3.5m across the site.
- 3.6 Lots 1074 and 1075 are currently vacant with no existing structures located on the site, excluding the portion of Lot 1074 which has been approved for a shared at-grade carpark as part of the Community Centre located on adjoining Lot 1071. The site is cleared of any significant vegetation, with no trees located on the site.
- 3.7 The area surrounding the site is predominantly characterised by land which has been recently subdivided and utilised for low density residential development in the form of single storey and two storey dwellings.
- 3.8 The subject site is zoned 3(a) General Business pursuant to Blacktown Local Environmental Plan 1988 as shown in Figure 4 below.

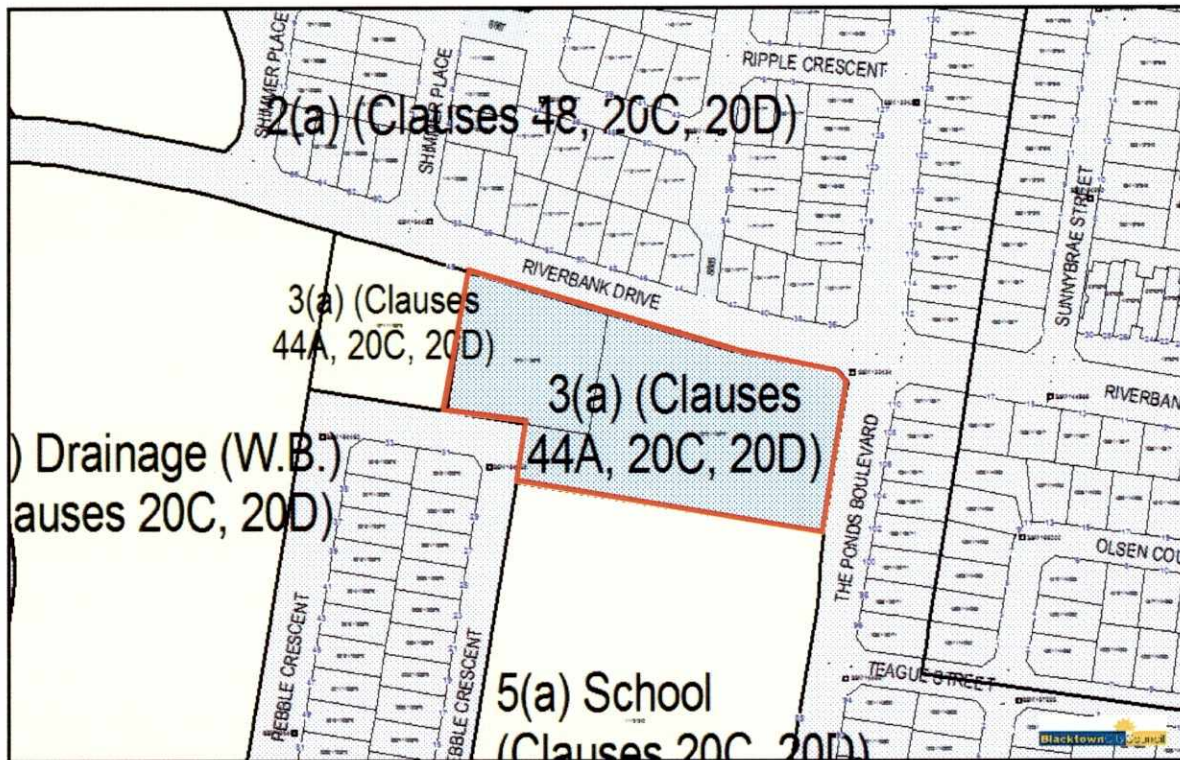


Figure 4. Zoning Plan (Source: Blacktown City Council)



Figure 5. Aerial Photo of Site and Surrounds, captured 22 September 2013 (Source: Nearmap)



Figure 6. The Ponds Masterplan (Source: Landcom and Australand, 2013)

4 History and Current Use of the Site

- 4.1 The subject site has been subject to a previous Development Application with respect to the subdivision of the land to create residue Lots 1071, 1074 and 1075.
- 4.2 In January 2012 Council approved DA-11-1415 for Australand for the conversion of the existing Marketing Centre to The Ponds Community Centre which is located on adjoining Lot 1071 to the west of the subject site. The Application included the provision of 54 shared at-grade car parking spaces for shared use with the future neighbourhood centre on Lot 1074.
- 4.3 At Council's Ordinary Meeting on 1 May 2013 Council resolved to support the making of a Local Environmental Plan (as Amendment No. 233 to Blacktown Local Environmental Plan 1988) that:
 - (i) **Rezones Lot 1071** DP 1119679 from 3(a) General Business to 5(a) Special Uses (Community Uses) – i.e. the site of the approved Community Resource Hub.
 - (ii) **Rezones Lot 1074** DP 1119679 from 5(a) Special Uses (Community Uses) to 3(a) General Business.
 - (iii) **Rezones part of Lot 1075** DP 1119679 from 2(a) Residential to 3(a) General Business – being a redundant proposed road alignment.
 - (iv) **Deletes Clause 20C(3)** to remove the Gross Floor Area limitation of 1,500sqm on the site.
- 4.4 Amendment No. 233 to Blacktown Local Environmental Plan 1988 was published on the NSW Legislation website on 30 August 2013, rezoning the entirety of the subject site (Lots 1074 and 1075) to 3(a) General Business under Blacktown Local Environmental Plan 1988. Thus the

Community Uses zoned component of the site **had been located in-between** 2 separate retail sites on Lots 1071 and 1075. This was considered undesirable in terms of developing a co-ordinated retail centre and the site was rezoned accordingly.

5 The Proposal

- 5.1 The Development Application (DA) from Urbis on behalf of Australand is for the construction of a Neighbourhood Retail Centre, basement and at-grade car parking, as well as associated landscaping at the subject property.
- 5.2 The proposed Neighbourhood Retail Centre consists of 7,188sqm of Gross Floor Area comprising the following:
 - a 4,085sqm supermarket;
 - 20 - 25 specialty retail tenancies varying in size from 26sqm to 402sqm;
 - two kiosks, each with an area of 22sqm located in the retail lobby; and
 - shared amenities, storage and waste area.
- 5.3 Approval is sought for the retail tenancies as 'shop' uses, with a separate Development Application to be lodged for fit-out at a later date or any use of a premises which is not 'exempt development' pursuant to State Environmental Planning Policy (Exempt and Complying Development) 2008, should the development be approved.
- 5.4 The development includes the provision of a covered mall and supermarket entry with pedestrian access via an open forecourt, separate stepped entry onto Riverbank Drive to the north, at-grade parking area to the west and The Ponds Boulevard to the east.
- 5.5 Associated landscaping and public domain treatment is also proposed as part of the development, including:
 - the relocation of street light poles along Riverbank Drive;
 - retail awning over the footpath along The Ponds Boulevard;
 - provision of full width pavement to The Ponds Boulevard and Riverbank Drive including paved corner treatment;
 - low landscape seating wall, feature tree planting and feature canopy over the pedestrian access to the stepped entry on Riverbank Drive;
 - open forecourt area adjacent to Riverbank Drive providing terrace planting and low landscape seating edge as well as raised terrace for outdoor dining overlooking Riverbank Drive; and
 - feature paving and furniture and planting in the covered mall.
- 5.6 The proposal provides for 296 car parking spaces comprising 30 at-grade car parking spaces and 1 level of underground parking to accommodate 266 car parking spaces. The 30 at-grade parking spaces are in addition to the 54 car parking spaces approved by Council as part of the Community Resource Hub over Lots 1071 and 1074 under Notice of Determination No. 11-1412 in January 2012. In this regard the at-grade car parking spaces are shared car parking spaces both on the Community Resource Hub site (Lot 1071) and the proposed Retail Centre site (Lot 1074). Australand is responsible for the maintenance of the car parking. The Community Resource Hub generates a peak parking demand for 50 spaces, primarily on Friday to Sunday nights. As the peak parking demand for the Hub occurs during the evenings, the Retail Centre

benefits from an additional 4 car parking spaces as part of the shared parking spaces. Overall, a total of 350 car parking spaces are provided across the 3 lots.

5.7 Vehicular access to the development is proposed from Riverbank Drive through the at-grade car parking area, as well as a shared vehicular access to the basement car parking and at-grade loading area from The Ponds Boulevard.

5.8 The proposed hours of operation are:

Supermarket: Monday to Sunday – 6am to midnight

Specialty tenancies: Monday to Sunday – 6am to midnight

Loading dock: Monday to Saturday – 7am to 10pm

Sunday and Public Holidays – 8am to 10pm

5.9 The Applicant has submitted an **Acoustic Assessment** taking into consideration the proposed hours of operation of the Retail Centre and its likely effect on adjoining properties. The Acoustic Assessment has undertaken an assessment in accordance with the provisions of the *Protection of the Environment Operations Act 1997*, the Environment Protection Authority's Industrial Noise Policy and Noise Control Manual. The Background Noise Level was initially determined as well as Noise Receiver points to determine the noise impact of the development. Figure 7 below identifies the Background Noise monitor locations as well as the Noise Receiver locations.



Figure 7: Noise Receivers (Acoustic Logic, 2013)

5.10 The Noise Objective was then determined in accordance with the relevant Acoustic Guidelines. In this regard the Noise Objective is the lowest desired noise level which must be achieved. The Noise Objective compares the Sleep Disturbance Criteria, Intrusiveness Criteria and Amenity Criteria to determine which criteria is the lowest dB(A). Table 1 below identifies the Noise Objective for Residential Noise Receivers. The Acoustic Assessment is held at **Attachment 6**.

Table 1: Noise Objective for Residential Noise Receivers (Acoustic Logic, 2013)

Receivers	Time of day	Measured Background Noise Level L ₉₀ dB (A)	Amenity Criteria L _{eq, period} dB (A)	Intrusiveness Criteria Background + 5 dB(A) L _{eq} dB (A)	Noise Objective L _{eq} dB (A)	Sleep Disturbance Objective L ₁ dB (A)
Receiver 1	Day	34	55	39	39	N/A
	Evening	34	45	39	39	N/A
	Night- 6am to 7am	39	40	44	40	54
	Night 10pm-midnight	30	40	35	35	45
Receiver 2 & 3	Day	39	55	44	44	N/A
	Evening	38 dB(A) 6pm-8pm	45	43 dB(A) 6pm-8pm	43 dB(A) 6pm-8pm	N/A
		35 dB(A) 8pm-10pm		40 dB(A) 8pm-10pm	40 dB(A) 8pm-10pm	
	Night- 6am to 7am	40	40	45	40	55
	Night 10pm-midnight	34	40	39	39	49

***Sleep Disturbance Objective** means Background + 15 dB(A)

***Amenity Criteria** means EPA Recommended Acceptable Noise Levels

***Intrusiveness Criteria** means Background + 5 dB(A)

***Noise Objective** means lowest desired noise level comparing the Sleep Disturbance Objective, Amenity Criteria and Intrusiveness Criteria

- 5.11 In addition, Table 2 below identifies the Noise Emission Limit to the School adjacent to the southern boundary which is required to comply with the noise criteria recommended by NSW Road Noise Policy.

Table 2: Noise Emission Limit to School (Acoustic Logic, 2013)

Space	Assessment Criteria
School Classroom	Day- L _{eq} (1 hour) 40 dB(A)
Outdoor Play Areas	Day- L _{eq} (1 hour) 55 dB(A) external

5.12 Table 3 below compares the Noise Objective with the predicted noise emission of the development at the 4 identified Noise Receiver points. The predicted noise emission takes into consideration the noise sources of the proposed development, including loading dock noise, car park noise and indoor shopping noise, as well as the proposed design which will incorporate noise mitigation measures.

Table 3: Predicted dB(A) (Acoustic Logic, 2013)

To Noise Receiver	Predicted Noise Level	Criteria (Noise Objective)		Comply ?
Receiver 1	39	Day	39	Yes
	39	Evening	39	Yes
	≤ 30	Night 6am-7am	40	Yes
	≤ 30	Night 10pm- Mid night	35	Yes
Receiver 2	39	Day	44	Yes
	39	Evening	43 dB(A) 6pm-8pm 40 dB(A) 8pm-10pm	Yes
	≤ 30	Night 6am-7am	40	Yes
	≤ 30	Night 10pm- Mid night	39	Yes
Receiver 3	43	Day	44	Yes
	43	Evening	43 dB(A) 6pm-8pm 40 dB(A) 8pm-10pm	Yes- 6pm to 8pm Marginal -8pm to 10pm
	≤ 30	Night 6am-7am	40	Yes
	≤ 30	Night 10pm- Mid night	39	Yes
Receiver 4	47 -Outdoor Play Area	55		Yes
	< 35- Inside Classroom	40		Yes

5.13 As can be seen from the above table, the proposal complies with the Noise Objective at all Noise Receivers, excluding an increase in 3dB(A) above the required Noise Objective at Receiver 3 between 8pm and 10pm. In this regard Receiver 3 is located on The Ponds Boulevard and is predicted to exceed the Noise Objective at this time as a result of the loading dock. In light of this, a **condition** will be imposed limiting the hours of the loading dock to 8pm. It is expected that the implementation of this condition will ensure that the operation of the Centre will be able to comply with the Noise Objective Criteria at all Noise Receiver points. **(Condition 12.2.5)**

5.14 The Acoustic Assessment has also provided recommendations to ensure that the Retail Centre complies with relevant acoustic measures and standards, including provision of acoustic screens

and acoustic treatment to walls, prominent notices reminding people that a minimum amount of noise is to be generated when leaving the premises and limiting garbage compacting to the day time period during weekdays.

- 5.15 In addition, the Acoustic Assessment has undertaken an assessment of the predicted Traffic Noise increase. Table 4 below identifies the predicted Traffic Noise increase along neighbouring streets as a result of the development in accordance with the NSW Road Noise Policy dated March 2011. For existing residences and other sensitive land uses affected by additional traffic on existing roads generated by land use development, any increase in the total traffic noise level should be limited to 2dB(A) above that of the corresponding 'no build option'.

Table 4: Predicted Traffic Noise Increase (Acoustic Logic, 2013)

Road	Traffic Noise Increase dB(A) _{Leq}	Criteria dB(A) _{Leq}	Comply ?
The Ponds Boulevard North of Riverbank Dr North of Teague St North of Jetty St North of Stanhope Parkway	+1 +2 +2 +2	≤ 2	Yes
Riverbank Dr -East of The Ponds Boulevard - West of The Ponds Boulevard	+1 +3	≤ 2	Yes Marginal*
Stanhope Parkway -East of The Ponds Boulevard -West of The Ponds Boulevard	+0.4 +0.1	≤ 2	Yes
Mallard Dr* -South of Stanhope Parkway	+3	≤ 2	Marginal*

*Mallard Drive connects to The Ponds Boulevard and provides a key link to the proposal from the Quakers Hill Release Area.

- 5.16 The marginal (minor) increase by 1dB(A) is identified on Riverbank Drive west of The Ponds Boulevard and Mallard Drive south of Stanhope Parkway.
- 5.17 The proposal is also supported with an **Economic Development Impact Assessment** which concludes that *"the proposed retail development at The Ponds would not threaten the viability of any existing or planned retail centre or precinct, and is therefore supportable from an economic perspective"*. The Economic Development Impact Assessment is discussed in further detail in Section 10.
- 5.18 **A Transport Report** dated May 2013 prepared by Colston Budd Hunt and Kafes Pty Ltd has been submitted for the proposal. The Transport Report has undertaken an assessment of the existing conditions and implications of the proposed development on the surrounding road network. In this regard the Consultant advised that the traffic generated by the proposed development will have its greatest effect during the Thursday afternoon peak period, when it combines with residential and commuter traffic on the surrounding road network. In accordance with the RTA Guide for Traffic Generating Development the proposed development will generate 775 vehicles per hour, 2 way during the Thursday afternoon peak period. The consultant further notes that 25% of retail visits are likely to be passing trade.

The following table shows the comparison between existing and new development traffic on Thursday afternoons on the local road network.

Table 3.1: Existing Two-Way (Sum of Both Directions) Peak Hour Traffic Flows Plus Development Traffic			
Road/Location	Thursday Afternoon Peak Hour		
	Existing	Plus Retail Development	Plus Community Centre
The Ponds Boulevard			
- north of Riverbank Drive	355	+120	+10
- north of Teague Street	340	+240	+10
- north of Jetty Street	365	+240	+10
- north of Stanhope Parkway	400	+240	+10
Riverbank Drive			
- east of The Ponds Boulevard	335	+120	+10
- west of The Ponds Boulevard	270	+270	+30
Stanhope Parkway			
- east of The Ponds Boulevard	1,365	+120	+10
- west of The Ponds Boulevard	1,245	+30	-
Teague Street			
- east of The Ponds Boulevard	95	-	-
Jetty Street			
- west of The Ponds Boulevard	125	-	-
Mallard Drive			
- south of Stanhope Parkway	70	+60	-

It should be noted that The Ponds Boulevard and Riverbank Drive are both Collector Roads and have been designed to cater for the expected traffic volume. In this regard the Transport Report concludes that access arrangements, carpark layout and services will be provided in accordance with Australian Standards and that the road network will be able to cater for the traffic generated by the proposed development. Council has undertaken an assessment of the Transport Report in Section 10 below.

5.19 Refer to **Attachment 1** for the Development Plans.

6 Planning Controls

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

(a) State Environmental Planning Policy (State and Regional Development) 2011

SEPP (State and Regional Development) 2011 confers 'Regional Development' as listed in Schedule 4A of the Environmental Planning and Assessment Act 1979 to the Joint Regional Planning Panel (JRPP) for determination. The proposed development constitutes 'Regional Development' requiring referral to a Joint Regional Planning Panel (JRPP) for determination as the proposed development has a Capital Investment Value of more than

\$20M. As such, while Council is responsible for the assessment of the DA, determination of the Application will now be made by the Sydney West Joint Regional Planning Panel.

(b) State Environmental Planning Policy (Infrastructure) 2007

The SEPP (Infrastructure) aims to ensure that the Roads and Maritime Services (RMS) is made aware of and allowed to comment on types of development nominated as 'traffic generating development' listed in Schedule 3 of the SEPP. Schedule 3 identifies shops of 1,000sqm or more with access to any road. As the proposed development includes 7,188sqm of retail use, the proposed development triggers the Infrastructure SEPP requirements. The DA was referred to the RMS for comment in accordance with the Infrastructure SEPP. RMS referred the application to the Sydney Regional Development Advisory Committee (SRDAC) who raised no objections in principle subject to conditions. The RMS' comments are outlined in Section 7 of this Report. In addition, a copy of any determination will be forwarded to the RMS in accordance with Clause 104(4) of the SEPP, following any consent granted.

(c) State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 relates to the remediation of contaminated lands. This policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If land is considered to be unsuitable, remediation must take place before the land is developed. As part of a previous Development Application for subdivision and bulk earthworks on the subject site, DA-05-2048, a Site Validation was received from Network Geotechnics Pty Ltd dated 23 November 2007 for Stage 1 Precinct 1C, identifying that the fill placement on site has been carried out in accordance with the Fill Protocol and that the site is suitable for residential development with gardens/accessible soil. Notwithstanding this, a **condition** will be imposed on any consent issued that work stops immediately should there be any unexpected finds and remediation of the site is to occur prior to re-commencement of works, with final validation to be submitted to Council accordingly (**condition 9.7.1**).

(d) Blacktown Local Environmental Plan 1988

The land is zoned 3(a) General Business pursuant to Blacktown Local Environmental Plan 1988 (BLEP). The proposed use is defined in the BLEP as "Shop", which is permissible within the zone with consent.

(e) Draft Blacktown Local Environmental Plan 2013

The Draft Blacktown Local Environmental Plan 2013 (DBLEP 2013) was placed on public exhibition between 23 January 2013 and 19 April 2013. The DBLEP 2013 proposes to rezone the subject site to B1 Neighbourhood Centre. In accordance with DBLEP 2013, the proposed development would be defined as a 'commercial premises', which is permissible within the B1 Neighbourhood Centre zone with development consent. A 'commercial premises' includes 'business premises' (such as banks, post offices and hairdressers) as well as 'retail premises' (such as food and drink premises, kiosks and shops).

7 External Referrals

- 7.1 The subject Development Application was referred to the following external authorities as summarised in the table below:

Section	Comments
Roads and Maritime Services (RMS)	<p>In accordance with State Environmental Planning Policy (Infrastructure) 2007, the proposal was referred to the Roads and Maritime Services and the Sydney Regional Development Advisory Committee (SRDAC) on 14 June 2013. The traffic impact of the Application was considered at the SRDAC meeting on 26 June 2013.</p> <p>RMS and SRDAC advised Council that they have reviewed the Development Application and note there will not be a significant impact on the classified road network. Therefore they have no objections to or requirements for the proposed development.</p>
Sydney Water	<p>Pursuant to Section 78 of the <i>Sydney Water Act 1994</i>, the Application was referred to Sydney Water on 14 June 2013. Comments were received from Sydney Water dated 20 June 2013 identifying the need for a Section 73 Certificate for the subject site. A suitable condition of consent has been imposed requiring the submission of a Section 73 Certificate prior to the release of the Occupation Certificate, should consent be granted. (condition 11.4.2)</p>

8 Internal Referrals

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

Section	Comments
Engineering	No objections subject to the imposition of appropriate conditions of consent. (conditions 6, 10, 11.9)
Building	No objections subject to the imposition of appropriate conditions of consent. (conditions 5, 8, 9)
Traffic	<p>Comments from Council's Traffic Management Section have been received as follows:</p> <ul style="list-style-type: none"> ▪ <i>The anticipated traffic movements due to the proposed development are likely to be able to be accommodated within the existing road network.</i> ▪ <i>The proposed access driveways in terms of adequacy and design comply with the relevant planning requirements and standards.</i> ▪ <i>The proposed internal circulation pattern and loading dock facility appears to be satisfactory. However concern is raised with the proposed mixing of delivery trucks and cars at the access driveway onto The Ponds Boulevard, especially when both trucks and cars exit at this driveway there is a potential for collision due to the sight line restriction between an exiting truck and a car at this driveway. Suitable control in terms of priority between trucks and cars at the exit from the loading dock area is required at this location.</i> ▪ <i>It is envisaged that there will be minimal impact on on-street parking supply in the area.</i> <p>In regard to TMS concerns regarding the proposed mixing of delivery trucks and cars at the access driveway onto The Ponds Boulevard, especially when both trucks and cars exit at this driveway, the Applicant has submitted preliminary details identifying clear markings to address potential conflicts which have addressed TMS' initial concerns. Notwithstanding this, a condition is suggested to be imposed requiring suitable control in terms of priority between trucks and cars at the exit from the loading dock area to TMS' satisfaction. (condition 3.6.1)</p> <p>Public submissions have been received identifying traffic concerns and these were referred to TMS for a response. TMS' response to these concerns is discussed in detail in Section 9 – Public Comment.</p>

Environmental Health	<p>No objections subject to the imposition of appropriate conditions of consent. In this regard EHU have identified the following matters:</p> <ol style="list-style-type: none"> <i>The proposed allotment is vacant having been cleared. No known high contamination risk activities have occurred on site. However, can find no reference to company/consultancy qualified to make this determination.</i> <i>It is understood that the ground level is to be raised up to 300mm. Require confirmation as to whether or not imported fill is to be used on-site.</i> <i>In reviewing the Acoustic Report in detail, acoustic shields within the car parking area will mitigate the expected noise to acceptable levels.</i> <p><i>However, request further clarification at Construction Certificate stage regarding:</i></p> <ul style="list-style-type: none"> <i>noise associated with use of the basement exhaust system</i> <i>expected noise emissions from particular plant and equipment</i> <i>ie: condensers, freezers, compressors</i> <i>use of the outdoor alfresco dining (note that the proposed hours of operation extend to midnight)</i> <i>Acoustic Report assumes that delivery trucks will be unloaded using hand operated pallet jacks only, not forklift trucks.</i> <ol style="list-style-type: none"> <i>A specific Construction Management Plan outlining how noise and dust will be managed during the construction phase will be required.</i> <i>The nominated oil storage area (Drawing DA-04 R7) is to be bunded and covered to meet these standards:</i> <ul style="list-style-type: none"> <i>NSW DECC (2007) - Storing and Handling Liquids: Environmental Protection - Participants Manual</i> <i>NSW DECC (2005) - Environmental Compliance Report: Liquid Chemical Storage, Handling and Spill Management - Part B Review of Best Practice and Regulation.</i> <i>Further request an Odour Emission Report detailing how the base exhaust will be treated.</i> <p>In this regard, points a. and b. have been addressed as part of the approved subdivision of land under NOD05-2048 as discussed in Section 6 above. With respect to details in the Acoustic Report, relevant conditions will be imposed regarding Acoustic Assessment of plant and equipment at Construction Certificate stage. In addition, conditions will be imposed limiting alfresco dining to 10pm and that hand operated pallet jacks are only to be used within the development. All other matters raised will be conditioned accordingly on any consent issued. (conditions 7, 13)</p>
Commercial Centres Planner	<p>The following comments were provided from Council's Commercial Centres Planner:</p> <ol style="list-style-type: none"> <i>There does not appear to be any access for the disabled to/from Riverbank Drive. The only at-grade access is from The Ponds Boulevard and the carpark.</i> <i>Whilst there appears to be an active frontage to Riverbank Drive with the shopfronts, there is in fact only one shop (westernmost) that has direct access to the street thereby virtually negating the opportunity for outdoor dining – all outdoor dining would, in effect, be restricted to areas within the Centre.</i> <i>The Landscape Plan and the Site Plan do not match with the Landscape Plan showing grass verges. Grass verges are not favoured and full width segmental paving is required. Concrete paving should be painted in "Basalt Black" using Domcrete type sprayed surface with contrasting bands 220mm wide in "Sesame Green" also using Domcrete type sprayed surface. This is consistent with urban</i>

	<p><i>design work being undertaken by Council in similarly sized centres.</i></p> <p>(d) <i>It is noted that there are existing trees planted in the footpath reserve. If the full width construction of the footpath results in the removal of any of those trees it is requested that the Applicant be required to provide a detailed Landscape Plan at CC stage indicating replacement trees.</i></p> <p>In respect to point (a) above, Council's Building Section has reviewed the development in respect to compliance with disabled access requirements under the Building Code of Australia. Notwithstanding this, a condition will be imposed requiring the provision of at least one disabled access from Riverbank Drive. (condition 4.1.1(a))</p> <p>With regard to point (b) above, the proposed design limiting outdoor dining along Riverbank Drive is considered acceptable from an acoustic perspective. In this regard, should outdoor dining be provided along the street frontage there is potential for noise to impact upon residents living across the road. As such, the amendments suggested by the Commercial Centres Planner are not supported.</p> <p>Points (c) and (d) will be imposed as a condition on any consent issued. (condition 3.6.2)</p>
Civil and Open Space Maintenance	<p>Council's Open Space Policy and Tree Management Co-ordinator has reviewed the proposed development and provided the following comments:</p> <ul style="list-style-type: none"> ▪ No Eucalyptus trees are permitted as per Council's Streetscape Guidelines. ▪ Full width segmental paving is required as per Council's Path Paving Policy. ▪ Porous paving is required around each tree. ▪ Further details are required on the proposed Acoustic Screen. ▪ Details of measures as to the Applicant's proposed maintenance regarding graffiti and its removal. ▪ Maintenance responsibilities of the carpark west of the site boundary line will remain with the Shopping Centre, including the entry and exit to the carpark. <p>In light of the above, a condition will be imposed on any consent issued requiring the above matters to be addressed prior to the release of the Construction Certificate to the satisfaction of Council's Civil and Open Space Maintenance Section. (condition 3.6.2)</p>
Strategic Planning	<p>Council's Strategic Planning Section advised of the making of Amendment No. 233 to Blacktown Local Environmental Plan 1988 applying to the site, including the site's rezoning to 3(a) General Business (refer to detail above regarding Amendment). It was further advised that on 12 June 2013, the BDCP Part M was amended to delete the "link road" located on the western side of The Ponds Boulevard, south of Riverbank Drive. The comments from Council's Strategic Planning Section are noted.</p>

9 Public Comment

- 9.1 The subject Development Application was notified in accordance with Blacktown Development Control Plan 2006 Part K – *Notification of Development Applications* to adjoining and nearby property owners and occupants within a 400m radius of the site for a period of 14 days from 25 June 2013 to 9 July 2013. An advertisement was also placed within the local newspaper and signs were erected on the development site advising of the public notification.
- 9.2 In response to public notification, **10 individual submissions** were received as well as 1 submission from the **John Palmer Public School P&C**. Further, a late submission was received from the **NSW Department of Education and Communities** objecting to the proposal on 28 August 2013. The concerns have been summarised below, together with Town Planning comments thereon:

9.3 TRAFFIC CONGESTION

9.3.1 General Traffic Congestion

- *Increase traffic congestion, which may block or delay public transport assisted by road occupancy and road closures and poor flowing traffic management plans and unqualified 'lollypop staff'.*
- *Impact on The Ponds Boulevard, particularly if the carpark is congested as The Ponds Boulevard is single lane.*
- *Additional traffic as a result of the retail complex which will exceed the capacity of the 4 way traffic lights at the intersection of Riverbank Drive and The Ponds Boulevard.*
- *Increased traffic within the vicinity of the school and local area.*
- *Do not agree with figures provided in the traffic report.*
- *Volume and type of traffic as a result of the development will be detrimental to the locality.*
- *Impact on traffic flow into carpark, and trucks and delivery vehicles entering the area.*
- *Regularity of deliveries and associated impacts on the locality.*
- *Traffic congestion as a result of loading dock.*
- *Volume and timing of the heavy vehicles entering and leaving the site will increase the traffic risks in and around the area.*
- *Increase emissions from increased truck movements.*
- *Impact of the development on school traffic, particularly during afternoon peak.*

Town Planning Comment:

- The objectors are concerned about the increase in the traffic volume, including impacts of trucks as a result of the development and the impact during school peak hours, in particular on The Ponds Boulevard and Riverbank Drive.
- It is noted that both The Ponds Boulevard and Riverbank Drive are higher order roads, being collector roads.
- Council's Traffic Management Section (TMS) has reviewed the submitted Transport Assessment prepared for the Application, the key findings of which have been outlined in Section 5 above. TMS has advised, in regard to traffic impact on the surrounding road network, that anticipated traffic movements due to the proposed development can be accommodated within the existing road network and that it is envisaged that there will be minimal impact on on-street parking supply in the area. As such, the traffic impact is considered to be satisfactory.
- In relation to comments regarding the figures within the submitted Traffic Report, these were based on the traffic modelling undertaken for the planning of "The Ponds" suburb. TMS advises that these figures are being used to plan the road network in the area and it is accepted practice.
- In regard to concerns regarding traffic impact during the school peak, whilst it is acknowledged that the traffic demand can be catered for within the existing road network, **conditions** will be also imposed on any consent granted identifying that there are to be no truck deliveries between 2:30pm and 4:00pm, during school peak hours. **(conditions 4, 12.6.1)**

9.3.2 Traffic Noise

- *Development is likely to attract more vehicles and increased noise to the area during construction. Size and scale of the construction will attract a large volume of traffic, heavy vehicle noise and construction noise affecting privacy, enjoyment and security of property.*

Town Planning Comment:

- The objectors are concerned that the traffic noise will increase as a result of the development.
- In this regard the submitted Acoustic Assessment has indicated a minor increase in traffic related noise levels in some nearby streets by 1dB(A). The traffic noise increase of 1dB(A) is considered negligible as it will occur on higher order collector roads. Details of this increase are provided in Section 5.

9.3.3 Road Rules

- *Question what impact this will have on the road rules, including whether “no stopping” signs will be placed on eastern side of The Ponds Boulevard or whether customers will be able to park on the street? Impact on speed limit, crossings, islands, signs and bus stops.*
- *Will entry to The Ponds Boulevard be left-in/left-out?*
- *What measures will be taken to ensure that oncoming traffic will not turn into the carpark?*

Town Planning Comment:

- The objectors are enquiring regarding the proposed changes to the road rules as a result of the development.
- Council’s TMS has reviewed the proposal and considers that the following requirements should be **conditioned**:
 - Vehicle access to the vehicle entry to the development from The Ponds Boulevard will be restricted to left-in/left-out. In this regard there is an existing painted chevron 30m long on The Ponds Boulevard opposite the proposed accessway. Right-turn movements over a painted chevron are still currently legal, but should be discouraged into and out of the Shopping Centre. To respond to the objections received and the likelihood that this may occur, the development should initially be required to provide signposting on the development site and **construction of a 13m long 900mm wide median** opposite the driveway with signposting identifying no right turn as identified in **Attachment 5**, to determine if this is a sufficient deterrent. The length of this median will not impact upon any resident wanting to turn right into or out of their driveway over the chevron, as is currently the case, and will be **conditioned** in any consent granted (**condition 3.6.1(e)**).
 - This arrangement will need to be monitored for at least 12 months following commencement of the Centre’s operation. To cover the possibility that the short median is not effective, Council will need to decide whether it is necessary to install a concrete median for the full length of the chevron. Therefore, a **condition** will be imposed on any consent issued requiring the **payment of a bond to cover the construction of a 900mm wide median** the same length as the painted chevron, i.e. **30m long (condition 3.6.1(e))**. This bond will be held by Council for 12 months to monitor the vehicular movements from the basement/loading dock on The

Ponds Boulevard. After the monitoring period, Council will reassess the need to construct the 30m median and consult with residents at that time.

- The primary access to the site will be from Riverbank Drive and signposting at the intersection of The Ponds Boulevard and Riverbank Drive will direct cars to the at-grade carpark which then leads to the basement carpark. In addition, the Applicant has advised that trucks contracted to deliver to the site will be required to enter the loading dock from the south along The Ponds Boulevard and then exit from the site and head north with no right turns from the site intended. This will be conditioned in any consent granted (**condition 12.2.10**).
- No other changes are proposed on the public road network.

9.4 VEHICLE ACCESS LOCATION

- *Safety of children in relation to construction traffic activities and operational traffic activities and increased truck deliveries near the primary school.*
- *Safety and sight distances as a result of trucks and cars entering and exiting The Ponds Boulevard to the development.*
- *Safety impact, particularly children safety as a result of accessway.*
- *Loading trucks and cars using the same driveway.*
- *Location of entrance to carpark.*
- *Impact of loading dock in proximity to school and impact on pedestrian safety.*
- *Proximity of car parking to neighbouring residential sites, School and commuting children, as well as proximity to traffic lights, school crossing, bus stops and drop-off and pick-up areas. Potential for on-street queuing and impact on pedestrian movement.*

Town Planning Comment:

- The objectors are concerned about potential vehicle and pedestrian conflicts, particularly in regard to the proposed vehicle access on The Ponds Boulevard given its proximity to John Palmer Public School.
- Council's Traffic and Engineering Sections have reviewed the proposal and have advised that the proposed driveway provides for adequate sight lines to pedestrians and internally within the development.
- In addition, the Applicant has agreed to provide the following measures, which will be imposed as **conditions** within any consent issued:
 - Reconfiguration of the retail tenancy immediately adjacent to the vehicular entry/exit on The Ponds Boulevard to ensure maximum visibility for cars exiting the site. The kerb returns on the access point to the loading dock and carpark will be replaced by a layback driveway design. This will include a splay on the southernmost corner to improve vision of vehicles exiting the site and ensures compliance with Australian Standards. (**condition 2.1.1**)
 - Pedestrians will also have right of way across the driveway. A 'Stop' sign will be installed along with linemarking at the property boundary before the footpath on The Ponds Boulevard. This will ensure that all cars and trucks come to a halt before proceeding onto the roadway. (**condition 3.6.1(a)**)

- Installation of a 'School Zone' sign on site near the carpark entry/exit on The Ponds Boulevard, visible to all vehicles exiting the centre at this point. This sign will indicate the school zone times in the morning and evening. **(condition 3.6.1(b))**
- Installation of a speed hump located in the vehicle exit zone before the footpath on The Ponds Boulevard. Additionally, the section of footpath on The Ponds Boulevard which crosses the carpark driveway is to be clearly delineated (by colour or linemarking). **(condition 3.6.1(c))**
- All service vehicles exiting the site will trigger a 3.5m high beam and a light will be displayed outside of the driveway to make pedestrians aware when a loading vehicle is exiting the site. **(condition 3.6.1(a))**
- In addition, a **condition** will be imposed stating that no truck deliveries are to occur during the afternoon peak school finishing time of 2:30pm to 4.00pm. **(condition 12.2.5)**

9.5 CAR PARKING

- *Provision of adequate car parking and loading facilities have not been provided, with loading and car parking entry and exit combined.*
- *Is off-street car parking sufficient?*

Town Planning Comment:

- The objectors have raised concerns in relation to the provision of off-street car parking as well as loading dock facilities.
- Concerns with the inter-relationship of the loading dock with the vehicle access has been discussed in detail in Section 8 above.
- Council has undertaken an assessment of car parking in accordance with the provisions of Blacktown Development Control Plan (DCP) Part A. In this regard the DCP requires the provision of 1 space per 22sqm Gross Floor Area (GFA) for retail areas greater than 200sqm, and 1 space per 30sqm Gross Floor Area for areas less than 200sqm.
- Based on the proposed shop layout, the development comprises 4,817sqm of GFA for retail areas greater than 200sqm and 2,371sqm of GFA for retail areas less than 200sqm. As such, the proposal is required to provide for 298 car parking spaces to satisfy Council's DCP requirements.
- The Development proposes 296 car parking spaces, including a mixture of at-grade parking and one level of basement car parking. In addition, the site also shares the at-grade car parking with the Ponds Community Hub to the west of the site on adjoining Lot 1071. In this regard 54 car parking spaces were approved on both Lot 1071 (the Community Hub site) and Lot 1074 (Retail Centre site) as shared parking in January 2012 as part of the Community Resource Hub development approval. The additional 30 at-grade car parking spaces proposed as part of the Retail Centre development will also form part of the shared carpark. The entirety of the shared carpark will be maintained by Australand. Irrespective of this, on assessment of the car parking generation of the Community Hub, the Hub generates a peak parking demand of 50 car parking spaces. It is further noted that the peak parking demand occurs in the evening, particularly Fridays to Sundays, with daytime uses generating less demand due to operational limitations on the site. As such, when the Community Hub is at peak usage, there will be an additional 4 car parking spaces within the shared carpark which will benefit the Retail Centre. As such, the development satisfies the DCP requirements for car parking.

- The car parking spaces and access points have been designed to comply with the relevant Australian Standards.

9.6 NOISE IMPACT AND HOURS OF OPERATION

- *Noise – construction activity, noise production from industrial air conditioner, increased trucks and delivery vehicles using the delivery access road.*
- *Excessive noise and light spill as a result of the hours of operation.*

Town Planning Comment:

- The objectors are concerned about the impact of the proposed development in regard to noise, particularly regarding hours of operation, additional traffic including trucks and proximity to residential development.
- The subject site is zoned 3(a) General Business pursuant to the Blacktown Local Environmental Plan 1988 (as amended). The proposed Neighbourhood Centre is defined as a “shop” which is permissible within the zone with development consent.
- The proposed hours of operation are:
 - Supermarket: Monday to Sunday – 6am to midnight
 - Specialty tenancies: Monday to Sunday – 6am to midnight
 - Loading dock: Monday to Saturday – 7am to 10pm
Sunday and Public Holidays – 8am to 10pm
- The Applicant has submitted an Acoustic Assessment dated 24 May 2013 prepared by Acoustic Logic for the development proposal. The Noise Impact Assessment has assessed the impact of the proposed development to residential noise receivers and to the John Palmer Public School. The identified noise sources including loading dock noise, carpark noise and indoor shopping noise as well as traffic noise increase as a result of the proposed development. The Assessment identifies building and management controls required to ensure that the noise emissions from the site fully comply with the requirements of the Environment Protection Authority Industrial Noise Policy. Recommended controls by the consultant include limitation to loading dock hours of operation to 7am to 10pm Monday to Saturday and 8am to 10pm on Sunday and Public Holidays, acoustic protections to loading dock walls, provision of a 1.5m high acoustic fence along Pebble Crescent, no speed humps allowed on the ground level car parking and garbage compacting limited to only occur during the daytime period on weekdays.
- A detailed assessment of the Acoustic Report is provided in Section 5 above. In summary, the Acoustic Assessment has identified that the sleep disturbance criteria in accordance with the NSW EPA Industrial Noise Policy will not be exceeded subject to the abovementioned recommendations being incorporated within the development. However, as identified in Section 5, the development does not comply with the Noise Objective Criteria which is the minimum noise level (lowest dB(A)) at Noise Receiver 3 between 8pm and 10pm, exceeding the criteria by 3dB(A). **A condition limiting the time to which trucks can deliver to the loading dock to 8pm is recommended**, i.e. no trucks in or out of the loading dock after 8pm, so that the proposed development will completely comply with the Noise Objective Criteria under the relevant acoustic guidelines.
- With regard to the proposed operating hours of the supermarket and speciality shops, **Council is concerned that these hours are excessive** given the Centre’s location in a

residential area and its direct proximity to dwellings opposite. As such it is **recommended** that the **operating hours of the supermarket and specialty shops be limited to 10pm**. This will be included as a **condition** in any consent granted. (**condition 12.2.5**)

9.7 COMPLIANCE WITH PLANNING CONTROLS

- *Non-compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Blacktown Local Environmental Plan 1988 and State Environmental Planning Policy (Exempt and Complying Development) 2008.*

Town Planning Comment:

- The objector has raised concerns in relation to the development's compliance with the relevant planning legislation and environmental planning instruments.
- Council has undertaken a detailed assessment of the proposal within this report in accordance with Section 79C of the Environmental Planning and Assessment Act 1979. Council's assessment has concluded that the proposal is considered satisfactory. Furthermore, it is noted that State Environmental Planning Policy (Exempt and Complying Development) 2008 is irrelevant to the proposal as the development is not considered exempt or complying development and the development consent of the Joint Regional Planning Panel is required.

9.8 IMPACT OF CONSTRUCTION

- *Impact of construction activity and size of development.*

Town Planning Comment:

- The objector is concerned regarding the potential negative impacts associated with the construction activity for the development, should it be approved.
- Should the development be approved, suitable **conditions** of consent would be imposed on any consent issued to ensure that the impact on adjoining properties is minimised. These include:
 - A Construction Traffic Management Plan (CTMP) will be required to be submitted to Council for separate approval prior to the issue of the Construction Certificate. The CTMP will address truck movements for the development. (**condition 3.6.3**)
 - An Environmental Management Plan to be submitted to Council's satisfaction prior to the Construction Certificate. The EMP will address how noise and dust will be managed during the construction phase. (**condition 7.1.3**)
 - Construction hours will also be conditioned in any consent issued, including limiting offensive noise generating works to 7.00am to 6.00pm, Mondays to Fridays, 8.00am to 1pm, Saturdays and no such work to be undertaken at any time on Sundays or public holidays. (**condition 9.4.2**)
 - In addition, a **condition** will be imposed stating that any objectionable noise, dust, vibration or other emission from the development works shall not exceed the limit prescribed in the Protection of the Environment Operations Act 1997. (**condition 9.4.1**)

9.9 COMMUNITY CENTRE DEVELOPMENT

- *Community Centre development underway.*
- *Returning the Community Centre to its original proposed position accessible from the existing path design on the school site.*

Town Planning Comment:

- The objectors have raised concerns regarding the development of The Ponds Community Hub and notification to adjoining properties. The Ponds Community Hub adjoins the site of the Retail Centre to the west.
- The objectors are located at H/N 7 and H/N 59 Pebble Crescent to the south of the development and the Department of Education and Communities which is responsible for the John Palmer Public School.
- The Ponds Community Hub was approved by Council on 31 January 2012 under Notice of Determination No. 11-1412. The Community Hub Development Application was notified by mail to owners and occupiers within proximity of the site between 28 September and 12 October 2011. The objectors were not sent letters regarding The Ponds Community Hub as they are located 200m away from the site and the Department of Education and Communities does not immediately adjoin the site.
- However, a notification sign was also erected on the site and an advertisement placed within the local newspaper regarding the proposed development.
- In regard to the location of the Community Hub, the Community Hub is permissible within the 3(a) General Business zone as well as the previously zoned 5(a) Special Uses – Community Uses area of the site in accordance with Blacktown Local Environmental Plan 1988. The Community Hub was assessed in respect to its location and provides pedestrian linkages through the site to both Riverbank Drive and Pebble Crescent and is still within walking distance to the School.

9.10 OVER-DEVELOPMENT

- *Height and scale out of character with the surrounding residential development.*
- *Concrete structure adjoining John Palmer Public School.*
- *Undesirable effect on the amenity of the surrounding area will be created over developing on a parcel of land that is undersized for its proposed intended use, making use of current infrastructure which will not cope with the acute increase in demand.*
- *Hierarchy of Business Centres.*
- *Diminishing character of the 'quiet' neighbourhood.*
- *The current shopping village proposal... turns its back completely on the school site, cuts it completely off, is closer to the shared boundary.*
- *Removed the proposed interrelationship between the school's hall, the community centre and parking access via the internal school path to the shopping centre site.*
- *It is generally the Department's preference not to purchase sites adjacent to shopping centres due to the additional security, maintenance and traffic issues we have experienced in the past. The Department purchased this site on the understanding that it would*

definitely not have a major anchor supermarket of the size of Woolworths proposed, but that it would remain a small village type development.

Town Planning Comment:

- The objectors are concerned regarding the height and scale of the development, considering the proposal an over-development for the site and locality.
- The subject site was rezoned under a different zoning configuration to 3(a) General Business under the Blacktown Local Environmental Plan 1988 on 30 August 2013. A detailed analysis was undertaken by Council at this stage which concluded that the scale of the development is considered reasonable in regard to the surrounding hierarchy of business centres. This is discussed in detail in Section 10 below.
- Further, an Economic Impact Analysis has been undertaken for the development which has concluded that “the proposed retail development at The Ponds would not threaten the viability of any existing or planned retail centre or precinct, and is therefore supportable from an economic perspective”.
- With respect to building height and setbacks, the development has been assessed against the requirements of the Blacktown Development Control Plan 2006. In this regard the BDCP permits zero setbacks for commercial development and a maximum 3 storey development, with a single storey of commercial development. The maximum height of the proposed retail development is between 6m and 8m above Finished Ground Floor level. In addition, the development provides for an Architectural Feature element addressing the corner of Riverbank Drive which has a maximum height of 16m. The proposal provides for a high quality architectural design suitable for a retail centre incorporating a mixture of colours and finishes. In addition, the feature relief pattern adjoining the Primary School is to be designed in conjunction with the school. Zero setbacks are provided along the Riverbank Drive, The Ponds Boulevard and southern property boundary adjoining John Palmer Public School which satisfies the DCP controls with regard to commercial setbacks. With regard to solar access issues relative to the School these are addressed in Section 9.12 below.

9.11 PRIVACY

- *Design of the forecourt directly opposite objector’s property.*
- *Design impact on the privacy of neighbouring properties.*

Town Planning Comment:

- The objector is located at H/N 48 Riverbank Drive, on the northern side of the development. The objector is concerned regarding the design of the development in regard to the forecourt and the overall privacy impacts of the development.
- The objector’s property is almost directly opposite the open forecourt addressing Riverbank Drive, with their property slightly to the left of the forecourt. The majority of this forecourt is located opposite H/N 46 Riverbank Drive.
- The Applicant has submitted an Acoustic Assessment for the development which has been reviewed by Council’s Environmental Health Unit. The Acoustic Assessment has concluded that, provided acoustic treatments recommended within the report are implemented, overall noise emissions for the Noise Objective Criteria relative to the operation of the centre shall fully comply with the requirements of the NSW EPA Industrial Noise Policy. As outlined above and in Section 5, the noise does not exceed the sleep disturbance criteria

or amenity criteria in accordance with the relevant acoustic guidelines. The Acoustic Assessment has undertaken testing from Noise Receivers, including the subject properties as Noise Receiver 3. Notwithstanding this, as already outlined above, conditions will be imposed limiting the operating hours of the Centre to 10pm as well as that no amplified music or microphones are to be used in the forecourt. **(condition xx)**

- With respect to potential privacy impacts, the proposed development is single storey in height and is not immediately adjoining residential properties. As such, privacy impacts as a result of the development are considered minimal.

9.12 SOLAR ACCESS

- *Overshadowing of many residences along The Ponds Boulevard and Pebble Crescent as well as continuous, prolonged and excessive overshadowing to John Palmer Public School sports oval and general playing fields.*

Town Planning Comment:

- The objectors are concerned regarding the overshadowing impact the development will have on adjoining properties, including the John Palmer Public School.
- The Solar Access impact of the proposed development has been assessed by Council, with the Solar Access drawings submitted by the Applicant held at **Attachment 3**.
- In respect to the overshadowing impact on John Palmer Public School, the proposed development provides for a zero setback on the southern property boundary shared with the School. During the development process the parapet of the rear elevation was removed from the building design, reducing the building height by 1m at the southern boundary and thus reducing the overshadowing impact to the School by 3.4m measured at 9am on 21 June. The maximum shadow now cast on the School site at 9am on 21 June is approximately 34m. Refer to the Solar Access diagrams at **Attachment 3** to this report, including aerial photos which show the extent of shadow on the School grounds. However, this is the worst case scenario with the shadows significantly reduced throughout the day. In addition, it is noted that the rear of the site is a free play area for the School and that the extent of the free play area receives more than 3 hours of sun access every day. As shown in **Attachment 3**, the proposed 9am shadow over the School playground only affects approximately one-third of the free play area, and the shadow continues to diminish after this time. By the time school recess and lunch breaks occur during the day, the shadow over the free play will have been reduced significantly.
- With respect to the overshadowing impact of the proposed development on residential properties, the shadow diagrams indicate overshadowing of the dwellings at 29 and 31 Pebble Crescent in the morning of June 21. However, the properties are not affected by shadow by 12pm and as such achieve more than 3 hours solar access to their required Private Open Space in accordance with the DCP.

9.12 PEDESTRIAN LINKAGES

- *Impact on pedestrian walkway.*

Town Planning Comment:

- Objectors are concerned regarding limitation of pedestrian walkway access to the site and the pedestrian network.
- Pedestrian linkages have been provided to the site along Riverbank Drive as well as shared access through the Ponds Community Resource Hub. The existing pedestrian walkway as

part of the road reserve is maintained along Riverbank Drive and The Ponds Boulevard. For safety reasons, further pedestrian accesses are not supported adjoining John Palmer Public School. Further, suitable conditions will be imposed on any consent issued ensuring appropriate sight lines and warning signals are provided to vehicles using The Ponds Boulevard accessway.

9.13 PROPERTY VALUE

- *Shopping centre will devalue property.*

Town Planning Comment:

- The objectors state that the proposed development will jeopardise the market value of their homes and property.
- Council is not aware of any evidence to support the reduced market value of the objectors' properties due to the proposed Retail Centre development. The proposal is permissible within the 3(a) General Business zone with Development Consent.
- It should also be noted that a retail centre was always proposed in this location as part of The Ponds Masterplan. Through the land purchase process, purchasers of homes on Riverbank Drive and The Ponds Boulevard should have been made aware of surrounding zonings by their Solicitor at time of purchase.

9.14 PUBLIC NOTIFICATION

- *Access to information during notification.*

Town Planning Comment:

- The objectors have raised concerns in relation to the public notification process, in particular the availability of information.
- In accordance with Part K of Council's DCP, the Application was placed on public exhibition for a period of 14 days. Owners and occupiers within a 400m radius of the subject site were notified of the proposal by mail. In addition, notification signs and an advertisement were placed in the local newspaper notifying the public of the proposal and inviting the public to make submissions.
- Hard copies of all submitted documentation, including Statement of Environmental Effects, Architectural Plans and supporting technical studies, were made available at Council's Offices. In addition, the Statement of Environmental Effects and Architectural Plans were placed on Council's website for the notification period. Requests were received from members of the public for technical studies to be made available online, which was undertaken as soon as practicable.
- The notification of the proposal occurred in accordance with the DCP and is therefore considered satisfactory.

9.15 COMMUNITY SAFETY

- *Encourage anti-social behaviour.*
- *Intensity of use will impact on the amenity of local residents.*
- *Increase community near primary school and create unsafe environment for children.*
- *Children safety and attraction of undesirables in close proximity to the school.*

Town Planning Comment:

- The objectors are concerned that should the development be approved, there is the potential for community safety impacts as the development will encourage anti-social behaviour.
- The subject site is zoned 3(a) General Business pursuant to Blacktown Local Environmental Plan 1988. The proposal for a Retail Centre is permissible with development consent.
- In addition, it is considered that the proposal provides a high quality urban design outcome which activates the main street of Riverbank Drive and The Ponds Boulevard, creating well defined spaces including a covered mall area through the retail centre and forecourt landscaping. Any anti-social behaviour is anticipated to be addressed through informal surveillance opportunities by shop vendors and shoppers throughout the mall.
- Furthermore, should the development be approved, conditions will be imposed requiring the provision of a CCTV security system as well as a Plan of Management to be prepared to address security concerns. **(conditions 11.10.4, 11.10.5)**

10 Assessment

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

(a) Blacktown Development Control Plan 2006

The provisions of the Blacktown Development Control Plan 2006, Part A - General Guidelines, Part C, Section 10.2 – Places of Public Worship and Educational Establishments, Part M – Second Ponds Creek, Part O – Site Waste Management & Minimisation and Part R – Water Sensitive Urban Design and Integrated Water Cycle Management are relevant to the proposal. The following table outlines that the Application is generally compliant with the relevant provisions of the Blacktown DCP.

Section	Comment	Satisfactory
Part A		
Tree Preservation	The subject site does not contain any trees and as such is considered satisfactory with respect to Tree Preservation.	Yes
Pollution Control	A Waste Management Plan prepared in accordance with the requirements of the DCP has been submitted with the Development Application. Further, a condition will be imposed requiring a commercial refuse service for the site. (condition 12.2.8)	Yes
Noise Reduction	An Acoustic Assessment has been submitted with the Application. The proposed development is considered satisfactory subject to a condition requiring compliance with the recommendations of the submitted Acoustic Assessment. An additional condition will be imposed on any consent granted limiting truck use of the loading dock to 8pm, and the centres operating hours to 10pm as well as conditions stating that no amplified music or microphones are to be used in the forecourt. (condition 12.2.6)	Yes
Car Parking	The proposal provides for 296 car parking spaces an additional 30 at-grade parking spaces and 1 level of underground parking to accommodate 266 car parking	Yes

	spaces. In addition, the proposal benefits from shared 54 space car parking from the Community Resource Hub approved by Council under Notice of Determination No. 11-1412 in January 2012. In this regard the Community Resource Hub generates a peak parking demand of 50 spaces. The peak parking demand occurs during the evenings, and as such the Retail Centre benefits from an additional 4 car parking spaces as part of the shared parking spaces. Overall, a total of 350 car parking spaces are provided across the 3 lots and complies with the BDCP controls for car parking. Appropriate conditions have been included requiring the development to comply with appropriate Australian Standards with respect to car parking, manoeuvrability, disabled car parking spaces and signage. (conditions 12.1.3, 11.7.2, 11.7.3, 11.7.4)	
Solar Access	The Retail Centre is not considered to generate unreasonable overshadowing to adjoining properties. In this regard, the John Palmer Public School to the south of the site is the most significantly affected by the shadows cast by the development. The Applicant has reduced the building height by 1m to address overshadowing concerns, which are greatest at 9am on June 21. Further discussion regarding solar access is below.	Yes
Traffic Generating Development	The Applicant has submitted a Traffic Impact Assessment identifying the implications of the proposed development on the surrounding street network, carpark design and car parking. Traffic Impact is discussed in further detail below.	Yes
Crime Prevention through Environmental Design (CPTED)	The siting and design of the proposed development has taken into consideration CPTED measures, including natural surveillance, design of fencing to secure the site, landscaping and proposed lighting within the development. In addition, conditions will be imposed on any consent issued requiring provision of a CCTV Security System and a Plan of Management to address any security concerns (conditions 11.10.4, 11.10.5).	Yes
Part M – Second Ponds Creek		
3.1.1 Neighbourhood and Community Uses	The location of the development as a business use is in line with Figures 3.1 and 3.2 of the DCP. In this regard the proposed development is a business use co-located with an adjoining community centre. Further, the proposed development is permissible on the subject site as it is zoned 3(a) General Business pursuant to the Blacktown Local Environmental Plan 1988.	Yes
6.0 Neighbourhood/Community Uses	<p>The proposed development satisfies the requirements under the DCP for Neighbourhood/Community Uses. Key aspects are discussed in the section below further, however a summary is provided below:</p> <ul style="list-style-type: none"> ▪ The development addresses main streets adjoining the site, being The Ponds Boulevard and Riverbank Drive. ▪ The proposed development is single storey in height, with underground basement car parking and as such does not exceed the maximum 3 storeys in 	Yes

	<p>height, excluding the required architectural element.</p> <ul style="list-style-type: none"> ▪ A distinctive architectural element is incorporated within the design of the development, being a maximum 16m high architectural feature tower along the Riverbank Drive frontage. ▪ An unobstructed footway of 3.5m width is provided along both street frontages to Council's satisfaction. ▪ Pedestrian linkages are provided to the adjoining John Palmer Primary School to the south along The Ponds Boulevard, as well as linkages to The Ponds Community Centre adjoining the west of the site through the design of the development. ▪ The proposed pedestrian linkages are considered suitable from a safety perspective. ▪ The development provides for a total of 350 car parking spaces which satisfies Council's Development Controls in respect to car parking and all car parking spaces are provided with direct access to a public road. 	
Part D – Development within the Business Zones		
Retail Hierarchy	The proposed development provides for 7,168sqm of retail including a supermarket and specialty retail. In accordance with the retail hierarchy established within the DCP, the proposal is defined as a Large Neighbourhood Centre. The Retail Hierarchy is discussed in further detail in this Section below.	Yes
Building Design and Construction	<p>The proposal satisfies the BDCP Building Design and Construction controls. In this regard:</p> <ul style="list-style-type: none"> ▪ The Applicant has submitted details of finishes and materials which is considered satisfactory. ▪ An Access Report has been submitted which identifies that suitable access is provided for the aged and disabled. ▪ The development provides cover internally within the development as well as cover over adjoining footpaths to ensure the development is suitable for all-weather use. ▪ A condition will be imposed on any consent issued requiring glass elements addressing public roads to have a reflexivity of less than 20%. (condition 4.2.1) 	Yes
Building Setbacks	The BDCP identifies that zero lot setbacks are acceptable for commercial development. The proposal provides for zero setbacks to Riverbank Drive, The Ponds Boulevard and the adjoining southern property boundary with John Palmer Public School.	Yes
Landscaping	The Applicant has submitted a detailed landscape strategy, which is discussed in further detail in this Section below.	Yes

Vehicle Access and Circulation	The development provides for a loading bay for service vehicles to the site with access from The Ponds Boulevard. Whilst the DCP's preference is for separation of loading and customer parking, Council's Traffic Section is satisfied with the proposed design of the shared vehicle access.	Yes
Signage	The development will be subject to a separate Development Application for signage.	N/A
Solar Access	The Retail Centre is not considered to generate unreasonable overshadowing to adjoining properties. In this regard, the John Palmer Public School to the south of the site is most significantly affected by the shadows cast by the development. The Applicant has reduced the building height by 1m to address overshadowing concerns, which are greatest at 9am on 21 June. Further discussion regarding solar access is provided below.	Yes
Part O		
Waste Management Plan	A Waste Management Statement prepared in accordance with the requirements of the DCP has been submitted with the Development Application.	Yes
Part R		
Water Sensitive Urban Design & Integrated Water Cycle Management	Council's Engineers have undertaken an assessment of the proposal in accordance with the requirements of the DCP. Accordingly, appropriate Engineering conditions have been included and sufficient information has been provided to satisfy Part R requirements. (conditions 6, 10, 11.9)	Yes

(b) Context and Scale

The site falls within an area characterised by new low density residential subdivision and housing development. The desired future character of the area is largely determined by the planning controls applying under the provisions of the Blacktown Local Environmental Plan 1988 and the Blacktown Development Control Plan 2006 – Part M Second Ponds Creek. The proposed development has been designed to be consistent with the desired future character and existing development of the locality.

The proposal complies with the development standards established within the Blacktown Development Control Plan as detailed above. A number of supporting technical studies have been submitted with the Application, including an Acoustic Assessment and Transport Assessment to identify the implications the proposed development may have on the amenity of the surrounding uses. Overall, the scale of the development is considered suitable with the surrounding context and the size of the subject site, and aims to minimise potential conflicts with adjoining properties through landscaping, fencing and the overall siting of the Retail Centre on the subject site.

The proposed Retail Centre is single storey in height, with underground basement car parking. The maximum height of the proposed development is between 6m and 8m above Finished Ground Floor level. The height of the development is considered satisfactory as the BDCP Part M permits a maximum 3 storeys on the site, with 1 storey of commercial and 2 levels of residential on top. It is also noted that the maximum height to the roof ridgeline of residential development within the locality is 10m. In addition, the development provides for an Architectural Feature element addressing Riverbank Drive which has a maximum height of 16m above finished floor level.

The proposal provides for a high quality architectural design suitable for a retail centre incorporating a mixture of colours and finishes. In addition, the feature relief pattern adjoining the Primary School is to be designed in conjunction with the school. Zero setbacks are provided along the Riverbank Drive, The Ponds Boulevard and southern property boundary adjoining John Palmer Public School which satisfies the DCP controls with regard to commercial setbacks. The built form is further designed to provide active street frontages to Riverbank Drive and The Ponds Boulevard, with the provision of a retail awning over the footpath along The Ponds Boulevard and the provision of full width pavement to The Ponds Boulevard and Riverbank Drive including paved corner treatment. As such, the building design is considered satisfactory.

(c) Hours of Operation

The proposed hours of operation are:

Supermarket:	Monday to Sunday – 6am to midnight
Specialty tenancies:	Monday to Sunday – 6am to midnight
Loading dock:	Monday to Saturday – 7am to 10pm Sunday and Public Holidays – 8am to 10pm

As identified in Section 9 above, Council has concerns regarding the proposed late night hours of operation of the Centre due to the residential context of the site. A condition is recommended that limits the operating hours of the Centre to 10pm and the loading dock to 8pm on any consent granted. **(condition 12.2.5)**

(d) Acoustic Impact

The Applicant has submitted an Acoustic Assessment prepared by Acoustic Logic. Details of the Acoustic Assessment have been provided in Section 5. In summary, the Acoustic Report makes recommendations to ensure that the Retail Centre complies with relevant acoustic measures and standards, including provision of acoustic screens and acoustic treatment to walls, prominent notices reminding people that a minimum amount of noise to be generated when leaving the premises and limiting garbage compacting to the day time period during weekdays. On assessment, the proposal is considered satisfactory subject to a **condition** to be imposed on any consent granted regarding the hours of operation to 10pm, restrictions requiring no amplified music or microphones within the forecourt and acoustic measures as recommended in the Acoustic Assessment as well as validation by a suitably qualified consultant that acoustic measures have been implemented and a post-operation acoustic validation is conducted **(condition 11.10.2)**.

In addition, the Acoustic Assessment has considered the predicted Traffic Noise increase, which complies with the NSW Road Noise Policy, excluding a minor increase by 1dB(A) identified on Riverbank Drive west of The Ponds Boulevard and Mallard Drive south of Stanhope Parkway. The minor increase by 1dB(A) is considered acceptable as the increase is so minor that it will not be noticeable and is located on higher order roads.

Furthermore, Council's Environmental Health Unit has reviewed the submitted Acoustic Assessment and consider it satisfactory subject to a **condition** requiring compliance with the recommendations within the Acoustic Report as well as additional details on plant and equipment at the Construction Certificate stage. **(condition 7.1.3)**

(e) Landscaping

The subject site is currently vacant with no existing structures located on the site. The site is cleared of any significant vegetation, with no trees located on the site.

The Applicant has submitted a detailed Landscape Plan and supporting landscape statement. The submitted Landscape Plan provides for the extensive embellishment of the site through predominant use of native species. The landscape treatment on-site is proposed to provide screening to adjoining development, embellish the car parking area and embellishment of the internal area of the retail centre. A **condition** will be imposed requiring the development to be consistent with the submitted Landscape Plan. **(condition 11.7.1)**

(f) Parking

The Blacktown Development Control Plan requires the provision of 1 space per 22sqm Gross Floor Area (GFA) for retail areas greater than 200sqm and 1 space per 30sqm GFA for areas less than 200sqm.

Based on the proposed shop layout, the development comprises of 4,817sqm GFA for retail areas greater than 200sqm and 2,371sqm GFA for retail areas less than 200sqm. As such, the proposal is required to provide for 298 car parking spaces to satisfy Council's DCP requirements.

The development provides for 296 car parking spaces comprising of the construction of 30 at-grade parking spaces and 1 level of underground parking to accommodate 266 car parking spaces. The 30 at-grade parking spaces are in addition to the existing approved 54 car parking spaces approved by Council as part of the Community Resource Hub development over Lots 1071 and 1074 under Notice of Determination No. 11-1412 in January 2012. In this regard the at-grade car parking spaces are shared car parking spaces both on the Community Resource Hub site (Lot 1071) and the proposed Retail Centre site (Lot 1074). Australand are responsible for the maintenance of the car parking. The Community Resource Hub generates a peak parking demand of 50 spaces, primarily on Friday to Sunday nights. The peak parking demand occurs during the evenings and as such the Retail Centre benefits from an additional 4 car parking spaces as part of the shared parking spaces. As such, the development satisfies the DCP requirements for car parking.

Primary access to the carpark is provided from through the shared car parking with the approved Community Resource Hub on Riverbank Drive, with a second access point provided on The Ponds Boulevard.

(g) Traffic Impact

The Applicant has submitted a Transport Report for the proposal dated May 2013 prepared by Colston Budd Hunt and Kafes Pty Ltd. The Transport Report has undertaken an assessment of the existing conditions and implications of the proposed development on the surrounding road network. In this regard the Transport Report concludes that access arrangements, car park layout and services will be provided in accordance with Australian Standards and that the road network will be able to cater for the traffic generated by the proposed development.

Council's TMS has reviewed the proposed development and the Transport Report submitted by the Applicant. Council's TMS has advised in regard to traffic impact on the surrounding road network that anticipated traffic movements due to the proposed development are likely to be accommodated within the existing road network and that it

is envisaged that there will be minimal impact on on-street parking supply in the area. As such, the traffic impact is considered to be satisfactory.

(h) Heritage

The site is vacant and not identified as containing any Aboriginal Archaeological potential in accordance with Blacktown Development Control Plan 2006 – Part A. Further, The Ponds has an estate-wide Archaeological Heritage Impact Permit (AHIP) applying to the site in accordance with Section 90 of the *National Parks and Wildlife Act 1974*. An appropriate **condition** will be included that should any archaeological material be uncovered during construction activities on any location within the proposed development, then all works are to cease immediately and representatives of the National Parks and Wildlife Service and a member of each of the Western Sydney Aboriginal Stakeholder Groups is to be contacted. **(condition 2.5.3)**

(i) Solar Access

The Solar Access impact of the proposed development has been assessed by Council, with the Solar Access drawings submitted by the Applicant held at **Attachment 3**. The proposed development provides for a zero setback on the southern property boundary shared with John Palmer Public School. Initial concern was raised with the Applicant in regard to the overshadowing impact the development could have on the Public School and the Applicant was requested to consider a 10m setback adjoining the school site, even though the DCP permits a zero setback for Commercial development. Whilst the Applicant did not provide a 10m setback as requested by Council, the parapet of the rear elevation was removed from the building design, reducing the building height by 1m at the southern boundary and reducing the overshadowing impact to the school by 3.4m measured at 9am on 21 June. The maximum shadow now cast on the school site at 9am on 21 June is approximately 34m. However, this is the worst case scenario with the shadows significantly reduced throughout the day – refer to shadow diagrams held at **Attachment 3**. In addition, it is noted that the rear of the site is a free play area for the school and that the extent of the free area receives more than 3 hours of sun access per day. It is noted that all other surrounding development also achieves the required 3 hours solar access to 50% of the Private Open Space for residential development in accordance with the DCP. As such, the solar access impact of the proposed development is considered satisfactory.

(j) External Building Material and Colours

A suitable variety of external materials, consistent with the scale and character of development in the locality, has been selected for the proposed development. The Applicant has submitted details of colours and finishes which is considered satisfactory. A **condition** will be imposed on any consent issued requiring the development to comply with the submitted details. **(condition 2.1.1)**

(k) Developer Contributions

The subject site falls within Contributions Plan No. 5 – Parklea Release Area. However, on 8 March 2006 Council resolved to endorse the Second Ponds Creek Planning Agreement with Landcom (subject to amendments) and granted the General Manager authority to finalise the terms and execute the document under Power of Attorney. The execution of the Planning Agreement now means that any Development Application within the Second Ponds Creek Release Area would not need to be levied Section 94 Contributions as alternative payment arrangements have been facilitated through the Agreement. The concurrence of Council's Section 94 Officer has been obtained, confirming that the Second Ponds Creek Planning Agreement applies to the proposed development.

(l) Impacts during Construction

As outlined in Section 9, **conditions** of consent will be imposed to mitigate any potential impacts on the amenity of surrounding development. (**conditions 9.4.1, 9.4.2, 9.4.3**)

(m) Retail Hierarchy

The Blacktown Development Control Plan 2006 – Part D establishes a City-wide retail hierarchy, with a large Neighbourhood Centre considered as:

“...providing daily shopping facilities by way of small shops (such as butchers, greengrocers, chemists, newsagents etc), also have a medium scale supermarket. They sometimes will also have banks and a post office and provide professional services. Large local centres range in size from approximately 5,000 sq.m to 15,000 sq.m gross floor area.”

The proposed development has a Gross Floor Area for retail development of 7,188sqm and as such is considered a Large Neighbourhood Centre.

As part of the rezoning of the development site considered by Council in 2013, a detailed assessment was undertaken of the proposal in consideration of the size and scale of the Centre and the potential economic impact on surrounding retail centres. The report to Council on 1 May 2013 recommended the reconfiguration of the 3(a) General Business and 5(a) Special Use zonings on the site and the removal of a floorspace “cap” on the site of 1,500sqm. This floorspace cap was considered by Council to be quite arbitrary and inadequate in providing for the retail needs of the surrounding 3,100 dwelling release area.

As part of the rezoning exhibition in March 2012 Council received objections from Freehills Services Pty Ltd on behalf of Mirvac Funds Limited (owner of the Stanhope Village Centre on the Stanhope Parkway) and BBC Planners on behalf of GPT Group (for the Rouse Hill Town Centre).

The submissions each raised various concerns in relation to the Planning Proposal. However, the main focus of each submission was the potential economic impacts of removing the floor space cap on their respective commercial centres.

In response to the submissions, Council Officers engaged AEC Group Ltd to undertake a Peer Review of the exhibited Community Needs Assessment that had been prepared by Urbis Pty Ltd and submitted by Australand as part of their justification for the Planning Proposal. In particular, AEC was requested to provide comment on the following:

- i. The validity of the matters raised in the submissions from Freehills and BBC.
- ii. Whether there is sufficient demand to remove the current retail floorspace cap of 1,500sqm.
- iii. Whether the removal of the retail floorspace cap would result in a negative impact on the commercial viability of existing and proposed commercial centres in the surrounding areas, and in particular Area 20, Rouse Hill Town Centre, Alex Avenue and Stanhope Gardens.
- iv. Whether there is a need to limit retail floorspace, and if so by how much?

Council Officers extensively reviewed the Planning Proposal and provided detailed comments on its merits for Council’s consideration in Report SD320121 on 24 October 2012. In this Report Council Officers also provided comments in response to AEC’s Peer

Review of the Community Needs Assessment in respect of the potential economic impacts of the Planning Proposal.

At the time Council Officers contested the view by AEC that a larger commercial centre on the site (ie. more than 6,000sqm Gross Floor Area) would significantly impact on the economic viability of nearby centres including Rouse Hill Town Centre, Area 20, Alex Avenue and Stanhope Village such as to warrant the imposition of a floorspace cap, and ultimately concluded that on balance the Peer Review was inconclusive in providing sufficient reasoning to justify their opinion that 7,000sqm of retail and commercial floorspace would present an unacceptable impact on the economic viability of other nearby centres.

It was considered that removing the floorspace cap and consolidating the commercial zonings will benefit the local community by facilitating the development of a coordinated and functional commercial centre. To this end, it is noted that having 2 commercial developments separated by a community facility zoning may not promote a homogeneous commercial/retail centre, particularly in terms of urban design. There would also likely be inefficiencies in respect to car parking provision and a general feeling of disconnect between the 2 zonings/retail areas.

The Ponds is a masterplanned community and a Community Centre was always intended to be located adjacent to The Ponds retail centre. In 2006, when the LEP and coinciding DCP for The Ponds Estate was gazetted, a nominal retail floorspace cap of 1,500sqm was placed on the planned commercial centre at Riverbank Drive based on a trade area comprising around 6,000 people. Presently, the trade area is forecast to reach over 20,000 by 2016 and, based on the latest census data, development in The Ponds is already on track to meet this forecast.

Furthermore, the original zoning configurations for The Ponds Retail Centre were based on the need to legally include the Sales and Display Centre (required upfront in the development of The Ponds Estate) within the commercial zone given that it is only permissible in this zone, but at the same time also ensure that land within the Centre was reserved for community facilities. Hence, whilst the ideal position at the time would have been to consolidate the commercial/retail zones in accordance with what was being proposed in the Planning Proposal, it was not possible due to other influencing factors.

The Planning Proposal was not intended to challenge or negate Council's long-standing approach to commercial centres planning. Rather, it seeks to ensure the development of an integrated Community Hub and commercial/retail centre of the type that residents of modern masterplanned estates have come to expect. The planned Centre at the corner of Riverbank Drive and The Ponds Boulevard will be a focal point for the suburb as a whole.

The subject site was the only 3(a) zoned commercial centre in the LGA to have a floorspace "cap" provided in the LEP. This "cap" was imposed as part of the planning for The Ponds development to address a specific planning objective at the time. However, this was done in the absence of any detailed commercial analysis in respect of the subject site and has proven now to be unrealistic in terms of allowing for a viable retail development. **In all other 3(a) zoned commercial centres** throughout the LGA it has been Council policy **not to impose** any floor space restrictions.

As part of the subject Development Application the Applicant has prepared an Economic Impact Assessment for The Ponds Shopping Centre prepared by Urbis dated May 2013. The analysis of the Neighbourhood Centre at The Ponds and surrounding centres concludes that *"there is sufficient growth within the marketplace to accommodate the development of a Neighbourhood Centre at The Ponds without adversely impacting the viability of existing and planned retail centres."* Further, the report also concludes that

“the proposed retail development at The Ponds would not threaten the viability of any existing or planned retail centre or precinct, and is therefore supportable from an economic perspective”.

As such, the Application is supported in respect to the centres hierarchy.

(n) BCA Compliance

A **condition** of consent would require that the proposed development complies with the applicable requirements of the Building Code of Australia, including accessibility requirements. **(conditions 5.1)**

(o) Water Management

The Application has been reviewed by Council’s Development Engineers who have raised no objections to the proposed development subject to the implementation of **conditions** of consent. **(conditions 6.5, 6.6.1)**

(p) Soil Management

The proposed development is not expected to have an adverse impact in regarding the soil erosion or sedimentation. **Conditions** of consent will require the applicant to ensure the proposal is carried out in compliance with standard erosion and sedimentation controls. **(conditions 9.1.4, 8.1.4)**

(q) Waste Management

A Waste Management Plan (WMP) has been prepared and submitted as a part of the Application. The proposed development will generate little waste during the construction phase. Therefore, a **condition** of consent will be included within the consent requiring compliance with the submitted WMP. **(condition 9.5)**

(r) General Services

The subject site has access to services such as water and sewer, power, telecommunications and gas supply. A **condition** will be imposed on the consent requiring the Applicant to obtain Service Authority Clearances prior to the issue of any Occupation Certificate. **(condition 11.4)**

11 Section 79C Consideration

11.1 Consideration of the matters prescribed by Section 79C of the Environmental Planning and Assessment Act is summarised below:

Head of Consideration	Comment	Satisfactory
<p>a. the provisions of:</p> <p>(i) any environmental planning instrument (EPI)</p> <p>(ii) draft EPI</p> <p>(iii) any development control plan</p> <p>(iiia) any planning</p>	<ul style="list-style-type: none"> The provisions of the relevant EPIs relating to the proposed development are summarised under Section 6 of this report. The proposal is permissible within the 3(a) General Business zone and satisfies the zone objectives outlined under Blacktown Local Environmental Plan 1988. The subject site is proposed to be rezoned under the Draft Blacktown Local Environmental Plan 2013 to B1 Neighbourhood Centre. The proposal 	Yes

<i>agreement</i> <i>(iv) the regulations</i>	<p>would be defined as a Commercial Premises, which is permissible within the B1 zone with development consent.</p> <ul style="list-style-type: none"> • The Blacktown Development Control Plan applies to the subject site. • The proposed development is consistent with the desired future character of the area. • A detailed assessment of the Application is provided under Section 10 of this Report. 	
<i>b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality</i>	<ul style="list-style-type: none"> • An assessment of the key issues is provided in Section 10 of this Report and it is considered that the likely impacts of the development have been satisfactorily addressed. 	Yes
<i>c. the suitability of the site for the development</i>	<ul style="list-style-type: none"> • The subject site is zoned 3(a) General Business and permits “shop” with consent. • The proposal has been designed taking into consideration the site’s constraints and locality. • The site is therefore considered suitable for the proposed development. 	Yes
<i>d. any submissions made in accordance with this Act or the regulations</i>	<ul style="list-style-type: none"> • As noted in Section 9 of this Report, the Application was placed on public notification for a period of 14 days, during which time 12 submissions were received including 1 late submission. 	Yes
<i>e. the public interest</i>	<ul style="list-style-type: none"> • No adverse matters relating to the public interest arise from the proposal and the provision of a Retail Centre is desirable and is considered to be in the public interest. 	Yes

12 General Comments

12.1 The proposed development has been assessed against the matters for consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory. In this regard it is considered that likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. Further, the subject site is considered suitable for the proposed development.

12.2 The proposal is consistent with the objectives of Blacktown Local Environmental Plan 1988 and the 3(a) General Business zone and is permissible in the zone with development consent. The proposal also complies with the provisions set out in Blacktown Development Control Plan 2006 and is considered satisfactory with regard to relevant matters such as Built Form, Traffic, Access, Stormwater Drainage, ESD, Noise, Social and Economic Impacts and the like subject to the imposition of suitable **conditions** of consent to satisfactorily control the development.

13 Recommendation

- 13.1 The Development Application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at Attachment 2.
- 13.2 The Applicant and Objectors be advised of the Sydney West Joint Regional Planning Panel's decision.



MELISSA PARNIS
ASSISTANT TEAM LEADER, PLANNING APPROVALS (NORTH)



JUDITH PORTELLI
MANAGER DEVELOPMENT SERVICES AND ADMINISTRATION



GLENNYS JAMES
DIRECTOR CITY STRATEGY AND DEVELOPMENT