

JRPP Ref No 2010SYE009
FILE NO: DA16/10
PROPOSED 164 Condamine Street, Balgowlah
DEVELOPMENT Bunnings Warehouse – Amended Plans
REPORT BY: Manly Council MIAP Report No.

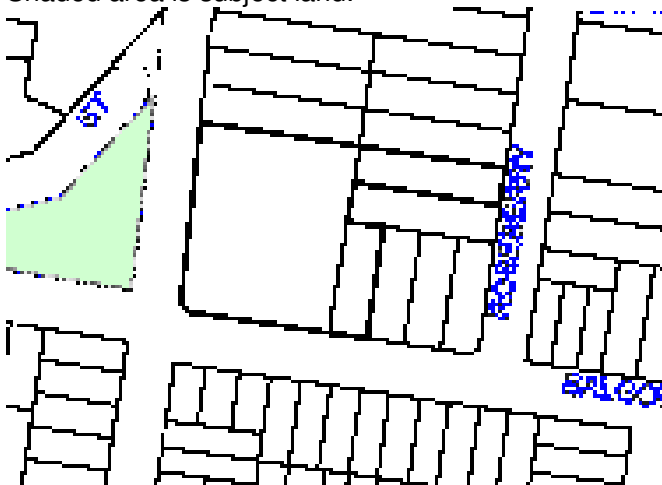
Application Lodged: 27 January, 2010
Applicant: John R Brogan & Associates Pty Ltd
Owner: Mathew J Toohey (Bunning's Properties Pty Ltd)
Estimated Cost: \$14.5 Million
Zoning: Manly Local Environmental Plan, 1988 – Industrial
Surrounding Development: Residential dwellings, Open Space and Commercial and
Retail premises
Heritage: In the vicinity of Street Trees listed as Items of Environmental
Heritage on Balgowlah Road.

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR THE DEMOLITION OF EXISTING BUILDINGS, EXCAVATION, CONSTRUCTION OF A TWO (2) LEVEL HARDWARE AND BUILDING SUPPLIES WAREHOUSE WITH MEZZANINE, SIGNAGE AND TWO (2) LEVELS OF BASEMENT CAR PARKING –BUNNING'S WAREHOUSE.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND ONE HUNDRED AND FIFTY (150) SUBMISSIONS RECEIVED INCLUDING ONE (1) PETITION WITH THREE HUNDRED AND THIRTEEN (313) SIGNATURES.
3. THE APPLICATION WAS REFERRED TO THE BALGOWLAH PRECINCT COMMUNITY FORUM FOR COMMENTS.
4. SITE INSPECTION IS RECOMMENDED.
5. THE APPLICATION IS RECOMMENDED FOR **DEFERRED COMMENCEMENT APPROVAL.**

LOCALITY PLAN

Shaded area is subject land.



Report

Introduction

Subject site and surrounding development

The site is located at 164 Condamine Street known legally as lot 2 in DP 533586, lot 15 in DP 532064, Lot 2 in DP 562483 and lot 1 in DP 533586 and forms an 'L' shape. The site has an overall area of 7327.4m² with three street frontages being Roseberry (East) at 30.5m, Balgowlah (South) at 78m and Condamine (West) at 78m. The main corner section of the amalgamated properties is currently occupied by a building previously used as a car sales showroom. Currently, vehicular access is via an existing crossover directly from Balgowlah Street.

The property adjoins the Harvey Norman development to the North. The Roseberry Street side is opposite commercial developments being a three storey development known as Manly Freezers, a two storey building including the Roseberry Sandwich Bar at grade (with offices above), a three storey building currently housing a 'Paul's Warehouse' and a two storey building for 'Fantastic Furniture'.

Site Burdens and constraints

The subject site is located on land considered to be affected by Type 5 Acid Sulphate soils and an assessment in relation to the works has been submitted to Council and considered. No objections to the works proposed have been raised as a result of internal expert consideration on the basis of the impact upon the Acid Sulphate soil layer. Relevant conditions of consent have been recommended and included in this report for the management of such soils were the application to be approved.

The subject site is not located within an area identified as being prone to landslip and is not identified on Council's Landslips Potential Hazards Plan (part of the Manly LEP 1988).

The subject site is not located within an area identified and being 'Bushfire Prone' on Council's Bushfire Prone Land Map (part of the Manly LEP 1988).

In terms of the site being located on flood prone land, the Manly Lagoon floodplain management study dated June 1996 included an interim policy which identifies Condamine Street and Roseberry Street as being located within a 1:100 year flood prone area. As such any new development is to be considered carefully and on merit and where the finished floor level / lowest level is located lower than at R.L.3.2AHD certain conditions should be applied. This is not the case for the proposal as the lowest level of the car park is around R.L.6.20AHD. A condition of consent requires that the lower levels of the development be waterproofed and rendered safe from inundation by flood.

Balgowlah Road is listed as an Item of Environmental Heritage and includes street trees that may be affected by the proposal. Such impacts have been considered by Council's Landscape Architect and suitable conditions of consent recommended.

In terms of easements affecting the subject site, there is a sewer line that runs across the site from the southern (Balgowlah Road) side and leaving the site via the eastern side (under adjoining properties towards Roseberry Street). This would not preclude the development as proposed and a standard condition of consent is recommended to ensure that Sydney Water is involved with the detailed consideration of any impacts to this line.

Accordingly, it is concluded that there are no burdens or constraints that would preclude the development as proposed subject to the imposition of particular conditions to any consent in relation to environmental matters and construction issues. The relevant referrals have been undertaken in this regard and expert advice sought from within Council and externally.

Access to proposed development

The proposal includes two access points to the proposed to the Bunning's development located off Roseberry Street and Condamine Street. The area adjoining the access and frontage to Roseberry Street includes a landscaped set back from the property boundary of 4.5m.

The plans include a setback to the Balgowlah Road frontage that is landscaped and from 5.3m to 16.8m in width. The setback to the Condamine Street frontage is 4.9m but varies due to the proposed electricity kiosk substation. The majority of this setback is shown as landscaping on plans apart from the area denoted as 'kiosk substation below'. The plans indicate that at minimum, the landscaped setback from the property boundary to the electricity kiosk substation is 1m.

Relevant property development history

- DA466/2008 for demolition of existing buildings and erection of a two (2) storey Bunning's Warehouse with associated nursery, café and timber trade area, and two (2) levels of basement parking and signs was refused by MIAP on 18 June 2009 for the following reasons:
 1. Unacceptable bulk, scale and height of the building pursuant to Section 79C (1) (a) (iii), (b) and (c) of the Environmental Planning and Assessment Act 1979;
 2. Unacceptable Floor Space Ratio of the proposed development pursuant to Section 79C (1) (a) (iii) and (c) of the Environmental Planning and Assessment Act 1979;
 3. Unacceptable impact on traffic and parking in the surrounding streets and traffic network pursuant to Section 79C (1) (b) and (c) of the Environmental Planning and Assessment Act 1979;
 4. Unacceptable hours of operation of the proposed warehouse pursuant to Section 79C (1) (b) and (c) of the Environmental Planning and Assessment Act 1979;
 5. Unreasonable impact on adjacent industrial and residential sites pursuant to Section 79C (1) (b) and (c) of the Environmental Planning and Assessment Act 1979;
 6. The development is Inconsistent with the objectives of the industrial zone as contained in Clause 10 (3) of the Manly LEP 1988 and pursuant to Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act 1979.

It is noted that the above application did not include the additional 'Mansours' section of the site that has recently been acquired by the owners and now forms part of the subject site.

Proposed development (As detailed on amended plans submitted 3rd May 2010)

The current proposal includes the following key elements:

Parking Level 2 (R.L. 6.20 on Plan No. 100, Amendment B, dated April 2010)

- Car parking (each space meeting 'typical' minimum of 2.6m x 5.4m required to be in accordance with relevant AS/NZ) for one hundred and sixty five (165) cars including four (4) disabled spaces of typical dimensions being 3.2m x 5.5m;
- Supply Air Fan Room;
- Exhaust Air Fan Room;
- Two (2) lifts and an entry lobby;
- Three (3) sets of access stairs leading to the upper levels to the south eastern, south western and north western corners of this level.

Parking level 1 (R.L.9.40 on plan No. 101, Amendment B, dated April 2010)

- Car parking (each space meeting minimum of 2.6m x 5.4m required to be in accordance with relevant AS/NZ) for 105 cars including four (4) disabled spaces of typical dimensions being 3.2m x 5.5m;
- A double lane ramp is provided leading to and from Parking level 2 (basement);
- Access to two (2) lifts (accessing all levels) and entry lobby;
- Three sets of access stairs leading down as per Parking Level 2;
- Fire control centre including hydrants;
- Car Park Exhaust Riser;
- Bicycle Parking (1 rack);
- OSD Rainwater Harvesting Tank;
- Left in/left out access to Condamine Street with direct access to ramp for accessway to good goods receiving and pickup area above;
- Left in/left & right out access to Roseberry Street;
- Roller doors indicated to all entries/exits.

Each of the parking levels includes a 'shared zone' for acting as a pedestrian crossing adjoining the main lift access and stairs to the main entry lobby.

Warehouse Level 1 (R.L. 12.60 on Plan No.102, Amendment B, dated April 2010)

- Warehouse space for retailing of bulky goods;
- Goods Marshalling area including two goods lifts and car park exhaust riser);
- Good Receiving/pickup area with roller doors included;
- Service road adjoining the northern property boundary between Roseberry Street and Condamine Street leading to lower level access points from Condamine and Roseberry Streets;
- Timber Trade Sales Area;
- Entry Court and Lift lobby to the two lifts accessing floors and stairs adjoining;
- Access to the three sets of stairs accessing all floors as per other levels;
- Landscaped setbacks as detailed earlier in this report.

Warehouse Level 2 (R.L. 18.60 on Plan No.103, Amendment B, dated April 2010)

- Warehouse space for retailing of bulky goods;
- Two Travellators (up/down direction) leading from this level down to lower levels;
- Goods Marshalling area with access to the two goods lifts as per lower floor and Car Park Exhaust Riser;
- Outdoor Nursery including a bagged goods canopy;
- Café;
- Playground area;
- Visitor amenities (five (5) toilets with one being fully accessible);

Admin Mezzanine Level (R.L.22.6 on Plan No.104, Amendment B, dated April 2010)

- Offices and staff areas including locker room;
 - Staff Amenities (seven (7) toilets);
 - Access via stairs from Warehouse Level 2;
- (It is noted that this level is inaccessible for disabled persons).

Applicant's Supporting Statement

The following information was included in the supporting folder submitted with the original application documents on 25 January 2010:

- *Statement of Environmental Effects (prepared by CBHK);*
- *Economic Impact Assessment (Prepared by Leyshon Consulting);*
- *Traffic Report (prepared by Transport & Traffic Planning Associates);*

- *Civil Engineering Report (earthworks, stormwater, water supply, sewer) (prepared by C&M Consulting Engineers);*
- *Geotechnical Report (prepared by Jeffery and Katauskas Pty Ltd);*
- *Report to Bunning's Group Ltd on Environmental Site Assessment for proposed commercial development..(EIS);*
- *Additional Environmental Site Assessment of soil and groundwater for proposed commercial development at Cnr Condamine Street and Balgowlah Rd, Balgowlah, NSW (EIS Consultants);*
- *Architectural Plans (prepared by John R. Brogan & Associates);*
- *Environmentally Sustainable Development & Energy Efficiency Assessment Report on proposed retain development (Floth Sustainable Building Consultants);*
- *Preliminary Building Code of Australia Assessment Cnr Condamine and Balgowlah Road, Balgowlah (Steve Watson & Partners);*
- *Bunning's Warehouse, Balgowlah, Noise Assessment (Indigo Acoustics);*
- *Flora and Fauna Report Assessment for the Bunning's Warehouse proposal Cnr Condamine Street & Balgowlah Road, Balgowlah (Abel Ecology);*
- *Bunning's and SITA Environmental Solutions (Bunning's & SITA);*
- *Colour control sample palate (no author cited).*

Additional information including details of the fitout of the proposed cafe was requested by Council and supplied by the applicant.

Amended plans were supplied by the applicant on 3 May 2010 along with a folder including the following information marked as 'Response to Manly Council':-

- *Letter from CBHK dated 10 April 2010 referenced as 'Analysis of issues raised';*
- *A4 Photomontages prepared by John R. Brogan & Associates numbered 01-04,dated 16 April 2010;*
- *Schedule of architectural drawing amendments dated 16 April 2010 prepared by John R. Brogan & Associates;*
- *Project Data dated 15 April 2010;*
- *Description of architectural drawings and the drawings dated 19 April 2010;*
- *Letter from Emeritus professor G.P.Webber, Planning Architecture Urban Design (unsigned & undated & no page numbers) entitled Urban Design Report;*
- *Letter from Transport & Traffic Planning Associates in response to Council's initial comments on traffic and parking aspects of the proposal dated 14 April 2010;*
- *Letter from Leyshon Consulting considering the economic impact aspects of Council's initial response to the proposal dated 16 April 2010.*

Information not yet supplied to Council as requested are Swept Paths for Small Rigid (SRV), Medium Rigid (MRV) and Heavy Rigid Vehicles (HRV). These are required for consideration as a recommended condition of any subsequent deferred commencement consent.

REFERRALS

Internal Referrals:

Precinct Community Forum Comments

The application was forwarded to the Balgowlah Precinct Community Forum for consideration and comments were received as detailed below.

Initial comments on the original plans received at Council with this application from February 2010 meeting of the North Harbour and Balgowlah Precinct Community Forum are as follows:

'Bunning's DA – North Harbour Precinct and Balgowlah Precinct have not seen the DA.'

Parking for 260 cars.

More cars to exit on Roseberry St which is far too narrow even for existing traffic.

M-F 7am – 9pm and deliveries til 10pm.

MOTION *North Harbour Precinct and Balgowlah Precinct requests the following:*

- 1. Hrs of operation are excessive next to a residential zone*
- 2. Hrs of delivery are excessive next to a residential zone*
- 3. Proximity of the ambulance station – will response time be affected*
- 4. Intersections surrounding cannot cope with extra traffic – already max traffic saturation.*
- 5. Roseberry st is too narrow for increased traffic volume (already dangerous)*
- 6. Suggested exit left turn only onto roseberry st*
- 7. North harbour precinct requests council to provide us with a traffic management plan for the proposed development*
- 8. Free off street parking for staff*
- 9. Bulk and size of proposal adversely affects the amenity of the area.*

Proposed Trudi

Seconded Di Fletcher

For 17 Ab 2'

Full comments from March 2010 meeting of the North Harbour and Balgowlah Precinct Community Forum as follows:

'Discussion about size and bulk of proposed building and traffic concerns.

Discussed answers from Bunning's in 2nd DA submission.

It is estimated that there could be an additional 1000-2000 cars per day based on projected sales and opening hours of the current proposal.

Cars heading south can turn in from Condamine Street, but cars and trucks heading from the south need to turn into Balgowlah Road which is already very congested.

Delivery trucks late at night till 9 -10 pm very disturbing for Residents.

Traffic from the south will be diverted into Balgowlah and Roseberry St. We want independent traffic analysis.

Motion

The Precinct meeting objects strongly to the revised proposed Bunning's DA.

The reasons for this objection are:

- 1. The excessive scale and bulk of the proposed Bunning DA in this area which borders an adjoining residential zone:*
- 2. The overwhelming impact increased traffic congestion, particularly along Balgowlah Road, would have as this is the only access for cars from the south and east and west. The Precinct notes that the 2nd DA states that the traffic will not be a problem; however the Precinct questions this assertion and refutes this claim.*
- 3. There is concern that large delivery vehicles using Balgowlah Road and Roseberry Street will have a detrimental effect on the neighbours.*
- 4. The Precinct wants to clarify the actual tonnage and regulations for weights of vehicles permitted to use Balgowlah road.*

5. *The Precinct does not accept the response to Q 4 in the 2nd DA. The trading hours of 7 am to 9pm M-F and 8 am to 6pm Weekend, and deliveries from 7 am until 10 pm M-F are clearly not acceptable and the traffic and truck movements will impact negatively on the people living in the neighbourhood.*
6. *Balgowlah Road and the intersection with Condamine Street are busy pedestrian and bicycle areas. Neighbours report many that near-misses with cars and trucks have occurred and that car and truck drivers often run then red lights in frustration due to long delays.*

Additional Concerns –

- *Additional 1000 -2000 cars per day especially on weekends.*
- *All vehicles from Manly, Fairlight Balgowlah Heights, Seaforth, must enter via Balgowlah Rd & Roseberry St as there is a median strip on Condamine.*
- *Only vehicles from south can enter via Condamine.*

*Proposed Trudy van der Straaten
Seconded Bruce Peers*

For 16, against 0'

Further to the receipt of amended plans including a reduction in the amount of gross floor area and an increase size of landscaped setbacks the following comments were received from the Ivanhoe Park Precinct Community Forum:

'Motion General objections

Precinct recommends rejection of DA 16/2010 (Bunning's) for the following reasons:

- i) Increased traffic congestion, noise and pollution in an area already under pressure;*
- ii) Extended trading and delivery hours are unacceptable given the proximity to a residential zone;*
- iii) Proposed site is inappropriate for a development of this bulk, scale and trading hours. Surrounding streets are not equipped to cope with the volume of traffic this development will bring;*
- iv) The site is located near a 1 in 100 year flood zone, Burnt Bridge Creek and is an acid sulphate soil area. Questions must be raised regarding the stability of any concrete and steel structure to accommodate two levels of underground parking. This will displace the flow of underground water. Given that more extreme weather conditions are predicted in the future how will the surrounding area cope with flooding?*

Passed Unanimous (40 for, nil abstain, nil against)'

Response

The issues regarding traffic congestion, noise and pollution are noted have been considered as part of this assessment and expert advice from relevant technical staff and consultants considered. The conclusion of these considerations is that the environmental impacts emanating from the warehouse development are acceptable in the context of the zoning for the site and are 'what can reasonably be expected within this zone'. As such conditions have been recommended by each of the relevant sections of Council in relation to the careful management of environmental impacts from the development. These include detailed consideration of a 'Remedial Action Plan' as required under SEPP 55 (Remediation of Land) for the management of any land that is identified as being contaminated as per the subject property. In addition the proposal has been considered in light of Council's Interim Flood Policy and it was found that the development will be located above any level that would be prone to direct flooding, however, due to concerns raised and the scale of the works proposed, a condition of consent requires the waterproofing of the lower level of parking should it be given consent.

A recommended condition of consent requires the development to be rendered safe from any likelihood of flooding in the future. In terms of the impact of the works upon the management of

water flows through the land, this matter has not been highlighted as a reason for refusal by experts.

In terms of the trading hours proposed, these have been restricted via a recommended condition of consent to reduce the impact of the development on the surrounding area.

It is noted that the additional landscaping proposed and reduction in gross floor area will assist to reduce the visual and to some extent environmental impacts of this development.

'Motion - No need for it

Precinct also recommends rejection of DA16/2010 (Bunning's) as there is no need for another Bunning's in the area- there is already one at Warringah Mall and we are well serviced by local hardware stores.

Passed Unanimous (39 for, 1 abstain, nil against)'

Response

The issue of need for the development is not a planning matter considered in this assessment. The assessment has been undertaken against relevant primary planning controls and legislation being the Manly Local Environmental Plan 1988 (MLEP 1988) and the Manly Development Control Plan for the Industrial Zone 1991 (DCP) and over-arching legislation being the Environmental Planning and Assessment Act 1979 and associated Regulation (as amended). Clause 28 of the MLEP1988 and development controls found within the DCP have therefore been considered as required and found to achieve a level of compliance that, subject to conditions, is reasonable.

'Motion – Need for a master plan

Precinct requests Manly Council to develop a comprehensive Master Plan for the Balgowlah/Manly Vale Industrial Zone, as a locality-specific DCP to be incorporated into the Manly LEP, establishing planning priorities including but not limited to:

- i) Roads, traffic management and parking*
- ii) Pedestrian and bike paths*
- iii) Landscaping, tree plantings, open space and public place furniture.*
- iv) Diversity of employment opportunity*

*The Plan should also address the key issues raised in the submissions against the Bunning's and Woolworths DAs. At every step in the development of the Master Plan both the public and Warringah Council must be involved as a matter of priority. **NSW State Planning Dept should suspend any decision regarding the amendment to the zoning of the Woolworths development site until the Master Plan has been completed.***

Passed Unanimous (40 for, nil abstain, nil against)'

Response

The need for a Master Plan for the Balgowlah/Manly Vale Industrial zone is not an issue for this assessment. However, a request from the Precinct Community Forum has been considered by full Council (Ordinary Meeting on 21 June 2010) and was resolved that:

'That:

- 1. Manly Council accede to community and three Precinct Forum requests to develop as a matter of urgency a comprehensive Master Plan for the Balgowlah/Manly Vale Industrial Zone, (Enterprise Zone as it will become known) establishing planning priorities including but not limited to:*
 - a. Changes to roads, traffic management, and parking*
 - b. Pedestrian and bike paths*
 - c. Landscaping, tree plantings, open space and public place furniture*
 - d. Diversity of land uses*
 - e. Environmental impacts of large scale excavation on the water table*

2. The General Manager advise on the possibility of rescinding the Draft LEP Amendment 79 to the Manly LEP 1988 and the implications of such a move.
3. Manly Council write to the Department of Planning and request that the gazettal of Amendment 79 to the Manly LEP be deferred until this Master Plan has been completed.
4. Manly Council request a 'stop the clock' on both the Bunning's & Woolworths DAs until the additional studies on the cumulative impacts of both these DAs have been completed presented to the community and Master Plan has been completed.
5. Manly Council publish a 'Fact Sheet' on the approval process to date and in the future for these DAs as well as the studies completed and in progress for these DAs.'

'Motion – Inadequate input from RTA

*Precinct asks State MP Mike Baird and Manly Council Mayor Jean Hay to write to the relevant Minister to require RTA to **urgently** make complete traffic studies of the effects of the Bunning's proposal & the Woolworths proposal separately and another of the two combined.*

Passed Unanimous (40 for, nil abstain, nil against)'

Response

The RTA have considered the warehouse proposal and forwarded detailed recommendations which form the basis for recommended conditions of any subsequent consent. The RTA raised no objections to the proposal on the grounds of traffic management and they are considered to be the experts in their field and have not required additional traffic studies to be undertaken. The RTA have considered the information in support of the application in the context of a report commissioned by Council entitled 'Strategic Review of Land in Zone 4- Light Industrial in Manly LEP(1988)' dated November 2009 and prepared by Christopher Hallam and Associates (to be referred to herein as the CHAPL report).

Traffic Comments

The application, as originally submitted was supported by an 'Assessment of Traffic and Parking Implications report' prepared by Traffic and Transportation Associates (TTPA) Reference 08101 dated January 2010 (Revision B 11 January 2010). This was forwarded to the RTA along with the plans and other relevant documentation contained in a binder (previously described) for consideration.

This report references 'Traffic Volumes Date for Sydney Region' prepared by the RTA and includes the following information regarding current traffic conditions:

The Annual Average Daily Traffic (AADT) information states:

AADT

Condamine Street south of Sydney Road	10,001
Condamine Street south of Kenneth Street	45,368

In terms of additional survey data considered, TTPA commissioned 'R.O.A.R. Data' to provide statistical data considering current traffic movements to the surrounding street network. The survey data provided relates to a survey undertaken on Thursday 29 and Saturday 31 October 2009. Key results shown in table below:-

Date	Intersection	Interpreted Peak Hour	Trips recorded (all vehicles)
Thursday 29 October 2009	Condamine and Balgowlah Roads	16.45-17.45pm	2132
	Roseberry Street and Balgowlah Road	17.00-18.00pm	554
	Condamine Street and Burnt Bridge Deviation	17.00-18.00pm	1201
Saturday 31 October 2009	Condamine and Balgowlah Roads	12.00-13.00pm	2218
	Roseberry Street and Balgowlah Road	12.00-13.00pm	561
	Condamine Street and Burnt Bridge Deviation	12.30-13.30pm	1152

Data from traffic flows through these intersections was considered using the SIDRA traffic model and assessed against criteria being Level of Service, Average Vehicle Delay and Degree of saturation. This report does not include details of these criteria as they can be found in the supporting documentation and have been considered by relevant traffic experts. The result of the assessment was that the performance of the intersections would be satisfactory.

The report also includes information regarding public transport and concludes that the access to public transport will be adequate. It is noted within the application that one of the key reasons for the proposed use of the site proposed for the Bunning's development is proximity of access to public transport.

This report was considered by Council's Traffic Team and detailed comments received. The Traffic Team also considered this information in the light of a detailed report that had been commissioned by Council called '*Strategic Review of Land in Zone 4- Light Industrial in Manly LEP(1988)*' dated November 2009 and prepared by Christopher Hallam and Associates (to be referred to herein as the CHAPL report). This report specifically considers the impact of the scenario of the redevelopment of the site for the proposed 'Woolworths' development and this 'Bunning's' proposal. It is noted that, on page 5 of the report, there is an acceptance of the statistical data provided by TTPA in relation to other '*Bunning's*' in terms of basic peak hour traffic generation rates. The conclusion of this report considers the capacity of surrounding intersections and makes recommendations in regard to current capacity and measures that could be undertaken to increase the capacity at the Quirk Street /Balgowlah Road, Balgowlah Road/Roseberry Street and Roseberry Hayes Street junctions to ensure that the additional traffic flows caused by the development of both sites can be managed. The report also considers measures in relation to the intersection of Condamine Street and Balgowlah Road and states that '*there are opportunities to increase capacity at this intersection*'.

The application was referred to Council's Traffic Team and detailed comments were received from Council's Traffic Manager dated 18 February 2010:-

1. *'It is noted that the amended changes to the subject DA has not altered any earlier comments provided for the same development.*
2. *Where new comments are warranted on any new issues, I have included them in this memo.*
3. *The Sydney Regional Development Advisory Committee (SRDAC) meeting was attended on the 10 February 2010. The RTA comments on the new submission have not been received by Council at the time of this memo.*

4. *At this meeting, RTA is to propose a new phasing for the existing traffic signal controlled intersection of Balgowlah Road and Condamine Street. Depending on the phasing arrangement, there will be changes required to existing parking arrangements on all four legs of the intersection. These changes will generally restrict parking either on a full time basis or during peak traffic periods to enhance the operation of the above intersection. All subsequent changes proposed will require consideration by the Manly Traffic Committee and endorsement by Council.*
5. *I wish to draw attention to the peer review report dated November 2009, titled Strategic Review of Land in Zone 4 – light Industrial in Manly LEP (1988) undertaken by Christopher Hallam and Associates Pty Ltd (CHAPL).*
6. *In this report, the traffic consultant has used a 25% lesser second floor trade than the ground floor trade compared to that of the 50% discount used in the “Assessment of Traffic and Parking Implications” by Transport and Traffic Planning Associates (TTPA) report on traffic generation rates and parking spaces.*
7. *The applicant's traffic consultant's projected traffic distribution has not reflected the actual conditions (I am of the view that due to the concrete median in Condamine Street, the access at Condamine Street is estimated likely to receive 30% of traffic - mainly trades people, and access at Roseberry Street would likely to receive the remainder 70% as the residential catchment is located south of the subject site).*
8. *Following review of the justification of the use of the traffic generation rates, it is considered acceptable to use a PM peak rate of 2.5vtp/100m²).*
9. *It is noted that the TTPA report uses a traffic distribution of some 55% accessing the site via Condamine Street (direct approach) and some 45% from Roseberry Street.*
10. *I draw attention to the CHAPL report which disagrees to the TTPA traffic distribution rates and predicts that only 30% accesses the site via Condamine Street and the rest via Roseberry Street.*
11. *This assessment is similar to my earlier comments on the previous Bunning's development application. This distribution rate is considered to be a reasonable assumption as there is no hardware store in manly that either exhibits the range and type of products found in Bunning's store.*
12. *I note the TTPA report uses the postcode survey alleged to have obtained (not provided or included in the TTPA report) from their store at Warringah in establishing the distribution rates.*
13. *I wish to point that those postcodes would logically reflect a high percentage of customers within the Warringah area as the store itself is located in Warringah LGA.*
14. *The fact that Bunning's hardware wishing to locate to Balgowlah is an indication that Bunning's sees a great business potential to enter and establish to target Manly residents.*
15. *It is therefore in my opinion, a large proportion of the arrival trips to the site will access from south of the Bunning's site particularly Roseberry Street as the access proposed on Condamine Street is largely constrained by the existing concrete median strip and restricting the access to the site to just left in/out only.*
16. *This assumption is critical as it will determine the intersection operational conditions of Roseberry Street and Balgowlah Road and that of Condamine Street and Balgowlah Road and to an extent the midblock capacity of Roseberry Street.*

17. *It is also noted that TTPA report shows the signalized intersection operational condition that of Balgowlah Road and Condamine Street is performing at LOS B which is considered to be very good.*
18. *Council is aware the subject intersection is considered a black spot site with a number of turning related accidents. With the existence of a Bus Stop on both sides of Condamine Street just north of Balgowlah Road intersection, the intersection is unlikely to operate at LOS B as stated in the TTPA report.*
19. *The CHAPL report has undertaken analysis of the same intersection taking also into consideration the extent of the existing parking arrangements closer to the intersection and has advised that the intersection is currently operating at LOS E (intersection is operating at capacity – no room for spare).*
20. *I have reviewed the SIDRA analysis from TTPA and found the analysis have omitted the parking impact and heavy vehicle volume.*
21. *The CHAPL report has taken into consideration the above and in my opinion better reflects the current conditions.*
22. *As stated in the CHAPL report, if safety is addressed at the Balgowlah Road and Condamine Street intersection the LOS is likely to decrease further in performance unless the intersection is modified to include a slip lane south east bound. As outlined in CHAPL report, this option requires land set aside by the Bunning's development and this is unlikely to be supported at this stage by the RTA.*
23. *Proposed ingress and egress arrangement for delivery trucks via Condamine Street and Roseberry Street is noted.*
24. *The swept paths provided with the current submission shows swept paths for 19m articulated vehicles (AV). The AV ingress from Condamine Street shows encroachment with the exit driveway access assigned for general vehicles.*
25. *The swept path provided for B99 vehicle also shows interference between vehicles manoeuvring out of the site and southbound vehicles travelling through on Condamine Street (and could cause hazardous condition for vehicles with trailers).*
26. *It is noted that the Bunning's' earlier submission included swept paths for 12.5m vehicles (heavy rigid vehicle) and on assessment it was found that the exiting left turn manoeuvres out to Roseberry Street (12.5m HRV), will cause significant interference with the opposing directional vehicular flow and will impact existing on-street parking on the eastern side.*
27. *Current submission has not provided swept paths for Small Rigid (SRV), Medium Rigid (MRV) and Heavy Rigid Vehicles (HRV) and the **applicant be requested** to provide the above for assessment.*
28. *It is noted that the driveway widths shall be provided as per AS2890.1:2004:-*
 - I. *Access driveway at Condamine Street shall have a minimum 8m wide entry and 6m wide exit separated by 1m median (splay min 1m) (this may assist turning paths for the trucks intended for delivery activities).*
 - II. *Similarly driveway access to Roseberry Street shall have a minimum entry width of 6m and exit width of 6m with at least 1m separation median (splay min 1m).*
29. *The applicant shall be requested to identify the loss of any on-street parking spaces and their locations resulting from the access driveway position and its use for consideration by the Manly Traffic Committee.*

30. *It is noted that whilst Roseberry Street and Balgowlah Road (single lane roundabout) intersection may operate at satisfactory levels, the resulting sizable cumulative increase to traffic volume in Roseberry Street will be noticeable and may create localized congestion at the proposed access.*
31. *It is desirable to have access in Roseberry Street serve only left in/out function and general signposting will not control this access. It is therefore suggested the physical banning of other turning manoeuvres. This will also have impact to other existing retails operations. Overall this will force the traffic volume north of the site (collected from east and west of Roseberry Street north of the site to access via Condamine Street.*
32. *All redundant driveways on Condamine Street and Roseberry Street be removed and kerb be reinstated at no cost to Council.*
33. *The report has not addressed the potential bicycle parking demand associated with Bunning's development. To establish an acceptable number of bicycle parking spaces the following rate is considered desirable (City of Sydney).*
34. *The development should provide 1 bicycle parking space for every 10 car spaces provided in the development. Based on this methodology, 27 bicycle parking spaces should be provided (desirable to install three sets of 10 bike rack). Further the applicant should also consider the provision of minimum 20% of the spaces allocated to Bunning's staff.*
35. *Customer bicycle parking should be clearly identified by directional signage to the satisfaction of the Council and should preferably be located at ground floor level and not require access via steps and should be located adjacent to areas of pedestrian or vehicle movement to allow casual surveillance.*
36. *The bicycle parking facility should be weatherproof and must not obstruct pedestrian movement or other activities such as the delivery of goods and opening of car doors.*
37. *Bicycle parking bays should be wide enough to allow adequate space to manoeuvre the bike in and out of the space without causing congestion or damage to other bicycles in adjacent bays. As a guide bicycle parking bays should generally be 1.2m wide and 1.7m long.*
38. *Council prefers the use of stainless steel bicycle hoops due to its high strength and durability. It also allows the bicycle frame and one wheel to be locked to the rack and can withstand vandalism and theft.'*

The Traffic Committee has been advised about the proposal. At this stage, given the current process i.e. determination by the Joint Regional Planning Panel (JRPP), the committee cannot issue any relevant conditions that may be applied were a scheme of works to be approved. In this case, therefore, the Traffic Manager has considered the application and recommended conditions of consent.

Council request that the JRPP allow their Manly Council's Traffic Committee to prepare and endorse such conditions for any approval where that is their determination.

Plans for amended scheme including a reduction in overall gross floor area and increased setbacks with landscaping were submitted to Council and additional comments sought from the Acting Traffic Manager and the following comments were forthcoming on 29 June 2010:-

'With regard to the previous comments provided by Prabaka Siva (Traffic Manager) dated 8/02/10 the following comments are still relevant and included in assessment of the DA:

- 1. It is noted that the amended changes to the subject DA has not altered any earlier comments provided for the same development.*
- 2. Where new comments are warranted on any new issues, I have included them in this memo.*
- 3. The SRDAC meeting was attended on the 10 February 2010. The RTA comments on the new submission have been received; dated 24/02/10 and 11/03/10. These comments have been considered and included in this response.*
- 4. RTA proposes the applicant shall implement a leading right turn phase for the northbound movement on Condamine St. The leading right turn phase will not allow filter movements during the through phase while the existing trailing right turn phase for southbound movements will allow filter movements during the through phase. These design changes to the signals shall be designed to meet RTA's requirements, and endorsed by a suitably qualified and chartered Engineer. The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The certified copies of the traffic signal design plans shall be submitted to the RTA for consideration and approval prior to the release of construction certificate by Council. The applicant will be required to fully fund the change to the phasing and associated works at the intersection.*
- 5. The SRDAC meeting was attended on Wed 2nd June 2010. The RTA raised no immediate issue with regard to the current location of the existing bus shelter/stop on the Eastern side of Condamine St adjacent to the site and on the approach side of the traffic signals at Condamine St and Balgowlah Rd with respect to additional traffic from Bunning's site exiting left onto Condamine St. At a previous SRDAC meeting held 5/05/10 regarding the Woolworths DA the RTA indicated that the signalised intersection at Condamine St and Balgowlah Rd needs to be reassessed regarding impacts and need to improve intersection capacity including land acquisition to provide additional turning and through lanes.*
- 6. The relocation of the existing bus stop including bus shelter on the Eastern side of Condamine St adjacent to the site on the approach to the traffic signals at Condamine St and Balgowlah Rd to the departure side of the intersection south of Balgowlah Rd. This will require consideration by the Manly Traffic Committee and endorsement by Council. The applicant to fully fund the bus stop relocation and all associated works. These works need to be undertaken prior to the opening and operation of the Bunning's development.*
- 7. RTA has proposed a new phasing for the existing traffic signal controlled intersection of Balgowlah Road and Condamine Street. Depending on the phasing arrangement, there will be changes required to existing parking arrangements on all four legs of the intersection. These changes will generally restrict parking either on a full time basis or during peak traffic periods to enhance the operation of the above intersection. All subsequent changes proposed will require consideration by the Manly Traffic Committee and endorsement by Council. The associated works will be required to be fully implemented, funded and undertaken by the applicant.*
- 8. I wish to draw attention to the peer review report dated November 2009, titled Strategic Review of Land in Zone 4 – light Industrial in Manly LEP (1988) undertaken by Christopher Hallam and Associates Pty Ltd (CHAPL).*
- 9. In this report, the traffic consultant has used a 25% lesser second floor trade than the ground floor trade compared to that of the 50% discount used in the "Assessment of Traffic and Parking Implications" by Transport and Traffic Planning Associates (TTPA)*

report on traffic generation rates and parking spaces.

10. *The applicant's traffic consultant's projected traffic distribution has not reflected the actual conditions (I am of the view that due to the concrete median in Condamine Street, the access at Condamine Street is estimated likely to receive 30% of traffic - mainly trades people, and access at Roseberry Street would likely to receive the remainder 70% as the residential catchment is located south of the subject site).*
11. *Following review of the justification of the use of the traffic generation rates, it is considered acceptable to use a PM peak rate of 2.5vtph/100m²).*
12. *It is noted that the TTPA report uses a traffic distribution of some 55% accessing the site via Condamine Street (direct approach) and some 45% from Roseberry Street.*
13. *I draw attention to the CHAPL report which disagrees to the TTPA traffic distribution rates and predicts that only 30% accesses the site via Condamine Street and the rest via Roseberry Street.*
14. *This assessment is similar to my earlier comments on the previous Bunning's development application. This distribution rate is considered to be a reasonable assumption as there is no hardware store in manly that either exhibits the range and type of products found in Bunning's store.*
15. *I note the TTPA report uses the postcode survey alleged to have obtained (not provided or included in the TTPA report) from their store at Warringah in establishing the distribution rates.*
16. *I wish to point that those postcodes would logically reflect a high percentage of customers within the Warringah area as the store itself is located in Warringah LGA.*
17. *The fact that Bunning's hardware wishing to locate to Balgowlah is an indication that Bunning's sees a great business potential to enter and establish to target Manly residents.*
18. *It is therefore in my opinion, a large proportion of the arrival trips to the site will access from south of the Bunning's site particularly Roseberry Street as the access proposed on Condamine Street is largely constrained by the existing concrete median strip and restricting the access to the site to just left in/out only.*
19. *This assumption is critical as it will determine the intersection operational conditions of Roseberry Street and Balgowlah Road and that of Condamine Street and Balgowlah Road and to an extent the midblock capacity of Roseberry Street.*
20. *It is also noted that TTPA report shows the signalized intersection operational condition that of Balgowlah Road and Condamine Street is performing at LOS B which is considered to be very good.*
21. *Council is aware the subject intersection is considered a black spot site with a number of turning related accidents. With the existence of a Bus Stop on both sides of Condamine Street just north of Balgowlah Road intersection, the intersection is unlikely to operate at LOS B as stated in the TTPA report.*
22. *The CHAPL report has undertaken analysis of the same intersection taking also into consideration the extent of the existing parking arrangements closer to the intersection and has advised that the intersection is currently operating at LOS E (intersection is operating at capacity – no room for spare).*
23. *I have reviewed the SIDRA analysis from TTPA and found the analysis have omitted the parking impact and heavy vehicle volume.*

24. *The CHAPL report has taken into consideration the above and in my opinion better reflects the current conditions.*
25. *As stated in the CHAPL report, if safety is addressed at the Balgowlah Road and Condamine Street intersection the LOS is likely to decrease further in performance unless the intersection is modified to include a slip lane south east bound. As outlined in CHAPL report, this option requires land set aside by the Bunning's development and this is unlikely to be supported at this stage by the RTA.*
26. *Proposed ingress and egress arrangement for delivery trucks via Condamine Street and Roseberry Street is noted.*
27. *The swept paths provided with the current submission shows swept paths for 19m articulated vehicles (AV). The AV ingress from Condamine Street shows encroachment with the exit driveway access assigned for general vehicles.*
28. *The swept path provided for B99 vehicle also shows interference between vehicles manoeuvring out of the site and southbound vehicles travelling through on Condamine Street (and could cause hazardous condition for vehicles with trailers).*
29. *It is noted that the Bunning's' earlier submission included swept paths for 12.5m vehicles (heavy rigid vehicle) and on assessment it was found that the exiting left turn manoeuvres out to Roseberry Street (12.5m HRV), will cause significant interference with the opposing directional vehicular flow and will impact existing on-street parking on the eastern side.*
30. *Current submission has not provided swept paths for Small Rigid (SRV), Medium Rigid (MRV) and Heavy Rigid Vehicles (HRV) and the **applicant be requested** to provide the above for assessment.*
31. *It is noted that the driveway widths shall be provided as per AS2890.1:2004,*
 - I. *Access driveway at Condamine Street shall have a minimum 8m wide entry and 6m wide exit separated by 1m median (splay min 1m) (this may assist turning paths for the trucks intended for delivery activities).*
 - II. *Similarly driveway access to Roseberry Street shall have a minimum entry width of 6m and exit width of 6m with at least 1m separation median (splay min 1m).*
32. *The applicant shall be requested to identify the loss of any on-street parking spaces and their locations resulting from the access driveway position and its use for consideration by the Manly Traffic Committee.*
33. *It is noted that whilst Roseberry Street and Balgowlah Road (single lane roundabout) intersection may operate at satisfactory levels, the resulting sizable cumulative increase to traffic volume in Roseberry Street will be noticeable and may create localized congestion at the proposed access.*
34. *Access in Roseberry Street to serve only left in/out function. Physical banning of other turning manoeuvres to be designed and constructed. As general signposting will not control this access. This will also have impact to other existing retails operations. Overall this will force the traffic volume north of the site (collected from east and west of Roseberry Street north of the site to access via Condamine Street.*
35. *All redundant driveways on Condamine Street and Roseberry Street be removed and kerb be reinstated at no cost to Council.*
36. *The report has not addressed the potential bicycle parking demand associated with Bunning's development. To establish an acceptable number of bicycle parking spaces the following rate is considered desirable (City of Sydney).*

37. *The development should provide 1 bicycle parking space for every 10 car spaces provided in the development. Based on this methodology, 27 bicycle parking spaces should be provided (desirable to install three sets of 10 bike rack). Further the applicant should also consider the provision of minimum 20% of the spaces allocated to Bunning's staff.*
38. *Customer bicycle parking should be clearly identified by directional signage to the satisfaction of the Council and should preferably be located at ground floor level and not require access via steps and should be located adjacent to areas of pedestrian or vehicle movement to allow casual surveillance.*
39. *The bicycle parking facility should be weatherproof and must not obstruct pedestrian movement or other activities such as the delivery of goods and opening of car doors.*
40. *Bicycle parking bays should be wide enough to allow adequate space to manoeuvre the bike in and out of the space without causing congestion or damage to other bicycles in adjacent bays. As a guide bicycle parking bays should generally be 1.2m wide and 1.7m long.*
41. *Council prefers the use of stainless steel bicycle hoops due to its high strength and durability. It also allows the bicycle frame and one wheel to be locked to the rack and can withstand vandalism and theft.'*

These comments are noted and where applicable relevant conditions of consent are recommended as requested by the Traffic Team.

Engineers Comments

No objection subject to the inclusion of the standard conditions contained within the recommendation.

Building Comments

No objections raised to works as proposed however comment as follows:

'Note: Like the previous DA, the proposal fails to meet numerous "deemed to satisfy" requirements of the BCA and they propose a fire engineered alternative solution to meet BCA performance requirements. Most other Bunning's stores, due to their large size, also require "alternative solutions" for BCA compliance.'

Additional comments were received further to the receipt of amended plans as follows:-

'No objections to proposed amendments from a building point of view. Amendments do not require any changes to previously advised building conditions.'

The 'previously advised' conditions have therefore been included in the recommended conditions for any subsequent consent.

Landscape Comments

There was no objection raised to the original plans submitted subject to the inclusion of the standard conditions of consent and an additional non-standard condition listed below:-

'An amended landscape plan incorporating the following amendments is to be submitted to Council / Accredited Certifier prior to the issue of a Construction Certificate.'

- *The developer is required to relocate the overhead power lines to be underground or install a bundled cable along the Condamine street frontage.-*
- *Provide details of landscape treatment along Rosebery Street and prevent parking on the footpath.*
- *Returfing of nature strip along Balgowlah Road frontage and Rosebery Street to provide a presentable streetscape area.*

- *Retain and protect 1x Eucalyptus Microcorys (Tallowood) during construction.*

Reason: To reduce ongoing heavy tree pruning for wire clearances and to allow the proposed street trees to reduce the impact of development on the existing streetscape.

The non-standard condition above was included in the recommended conditions prepared with this report along with other standard conditions as recommended.

Comments were sought regarding the amended plans submitted to Council and further were received comments from Council's Landscape Architect on 23 June 2010 as follows:-

'Items reviewed include:

Landscape Plan – LP01, LP02 and LP03

Architectural Plans

'LP01 Issue C- Date 12-01-2010

The entry treatment retaining wall and stairs as shown on Landscape Plan LP01 and the stairs shown on the Architectural Site Plan drawing is inconsistent. Please clarify the proposed entry treatment on the Landscape Plan and Architectural Site Plan, providing wheelchair access to the main entry.

Landmark Corner: We recommend that the architectural treatment to this corner be more responsive to the user, community and Cross Street Reserve by providing a spill-out space/open space provision to the Main Entry and Warehouse Level 2.

We recommend that 100% of the planting species proposed in this development are indigenous species.'

These recommendations have been considered and it is agreed that the plans must be consistent. Wheelchair access is also supported and a recommended condition of consent includes this requirement. The use of 100% indigenous species has been recommended for the landscaping through a recommended condition of consent.

However, the request to provide a 'spill-out area' is considered to be financially burdensome and onerous at this stage of the assessment process i.e. amended plans previously submitted for Council's consideration.

'LP02 Issue C – Date 12-01-2010

Section 1 - The proposed substation is not shown on the landscape elevations drawing. Please show proposed height and extent of substation.

Section 2 – No wall/seat/stair shown at entry, please clarify proposed entry design to here.

LP03 Issue C – Date 12-01-2010

Specification Notes: *We recommend that any work to the existing trees is supervised by a qualified arborist.*

Balgowlah road section: With of cycleway/footpath, to meet Australian Standards, Austroad – Part 14 and NSW bicycle guidelines.

Construction Details:

Please provide information for the following:

- *Proposed Tree Planting Detail with stakes and tie arrangement, mulch type and irrigation shown.*
- *Existing tree to be retained in paving detail with mulch and edge type specified.*
- *Proposed seating/wall detail at entry (if applicable).'*

These issues were addressed through the recommended imposition of suitable conditions of consent.

Further to the above, amended landscape plans were provided to Council on 30 June 2010 and are referred to Council's Landscape Architect who provided the following comments:

Items reviewed include:

Landscape Plan 1523 LP-01_D (28/06/2010)
1523 LP-02_D (28/06/2010)
1523 LP-03_C (12/01/2010)

Architectural Plans

LP01 Issue D- Date 28-06-2010

The landscape plans appear to include inaccurate level information to the main entry on Condamine Street. Please clarify the proposed entry levels and treatment on the Landscape Plan providing retaining wall, stair and balustrade information. Please also clarify if wheelchair access is proposed to the main entry.

Landmark Corner: We recommend that the architectural treatment to this corner be more responsive to the user, community and Cross Street Reserve by providing a spill-out space/open space provision to the Main Entry and Warehouse Level 2.

We recommend that 100% of the planting species proposed in this development are indigenous species.

LP02 Issue D – Date 28-06-2010

Section 1 - The proposed substation is not shown on the landscape elevations drawing. Please show proposed height and extent of substation.

Section 2 – No wall/seat/stair shown at entry, please clarify proposed entry design to here.

LP03 Issue C – Date 12-01-2010

Specification Notes: *We recommend that any work to the existing trees is supervised by a qualified arborist.*

Balgowlah Road Section: Width of cycleway/footpath, to meet Australian Standards, Austroad – Part 14 and NSW bicycle guidelines.

Construction Details:

Please provide information for the following:

- Proposed Tree Planting Detail with stakes and tie arrangement, mulch type and irrigation shown.*
- Existing tree to be retained in paving detail with mulch and edge type specified.*
- Proposed seating/wall detail at entry (if applicable).*

Note:

All previously relevant conditions remain supported.'

Further to these comments, suitable conditions were added where required and existing conditions amended to reflect the receipt of the amended plans. No objections were raised that would preclude the development as proposed.

Design and Technical Group Comments

Comments were received from Council's Design and Technical Group in regard to the final scheme (amended plans) as follows:

1. Balgowlah Road streetscape.

The proposed development adjoins the Residential Zoned immediately to the south and south west across Balgowlah Road and Condamine St and adjoins Land zoned Open Space i.e. Cross Street Reserve Pocket park opposite the site on its west side.

The Urban Design Report by Professor Webber attached to the proposal states in this regard that
“There are potentially sensitive interfaces with existing residential units and dwellings in

Balgowlah Road immediately opposite the site, and a very pleasantly landscaped Council – owned park and tennis courts on the opposite side of Condamine Street”

In this regard and considering the importance of preserving the amenity of this “sensitive interface” as has been pointed out quite clearly by Professor Webber, it is felt that the presentation, as proposed, of a blank 50 meter long architecturally unarticulated façade of 10m height (as perceived in elevation) to these adjoining and overlooking residential properties is verging on offensive and has the effect of thumbing its nose at these residents.

It would seem that rather than presenting this 500m² blank ‘Bunnings Green’ metal deck façade, that some architectural treatment should be incorporated into this elevation to show at least that acknowledgment of the sensitivity of the surrounding residential community has been considered in line with Professor Webber’s considerations.

It is felt that in its present form the development (other than with planting along this edge-which may or may not survive over time) does not address Professor Webber’s -or for that matter- my concerns in this regard.

I believe a condition should be placed on the proposal that states that The Applicant shall incorporate architectural material and design into this facade to the approval of Manly Council’s Design and Technical Group.’

Further to consideration of the issue raised in this response a recommended condition has been included as requested.

‘2. Signage

*The Manly Council DCP for Advertising signs sets out in the Introduction that ...**“This plan aims to control the use of advertising structures and signs, so as to preserve the uniqueness and natural beauty, and the architectural and historical significance of the Municipalities environment and to ensure that the aims and objectives specified in the LEP 1988 are achieved.”***

The three ‘General Objectives’ set out in the DCP are:-

- 1. To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality.*
- 2. To ensure that advertising is in harmony with the buildings to which they are attached, and to their surroundings...And...*
- 3. To prevent excessive signage, clutter and visual pollution.*

It is felt that with regard to the objectives set out in the Advertising DCP that the advertising signage associated with this proposal does not comply with the DCP.

*The DCP explains that **“well designed signs can enhance a streetscape, whereas poorly designed signs which are excessive in size and which do not relate to the buildings and surroundings reflect poorly on the overall quality of our townscape.”***

It is felt that the corporate branding of the entire building with the Bunnings logos and Corporate colour scheme covering the virtual entirety of all publically addressing facades is unacceptable, especially given the need for the development to have a “sensitive interface with the existing residential units and dwellings” as set out in Professor Webbers Urban Design Report.

*Virtually 100% of the all four elevations of the development are covered with Bunnings’s corporate stamping including The **‘Bunnings Promise’**, The **‘Bunnings Wordmark’**, The **‘Bunnings Hammer’** and The **‘Bunnings Red’** and **‘Bunnings Green’**.*

This corporate branding of all facades of virtually the entire building is considered to contradict all three objectives set out in the Advertising DCP (as set out above).

In this regard it is felt that for the following reasons the use of a corporate signage as proposed in the development detracts from the amenity of the local area.

The proposed comprehensive 'branding' of the development is not in harmony with the surroundings. This is especially apparent as it abuts residential development where residents have given careful considerations to mixed palette colour schemes and material use in their houses and units at a residential scale. This is the streetscape that Professor Webber quite rightly states in his report as the "potentially sensitive interface".

Bunning's however in its blanket use of its corporate green colour and logos over its whole building so extensively stamps an excessive corporate sign over the whole very large development, saturates it and the surrounding residential and business community.

This is considered un-neighbourly and insensitive to these surrounding businesses and instead creates visual pollution.

For these reasons it is felt the corporate branding of the building should be concentrated around the main public entry and the rest of the building toned down with a richer and varied use of colours and materials that are more site responsive and architecturally pleasing.'

The proposal is a warehouse in the Industrial Zone and as such has been designed to reflect that status. Given the receipt of amended plans including signage that has been reduced in size and scale and entirely removed from the residential interface i.e. Balgowlah Road, it is not considered to be reasonable to require such additional treatment and no condition is therefore recommended in this regard.

3. Building height

The numeric controls in the DCP set out a generous 11m height limit for this development site. To be of an appropriate bulk and scale in the context and given the sensitivity and nature of the surrounding development both of residential and business type the proposed development should not be allowed to further exceed this generous height control. The drawings for the proposal show that over 50% of the development exceeds this height control by up to 3m in areas.'

This issue of compliance with local planning controls has been considered and a recommended condition of consent has been included requiring the entirety of the proposal to achieve compliance with the height control for the zone given the excess GFA pertaining to the car parking area proposed. This measure would assist in reducing the overall scale of the development proposed.

4. The Entry element at the corner of Condamine and Balgowlah Rd

It is felt that the 11m high corner "empty" 'heroic' 'glass box' entry element as proposed and shown on the architectural drawings is over scaled and out of character with the surrounding residential development and Cross Reserve opposite. The possibility of creating a spill out landscaped public space with seating (as shown on the Landscape plan) here where people could enjoy the public street life and amenity as associated with a development of this type would be supported.'

As stated previously in relation to a similar comment from Council's Landscape Architect, it is considered unreasonable and financially burdensome to request the amendment of this section of the proposal at this stage of the assessment process given the receipt of amended plans.

Waste Comments

No objection subject to the inclusion of the standard conditions contained within the recommendation. Discussions were also held regarding the 'greening' of the proposal and it is noted that the warehouse design was considered by a specialist company in terms of a 'green star' rating in the application. Therefore, the measures referenced in this part of the application have been included as a condition of consent including measures for a 'green scheme' to include the measures such as recycling programmes as included in the supporting documentation from the applicant. It is apparent that the applicant has considered the environmental impacts from this use and ways to reduce its carbon footprint.

Access Comments

The Manly Council Access Committee provided comment as follows:

'The access provisions of this DA appear to be appropriate. It could not be determined from the plans whether the amenities/ parent room on the mezzanine level next to the cafe and playground contained an accessible toilet. – This toilet should be accessible.'

The Access Committee considered the amended plans and provided the following comments:

'Access Committee comments: *The Committee recommends:*

- *That ramped access from the street be provided. Currently the only street access has stairs therefore is not accessible;*
- *That the travelators are a type that allow for safe travel for wheelchairs users and prams;*
- *That disability access is provided to the mezzanine level. The plans show that there is no such access and this discriminates against employing people with a disability;*
- *That an accessible toilet be provided on warehouse level 2 near the café. It is not discernable from the plans whether the toilets are accessible.'*

These comments are noted and suitable conditions of consent are recommended requiring the amendments as requested. As such the amendments would be included on plans to be amended for the application for the construction certificate.

Heritage Comments

Comments from the Heritage Team indicate that the impact of the original proposal was manageable in light of additional comments below:

'The Parks and Reserves Officer provided this information regarding the height of brush box trees:

'Brush Box can grow to around 30m in height, dependant on the soil depth and conditions. However, the trees on Condamine St would probably not grow higher than 10m, as it is shallow sandstone, however this is not always the case. If the trees are under powerlines, the trees would be pruned by Energy Australia and within the 10m height range (gully cut).'

The applicants are proposing to plant three more brush box trees and the powerlines are on the southern side of Balgowlah Road therefore even though there are a number of major issues relating to urban design from a heritage perspective the impact of the proposal on the listed street trees is manageable'

The Heritage Team provided the following comment on 1 June 2010 having considered the amended plans:

'There will be little adverse impacts on the heritage listed trees therefore are no objections to the proposal'

It is noted that the result of these referrals is such that the impacts upon the heritage trees is acceptable and would not preclude the development as proposed. It is also noted that the Council's Landscape Architect has provided detailed comments in relation to the proposal as considered in this assessment.

External referrals:

Roads and Traffic Authority (RTA)

The proposal was referred to the RTA as integrated development for general terms of approval under section 138 of the roads act 1993. The proposal has also been referred to the RTA as a traffic generating development under clause 104 of the SEPP for infrastructure and in accordance with Part 3, Division 3.

The RTA considered the application and provided the following advice:

- Letter from the Sydney Regional Development Advisory Committee (SRDAC) for the RTA to Manly Council dated 24 February 2010:-

'I refer to your letter of 25 January 2010, concerning the abovementioned Development Application which was referred to the Roads and Traffic Authority (RTA) for comment in accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007. I wish to advise that the Sydney Regional Development Advisory Committee (SRDAC) considered the traffic impact of this application at its meeting on 10 February 2010.

The applicant and the RTA are continuing to negotiate the requirements for the operation of the traffic signals at the intersection of Condamine Street and Balgowlah Road. It is likely that there will be a need for Council to include a condition of consent regarding changes to the traffic signals. In this regard, it is requested that Council delay determination until this issue is resolved. Council will be notified as soon as this occurs. In the mean time, below are the Committee's other comments to Council for consideration in its determination of the development application:

- 1. Since the access to the car park and the loading dock utilise the same driveway improved line marking and signposting should be provided to delineate the access clearly.*
- 2. Council should ensure that the applicant prepares a Loading Dock Management Plan to control / manage the servicing of the site, and is to include the customer pickup area. The Loading Dock Management Plan should also consider having deliveries occurring outside store trading hours to minimise any conflicts with customers picking up goods.*
- 3. Council should review current parking restrictions in the immediate area. Currently the parking restriction along the frontage of Condamine Street is 'No parking', the Local Traffic Committee should consider replacing these with 'No stopping' signs.*

Further parking restrictions in Condamine Street may also require consideration, in particular the northbound right turn in Condamine Street, as this queue regularly extends beyond the existing parked vehicles which has a detrimental effect on the northbound through movements.

- 4. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004.*
- 5. Car parking provision to Council's satisfaction including provision for vehicles with trailers.*
- 6. All vehicles should enter and exit the site in a forward direction.*
- 7. All vehicles should be wholly contained on site before being required to stop.*
- 8. The proposed turning areas within the car park are to be kept clear of any obstacles, including parked cars, at all times.*
- 9. The required sight lines to pedestrians or other vehicles in or around the entrance and car park are not to be compromised by landscaping or signage.*
- 10. All works associated with the proposal will be at no cost to the RTA.'*

The SRDAC representative advised Council (03/03/2010) of the following via email:

'The applicant has offered to improve the phasing at the intersection of Condamine St and Balgowlah Rd to improve safety. His consultant submitted traffic modeling on 2/3/10 for the RTA to review and make a decision as to the most appropriate changes. It is expected that a further response will be to you by the end of next week.'

- Letter from the Sydney Regional Development Advisory Committee for the RTA to Manly Council dated 11 March 2010:-

'I refer to your letter of 25 January 2010 and my letter dated 24 February 2010, concerning the abovementioned Development Application which was referred to the Roads and Traffic Authority (RTA) for comment in accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007.

The further investigations of the traffic signal phasing at the intersection of Condamine Street and Balgowlah Road have concluded that a change to the phasing at the intersection would be appropriate to improve safety. As a result, it is requested that a condition of consent be included to require the applicant fund the change to the phasing at the intersection.

Suggested wording of the condition would be:

- 1. The applicant shall implement a leading right turn phase for the northbound movement on Condamine Street. The leading right turn phase will not allow filter movements during the through phase while the existing trailing right turn phase for southbound movements will allow filter movements during the through phase.*
- 2. The changes to the signals in 1 above shall be designed to meet the RTA's requirements, and endorsed by a suitably qualified and chartered Engineer (i.e. who is registered with the Institute of Engineers, Australia). The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The certified copies of the traffic signal design plans shall be submitted to the RTA for consideration and approval prior to the release of construction certificate by Council.*

In addition, in this instance, the development is not integrated development, as Council is both the consent authority for the development and the approval authority for Condamine Street (refer to Section 91(3) of the Environmental Planning and Assessment Act; 1979). Consequently, the RTA cannot accept the payment of a fee for the assessment of this development application. As a result, the \$250 fee previously forwarded for this development is duly returned to Council for refund to the developer.

However, the RTA would grant its concurrence to the proposed development under Section 138(2) of the Roads Act, subject to Council's approval subject to the inclusion of the above conditions and consideration of the comments in the previous correspondence.

In accordance with Clause 104 (4) of State Environmental Planning Policy (Infrastructure) 2007, it is essential that a copy of the Department's determination on the proposal (conditions of consent if approved) is forwarded to the RTA at the same time it is sent to the developer.'

The amended plans received by Council were referred to the RTA and considered by the RTA (SRDAC) meeting on 2 June 2010 and subsequently the following comments were forthcoming:

'The RTA has reviewed the submitted documentation and has no objection to the amended plans. All previous RTA correspondence for this development application remains applicable and valid.'

The RTA also reiterated this requirement:

'In accordance with Clause 104 (4) of State Environmental Planning Policy (Infrastructure) 2007, it is essential that a copy of the Departments determination on the proposal (conditions of consent if approved) is forwarded to the RTA at the same time it is sent to the developer.'

The comments received have been considered and a series of conditions have been developed from the recommendations and included in this recommendation. No objections that would preclude the development as proposed have been raised in the expert consideration of the issue of traffic. Therefore, this matter is not considered to warrant the refusal of this application. However, this is a matter for the consideration of the JRPP in light of the public concern over this matter.

Environmental Health Comments

The plans submitted to Council i.e. original and amended were considered by Council's Environmental Health Team who raised no objections subject to the imposition of a number of non-standard conditions and standard conditions which have been included in the recommended conditions list for this assessment. It is noted that the team requested and received and considered 'Remedial Action Plan' as required under SEPP 55 (Remediation of Land) to ensure the safe management and consideration of any pollutants present within the site, in particular through the construction phase. The issue of noise was considered by the team and no objections were raised subject to the imposition of recommended conditions of consent. The relevant conditions are included within the recommended set of conditions accompanying this report.

Planning Comments

SEPP (Infrastructure) 2007

The proposal has been considered by the RTA under SEPP Infrastructure 2007 and comments have been received and included earlier in this report.

SEPP (Major Development) 2005

This development application has been identified as being of a value (over \$10AUD million) and regional significance that implies it is to be determined by the Joint Regional Planning Panel. As such, Council has prepared this assessment report for consideration by the Panel.

SEPP64 (Advertising and Signage) 2001

The proposed signage is considered to be excessive both in terms of the local controls for the Manly Council area and this SEPP. The assessment criteria found in Schedule 1 of this SEPP are considered below:

'1 Character of the area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The amended plans include proposed signage of a size and scale that is considered to be compatible with the existing or desired future character of the area and is considered to be reasonable in the context of the Industrial Zone.

'2 Special areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The size of the signage shown on plans has been greatly reduced and would not be excessively visually dominant in relation to the surrounding residential area and Open Space subject to the imposition of recommended conditions. In particular the lack of signage to the majority of the residential facade is noted.

‘3 Views and vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

The location of the signs to the Condamine Street elevation is located on a section of the building that, due to the height included in this elevation, will reduce access to distance views and vistas across the subject site from higher ground and greatly impact upon the existing outlook across the site. In this sense, it will be visually dominant in the area and may be perceived as having a negative impact upon viewing rights of other local advertisers / businesses. However, the amended plans include reduced signage and are considered to be more reasonable in the context of the myriad signage contained within and around the Industrial Zone. In this regard a recommended condition of consent requires the ‘hammer logos’ to be applied to any facade to be no larger than the ‘hammer logo’ shown on the Balgowlah Street facade.

It is noted that the facades directly fronting the streets are of a size and scale commensurate with the zoning and as such is supported.

‘4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

The proposed signage is not considered to be of an excessive size and scale as per the amended plans submitted and is considered to be appropriate subject to recommended conditions. The proposed signage does not reduce visual clutter as there are no signs on the site at present. The proposal will not screen unsightliness nor protrude above the proposed building. The landscaping proposed with the application would require ongoing vegetation management and the proposed advertising is on the facade of the proposed building which will not impact surrounding vegetation i.e. all facades apart from the residential interface.

‘5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The signage proposed is of a size and type that is suitable for this style of development. No further reduction in the size and type of sign is required or requested. A condition has been recommended in relation to the residential facade on Balgowlah Road. This does not preclude the addition of any additional conditions relating to the signage where required by JRPP further to the public discussions to be held in relation to this development.

‘6 Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

No such devices are proposed with this application.

‘7 Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

This issue is recommended to be managed through the imposition of a condition of consent requiring no direct lighting to the residential interface i.e. Balgowlah Road facade.

‘8 Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The nature of the signage is such that, due to it being flattened along the facades of the proposed building, it would not reduce safety nor obscure sightlines along the streetscape.

SEPP 55 (Remediation of Land) 2005

Council's Environmental Health Team requested a 'Remedial Action Plan' as required under this legislation which was assessed. This was found to be satisfactory and Council's Environmental Health Team forwarded recommended conditions of consent via internal referral which have been included in this recommendation.

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) **the provisions of:**
- (i) ***any environmental planning instrument, and***

Manly Local Environmental Plan 1988:

The site is in zone No 4 – The Industrial Zone which permits the development of bulky goods retailing with the consent of Council.

Manly Local Environmental Plan 1988 Clause 10 Objectives

The following comments are made in regard to the objectives for the Industrial Zone as stated in Clause 10 of the Manly Local Environmental Plan 1988;

(a) *to provide for suitable industrial activities in order to increase local employment opportunities,*
The proposal would include employment opportunities (130 jobs) for the local area, however, the nature of these opportunities may not be 'industrial' in their nature as the proposal includes a focus on retail based activity. However, Council accepts that the retailing of 'bulky goods' is a permissible use in this zone and notes that the application includes a timber yard and bagged goods canopy and that plans submitted include specific reference to 'bulk goods'. The application also includes a goods pickup and marshalling area with goods lifts inferring goods of a bulky nature.

(b) *to minimise negative visual impact of development by limiting the size and scale of buildings and having regard to suitable landscaping, and*

While the proposed 'Bunning's' warehouse building is of a size and scale that is not consistent with surrounding development, it is noted that the street frontages to this development have been design to be lower and meet the height control and include landscaped setbacks. Also, amended plans submitted to council included an increase in landscaping provided to the site reducing the

visual impact and soften the impact of the visual bulk to the streetscape as the landscaping is located in increased setbacks pulling the development further away from surrounding development and thereby reducing the impact.

The landscaping proposed is considered to be 'suitable' in relation to the scale of the redevelopment of the overall site as required by the DCP. The visual impact of the works as proposed will be significant due to the height of the building proposed and associated loss of outlook that will ensue for the area given its location and natural slope. However, the recommendation of this assessment includes a requirement for the entire building to be kept under the 11m height control. This will greatly assist to reduce the impact of the building on the outlook across the site and also comply with the control as found in the DCP.

It is noted that, further to requests from Council, the applicant provided a model of the proposed development to allow for consideration of the works proposed by all in a three-dimensional manner. This has greatly assisted Council and residents to consider the proposal.

(c) to encourage the provision of industrial activities by permitting specific office and subsidiary activities in association with the primary industrial use.

The uses proposed includes a mix of primary industrial use i.e. Bulky goods retailing, Timber yard, outdoor nursery and ancillary uses such as the cafe and offices and locker room for staff use. Therefore, the proposal meets the above objective.

Clause 28 - Retailing of bulky goods in Zone No 4

(1) This clause applies to land within Zone No 4.

The proposed warehouse development is located on within Zone No.4.

(2) Subject to subclause (3), nothing in this plan shall prevent a person, with the consent of the council, from carrying out on land to which this clause applies development for the purpose of the retail sale of bulky goods from a building or site in or on which those goods are stored, manufactured, displayed or processed.

In this case the Determining Body is the JRPP and the Consent Authority is Council.

(3) The council shall not grant consent to an application for the consent to carry out development referred to in subclause (2) unless it is satisfied:

(a) that suitable land is not available for the proposed development in any nearby business centre, and'

The applicant has argued that due to the type of development proposed and extent of investment value, the applicant requires freehold land as opposed to leasehold. The information provided to Council in the Economic Impact Assessment argues that the type of properties available and their size is not suitable for the purpose of this type of development and would require excessive upgrading and modification to be relevant for consideration by Bunning's.

(b) 'that the proposed development will not detrimentally affect: '

- existing or future industrial development within Zone No 4, or
- The proposal is to be located on the edge of the industrial zone as indicated on the maps accompanying the Manly LEP 1988. It is noted that the consultant information provided evidences that the nearest hardware store is not located within the Balgowlah Industrial Zone. Also, the assessing officer undertook research to consider the location of the local stores that may, given the range of goods that may be stocked by any Bunning's store, compete directly and therefore be affected negatively by the development. The following list was compiled further to information received from the applicant as part of the overall considerations of the impact of the proposal, however, expert advice from consultants received has also been considered. The list is not exhaustive and is a sample list of businesses in the Northern Beaches:

Hardware stores

Manly Mitre 10, 390-392 Pittwater Road, Manly, NSW

Hardware & General, Winbourne Road, Brookvale NSW 2100

Johnson Bros Hardware 3 Mona Vale Rd, Mona Vale, NSW 2103

Timber Suppliers

Barrenjoey Timber, 107 Darley Street, Mona Vale, NSW 2103

Northern Beaches Fencing, 4/89 Darley Street, Mona Vale 2103

JBH Timber and Building Supplies, 51-55 Bassett St Mona Vale

It is noted that none of these stores are located within the Balgowlah Industrial Zone. Searches for such suppliers did not reveal any relevant stores located within the zone as considered.

From the information provided to Council with the original plans, and further to additional information received it cannot be concluded that the proposal will have directly detrimental effect upon existing or future industrial development in this Industrial Zone due to the uses proposed. It would not be reasonable to consider the impact of the small cafe proposed upon surrounding cafes as the cafe proposed is to serve existing Bunning's customers who are at the warehouse to source goods and services provided as part of the main use.

- *'the range of services offered by existing shops located in any nearby business centre.'*

The surrounding industrial area includes existing suppliers for the building trade along with an array of other uses being light industrial and wholesale in nature. Additional information received in terms of the analysis of the secondary trade area assumes that this warehouse will serve the Manly area and areas not yet served by a Bunning's development. Therefore, the methodology employed by expert consultants and arguments supporting the proposal in regard to this information are accepted.

Clause 33 – Development on land identified on Acid Sulphate Soils Planning Map

The subject site is located on Class 5 land as identified on the Acid Sulphate Soils Planning Map within the Manly Local Environmental Plan 1988. The subject site is located within 500m from Class 3 or 4 lands which may lower the watertable below 1 metre in Class 1, 2, 3 or 4 lands. Accordingly, the proposed works are likely to impact upon Acid Sulphate Soils and the relevant information was requested by Council. The applicant has submitted a Remedial Action Plan and detailed analysis in regard to this matter. This environmental issue can be managed through the imposition of suitable conditions of consent as included in the list provided.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no draft instrument that requires consideration for this assessment.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan for the Industrial Zone 1991:

The following is an assessment of the proposal's compliance with the numerical standards of the Development Control Plan. Where a variation is proposed to the standards, an assessment is included in the Planning Comments.

Site Area 7327.4m ² Primary Control	Requirement	Compliance with control
Section 2.1 – FSR*	<p>No standards are made in respect to floor space ratio. In practice, scale of floor areas will be determined by the need to provide usable industrial floor space with easy access to loading dock facilities as well as to meet on-site car parking requirements. It is anticipated that floor space ratios achieved in new developments will tend to be in the order of 1:1.</p> <p>= 7327.4m²</p>	<p>NO</p> <p>1.4:1</p> <p>GFA* = 10,548.86m²</p> <p>- Exceeds FSR control for zone by 3221.46m².</p> <p><u>Consideration of figures</u></p> <p>Total GFA for warehouse = 6936.96m²</p> <p>Plus</p> <p>Additional GFA due to excess of car parking above Council requirements as follows:-</p> <p>Based on the following consideration:-</p> <p>(a) 1 space per 50m² of GFA for industrial use or retailing of bulky goods.</p> <p>Excess 131 spaces provided= 3611.9m² shown on plans including 'access thereto'.</p> <p>Note that the following figure would apply as excess GFA where 'access thereto' was not included.</p> <p>1839.24m² being 131 x 14.04m² (standard car space indicated on plans provided).</p> <p>The resulting GFA in this case would be 8776.2m² giving the following FSR= 1.19:1</p>
Section 2.2 – Building Height	11m	<p>NO</p> <p>Maximum height shown appx.=15m</p> <p>Majority of roofed section to northwestern section of development appx. = 13.8m.</p> <p>However, a recommended condition of consent requires the building to comply with the building height for the zone.</p>
Section 3.1-Access	a) Vehicles enter/leave forward direction;	YES
	b) Minimum driveway access 5m;	5.8m (Roseberry) 10.2 (Condamine) YES and subject to imposition of all relevant conditions.
	c) Adequate sightlines for entry /exit;	YES Subject to imposition of all relevant conditions.
	d) Room for trucks to manoeuvre safely;	YES Subject to imposition of all relevant conditions.
	e) n/a	-

3.2- Loading Facilities	Minimum of one loading bay for each industrial unit;	n/a
	Min. Dimensions for loading bay being 7.6m by 3m x 3.4m high;	YES Subject to imposition of all relevant conditions.
3.3 Vehicular parking	<p>a) One space per 50m2 of gross floor area for industrial use or retailing of bulky goods;</p> <p>b) One space per 100m2 of gross floor area for warehousing and storage of bulky goods;</p> <p>Additional may be required where required (subject to further assessment);</p>	<p>YES 139 spaces required 270 spaces provided</p> <p>N/A- the design of stores combines retail and storage together.</p> <p>Complies and provides an additional 131 spaces in excess of Council requirements.</p>
4.1 Setbacks	4.5m minimum along street frontage;	YES Roseberry -4.5m Balgowlah - 5.3m and above Condamine – 4.9m These setbacks all include landscaping.
	Buildings may be constructed to rear or side boundaries unless this may cause undue prejudice to adjacent properties;	YES Applicant agrees to engineer solution where necessary.
4.2 Landscaping	Setbacks to be landscaped with trees.	YES Increased landscaped setbacks through submission of amended plans. Recommended conditions of consent include requirement to include native species.

(FSR* = Floor Space Ratio, GFA* = Gross Floor Area)

Comment:

FSR

The proposed FSR has been revised through the submission of amended plans and is considered to be reasonable subject to the imposition of the recommended condition of consent reducing the height across the proposal to 11m as required by the DCP. The amended plans submitted include a reduction in the level of GFA to the upper floor of the warehouse structure. This reduction greatly reduces the visual bulk and scale of the works as proposed. It is also noted that, due to the reconfiguration of the Outdoor Nursery element proposed, the area is no longer included within the final figure for GFA because it is not considered to be an area 'within the outer face of the external walls as measured at a height of 1.4m above floor level'.

The resulting car parking area required to service the size of development proposed has increased the overall scale of works to an unreasonable and excessive level in the context of the surrounding industrial area which includes development of a lesser size with, at most, a single underground level of car parking as opposed to two such levels as proposed.

Further to the amendments submitted to Council, the required amount of car parking is 139 spaces based upon the Gross Floor Area (GFA) of the warehouse as proposed. The proposal includes 270 spaces, an excess of 131 spaces over and above the requirement of the DCP. This area adds to the GFA included and could be considered to be an overdevelopment of the land, however, the recommended conditions of consent require the excess spaces to be used primarily for the direct

benefit of staff and neighbouring residences and businesses. In this regard, this excess can be used as a positive benefit for the community and ensure that Bunning's staff will not resort to parking in surrounding streets. It is also noted that according to additional information received from the applicant, staff would not be charged for parking in the car park.

This is a matter for the JRPP to consider in their overall consideration of this application which could accommodate a single level of subterranean car parking comply with the number of spaces required by the DCP only. However, as raised in the myriad submissions received by Council, this could increase the demand for on-street car parking due to the number of staff to be employed by Bunning's (appx. 130) which is in conflict with advice in the CHAPL report and Council's Traffic manager which implies a net loss of on-street parking as a result of the proposal should measures be implemented to manage traffic flows more effectively in the surrounding street network.

Please note that the calculation of FSR is based upon the following definition from the *Environmental Planning & Assessment Model Provisions 1980* for Gross Floor Area:

'Gross floor area' means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1400 millimetres above each floor level excluding:

- (i) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall;
- (ii) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts;
- (iii) car-parking needed to meet any requirements of the council and any internal access thereto;
- (iv) space for the loading and unloading of goods.'

Building Height

The height proposed is considered to be excessive in its surrounding context and is not supported. The proposed building is considerably higher than the 11 metre height control reaching a maximum height of around 15m which is considerably higher than the average height of the adjoining buildings. The surrounding buildings are no higher than R.L. 21.8, whereas the proposed Bunning's Warehouse includes a Finished Ridge Level at R.L. 26 .0 resulting in an apparent height difference of 4.2m between the warehouse and surrounding buildings.

However, it is noted that the amended plans include increased setbacks with landscaping to reduce the impact to the surrounding streets. The proposal also includes street facades which comply with the height control within the DCP.

In consideration of the excess parking proposed i.e. this element being an overdevelopment of the site, it is considered that the final built form must comply with the height control within the DCP. Effectively this measure will further reduce the GFA of the warehouse which, in turn reduces the amount of car parking spaces required under the DCP control. However, as previously discussed a reduction in overall parking provided could have negative impacts on the surrounding streetscape due to staff parking in the area.

A recommended condition is therefore proposed to require amended plans to be prepared for Council's approval (deferred commencement) indicating compliance with the height control for the site.

It is noted that a model was received at Council for consideration allowing the proposed height to be examined in the context of surrounding buildings.

Issues	Applicable	Not Applicable
Views		✓
Privacy		✓
Heritage – Actual Property		✓
Heritage – In Vicinity	✓	
Threatened Species		✓
Foreshore Scenic Protection Area		✓
Excavation	✓	
Landslip and Subsidence		✓
BASIX		✓

Comment:

Heritage –In Vicinity

The street trees to this section of Balgowlah Road are listed in Manly LEP 1988 as Items of Environmental Heritage and as such Council's Landscape architect has recommended conditions of consent to suitably protect the relevant street trees that may be affected by the proposal.

Excavation

The level of excavation proposed is considered to be excessive given the context of surrounding development. The proposal includes two (2) subterranean levels of car parking which would be the only development of its type within the entirety of the industrial zone. Not only is this development therefore uncharacteristic in terms of the predominant scale of development within the Industrial Zone.

However, in terms of the environmental impacts of such excavation, the applicant is required to meet all legislative requirements. Primarily this relates to compliance with SEPP55 (Remediation of land) which considers the issue of the management of any contaminants in the land e.g. acid sulphate soils. The applicant has submitted a Remedial Action Plan as required under the legislation which has been considered by the Environmental Health Team who recommended suitable conditions of consent ensuring complete compliance with relevant legislation.

Also, as previously stated, the benefit for the local community such as staff parking provided wholly within the development and allocated spaces for local residents and businesses would be lost were there to be less parking provided with the development.

Accordingly, given the considerations undertaken and benefits for area/streetscape the proposal is supported and deferred commencement approval recommended subject to conditions.

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No planning agreement under Section 93F is proposed as part of this application.

79C(1)(a) (iv)- the regulations

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval.

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Consent Authority to consider AS 2601 - 1991: *The Demolition of Structures*. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval.

79C(1) (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

- **ENVIRONMENTAL IMPACTS**

Traffic Impacts

Traffic generation

The proposal will generate a significant amount of extra traffic to the area is already experiencing significant traffic problems in particular along Roseberry Street. The proposal will result, therefore in a net increase in environmental pollution due to traffic. However, the site is zoned for industrial development and as such impacts are what could be reasonably expected under the controls and the impacts can be managed according to expert advice provided both by the applicant (TTPA) and the CHAPL report as commissioned by Council.

Truck movements

The truck movements into the development and out of the development will create additional hazards due to the trucks needing to enter and exit the premises safely. Suitable conditions of consent have been recommended to manage this issue.

Delivery times

The delivery times requested with the application are 7am to 10pm which will have a major impact on the amenity of the surrounding area. Therefore, a condition has been recommended in relation to delivery times restricting the development to '*not exceed 7:00am to 7:00pm Monday to Friday*'.

Cycle path

The proposal adjoins an existing Cycle path and therefore measures to manage the conflict that would occur between traffic entering/exiting the site require consideration. This matter has not been adequately addressed through plans submitted to Council and is therefore addressed through recommended conditions for any future consent to ensure the continued use of cycleways through the area. The main recommended condition states: '*A cycling management plan is to be prepared for Council's approval prior to the issue of any construction certificate addressing the safety of cycle path users and safe cycle access to the warehouse car park due to cycle spaces provided on plans submitted to Council.*' Also, additional cycle parking spaces are to be provided and a condition is recommended in this regard.

Suitability of the site

Given the sites location to the south western edge of the industrial zone, the suitability of the site for the largest development in the industrial zone is considered. The scale of the development as proposed will have a variety of environmental impacts upon the surrounding area e.g. increased traffic and congestion. The proposal was considered by the RTA and Council's Traffic Team and the levels of traffic proposed found to be reasonable subject to the imposition of certain measures that have been included as recommended conditions of consent. Essentially, the ensuring impacts are such that could be reasonably expected under the zoning.

The bulk and scale of the development

The scale of the development is significantly greater than the existing industrial developments in the industrial zone. No other site within the industrial zone has two levels of basement car parking.

The warehouse section of the building has a floor space ratio of approximately 0.9:1 and the relevant DCP envisages a total FSR of 1:1. However, the total proposed FSR is 1.4:1 due to the excess amount of parking provided over and above the requirement under the DCP.

While this is a significant amount of floorspace, given the amendments to plans and recommended conditioning to reduce the height, the resulting visual bulk of the overall development will be reasonable given compliance with the primary control i.e. height.

Despite the receipt of a model by Council, it is still considered that the height of the works should comply with the control found in the DCP i.e. not exceed 11m above existing natural ground level.

Scale of the signage

The size of the signage is of concern to Council given its proximity to residential areas. The amended plans received by Council include a reduction in the amount and size of signage proposed its removal from the residential interface on Balgowlah Road.

Impact on Heritage Street Trees

The protection of street trees in Balgowlah Road is required through a recommended condition of consent as considered by Council's Landscape Officers.

Hours of operation

The hours of operation have to be considered in the context of the proposals proximity to the residential development and the limited spread of hours of the developments within the industrial zone. The proposed hours of operation are 7am to 9pm weekdays and 8am to 6pm weekends and public holidays. These hours have been opposed by local residents and the precinct committee and as such are not supported.

A recommended condition of consent restricts the hours of operation to '*7:00am to 7:00pm Monday to Friday with the exception of 7:00am to 9:00pm on Thursday and weekend hours (Saturday and Sunday) to be 09.00am to 6.00pm without the prior approval of Council.*'

The level of excavation

An excessive amount of excavation is proposed due to the basement parking included in the development. This includes excavation abutting the northern and eastern boundaries which is of concern to Council in terms of the potential impacts on the stability of the adjoining properties and natural water flows. The site is located close to the 1 in 100 year flood zone, is located close to burnt bridge creek and is within an acid sulphate soil area.

These issues have been considered through compliance with State Environmental Planning Policy 55 (Remediation of Land) and a Remedial Action Plan has been submitted and considered by Councils Environmental Health Team who has recommended conditions of consent include in this report.

• **SOCIAL IMPACTS**

Neighbouring residents have raised numerous concerns regarding the scale of the development as proposed. The concerns are varied in terms of the issues raised, however the level of public concern is an indicator to Council that the social impact upon the local neighbourhood is not acceptable and that more could be done to reconcile the development with the community.

These matters have also been raised by the community in submissions sent to Council for consideration in the assessment process. The matters raised therein have been considered in detail and myriad conditions have been recommended e.g. requirements for the use of the car park by local businesses and residents and staff members.

Other provisions have been included in recommended conditions of consent such as the requirement for any graffiti to be removed within 24 hours to protect visual amenity and the requirement for the warehouse to have green credentials and therefore reduce its carbon footprint benefitting the wider community and environment.

Where practicable Council has recommended conditions that will greatly reduce the impact of the proposal on the community and ensure that any benefits that can be gained for the community are gained through the consent process and beyond.

• **ECONOMIC IMPACTS**

Supporting information received from the applicant infers that the primary use is the retailing of bulky goods which is evidenced on plans provided to Council indicating uses including the timber yard and bagged good canopy area.

While the application failed to demonstrate that the proposal will not lead to an oversupply of overall retail space in the Primary Trade Area and fails to indicate whether there is an existing undersupply, the applicant does include information evidencing the increasing spending power of the local population into the future and therefore consider potential future demand. In this regard, the associated impacts upon surrounding businesses would be reduced as demand for goods and services increases.

To this end, Council requested additional information on 28.01.2010 as follows:

'8. Please provide details of the number of bulky goods retail sites within the surrounding primary trade area. This information is to include the estimated gross floor area of any vacant properties included as bulky goods retail sites within the primary trading area.'

This information was supplied to Council with the arguments for the use of the site being considered being that there were no other site of a suitable size and type available anywhere else in the area and that, in particular the quality of vacant premises was inadequate and would require extensive upgrading. This information is accepted as the applicant proposes a permissible use for the site within the Industrial Zone.

79C(1) (c)- the suitability of the site for the development,

The subject property is included in Council's Potentially Contaminated Sites Register as follows:

Address	Current Use	History/Comments	Reference
164 Condamine Street	James Langfield Holden & Keith Burrows Motor Vehicle Sales, Service and Repairs.	Previously a single storey dwelling demolished in August 1968. James Langfield/Keith Burrows sales and mechanical workshop. Fuel tanks on site. Spray booth on site. Soil contamination from waste oil noted during inspections 1997.	Property file. DA granted 08.02.1972 photo.

The site includes a burden being a sewer line that has not been addressed as noted in an earlier section of this report. However this matter is considered through the imposition of a suitable condition to ensure the protection and functionality of the sewerline which ultimately will benefit the applicant.

Council has received adequate information regarding SEPP 55 (Remediation of Land) in this regard and any subsequent approval is to be suitably conditioned to ensure that any pollutants are managed according to all relevant legislation.

As considered earlier in this report there are no burdens or constraints that would preclude the development as proposed.

79C(1) (d)- any submissions made in accordance with this Act or the regulations

The proposal has been advertised and notified in accordance with the EP&A Act, EP&A regulations, SEPP (infrastructure) 2007, SEPP 64 and DCP for Notification.

First Notification

The original application was notified to nearby and adjoining property owners in accordance with Council's Notification Policy with twenty-three (23) submissions received. One submission in support of the application was received from Kirk Muddle of Fantastic Holdings Limited twenty-two (22) submissions objected to the application. Three (3) submitters requested confidentiality.

Second Notification – amended plans

The amended application was notified to nearby and adjoining property owners in accordance with Council's Notification Policy with one hundred and fifty (150) submissions including one (1) petition with three hundred and thirteen (313) signatures.

Of these submissions, six (6) were in support and the balance objecting to the proposed scheme three (3) of the submitters requested confidentiality with one of these supplying no personal information.

Given the number of submissions received, it has been found appropriate to summarise the nature of the objections into an issues based list as follows:-

Due to the number of submissions received, and dates received i.e. long after the end of the notification period a sample number has been examined being one hundred (100) of the submissions received. Many of these submissions were in the form of 'standard letters' and one petition including three hundred and thirteen (313) signatures was received.

Please find consideration of the one hundred (100) of the submissions below:-

Issue (negative impacts)	No.	%
Traffic	85	85
Parking	50	50
Hours of operation	50	50
Bulk and scale	47	47
Reduced ambulance times	43	43
Deliveries	39	39
Need for development	38	38
Replace roundabout at Roseberry/Balgowlah Rd with lights	29	29
Impact on residential area	23	23
Noise	23	23
Impact on other businesses	21	21
Safety (School and pedestrian related)	13	13
Impact on heritage trees	12	12
Excavation	11	11
Loss of Industrial land	6	6
Pollution	2	2

It is noted that six (6) of the one hundred (100) submissions considered were in favour of the proposal.

Comment on submissions:

1. Traffic

The proposed increase in traffic associated with the proposal has been raised and 85% of sample submitters objected to the proposal on these grounds. This issue is therefore the main concern of those who contacted Council regarding the proposal. This issue has been considered by both Council's Traffic Team and the RTA who did not raise objections to the works as proposed that would preclude the development. In terms of consultant data considered, information from the TTPA was submitted by the applicant and also Council referred to the CHAPL report that it had commissioned produced in November 2009 and therefore considered to be current and valid for this assessment. According the expert advice considered, the management of the increase in traffic can be appropriately managed through amendments to on-street parking and the phasing of traffic signals and other measures as considered in the expert advice received and Council's Traffic Team and the Roads and Traffic Authority (RTA) who raised no objections to the proposal subject to conditions of consent and requirements in regard to additional information and the future involvement of the Traffic Committee.

2. Parking

The impact on car parking in the local area due to potential changes to the local street parking arrangement due to the proposal and access thereto was raised by 50% of sample submitters considered.

In regard to this matter, conditions of consent are recommended to require that the proposed car parking is arranged to include:-

- one hundred (100) spaces are allocated to Bunning's staff;
- Ten (10) spaces are allocated for the exclusive use of residential properties along Balgowlah Road;
- Ten (10) spaces are allocated for the use of the businesses / clients of businesses located to the Balgowlah Road end of the western side of Roseberry Road.

These arrangements will reduce the parking load on the local road network and ensure that a material benefit for the local community is gained from this development.

3. Trading Hours

The proposed hours of operation are 7am to 9pm weekdays and 8am to 6pm weekends and public holidays. The hours of operation proposed were considered to be unacceptable to 50% of sample submitters.

A recommended condition of consent restricts the hours of operation to *'7:00am to 7:00pm Monday to Friday with the exception of 7:00am to 9:00pm on Thursday and weekend hours (Saturday and Sunday) to be 09.00am to 6.00pm without the prior approval of Council.'*

4. Scale of development

This issue was raised by 47% of sample submitters who had concerns about the scale of the proposed development and associated environmental impacts such as increased noise, air and ground pollution, traffic congestion, overshadowing, traffic incidents etcetera. The proposal has been significantly reduce in size and scale to a level considered to be acceptable given the landscaping measures proposed and overall reduction in floorspace. The environmental impacts are considered to be akin to that which would reasonably be expected within this zone.

5. Ambulance Station

The negative impacts upon the ambulance station located opposite the site was raised by 43% of sample submitters. Local concern about the impact upon the station to respond to emergencies is an issue that would require consideration for any business proposing to develop this site. This issue was considered by the applicant who considers that due to the right of access afforded to emergency vehicles, this issue is not realistic.

6. Delivery Hours

This issue was raised by 39% of sample submitters. Delivery hours will have a negative impact upon the streetscape in terms of increased noise and traffic volumes. The associated negative environmental effects such as increased fumes and noxious gaseous emissions would vary throughout the year.

Therefore, a recommended condition of consent restricts the hours of delivery to *'7:00am to 7:00pm Monday to Friday.'*

7. Need for the proposal

The issue of the need for the development was raised in two contexts, locally and in the wider context of regional policy by 38% of the sample submitters.

The economic arguments in terms of the true 'need' for the proposed development was a question raised through the assessment, however, it is not a planning issue. The issues

considered centre around Clause 28 of Manly LEP 1988 being the primary legislation being considered. Under this legislation the proposal is a permissible use within the Industrial Zone.

8. Replace roundabout at Roseberry/Balgowlah with lights

This matter will be considered by the RTA and Council's Traffic Team and Committee where appropriate it is not a matter for this assessment. However, street management measures have been considered in the CHAPL report which may ultimately be instigated by Council and considered by the RTA.

9. Impact on residential area

The residential interface being the facade fronting Balgowlah Road has been considered by Council's Design Team and a condition recommended to improve the visual amenity of the facade applied. Also, a recommended condition requires that no lighting be used to this facade. Additional landscaping has been included to this facade to reduce its impact and design measures include a curved roof that reduces the visual dominance of this facade. In this regard the extent to which the importance of the protection of residential amenity is apparent.

10. Noise

The levels of noise to be generated from the traffic increase, during construction and general noise was a concern raised by 23% of submitters. This issue has been considered and acoustic information received and assessed by Council and found to be adequate in terms of the noise to be generated.

11. Impact on other businesses

The negative impacts that the proposed warehouse would have upon surrounding businesses was raised as a concern by 21% of submitters. This matter has been considered earlier in this report and the impacts are not considered to warrant a recommendation for refusal of this permissible proposal within the Industrial Zone.

12. Safety (School & general pedestrian)

The safety of road and pavement users is not the primary responsibility of the applicant. All measures considered to be suitable under the relevant legislation and practicable will be included with any development of this scale to protect road users and pedestrians. Conditions have been received from Council's Development Engineers and information from the applicant in this regard. Overarching legislative requirements in relation to all works and users of the development applies. Bunning's may introduce their own schemes to protect and assist local residents.

13. Impact on heritage trees

This matter has been considered in this assessment and recommended conditions of consent have been included to protect the trees along with plans including increased landscaping to the site.

14. Excavation

This matter was considered earlier in this report and the environmental impacts of the excavation have been considered at length through the assessment process and information received at Council is acceptable subject to the imposition of recommended conditions of consent.

15. Loss of industrial land

The proposal is a permissible use in the Industrial Zone therefore this matter is not considered to be an issue for this assessment.

16. Pollution

Detailed reports have been submitted to Council and Council's Environmental Health Team has considered the issue of contaminated land. In general terms the level of pollution emanating from this proposal is consistent with the level to be expected from development of

this type. The applicant includes details of ways in which they wish to reduce the environmental impacts of the development which is considered to be reasonable in the context of the Industrial Zone.

Another issue raised is as follows:

Suitability of the site

Submitters raised this issue both in relation to the general scale of the proposal and in particular the context being located directly opposite residential dwellings. The issue of site suitability was considered earlier in this report. There are no burdens or constraints that would preclude the development as proposed and the ensuing environmental impacts of the development are what could be reasonably expected within this zone.

Other issues raised have been considered through the assessment of planning issues within this report and through the assessment process. There were no issues raised that would preclude the development as proposed further to the detailed assessment of the development and issues associated with it.

Comment:

The level of public interest shown in the proposal and the varied and detailed responses received by Council indicate the overall issue raised by the proposal being the scale of works and traffic that it would generate. The location of the majority of the site being located opposite to a residential area and Open Space raises issues that are inherent to the location and therefore requires a design that responds to the surrounding context. It is considered that the amended proposal is reasonable in the context of its industrial zoning and is recommended for a deferred commencement approval.

79C(1) (e) the public interest.

The public interest is served through the consideration of all relevant controls and legislation and the assessment of the development application in the context of the zoning of the site.

It is noted that the level of public objection to the proposal is high, however it is also noted that the original plans did not receive such attention and included a higher level of floor space and less landscaping. It is noted that the number of submissions received has dramatically increased since the applicants have amended their plans to reduce the overall size and scale of the proposal.

In this case while the proposal is considered in light of numerous objections to the potential impacts on the surrounding area and road network, the primary issues raised have been considered by experts and the assessment of the application and supporting documentation is considered favourable.

CONCLUSION:

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2007 Amendment 1 and is considered to be favourable.

DRAFT RECOMMENDATION

THAT Development Application No. 16/10 for Demolition of existing buildings, excavation, construction of a two (2) level hardware and building supplies warehouse with mezzanine, signage and two (2) levels of basement car parking – Bunning's Warehouse. at Lots 1&2 in DP533586, Lot 15 in DP532064, Lot 2 in DP562483 be approved for “**Deferred Commencement**” pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, and shall not operate until the applicant has complied with the following:-

A1

The proposal is to be amended to achieve a building height that does not exceed 11 metres above existing ground level and compliance with the local control for building height in the industrial zone.

Reason: To reduce the bulk and scale of the building and comply with the Development Control Plan for the Industrial Zone 1991

A2

Access into Roseberry Street must be only left in/out function and other turning manoeuvres must be physically restricted or banned.

Reason: to minimise the impact of truck and vehicle movements on the surrounding residential properties

A3

The Mezzanine level is to be deleted and the ancillary office relocated within the existing floor space of warehouse level 2 to achieve compliance with the height control for the zone.

Reason: To achieve compliance with the height control and bulk and scale of the building.

A4

Plans are to be amended to include details of the Eastern facade fronting onto the Outdoor Nursery area and the shade sails to that area are to all be attached to the top of posts to reduce visual bulk of structure when viewed from Roseberry Street.

Reason: To ensure consistency of plans and protect visual amenity for road users and residents.

A5

A revised landscape plan is to be submitted to Council for approval prior to the issue any construction certificate detailing compliance with any other conditions of this consent. This plan is to include 100% indigenous plant species and be consistent with the architectural plans and also include the following measures:-

- The developer is required to relocate the overhead power lines to be underground or install a bundled cable along the Condamine street frontage;
- Provide details of landscape treatment along Roseberry Street and prevent parking on the footpath;
- Returfing of nature strip along Balgowlah Road frontage and Rosebery Street to provide a presentable streetscape area;
- The landscape plans appear to include inaccurate level information to the main entry on Condamine Street. Please clarify the proposed entry levels and treatment on the Landscape Plan providing retaining wall, stair and balustrade information. Please also clarify if wheelchair access is proposed to the main entry;
- Retain and protect 1x Eucalyptus Microcorys (Tallowood) during construction;
- Any work to the existing trees is supervised by a qualified arborist;
- Accurate levels to be included and stairway and balustrade to be shown on the Condamine Street elevation on amended plans (i.e. revised version of 1523 LP-02_D (28/06/2010));
- The proposed substation is not shown on the landscape elevations drawing. Please show proposed height and extent of substation;
- Construction Details:

Please provide information for the following:

- Proposed Tree Planting Detail with stakes and tie arrangement, mulch type and

irrigation shown;

- Existing tree to be retained in paving detail with mulch and edge type specified;
- Proposed seating/wall detail at entry (if applicable).

Reason: To ensure consistency between plans and reduce ongoing heavy tree pruning for wire clearances and to allow the proposed street trees to reduce the impact of development on the existing streetscape.

A6

Car parking spaces are to be allocated for staff member on Parking Level 2 (R.L.6.2). Plans are to be amended indicating one hundred (100) spaces for staff use prior to the issue of the construction certificate. These spaces are to be line-marked and managed by Bunning's and free of charge for staff and no time-limited.

Reason: To reduce the impact of staff parking on surrounding road network

A7

During the hours of operation, access to the car park is not to be restricted via boom gates /other methodologies. No system of fines or charges is to be applied to patrons using the car park as proposed within the 'Parking Management' information received from Transport and Traffic Planning Associates dated 10 May 2010.

Reason: To ensure ease of use for patrons and users of the car park

A8

Ten (10) car parking spaces within the car park for the proposed development are to be reserved for the exclusive use of directly adjoining neighbours along Balgowlah Road. Permanent parking stickers and any access/key cards giving 24hr access to the spaces are to be issued to the ten (10) residences located along Balgowlah Road directly opposite the Bunning's Warehouse i.e. numbers 179 to 161 Balgowlah Road.

Reason: To compensate for loss of any on-street parking for local residents

A9

Twelve (12) car parking spaces within the car park for the proposed development are to be marked and made available for the use of the adjoining businesses along Roseberry Street and their customers. Access to these spaces is to be available during operating hours and unrestricted.

Reason: To compensate for loss of on-street parking and impact thereto for Roseberry Street businesses.

A10

The Balgowlah Road facade shall not include any lighting.

Reason: To protect the amenity of surrounding residential dwellings.

A11

A cycling management plan is to be prepared for Council's approval prior to the issue of any construction certificate addressing the safety of cycle path users and safe cycle access to the warehouse car park due to cycle spaces provided on plans submitted to Council.

The plan is to consider and include the following information:-

- An acceptable number of bicycle parking spaces the following rate is considered desirable (City of Sydney):- The development should provide 1 bicycle parking space for every 10 car spaces provided in the development. Based on this methodology, 27 bicycle parking spaces should be provided (desirable to install three sets of 10 bike rack). Further the applicant should also consider the provision of minimum 20% of the spaces allocated to Bunning's staff;
- Customer bicycle parking should be clearly identified by directional signage to the satisfaction of the Council and should preferably be located at ground floor level and not require access via steps and should be located adjacent to areas of pedestrian or vehicle movement to allow casual surveillance;
- The bicycle parking facility should be weatherproof and must not obstruct pedestrian movement or other activities such as the delivery of goods and opening of car doors;
- Bicycle parking bays should be wide enough to allow adequate space to manoeuvre the

bike in and out of the space without causing congestion or damage to other bicycles in adjacent bays. As a guide bicycle parking bays should generally be 1.2m wide and 1.7m long;

- Council prefers the use of stainless steel bicycle hoops due to its high strength and durability. It also allows the bicycle frame and one wheel to be locked to the rack and can withstand vandalism and theft;
- Width of cycleway/footpath, to meet Australian Standards, Austroad – Part 14 and NSW bicycle guidelines.

Reason: To ensure the safety of cyclists and motorists.

ANS12

The warehouse is to include measures to reduce its carbon footprint. Environmentally sensitive technologies are to be employed such as solar panelling and natural ventilation (where seasonally possible) to reduce the overall environmental impact of the development.

Bunning's is to prepare and implement a 'Green Scheme' including the measures as cited in the '*Environmentally sustainable development & energy efficiency assessment report on proposed retain development*' as provided to Council to reduce the impact of the use upon the environment and any localised site specific measures and schemes for the reuse, recycling and reduction of waste products and packaging emanating from the use. This proposal is to be submitted to Council prior to the issue of the final occupation certificate for consideration and approval.

Reason: To protect scarce natural resources and reduce the environmental impact of the proposal

ANS13

Plans are to be amended indicating the impact of the proposed access upon the configuration of car parking arrangements in Roseberry Street. These plans are to be considered by Council's Traffic Committee and approved by them prior to the issue of plans for the application for any construction certificate.

Reason: To ensure adequate information for the application for construction certificate.

ANS14

The applicant is to provide Swept paths for Small Rigid (SRV), Medium Rigid (MRV) and Heavy Rigid Vehicles (HRV) to Council for consideration along with amended plans to be approved by Council as part of the 'deferred commencement' requirement of this consent.

Reason: To protect the safety of vehicular traffic and pedestrians

ANS15

The Service Lane as indicated on plans is to be 'one way only' leading from Condamine Street to Roseberry Street. This ensures that larger trucks using this Lane will not conflict with other vehicular traffic and due to restricted sight lines along the Lane due to slopes.

Reason: To protect the safety of vehicles and passengers.

ANS16

The Applicant shall incorporate architectural material and design into the Balgowlah Road facade to the approval of Manly Council's Design and Technical Group.

Reason: To improve and protect the visual amenity to the public domain

ANS17

The 'hammer logos' signage to be applied to any facade is to be no larger than the 'hammer logo' shown on plans for the Balgowlah Street facade as submitted to Council. These amendments are to be included on the amended elevations to be submitted for approval to Council prior to the issue of any construction certificate.

Reason: To minimise the visual impact of signage pertaining to this development.

This consent is a **"deferred commencement"**.

Evidence of Item A1-A17 are to be submitted within a period of twelve (12) months pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent will then operate for a period of five (5) years.

Development Application conditions of consent upon compliance with the above matters:

Council determined this application and has granted consent subject to the following conditions:

Non –Standard Conditions as follows:

ANS01

Site Contamination - General

All works associated with the contaminated land must be in accordance with the requirements of:

Contaminated Land Management Act, 1997

Protection of the Environment Operations Act, 1997

Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation, 2008

State Environmental Planning Policy 55 Remediation of Land

Occupational Health and Safety Act, 2000

Requirements of Workcover NSW

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS02

Site Contamination – Occupational Health and Safety

Prior to any works on site an Occupational Health and Safety Plan must be developed and approved by an accredited site auditor under *the Contaminated Land Management Act 1997*. A copy is to be submitted to Council. All works carried out on site must be in accordance with this approved OH&S plan and any additional Workcover NSW requirements.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS03

Site Contamination – Underground Petroleum Storage Systems

All Underground Petroleum Storage Tanks must be removed in accordance with the:

Protection of the Environment Operations Act, 1997

Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation, 2008

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS04

Site Contamination – Additional Information

Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS 05

Site Contamination – Remediation Variation

The applicant shall inform Council in writing of any proposed variation to the remediation works. Council shall approve these variations in writing prior to commencement of works.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS06

Site Contamination – Remediation Monitoring Results

Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation works.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS07

Site Contamination – Offsite disposal of soil

Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS08

Site Contamination – Remediation Notice of Completion

A notice of completion of remediation work on any land must be given to Council **within 30 days** of the completion work and must be submitted in the form and cover the details required by clause 17 (2) SEPP 55.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS09

Site Contamination – Site Validation

After completion of all Remediation works, a copy of the Validation and Monitoring Report prepared by a suitably qualified contaminated land consultant shall be submitted to Council and approved prior to the issue of Construction Certificate. The validation report shall be prepared in accordance with the EPA Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS10

Site Contamination – Validation Report Review

Works the subject of this development consent shall not commence until the land appurtenant to the consent has been remediated and validated in accordance with the Remedial Action Plan. An accredited site auditor under *the Contaminated Land Management Act 1997* shall review the Validation Report prepared by the contaminated land consultant and issue a Statutory Site Audit Statement that clearly states that the site is suitable for the proposed development. The accredited auditor shall consult with Council prior to finalising and issuing the Site Audit Statement. The accredited site auditor shall provide Council with a copy of the Site Audit Report and Statutory Site Audit Statement, confirming the suitability of the site for the proposed development prior to the issuing of the Construction Certificate.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS11

Ground Water

A Groundwater Management Plan is to be provided prior to the issue of Construction Certificate. The Plan must demonstrate how contaminated groundwater resulting from the construction dewatering will be appropriately disposed of. This plan should include any proposed treatment to be applied to the water prior to being discharged and copies of any relevant approvals from the respective authorities. Council requires the groundwater at this site to be sampled and analysed for pH and any contaminants of concern. The analytical results must comply with ANZECC Guidelines for 95% Protection of Freshwater. This Groundwater Management Plan shall be received by the consent authority and approved prior to the issue of Construction Certificate. A copy is to be submitted to Council.

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS12

Acid Sulphate Soils – Management Plan

An Acid Sulphate Soil Management Plan developed by a suitably qualified Environmental Scientist is to be submitted to the consent authority for approval and a copy provide to Council prior to the

issue of construction certificate. The Acid Sulphate Soil Management plan must be in accordance with:

- The Acid Sulphate Manual 1998, published by the Acid Sulphate Soil Management Advisory Committee, August 1998.
- Acid Sulfate Soils Laboratory Methods Guidelines 2004, published by Department of Natural Resources, Mines and Energy, Indooroopilly, Queensland, Australia, June 2004

Reason: To ensure compliance with legislation and to protect public and environmental health and safety.

ANS13

Retaining walls located close to the boundary must setback to include a balustrade to protect pedestrians and cyclists using the public pathway and cycleway. Plans are to be amended prior to the issue of a construction certificate.

Reason: to protect pedestrians and cyclists using the public pathway and cycleway.

ANS14

Hours of operation

The hours of operation of the premises shall not exceed 7:00am to 7:00pm Monday to Friday with the exception of 7:00am to 9:00pm on Thursday and weekend hours (Saturday and Sunday) to be 09.00am to 6.00pm without the prior approval of Council.

Reason: This condition has been applied to maintain a reasonable level of amenity to the residential units in the area.

ANS15

Hours of deliveries

Deliveries to the premises shall not exceed 7:00am to 7:00pm Monday to Friday.

Reason: This condition has been applied to maintain a reasonable level of amenity to the residential units in the area.

ANS16

Since the access to the car park and the loading dock utilise the same driveway improved line marking and signposting should be provided to delineate the access clearly.

Reason: to improve motor vehicle movements.

ANS17

The applicant must prepare a Loading Dock Management Plan to control / manage the servicing of the site, and is to include the customer pickup area. The Loading Dock Management Plan to be lodged with Council / Accredited Certifier prior to the issue of a construction certificate.

Reason: To manage conflicts between deliveries and customers.

ANS18

The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004. Details demonstrating compliance with this standard are to be lodged with Council / Accredited Certifier prior to the issue of a construction certificate.

Reason: to allow for adequate parking on the site

ANS19

10 car parking spaces are to be suitable for the provision for vehicles with trailers. Plans are to be amended prior to the issue of a construction certificate.

Reason: to allow for adequate parking on the site for a variety of vehicles likely to use the site.

ANS20

All vehicles should enter and exit the site in a forward direction. Compliance with this requirement is to be indicated on amended plans prior to the issue of a construction certificate.

Reason: to reduce traffic impacts of the proposal.

ANS21

All vehicles should be wholly contained on site before being required to stop. Plans are to be amended prior to the issue of a construction certificate.

Reason: to reduce traffic impacts of the proposal.

ANS22

The proposed turning areas within the car park are to be kept clear of any obstacles, including parked cars, at all times.

Reason: to allow for adequate vehicles movements on the site.

ANS23

The required sight lines to pedestrians or other vehicles in or around the entrance and car park are not to be compromised by landscaping or signage.

Reason: to reduce traffic impacts of the proposal and protect public safety.

ANS24

All works associated with the proposal will be at no cost to the RTA or Council.

Reason: the proponent is to bear the full cost of the works.

ANS25

The warehouse is to be painted (where practicable) with anti-graffiti paint to minimise the impact of any unsightliness due to graffiti on the community. Any incidence of graffiti is to be removed / painted over within 24 hours.

Reason: To maintain a high level of visual amenity in the streetscape

ANS26

The following measures relate to the management of shopping trolleys within the site and surrounding area:-

- Any shopping trolleys provided by Bunning's are to be designed such that they can be used on the proposed travellers safely;
- Shopping trolleys are to be managed by Bunning's staff and collected from car parking levels and surrounding streets (where applicable) at regular intervals throughout the day during operating hours to minimise conflict with vehicles and pedestrians and reduce the dumping of trolleys in the neighbourhood;
- Any trolleys found within the surrounding area are to be returned to within the warehouse within 24 hours or this may be considered to be a breach of the consent.

Reason: To ensure safety and accessibility of warehouse for users and protect the surrounding streetscape from abandoned trolleys

ANS27

Plastic bags

'Plastic bags' may be used within the warehouse development, provided that Bunning's operate in accordance with a plan (setting out how Bunning's intend to reduce plastic bag usage by increasing usage of alternatives to plastic bags, training staff, educating customers and encouraging recycling of plastic bags and environmentally friendly packaging). The educational part of this is to be included a 'Green Scheme' plan for the development.

For the purpose of this condition a **plastic bag** means:

- a. A carry bag, the body of which comprises (in whole or in part) polyethylene with a thickness of less than 35 microns; and
- b. that includes handles.

But does not include;

- a. a biodegradable bag certified to Australian standard AS 4736; or
- b. a plastic bag that constitutes, or forms an integral part of, the packaging in which goods are sealed prior to sale.

Reason: To reduce the environmental impact of the use and reduce its carbon footprint.

ANS28

Food and beverage packaging

All takeaway food and beverage packaging used at the premises shall be recyclable packaging or biodegradable packaging.

For the purposes of this condition;

Recyclable packaging is packaging for which collection or drop off facilities are available to a reasonable proportion of purchases, potential purchases or users of the product in the area which the product is sold (Standards Australia, 1999).

Biodegradable packaging is packaging which is able to be broken down by micro-organisms in the presence of oxygen (aerobic) to carbon dioxide, water biomass and mineral salts or any other elements that are present (mineralisation). Alternatively, the breakdown of organic substances by micro-organisms without the presence of oxygen (anaerobic) to carbon dioxide, methane, water and biomass (Standards Australia, 2006)

Takeaway food and beverage packaging is packaging used for food and beverages prepared and/or packed on the premises and excludes:

- a) *Packaging that constitutes, or forms an integral part of, the packaging in which goods are sealed prior to sale ; and*
- b) *Barrier packaging which is essential for health and/or food safety (for example cling wrap, bags for barbecued chicken, or packaging to meet food safety requirements).*

Reason: To reduce the overall environmental impact of the use

ANS29

The driveway widths shall be provided as per AS2890.1:2004:-

- *Access driveway at Condamine Street shall have a minimum 8m wide entry and 6m wide exit separated by 1m median (splay min 1m) (this may assist turning paths for the trucks intended for delivery activities);*
- *Similarly driveway access to Roseberry Street shall have a minimum entry width of 6m and exit width of 6m with at least 1m separation median (splay min 1m).*

Reason: Compliance with relevant Standards.

ANS30

Access in Roseberry Street to serve only left in/out function. Physical banning of other turning manoeuvres to be designed and constructed as general signposting will not control this access. Plans to be amended and submitted to Council for approval prior to the application for construction certificate.

Reason: To manage traffic flows relating to the development

ANS31

All redundant driveways on Condamine Street and Roseberry Street are to be removed and kerb to be reinstated at no cost to Council.

Reason: To maintain streetscape.

ANS32

Pedestrian pathways within the car park leading from all access points and the shared access area i.e. lifts and stairways are to be clearly line marked to allow for the safe pedestrian access and egress from the car parking levels.

Reason: To protect the safety of pedestrians using the car park

ANS33

RTA proposes the applicant shall implement a leading right turn phase for the northbound movement on Condamine St. The leading right turn phase will not allow filter movements during the through phase while the existing trailing right turn phase for southbound movements will allow filter movements during the through phase. These design changes to the signals shall be designed

to meet RTA's requirements, and endorsed by a suitably qualified and chartered Engineer. The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The certified copies of the traffic signal design plans shall be submitted to the RTA for consideration and approval prior to the release of construction certificate by Council. The applicant will be required to fully fund the change to the phasing and associated works at the intersection.

Reason: to comply with requirements of RTA in relation to traffic management

ANS34

The relocation of the existing bus stop including bus shelter on the Eastern side of Condamine St adjacent to the site on the approach to the traffic signals at Condamine St and Balgowlah Rd to the departure side of the intersection south of Balgowlah Rd. This will require consideration by the Manly Traffic Committee and endorsement by Council. The applicant is to fully fund the bus stop relocation and all associated works. These works need to be undertaken prior to the opening and operation of the Bunning's development.

Reason: To minimise conflict between traffic and bus stop use

ANS35

RTA has proposed a new phasing for the existing traffic signal controlled intersection of Balgowlah Road and Condamine Street. Depending on the phasing arrangement, there will be changes required to existing parking arrangements on all four legs of the intersection. These changes will generally restrict parking either on a full time basis or during peak traffic periods to enhance the operation of the above intersection. All subsequent changes proposed will require consideration by the Manly Traffic Committee and endorsement by Council. The associated works will be required to be fully implemented, funded and undertaken by the applicant.

Reason: To comply with requirements of RTA and manage traffic safely

ANS36

The car park levels of the development are to be rendered watertight and designed to cope with inundation by flood. This consideration is to be designed into the plans as proposed prior to the issue of the construction certificate and relevant information from suitably qualified engineers to be provided in support of the plans and any specification.

Reason: To protect the lowest level of the car park from inundation by water and protect public health and safety

ANS37

Further to consideration by Council's Access Committee the following requirements are to be designed into the plans prior to the issue of the construction certificate:

- That ramped access from the street be provided. Currently the only street access has stairs therefore is not accessible;
- That the travelators are a type that allow for safe travel for wheelchairs users and prams;
- That disability access is provided to the mezzanine level. The plans show that there is no such access and this discriminates against employing people with a disability;
- That an accessible toilet be provided on warehouse level 2 near the café. It is not discernable from the plans whether the toilets are accessible.

Reason: To make the development as accessible as practicable for all and therefore comply with Council Policy

ANS38

All hand wash basins, including those immediately adjacent to toilet facilities must be supplied with warm water available from a single spouted tap.

Reason: To protect the health and safety of users

GENERAL CONDITIONS RELATING TO APPROVAL

Documents relating to consent.

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation.

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
030 Site Plan – Parking Level 1	Amendment B, 16 April 2010	03 May 2010
031 Site Plan – Warehouse Level 1	Amendment B, 16 April 2010	03 May 2010
032 Site Plan – Warehouse Level 2	Amendment B, 16 April 2010	03 May 2010
100 Floor Plan – Parking Level 2	Amendment B, 16 April 2010	03 May 2010
101 Floor Plan – Parking Level 1	Amendment B, 16 April 2010	19 May 2010
102 Floor Plan – Warehouse Level 1	Amendment B, 16 April 2010	19 May 2010
103 Floor Plan – Warehouse Level 2	Amendment B, 16 April 2010	03 May 2010
104 Floor Plan – Admin. Mezzanine	Amendment B, 16 April 2010	03 May 2010
110 Floor Plan - Roof Plan	Amendment B, 16 April 2010	03 May 2010
120 Sections	Amendment B, 16 April 2010	03 May 2010
121 Sections	Amendment B, 16 April 2010	03 May 2010
130 Elevations –North and West	Amendment B, 16 April 2010	03 May 2010
131 Elevations –South and East	Amendment B, 16 April 2010	03 May 2010
1523 LP -01 Landscape Plan	Amendment D, 28 June 2010	30 June 2010
1523 LP -02 Landscape Elevations	Amendment D, 28 June 2010	30 June 2010
150 Internal Cafe Detail Plan	Amendment A, 29 February 2010	08 May 2010

Documentation affixed with Council's stamp relating to Development Consent No. DA16/2010

- Statement of Environmental Effects (prepared by CBHK);
- Economic Impact Assessment (Prepared by Leyshon Consulting);
- Traffic Report (prepared by Transport & Traffic Planning Associates);
- Civil Engineering Report (earthworks, stormwater, water supply, sewer) (prepared by C&M Consulting Engineers);
- Geotechnical Report (prepared by Jeffery and Katauskas Pty Ltd);
- Report to Bunning's Group Ltd on Environmental Site Assessment for proposed commercial development..(EIS);
- Additional Environmental Site Assessment of soil and groundwater for proposed commercial development at Cnr Condamine Street and Balgowlah Rd, Balgowlah, NSW (EIS Consultants);
- Architectural Plans (prepared by John R. Brogan & Associates);
- Environmentally Sustainable Development & Energy Efficiency Assessment Report on proposed retain development (Flath Sustainable Building Consultants);
- Preliminary Building Code of Australia Assessment Cnr Condamine and Balgowlah Road, Balgowlah (Steve Watson & Partners);
- Bunning's Warehouse, Balgowlah, Noise Assessment (Indigo Acoustics);
- Flora and Fauna Report Assessment for the Bunning's Warehouse proposal Cnr Condamine Street & Balgowlah Road, Balgowlah (Abel Ecology);
- Bunning's and SITA Environmental Solutions (Bunning's & SITA);
- Colour control sample palate (no author cited);
- Letter from CBHK dated 10 April 2010 referenced as 'Analysis of issues raised';
- A4 Photomontages prepared by John R. Brogan & Associates numbered 01-04,dated 16 April 2010;
- Schedule of architectural drawing amendments dated 16 April 2010 prepared by John R. Brogan & Associates;
- Project Data dated 15 April 2010;
- Description of architectural drawings and the drawings dated 19 April 2010;
- Letter from Emeritus professor G.P.Webber, Planning Architecture Urban Design (unsigned & undated & no page numbers) entitled Urban Design Report;
- Letter from Transport & Traffic Planning Associates in response to Council's initial

- comments on traffic and parking aspects of the proposal dated 14 April 2010;
- Letter from Leyshon Consulting considering the economic impact aspects of Council's initial response to the proposal dated 16 April 2010.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

1 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2AQ01)

A report prepared by an air pollution control consultant specifying odour control and other air impurity control methods is to be submitted to the Council/Accredited Certifier for approval, prior to the issue of the Construction Certificate. All works required must be implemented prior to the use commencing.

Reason: To ensure compliance with legislation, and to protect public health and amenity.

4 (2BS01)

The fit out of the food premises must comply with the following:

- Food Act 2003,
- Food Regulations 2004,
- Australian Standard AS 4674-2004:Construction and fit out of food premises,
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment.

Note: The assessment of food premises fit out drawings and specifications is subject to an adopted fee.

The construction and fit out of food premises is not listed under Clause 161 of the Environmental Planning & Assessment Regulation 2000 as a matter that a Certifying Authority may be satisfied as to. Hence, the detailed drawings and specifications must be referred to Council and be to Council's satisfaction prior to the issue of any Construction Certificate for such works.

Reason: To ensure compliance with legislation and to protect public health and safety.

5 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$140,000. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb

etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

6 (2CD02)

A Dilapidation Report is required for this development. A photographic survey of adjoining properties No. 58-66 Balgowlah Road, 157-179 Balgowlah Road, 176-180 Condamine Street, 235-237 Condamine Street, 2-6 Rosebery Street detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property/ies.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

Reason: To maintain proper records in relation to the proposed development.

7 (2CD03)

The applicant is to lodge a Hoarding Application with Council for any protective hoardings, fences and lighting which are to be provided during demolition, excavation and building works. The Hoarding Application is to be submitted to Council with the appropriate fee, prior to any works on site or prior to the issue of the Construction Certificate.

All hoardings must be in accordance with Council's Hoarding Application Form and must comply with the requirements of the Department of Industrial Relations, Construction Safety Act, the WorkCover Authority and relevant Australian Standards.

Note: On corner properties, particular attention is to be given to the provision of adequate sight distances.

Reason: To ensure public safety and amenity on public land.

8 (2CD04)

Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings and specifications certifying the shoring will be adequate for their intended purpose and must be submitted to the Council/Accredited Certifier for approval with the Construction Certificate. The documentation prepared and certified by an appropriately qualified and practising structural engineer is to show all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements. A copy of this documentation must be provided to the Council for record purposes at the time of Construction Certificate application.

Reason: To ensure the protection of existing public infrastructure and adjoining properties.

9 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

10 (2CD06)

Four (4) certified copies of the structural engineer's details for the proposed development; including but not limited to all reinforced concrete, structural steel support construction and any proposed retaining walls; must be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure construction of the new development is in accordance with the structural engineers design.

11 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council for approval prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

12 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's Specification for On-site Stormwater Management 2003. The design and details must be submitted with the Construction Certificate Application and be approved by Council prior to the issue of the Construction Certificate. The stormwater management plan and designs must be prepared by a suitably qualified engineer.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

13 (2DS04)

The basement car parking level is to be adequately protected from flooding. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To prevent property damage and ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

14 (2DS05)

Pump systems will only be permitted for the drainage of seepage waters from basement areas.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner which protects adjoining properties.

15 (2DS07)

The design of rainwater tanks must be in accordance with the following:

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).

Reason: To protect public health and amenity.

16 (2DS08)

The waste water treatment system must be approved under Section 68 of the Local Government Act, 1993 prior to the issue of Construction Certificate.

Reason: To ensure compliance with legislation and to protect public health and amenity.

17 (2FC01)

Any proposed fence between the building line and the street alignment is to be no more than 1.5m in height with 30% transparency above 1m. The fence and/or wall height may be averaged if the

fence or wall is regularly stepped on sloping sites.

Reason: To reduce the impact of the fence on the street.

18 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, of 20% of the frontage, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

19 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

20 (2FP04)

The pedestrian footpaths and pavements in the streets surrounding the proposed development are to be constructed as per Manly Council Paving Design Guidelines as amended. The design details are to be submitted with the Construction Certificate application for approval by Council prior to the issue of the Construction Certificate.

Reason: To ensure appropriate quality of public infrastructure arising from the development works.

21 (2FP05)

A heavy duty pavement is to be constructed along the full length of the proposed right-of-way. Details must be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To ensure appropriate quality public infrastructure arising from the development works.

22 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

23 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

24 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

25 (2PT02)

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

26 (2PT03)

The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Reason: To ensure compliance with this consent and Australian Standards relating to manoeuvring, access and parking of vehicles.

27 (2PT05)

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Drawings must be submitted with the Construction Certificate application.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

28 (2US02)

A contribution is to be paid for the provision, extension or augmentation of traffic and parking, environmental programs, streetscape and landscaping, community facilities and administration that will, or are likely to be, required as a consequence of development in the area.

Total contribution for this development for the demolition of existing buildings, excavation, construction of a two (2) level hardware and building supplies warehouse with mezzanine, signage and two (2) levels of basement car parking – Bunning's Warehouse is currently \$900,642.16 the amount of the payment shall be in accordance with the Section 94 charges as at the date of the payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions plan to effect changes in land values, construction costs and the Consumer Price Index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with Council's adopted Section 94 Contributions Plan effective July 2010 as follows;

Component Contribution

Community Facilities	\$ 265.27
Streetscape and Landscaping	\$ 5,305.29

Traffic & Parking	\$ 44.22
Environmental Programs	\$ 7,368.46
TOTAL:	\$12,983.24 per 100m ² GFA

The calculations for DA16/2010 are as follows:

Additional Floor Area = 6936.96m²
\$12,983.24 X 6936.96m² divided by 100
= \$900,642.16

Total Section 94 Contribution applicable = \$900,642.16

Note: Section 94 Contribution fees are adjusted on the 1st July each year and are based on the March CPI figures.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

27 (2US07)

The design of water cooling systems, evaporative coolers and hot/warm water systems within the premises (including access to the system for maintenance) must comply with the following:

- Public Health Act 1991,
- Public Health (Microbial Control) Regulation 2000,
- Australian/New Zealand Standard AS/NZS 3666.1:2002 – Air Handling and Water Systems of Buildings – Microbial Control – Design, installation and commissioning,
- Australian/New Zealand Standard AS/NZS 3666.2:2002 – Air Handling and Water Systems of Buildings – Microbial Control – Operation and Maintenance, and
- Australian/New Zealand Standard AS/NZS 3666.3:2002 – Air Handling and Water Systems of Buildings – Microbial Control –Performance based maintenance of cooling water systems.

Reason: To comply with the provisions of the Public Health Act 1991 and to protect public health and amenity.

29 (2WM01)

Details of waste management facilities are to be submitted with the application for a Construction Certificate in accordance with the Manly Development Control Plan for Waste Minimisation and Management 2000.

Reason: To ensure appropriate management of waste.

30 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan for Waste Minimisation and Management 2000.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

Internal Note: The requirement for a Waste Management Plan is included in the Department of Environment and Climate change (DECC) Waste Service Performance Improvement Payment Criteria (WSPIP).

31 (2WM03)

Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and

constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.

Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

32 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

33 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

34 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

35 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

36 (3CD04)

The hoarding be in place prior to the commencement of works on the site. Trees which are affected by the hoarding and located outside the boundaries of the allotment are not to be cut, trimmed or removed without the prior approval of Council. The hoarding be removed immediately at the applicant's expense, if any of these conditions relating to hoardings are not fully complied with.

Reason: To ensure public safety and amenity on public land.

37 (3CD06)

Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising structural engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority prior to the commencement of framework.

Reason: To ensure structural adequacy.

38 (3CD07)

A Remedial Action Plan must be submitted to Council prior to the removal of any Underground Petroleum Storage Tank. All Underground Petroleum Storage Tanks must be removed in accordance with the:

- Protection of the Environment Operations Act 1997,
- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008.

Reason: To protect public and environmental health and comply with legislation.

39 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement

of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

40 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

41 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

42 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

43 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

44 (4BS01)

The construction of the food premises must comply with the following:

- Food Act 2003,
- Food Regulations 2004,
- Australian Standard AS 4674-2004: Construction and fit out of food premises,
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment.

Reason: To ensure compliance with legislation and to protect public health and safety.

45 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the

requirements of the Protection of the Environment Operations Act 1997.

- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 15) Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

46 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 8.00am to 1.00pm Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

47 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

48 (4CD04)

All hoardings must be lit between the hours of sunset and sunrise. Lights are to be erected at intervals of not greater than 5.0 metres for the length of the hoarding. The applicant must keep the hoarding presentable to the public for the whole of the time it is erected. There must be no catch points or protrusions likely to cause injury or damage to the public from the hoarding. The hoarding must be constructed of demountable timber frame sections lined with a smooth face material, and painted with an approved white paint which will not wash or rub off.

Reason: To ensure public safety and amenity on public land.

49 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority.

Reason: To ensure the structural adequacy of the retaining walls.

50 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. Certification is to be submitted to the Principal Certifying Authority during construction by a registered surveyor certifying complying and finished ridge levels.

Reason: To ensure compliance with the consent.

51 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Occupational Health and Safety Act 2000,
- The Occupational Health and Safety Regulation 2001,
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)],
- The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>], and
- The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. Those involved with work to asbestos should be made aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

Reason: To ensure the health of site workers and the public.

52 (4DS01)

A suitable sub-surface drainage system is to be provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

Reason: To prevent uncontrolled seepage entering excavated areas.

53 (4DS02)

Any de-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- 1) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA accredited laboratory or Manly Council for compliance with ANZECC Water Quality Guidelines, and
- 2) if tested by NATA accredited laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities; and
- 3) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received, and
- 4) It is the responsibility of the applicant to ensure during de-watering activities, the capacity of the stormwater system is not exceeded, there are no issues associated with erosion or scouring due to the volume of water pumped; and turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.

Reason: To ensure compliance with legislation and to protect the surrounding natural environment.

54 (4DS03)

Rainwater tanks must be installed on residential properties by a suitably qualified and licensed plumber and in accordance with the following:

Australian/New Zealand Standard AS/NZS 3500:2003, NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).

Reason: To protect public health and amenity.

55 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

56 (4FR01)

The building is to be erected in Type {insert type} construction for a Class {insert class} building in accordance with the Fire Resistance Provisions of the Building Code of Australia.

Reason: To specify the standard of construction and the level of fire safety required by the Building Code of Australia.

57 (4FR02)

All requirements of the NSW Fire Brigades for the building must be complied with in accordance with the requirements of the Building Code of Australia.

Reason: To comply with the requirements of the Building Code of Australia and to provide an adequate level of fire safety for the occupants of the building.

58 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

59 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

60 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

61 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

62 (4MS01)

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction, then the following inspection/certification are required:

- Silt control fences,
- Footing inspection - trench and steel,
- Reinforced concrete slab,
- Framework inspection,
- Wet area moisture barrier,
- Drainage inspection,
- Landscaping inspection,
- Final inspection.

The cost of these inspections by Council is \$2,080 (being \$260 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1414.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$120.

Reason: To ensure that the development is completed in accordance with the terms of the development consent and with the Building Code of Australia.

63 (4MS02)

In order to ensure compliance with approved drawings, a Survey Certificate, to Australian Height Datum, must be prepared by a registered surveyor as follows:

- 1) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries, and
- 2) at the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials, and
- 3) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved drawings and the proposed works.

Reason: To ensure compliance with the development consent.

64 (4MS04)

The Sediment Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

65 (4PT01)

All requirements of the Local or Regional Traffic Advisory Committees are to be complied with.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner which respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.

66 (4US01)

The installation of water cooling systems, evaporative coolers and hot/warm water systems within the premises (including access to the system for maintenance) must comply with:

- Public Health Act 1991,
- Public Health (Microbial Control) Regulation 2000,
- Australian/New Zealand Standard AS/NZS 3666.1:2002 – Air Handling and Water

- Systems of Buildings – Microbial Control – Design, installation and commissioning;
- Australian/New Zealand Standard AS/NZS 3666.2:2002 – Air Handling and Water Systems of Buildings – Microbial Control – Operation and Maintenance;
- Australian/New Zealand Standard AS/NZS 3666.3:2002 – Air Handling and Water Systems of Buildings – Microbial Control –Performance based maintenance of cooling water systems.

Water cooling systems must be maintained by a qualified person to ensure air born disease is prevented.

Reason: To comply with the provisions of the Public Health Act 1991 and to protect public health and amenity.

67 (4WM01)

The only waste derived material which may be received at the development site is:

- 1) Virgin excavated material (within the meaning of the Protection of the Environment Operations Act 1997), and
- 2) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any (b)-type material received at the development site must be accompanied by documentation certifying the materials compliance with the exemption conditions; and this documentation must be provided to the Principal Certifying Authority on request.

Reason: To ensure imported fill is of an acceptable standard for environmental protection purposes.

68 (4WM02)

Removal of contaminated solids from the site must comply with applicable laws for the transportation, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and compliance with the provisions of the Protection of the Environment and Operations Act 1997.

Reason: Compliance with the Protection of the Environment and Operations Act 1997.

69 (4WM03)

Hazardous waste must be contained, managed and disposed of in a responsible manner in accordance with the Protection of Environment and Operations Act 1997.

Reason: Compliance with the provisions of the Protection of the Environment and Operations Act 1997.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

70 (5BS01)

An Environmental Health Inspection is to be undertaken upon completion of works by Council prior to the issue of an Occupation Certificate.

Reason: To comply with legislation.

71 (5BS02)

Trading must not commence until the proprietor of the food business formally register their business details with The NSW Food Authority Notification and Food Safety Information System (NAFSIS).

Reason: To ensure compliance with legislation and the Australia and New Zealand Food Standards Code.

72 (5CD03)

In relation to the removal of the Underground Storage Tanks, a site Validation report in accordance with the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 must be submitted and approved by Council prior to the issue of Occupation Certificate.

Reason: To protect public and environmental health and comply with legislation.

73 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard

74 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and Specification for Stormwater Drainage 2003 and Specification for On-site Stormwater Management 2003.

Reason: Compliance with the consent and Council standards and specifications.

75 (5DS03)

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

76 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

77 (5FP02)

The reconstruction and/or construction of footpath paving and any associated works along all areas of the site fronting all streets applicable is required. These works are to be carried out prior to the issue of the Occupation Certificate by a licensed construction contractor, at the applicants expense and must be in accordance with Council's Specification for Civil Infrastructure Works and Paving Design Guide.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

78 (5HT02)

Where there is an existing surplus vehicular crossing and/or kerb layback to be removed, the kerb and nature strip is to be reinstated prior to issue of the Occupation Certificate. If there is heritage listed stone kerb, as identified in the Manly Local Environmental Plan 1988, the kerb must be reinstated to Council's specification with stone to match the existing heritage listed kerb. Kerbing stones may be purchased from Council by contacting Council's Works Superintendent on 9976 1455 between 8.00am and 4.00pm Mon-Fri.

Reason: To allow for preservation of cultural resources within the Manly Council area.

79 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

80 (5NL01)

An Acoustic Compliance Report, prepared by a qualified and experienced acoustical consultant, must be submitted certifying noise levels emitted from the (building's/premises) (services, equipment, machinery and ancillary fittings) does not exceed 5dBA above the background level in any octave band from 63.0 Hz centre frequencies, inclusive at the boundary of the site. This is to be submitted to Council/Accredited Certifier prior to the issue of the construction certificate.

Note: This method of measurement of sound must be carried out in accordance with Australian Standard AS 1055.1-1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

81 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant.

Reason: To ensure compliance with the terms of this consent.

82 (5WM01)

The applicant must contact Sydney Water (Tel.- 131110) to determine whether a Trade Waste Permit is required before discharging any trade waste to the sewerage system.

Reason: To comply with legislation.

83 (5WM02)

Prior to issue of an Occupation Certificate, the owner must provide evidence of a contract with a licensed contractor for the removal of all trade waste.

Reason: Responsible disposal management of trade waste.

84 (5WM03)

The premises must have adequate holding facilities for waste oil to meet Australian Standards for bunding and provide evidence of a current contract for the waste oil's recycling to the Principal Certifying Authority prior to the issuing of the Occupation Certificate.

Reason: To ensure responsible disposal of waste oil.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

85 (6AQ01)

The use of the premises must not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and must be controlled in accordance with the requirements of this Act.

Reason: To ensure compliance with legislation and to protect public health and amenity.

86 (6BS02)

The ongoing operation and fit out of the premises must be maintained in accordance with the following requirements:

- Food Act 2003
- Food Regulations 2004
- Australian Standard AS4674-2004: Construction and fit out of food premises
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment
- Australia and New Zealand Food Standards Code 3.2.2: Food Safety Practices and General Requirements

Reason: To ensure compliance with legislation and to protect public health and safety.

87 (6BS05)

All potentially hazardous food must be kept under temperature control. Adequate equipment must be provided for the storage of such food, in addition, a Food Safety Plan shall be developed to manage temperature control on a daily basis. A food safety program must be made available to Council upon request.

Reason: To ensure compliance with legislation and to protect public health.

88 (6BS06)

All food contact surfaces including but not limited to; glasses, plates, cutlery, chopping boards, preparation benches and wipe clothes are to be cleaned and sanitised whenever they are a likely source of contamination. Sanitising can be achieved through heat or chemical and is the second step after cleaning. Adequate facilities must be provided and include a double bowl sink for manual cleaning and sanitising or a mechanical dishwasher. Machines used for sanitising are to operate on a sanitising rinse cycle at the manufacturers recommended temperature and time. Preparation benches and dishwasher cloths are to be first cleaned to remove any dirt or food debris then rinsed with a food grade sanitiser to disinfect and minimise bacteria present to a safe level in accordance with the Food Standards Code.

Reason: To ensure compliance with legislation and to protect public health.

89 (6BS07)

The premises must prevent access to pests including but not limited to; insects and rodents. Insect and pest proofing will include mesh screening to prevent access and the use of insect devices that should be placed away from work areas where food may be contaminated. Holes and inaccessible spaces are to be sealed.

Reason: To ensure compliance with legislation and to protect public health.

90 (6DS01)

The ongoing use and operation of the rainwater tank(s) must be maintained in accordance with:

- Sydney Water Guidelines for Rainwater Tanks on Residential Properties, 2003.
- Australian Government EnHealth Council publication Guidance on the use of Rainwater Tanks, 2004.

Reason: To protect public health and amenity.

91 (6LP02)

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site

92 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

93 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

94 (6US01)

The ongoing operation of water cooling systems, evaporative coolers and hot/warm water systems within the premises (including access to the system for maintenance) must comply with the following:

- Public Health Act 1991,
- Public Health (Microbial Control) Regulation 2000,
- NSW Health's NSW Code of Practice for the Control of Legionnaire's Disease.

Water cooling systems must be maintained by a qualified person to ensure air born disease is prevented.

Reason: To comply with the provisions of the Public Health Act 1991 and to Protect public health and amenity.

95 (6WM02)

Waste collection from the premises must not occur between the hours of 10:00pm and 5:00am Monday to Sunday, without the prior approval of Council.

Reason: To minimise disruption to neighbouring properties.

96 (6WM03)

Waste bins used for commercial premises are to be left on public footpaths for the minimum time necessary for waste collection and then promptly removed. Lids should be closed to prevent littering.

Reason: To ensure waste and bins are promptly removed from public places following collection; to limit obstruction of footpaths or roads; and to minimise public amenity impacts.

97 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.

Reason: Public amenity and litter minimisation.

98 (6WM05)

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organised, clean and sanitary condition, preventing potential for litter from overflowing bins.

Reason: To communicate policy regarding illegal trade waste dumping in public bins; and maintenance of trade waste bins.

99 (6WM06)

Signage on the correct use of the waste management system and materials to be recycled must be posted in the communal waste storage cupboard/room or bin bay prior to receiving an occupation certificate. Signs are available from Manly Council's Customer Service.

Reason: To ensure all residents are aware of Council's waste and recycling system with regard to their dwelling.

100 (6WM08)

This commercial premises should investigate opportunities to compost food waste wherever practicable and recycle commonly recycled (non-putrescible) items such as paper and cardboard, steel and aluminium cans and recyclable plastic containers.

Reason: To promote waste minimisation in accordance with Manly Council's waste policies, the Waste Avoidance and Resource Recovery Act 2001 and the Manly Development Control Plan for Waste Minimisation and Management 2000.

101 (6WM09)

Cigarette butt receptacles are to be provided and maintained within these premises.

Reason: To ensure appropriate management of cigarette butt waste.

102 (6WM10)

The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

103 (7US02)

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator; for details see the Sydney Water web site www.sydneywater.com.au or telephone 13 20 92.

Following application a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.

Reason: To ensure compliance with the statutory requirements of Sydney Water.