

JRPP No	2010SYE114
DA No	DA10/1317
Local Government Area	Sutherland Shire
Proposed Development	Demolition of Existing Warehouse and Construction of a New Bulky Goods Retail Warehouse Including Outdoor Nursery, Timber Trade Area, Car Parking and Signage
Street Address	31-35 Willarong Road, Caringbah Lot 1 DP 837271
Applicant/Owner	John R Brogan & Associates Pty Ltd
Number of Submissions	Eleven (11) submissions (including one petition containing 21 signatures and one letter of support)
Recommendation	Refusal
Report By	Carolyn Howell - Environmental Assessment Officer (Planner)

Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel (JRPP) as the development has a capital investment of more than \$10,000,000. The application submitted to Council nominates the value of the project as \$30,316,000.

1.2 Proposal

The application is for the demolition of the existing development on site and the construction of a three (3) level "Bunnings Warehouse" with two (2) levels of car parking beneath.

1.3 The Site

The subject site is located on the eastern side of Willarong Road, Caringbah. The site is surrounded by roads with frontage to Koonya Circuit to the north, south and west.

1.4 The Issues

The main issues identified are as follows:

- Flooding.
- Access into the development.
- Tree loss.
- Significant inconsistencies in the documentation.

1.5 Conclusion

Despite extensive negotiation with the applicant the proposal remains unresolved and cannot be supported in its current form. The details of the proposal's shortcomings are detailed in this report.

2.0 DESCRIPTION OF PROPOSAL

The proposed development is for the demolition of the existing structures on site and the construction of a three (3) three level warehouse building, with two (2) levels of car parking under. The proposal consists of 14,645m² of gross floor area (GFA) and provides parking spaces for 407 cars (including 10 accessible spaces), 3 car/trailers, 16 motor bikes and 25 bicycles.

The proposal is to be occupied by the existing occupant, "Bunnings Warehouse". The proposed hours of operation are the same as the existing hours of operation, being 7am to 9pm Monday to Friday and 8am to 6pm Saturday and Sunday.

The proposed development is classified as a "*bulky goods premises*" and is permissible with development consent under *Sutherland Shire Local Environmental Plan 2006*.

The main pedestrian entrance into the development is from Koonya Circuit South. Pedestrian access into the undercroft parking level 1 is also available from Koonya Circuit West.

Vehicular access into the basement car parking is from Koonya Circuit North, via an access ramp which runs parallel to the northern property boundary. Ramp exits from the basement are available at both Koonya Circuit North and South.

Access into and out of the timber trade sales area is from Koonya Circuit South. Delivery vehicles also access the site from the same driveway in Koonya Circuit South, but exit via a separate driveway in Koonya Circuit North.

Each level can be described as follows:

Level 1:

This is the main level of the "Bunnings Warehouse" store. It contains 8927m² of GFA. This level contains the main pedestrian entrance into the development, a travelator and lift leading to the basement, a separate travelator and lift leading to level 2, the timber trade sales area and the goods receiving area.

This level of the development is set at RL6.60. As a comparison, the existing "Bunnings Warehouse" is set at RL7.21, or 610mm higher. In the south-western portion of the site this level of the development will be elevated approximately 1.5m above the existing car park level.

Level 2:

This level of the development contains 5444m² of GFA. This level contains the outdoor nursery, bagged goods area and the cafe. It is serviced by travelator and lift leading to level 1.

This level of the development is set at RL12.60.

Level 3:

This level is generally contained within the volume of level 2 and contains the offices and staff facilities such as lockers and a lunch room. It contains 274m² of GFA. This level is accessed via stairs; there is no disabled access to this level.

The structural RL for this level is 16.99.

Undercroft Parking Level 1:

This is the main level of car parking for the development and is accessed from Koonya Circuit North. Exits from this basement level are available at both Koonya Circuit North and South. This level contains parking spaces for 238 standard vehicles, 5 accessible spaces, 3 car/trailer spaces, 16 motor bikes and 25 bicycles. This level also contains plant rooms and lift and travelator access to the levels above and below. Pedestrian access to this level is available via stairs or a ramp in Koonya Circuit West.

This level of the development is set at RL3.10.

Parking Level 2:

This car parking level is accessed via the level above. It contains parking spaces for 159 standard vehicles and 5 accessible spaces. This level also contains plant rooms and lift and travelator access to the levels above.

This level of the development is set at RL0.20.

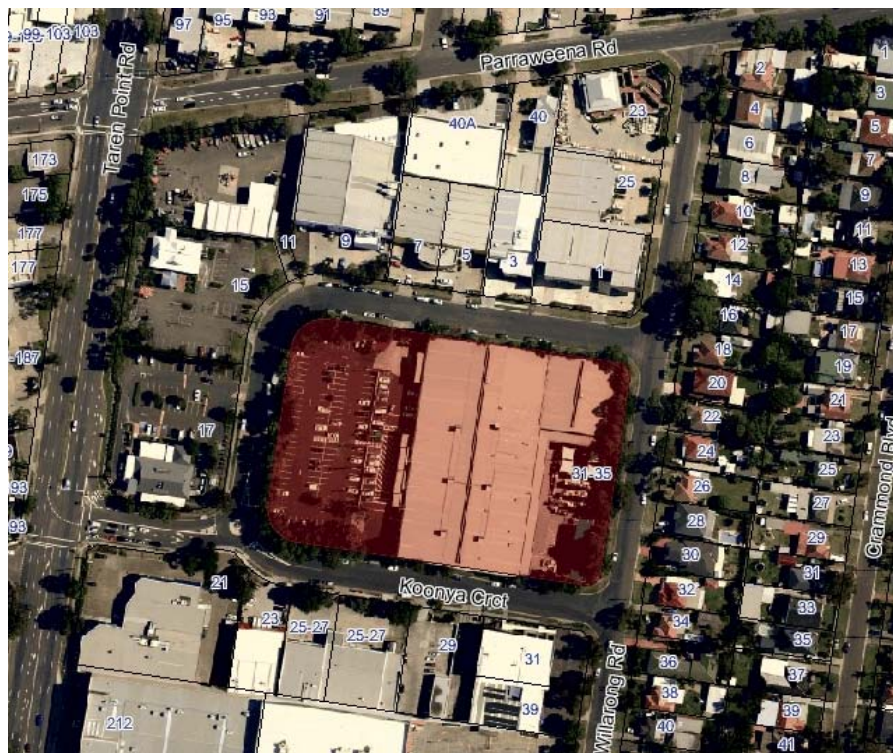
3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 31-35 Willarong Road, Caringbah. Currently situated on the site is a single level "Bunnings Warehouse" with car parking provided at grade.



Existing "Bunnings Warehouse"

The site is surrounded by roads. It has frontage to Willarong Road to the east and to Koonya Circuit to the north, south and west. The site is generally rectangular in shape with a site width of 100m and a site length of 150m. The site has a total area of 14,620m². The site slopes approximately 4.5m from the north-eastern corner to the south-western corner.



Aerial photograph – subject site shown shaded

The site has significant trees located along each of its boundaries, particularly around the north-western and south-western corners.



Existing trees- photo looking towards the south-western corner

The development surrounding the site is varied, with a mixture of residential and commercial buildings. To the east of the site are single detached dwellings of various heights and architectural styles. To the north and the south of the site are various bulky goods outlets and Australia Post. Several fast food outlets are located to the west.

The site is identified as being affected by flooding. The main area affected by flooding is Koonya Circuit south. The drainage system in Koonya Circuit south has been designed to take minor storm events only. Therefore during a major storm event (e.g. 100 year flood) overland flow will occur in Koonya Circuit south due to the substantial size of the catchment contributing to it.

4.0 BACKGROUND

A history of the development proposal is as follows:

- In 1994 Council approved the construction of a BBC Home Depot (Bulky Goods – Home Improvement Centre) on the subject site. In 1999 Council approved the refurbishment of the existing building and Bunnings Warehouse has occupied the site since this time.
- Between 2003 and 2008 Council approved various development applications for minor alterations and additions to the existing building.
- Between 2003 and 2009 Council Officers have had various pre-application discussions with regards to alterations and additions to the existing development.
- A pre-application meeting with Council's Architectural Review Advisory Panel (ARAP10/0005) was held 15 April 2010. As a result a copy of the ARAP report was forwarded to the applicant on 29 April 2010. A full copy of this is provided within Appendix A of this report.
- A pre-application discussion (PAD10/0105) was held on 11 November 2010 regarding a proposal similar to the current development application. As a result of this a formal letter of response was issued by Council dated 18 November 2010. A full copy of the advice provided to

the Applicant is contained within Appendix B of this report and the main points contained in this letter are as follows:

- Concern about compliance with the maximum floor space ratio.
- Some minor variation may be considered for height.
- Flooding matters need to be addressed.
- Concern about the relationship of the proposal with the street.
- The current application was submitted on 17 December 2010.
- The application was placed on exhibition with the last date for public submissions being 25 January 2011. Eleven (11) submissions were received, including one (1) petition containing 21 signatures and one (1) letter of support.
- Council wrote to the applicant on 24 December 2010 requesting additional details on the external finishes to the building, survey detail and detail to enable the calculation of floor space ratio (FSR) and landscaped area.
- Council wrote to the applicant on 4 January 2011 requesting that flooding and stormwater issues be addressed.
- An Information Session was held on 18 January 2011 and three (3) people attended.
- Council provided a preliminary briefing and the JRPP undertook a site inspection on 19 January 2011.
- Council wrote to the applicant on 19 January 2011 in regards to several matters including height, landscape plans/tree removal, acoustics, groundwater and pollution.
- Council received comments from the RTA on 28 January 2011.
- The application was considered by Council's Submissions Review Panel on 28 January 2011.
- The applicant submitted a revised SEPP 1 Objection for height on 31 January 2011.
- The applicant submitted some of the requested additional information on 1 February 2011.
- Council wrote to the applicant on 3 February 2011 requesting additional matters be addressed.
- Council Officers met the applicant at the new Chatswood Bunnings Warehouse to gain a greater understanding of the application on 24 February 2011. At this meeting Council's concerns in relation to FSR were reiterated and this was followed up with an email confirming Council's concerns.
- The applicant submitted additional acoustic information and a response to the landscape comments made at the ARAP on 25 February 2011.
- Further discussions were held with the applicant in relation to FSR on 1 March 2011 and this was confirmed in an email dated 2 March 2011.
- Further discussions were held with the applicant on 3 March 2011 and this was confirmed in an email dated the same.
- Details of changes to the proposal to ensure compliance with FSR were submitted to Council, via email, on 8 March 2011.
- A detailed tree survey was submitted by the applicant, via email, on 9 March 2011.

- Council contacted the applicant, via email, in relation to compliance with FSR on 9 March 2011.
- A revised SEPP1 Objection for height was submitted to Council on 22 March 2011, via email.
- Additional information in relation to traffic matters was submitted by the applicant on 23 March 2011.
- A NSW Police Force Crime Risk Evaluation was received by Council on 25 March 2011.
- Additional information with regards to flooding, water pollution control and groundwater was submitted by the applicant on 4 April 2011.
- Further architectural plans were lodged by the applicant on 6 April 2011.
- Council contacted the applicant, via email, in relation to various outstanding matters including the proposed response to the flood assessment report on 13 April 2011.
- Additional information submitted by the applicant's engineer on 19 April 2011.
- Council contacted the applicant, via email, on 28 April 2011 in relation to the lack of response to Council's email of 13 April 2011.
- Council officers met with the Applicant and their consultants on 10 May 2011 to discuss the implications of the Flood Management Report.
- Council contacted the applicant, via email, in relation to comments received from Council's Traffic & Transport Manager on 12 May 2011.
- Further information and plans were lodged by the applicant in relation to the Flood Management Report on 17 May 2011.
- Comments received from the RTA on 19 May 2011 in relation to signage.
- Additional stormwater information submitted by the applicant on 19 May 2011.
- Council contacted the applicant, via email, on 24 May 2011 in relation to the likely timing of the requested additional information.
- Revised plans and some additional information submitted to Council on 26 and 27 May 2011.
- Peer review of traffic report submitted to Council on 7 June 2011.
- Council Officers met with the applicant and their consultants on 7 June 2011 to discuss various outstanding matters with the application.
- Following the meeting with the applicant Council contacted the JRPP regarding the possibility of delaying the reporting of the application. Council was concerned that there was insufficient time for a coordinated response to be provided. The next available date that the JRPP had was 14 September 2011. This was conveyed to the applicant on 15 June 2011.
- The applicant advised on 16 June 2011 that all the required information would be lodged with Council by 23 June 2011 and that they did not wish to delay the reporting of the application.
- Revised plans and documentation were submitted to Council on 21 June 2011.

- Council Officers met with the applicant's traffic consultants on 22 June 2011. Additional information was submitted to Council on 24 June 2011 with regards to traffic modelling.
- Revised landscape plans were submitted to Council on 24 June 2011.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application, or after a request from Council, the applicant has provided inadequate information to enable a thorough assessment of this application. The application includes a SEPP 1 Objection requesting a variation to the development standard for height however the following information is missing from the application or inadequate:

- There is no SEPP 1 Objection for density. The plans submitted by the applicant seeking to demonstrate compliance with this development standard instead show that the proposal does not comply.
- The various plans and documentation submitted to support the application are inconsistent with each other and it is not possible to delineate exactly what is being proposed. The following inconsistencies should be noted:
 - The engineering drawings show the pathways in the south-western and north-western corners of the site rising up from the kerb to a platform with an RL5.70. The architectural drawings show these stairs heading down from the kerb to parking level 1 at RL3.10. It appears that the engineering drawings are correct as modifications were required to address flooding. However, as RL5.70 neither meets the car park nor the warehouse level it is unclear what is proposed for these corner treatments.
 - The engineering drawings do not show detail of proposed fill in the south-western corner. However, if the pathway is being raised to prevent potential flooding of the basement then it is considered appropriate to assume that the land surrounding the pathways will also be raised or else water would simply be redirected around the path. The extent of fill is likely to result in the death of significant trees in this portion of the site. The architectural drawings and landscape drawings show that the significant trees in this portion of the site are to be retained.
 - In the north-western corner the resultant landform is also unclear. Again no fill is shown and even if a bridge type structure is proposed, the construction of the sewer line is likely to result in an adverse impact on the trees which are shown on the architectural and landscape drawings as being retained.
 - There is a landscape mound shown adjacent to the main pedestrian entrance on the engineering drawings, however, no such detail is shown on either the architectural or landscape drawings.
 - The landscape drawings show trees No. 76 and No. 77 to be retained, however the architectural drawings show them to be removed. The engineering plans show that a sewer line is to be demolished in close proximity to these trees.

- The landscape elevations still detail signage which has been removed from the current proposal.
- Reference is made on the architectural plans (Drawings No.101/E and No.128) to the undercover walkway, which has been removed.
- Beams to support the awning over the goods receiving area are shown on the section (Drawing No. 01/122/C) but not on the floor plans, the roof plans or elevations.
- Reference is made on the architectural drawings (Drawings No. 120/C and 131/D) to shade cloth on a high tension steel mesh fence which has been removed from the proposal.
- The driveway shown on the architectural plans is not shown on the corresponding section (Drawing No. 01/121/C).
- The northern elevation (Drawing No. 131D) shows the entry and exit driveway further west in the location of the previous scheme. It also shows fire exit doors exiting onto what are now the proposed entry/exit ramps.
- The east elevation (Drawing No. 131D) shows both a solid acoustic fence and a black PVC chain wire mesh fence for what appears to be the same fence.
- The plans submitted to demonstrate compliance with density (Drawings No. 040/D, No. 041B and No. 042B) do not correspond with the project data sheet submitted to Council.

Throughout the assessment of the application, Council officers have been constantly following up the applicant to obtain information that was missing or requested and not provided. The level of detail in the drawings and information provided has generally been at the lower end of what is required to enable thorough and efficient assessment.

There have been ongoing issues around the coordination of the information provided by the applicant's various consultants. These problems have made assessment of the proposal much more difficult than it ought to have been and have significantly extended the timeframe for reporting to the Panel.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006).

A total of 115 adjoining or affected owners were notified of the proposal and eleven (11) submissions were received as a result (including one petition containing 21 signatures and one letter of support).

A full list of the locations of those who made submissions, the date/s of their letter/s and the issue/s raised is contained within Appendix C of this report.

The issues raised in these submissions are summarised as follows:

6.1 Non-compliance with maximum height

Concern has been raised about the non-compliance with the development standard for height.

Comment: The application fails to comply with the development standard for height and this matter is addressed in the “Assessment” section of this report.

6.2 Non-compliance with maximum density

Concern has been raised about the non-compliance with the development standard for density.

Comment: The application has been revised since it was placed on public exhibition. The current proposal is marginally in excess of Council’s development standard for density and this is discussed below in the “Assessment” section of this report.

6.3 Concern about the impact of the current operations and concern that the increased size of development will result in an intensification of existing problems

Many residents have raised concerns about the impacts of the current operations. Issues raised include noise from plant machinery and fork lift beepers, traffic, trucks parking in residential streets, trucks accessing the site, staff parking in the street, illegal parking, late night trading, light spillage, garbage and trolleys. Many residents expressed concerns that the increased size of the development will result in an intensification of existing operational problems on the site.

Comment: The demolition of the existing development and the construction of a new “Bunnings Warehouse” provide an opportunity for many of these operational issues to be designed out of the development. These issues are discussed in detail in the “Assessment” section of this report.

6.4 Location of plant equipment

Concern has been expressed about the location of the proposed plant equipment and the potential for the noise from plant equipment to adversely impact on residential amenity.

Comment: Council’s Environmental Health Officer has undertaken an assessment of the proposed development and requested the submission of additional acoustic details. Following receipt of this additional information Council’s Environmental Health Officer has advised that, subject to stringent conditions, the location of the plant equipment is acceptable.

6.5 Concern about safety issues associated with the basement car park

Concern was raised that the basement car park will be used for undesirable activities.

Comment: The basement car parking is very large and because it is mostly underground, does not enjoy strong passive surveillance from the street.

However, given the nature of the proposal it is anticipated that there will be persons frequently coming and going. It would be in the interests of the operator to ensure that this is a safe environment or else potential customers will not want to visit. Appropriate conditions in relation to CCTV and closure of the basement of an evening could be included in the development consent if the JRPP was of the opinion that the application is worthy of support.

6.6 Use of Koonya Circuit as a race track

Some residents raised concerns about the use of Koonya Circuit as a race track, particularly of an evening.

Comment: If there are persons driving vehicles in an unsafe manner, this is a matter that should be taken up with the Police for appropriate action.

6.7 Tree removal

Concern has been raised about the proposed removal of trees and also that the removal is required to ensure that the signage is visually prominent.

Comment: Council has significant concerns in relation to the proposed tree removal and this is detailed throughout the report and specifically in the “Assessment” section of this report.

6.8 Reduced sense of open space

Concern has been raised that the size of the development results in a reduced sense of open space.

Comment: The existing building occupies approximately half of the site and the remainder of the site is occupied by at-grade car parking, back of house operations or landscaping. While the bulk of the site is currently occupied by built form or car parking, a sense of open space is apparent because of the at-grade car parking and the significant number of mature trees located around the perimeter of the site. This will change to a degree however the proposal is considered to be acceptable and in line with the bulk and scale of buildings anticipated in the Employment Zone.

The proposed development complies with the minimum landscaped area development standard required in this zone. However, Council does have concerns about the proposed tree removal and this is discussed throughout the report and specifically in the “Assessment” section of this report.

6.9 Signage

Concern has been raised about the proposed signage.

Comment: As a part of the assessment of the application Council required the removal of some signage from the proposal. There is significantly less signage proposed compared to the scheme that was notified to neighbours. The current signage proposal is discussed in detail in the “Assessment” section of this report.

6.10 Koonya Circuit not wide enough to cater for trucks

Concern was received about trucks using Koonya Circuit and in particular, problems that currently occur with semi-trailers reversing into the site.

Comment: The proposed development involves a complete redesign of the current delivery arrangements for the site. Trucks will enter from Koonya Circuit South and exit via Koonya Circuit North. This arrangement ensures that all heavy vehicles can enter and exit the site in a forward direction.

If the JRPP was of the opinion that the application should be approved, Council would recommend conditions in relation to timing of truck deliveries to minimise impact on nearby residential properties and potential conflicts with weekend trading periods.

6.11 Size of development not appropriate adjoining a residential area

Concern was received that the scale of the development is inappropriate in close proximity to a residential area.

Comment: The proposed development is extremely large in comparison to the neighbouring residential properties. However, there is change of zoning across Willarong Road and there are vast differences in the type and scale of development permitted within each of the zones. The sheer size of the site (1.462 hectares) results in a very large building form when an applicant is seeking to construct to the maximum density.

6.12 Impact of the construction process

Concern has been raised by residents and by Australia Post about the impact of the construction process. Issues such as noise, damage to property, dust, construction traffic, hours of construction and adverse impacts on letter sorting machinery were raised.

Comment: Given the scale of development proposed, the construction process is likely to be inconvenient to neighbouring properties. Appropriate conditions of consent would seek to minimise the impact of the construction process, although this matter could not be a reason for refusing the application.

6.13 Bunnings at Kirrawee is large enough to cater for demand of local area

Concern was raised by several residents that the Bunnings Warehouse at Kirrawee is large enough to cater for the demands of the local area and that a new store was unnecessary.

Comment: The commercial decision for the proponent to construct a new store in this location, given the proximity of nearby stores, is not a relevant matter for consideration under Section 79C of the EPA Act.

6.14 Adverse impact on local businesses

Concern was raised about the potential for the increased store size and product range to have an adverse impact on local businesses.

Comment: The increased size and product range proposed by the new development is likely to increase competition to local businesses. Commercial competition is not a relevant matter for consideration under Section 79C of the EPA Act.

6.15 Timing of the lodgement of the application

Concern has been raised about the timing of the lodgement of the application.

Comment: Council has no control over when the applicant chooses to lodge an application, nor are there any restrictions within the EPA Act in relation to the timing of the lodgement of an application. The application was lodged just prior to Christmas and was neighbour notified over the Christmas holiday period. Council policy provides for an extension of the public exhibition period during this time and it is considered that there was appropriate opportunity for interested persons to make a submission.

6.16 Shadow/impact on natural light/sunshine

Concern was raised about the potential shadow impact of the development and also the impact on natural light and sunshine.

Comment: The subject site is surrounded by roads and this provides a significant separation between itself and neighbouring properties. As demonstrated in the shadow diagrams, the bulk of the shadow cast by the development in mid winter will fall upon the site itself or upon the road reserve.

6.17 Impact on property values

Concern was raised that the proposal will adversely impact on property values.

Comment: The impact of the development on the property values of nearby residences is difficult to assess. In any event the impact on the property values resulting from a development is not a relevant matter for consideration under Section 79C of the EPA Act.

7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone 11 - Employment pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The site is located within an area of the Employment Zone in which bulky goods premises are permissible. The proposed development, being a *bulky goods premise*, is a permissible land use with development consent.

The following Environmental Planning Instruments (EPI's), Development Control Plans (DCP's), Codes or Policies are relevant to this application:

- State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)

- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64)
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006)
- Sutherland Shire Development Control Plan 2006 (SSDCP 2006)
- Section 94A Developer Contributions Plan - Land Within the Employment Zone

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls and a compliance checklist relative to these:

Standard/Control	Required	Proposed	Complies? (% Variation)
Sutherland Shire Local Environmental Plan 2006			
Height 33(11) & 33(12)	12m/9m	14.12m	No – SEPP 1 submitted
Building Density 35(13)	FSR 1:1 14 620m ²	1.001:1 14 645m ²	No
Landscaped Area 36(5(i))	10%	16.2%	Yes
Sutherland Shire Development Control Plan 2006			
Allotment Size 3.1.b.3.1	1000m ² site area	14,620m ²	Yes
	21m width	100m	Yes
	27m depth	150m	Yes
Street Setback 3.2.b.6.1	9m	15m setback to main wall	Yes
Secondary Street Setback 3.3.b.15.2	3m	9m setback to main wall	Yes
Outdoor Staff Recreation Area 3.7.b.7.1	16m ² area	None	No
	3m width	-	No
	6m ² to receive sunlight 10-2	-	No
Streetscape 3.11.b.16	Ground floor uses to have street presence	No – some presence for entry area	No
Street Trees 3.12.b.1	15m intervals	Can be conditioned	Yes
Car Parking 7.1.b.1	RTA Guidelines – refers to traffic	407 spaces Considered	Yes

	report	acceptable	
Motor Cycling Parking 7.1.b.2	1/25 car spaces 407/25 = 16 spaces	16	Yes
Footpath 7.3.b.3	1.2m footpath to be provided	Can be conditioned	Yes
Disabled Car Parking 7.4.b.8	1/50 spaces or 9 spaces Now detailed in the Disability (Access to Premises – Buildings) Standards 2010	10 spaces	Yes
Loading 7.4.b.9	Dedicated loading area	Yes	Yes
	Enter & exit in forward direction	Yes	Yes
	Minimum heavy rigid vehicle	Articulated vehicle	Yes
Bicycle Parking 7.5.b.3.1	1/10 cars (first 200 cars) 1/20 cars (there after) = 30 spaces	25 spaces	No – could be conditioned
	Provision of unisex shower	Yes	Yes
Waste & Recycling Storage 8.6.b.1.1	Show the waste storage area	No –written details provided	Could be conditioned
Advertising 10.1.a.1	20m ² max	63m ²	No
	1 sign / elevation	1 sign + logo	No
	No signage on secondary elevations	Signage on all elevations	No

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

9.1. Roads & Traffic Authority (RTA)

Pursuant to the requirements of Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the RTA. The RTA provided comments and recommendations to Council, a copy of which is located within Appendix D of this report.

In addition, the application falls within the provisions of Clause 18 of State Environmental Planning Policy No. 64 – Advertising & Signage, which requires concurrence from the RTA for advertisements that are greater than 20m² and are visible from a classified road. The RTA has advised that they raise no objection to the proposed signage.

Following modelling of the proposed traffic impacts of the development, concerns were raised by Council's Traffic & Transport Manager about the impact of the development on the intersection of Taren Point Road and Parraweena Road. One option to address this issue is to ban the right hand turn from Parraweena Road (east) onto Taren Point Road. This would force traffic wishing to turn right down Erskine Road to the Box Road/Taren Point Road intersection.

This proposition has been discussed with the RTA who has advised that they agree to the proposed change as a part of the development assessment process.

9.2. NSW Police Force

In accordance with the protocol between the NSW Police Force and Sutherland Shire Council, this application was forwarded to the NSW Police Force for comment.

The Police undertook a 'NSW Police Force Crime Risk Evaluation'. This evaluation process is based upon the Australian and New Zealand Risk Management Standard ANZS4360:1999. It is a contextually flexible process that identifies and quantifies crime risks and hazards.

As a result of this process a low crime risk rating has been identified for this development on a sliding scale of low, moderate, high and extreme crime risk.

The NSW Police recommended that Crime Prevention through Environmental Design (CPTED) principle applications be considered in the proposed development including the following:

- Lighting design
- Basement treatment
- Security treatments
- Environmental maintenance

Where appropriate these matters could be dealt with via conditions of development consent, should the JRPP decide that the application is worthy of support.

9.3. Architectural Review Advisory Panel (ARAP)

Council's Architectural Review Advisory Panel considered this application on 20 January 2011. A full copy of the report from ARAP is contained within Appendix E of this report. In conclusion this report noted the following:

"The proposal is appropriately located and of an acceptable bulk and scale. However, further development of the urban edge of the proposal is required if the building is to relate successfully to the existing retail precinct.

Further development of entries should allow more visual connection to the existing retail precinct. Paths and a forecourt should be

developed to provide a stronger connection between the entrances and the retail precinct and an alternative landscape concept should be developed to provide a more urban response. The removal of a large number of existing trees is not supported because they are the site's best asset and will be necessary to moderate the increased bulk of the building."

In response to the submission of revised plans Council's Urban Design Adviser provided the following comments on the proposal:

"The simple box form design for this now quite predominant corporate identity on this site could have produced a development with a quality that promoted this corporation's community impact whilst creating an internal environment that is welcoming, appealing and attractive. Instead the only "wow" factor of this proposal results as a product of its size, which is huge, very visually dominant and overpowering. The rest of the design is what it is – a big painted box.

The attributes of the site with street exposure to all sides of the development have been ignored by the design with little apparent connection to the surrounding locality and poor identity of address for any of the entries into the development.

The design and form of the proposal has not varied much since the review by ARAP on 20 January 2011 where it was demonstrated that there would be a strong reliance upon the quality of the landscaping to soften the overall impact of the built form. However, it is becoming more apparent in review of the uncoordinated documentation that through the impact of services, traffic and other environmental issues there will be little possibility of any of the existing significant trees being retained.

Additionally, the pedestrian entrance into the building has to be contorted to address flooding issues resulting in a reduction of the attempt to make apparent the main building entry as suggested by ARAP.

All in all the design has little architectural merit as demonstrated by even some of the simple issues such as co-ordinated documentation being properly resolved even at this conceptual stage.

This is a design opportunity lost through poor site analysis, uncoordinated consultant input and neglect to the way the community accesses and uses these facilities. The development will be dominant, imposing and of poor amenity with an insular identity that is inappropriate for this locality and thereby cannot be supported on its architectural merit."

9.4. Flooding

The proposed development was referred to Council's Stormwater Management Unit for assessment as the subject site is located within "*an initial assessment of flood risk area*", as noted on the s149 planning attributes.

Council is currently developing a Draft Gwawley Bay Flood Study, but this has not yet been finalised or adopted by Council. The applicant provided a Flood Assessment Report (March 2011) prepared by 'FloodMit.'

Council's Stormwater Management Unit provided the following comments in relation to the proposed development:

The table below addresses the relevant flood controls in Sutherland Shire Development Control Plan 2006 (SSDCP 2006) and the proposal's compliance with these.

SSDCP 2006 Control	Bunnings Proposal	Compliance
4.b.9.1.a(i) Floor Levels		
Habitable Floor Levels minimum 1%AEP +500mm freeboard	6.6m AHD – building (nil or varied freeboard)	No
4.b.9.1.f(iv) Car Parking and Driveway Access		
Crest of driveway between road and basement garage minimum 1% AEP + 200mm freeboard	240mm freeboard (south western driveway)	Yes

Floor Levels

The main entrance and east of this on the southern side of the building do not achieve the minimum required floor levels. While the construction drawings (00571_DA05F & 00571_DA02H) indicate that a landscaped bund (providing adequate freeboard) will be provided inside the boundary in front of the main entrance, the architectural drawings do not detail this landscape bund.

Furthermore there is a break in the landscaped bund to allow pedestrian access to the main entrance from the south and details of whether this is a ramp complying with minimum floor levels or not is unclear.

The entrance to the timber trade sales area does not achieve minimum floor levels and the area located in front of this (specifically the crest level of the south-eastern driveway) is not raised sufficiently to provide for adequate freeboard for the warehouse.

Flood Assessment Report (March 2011) FloodMit

The applicant's flood assessment report recommends the following:

- i. Building floor levels – That the proposed floor level be raised or stepped to provide a level of protection that is 0.5m above the 100 year flood.*

Alternatively, an impermeable wall or barrier could be provided along the southern boundary of the new building to eliminate the likelihood of inundation. The wall would need to be 0.5m above the contour levels shown on Figure 5, which amounts to a maximum height of about 0.7m.

- ii. Basement car park – That the exit ramp from the basement on the southern side be designed to ramp up to a minimum level that is 0.2m above the 100 year flood level before grading down to the basement. The crest of the ramp should be as close to the existing building as possible to avoid impeding the natural flow of stormwater along the property boundary. A pump-out system and warning signs should also be provided.*
- iii. Access during floods – Vehicular access from the basement car park via the southern exit ramp is not recommended during periods of flooding due to the depth of inundation that will be encountered along Koonya Circuit (of up to 0.4m). It is recommended that an evacuation system is provided that allows all vehicles to exit the basement via the northern ramp when flooding is experienced.*

The applicant has or can comply with the recommendations in (ii) and (iii) above, however, the proposal does not comply with (i).

The applicant sought to comply with the alternative recommendation in (i) through the provision of a flood gate (now removed) as an impermeable barrier along the south-eastern driveway. This was not an acceptable form of treatment and was not endorsed in the applicant's Flood Assessment Report.

The applicant then proposed to upgrade the street drainage in Koonya Circuit (southern side) to reduce the overland flow. While this proposal reduces some of the overland flow from Koonya Circuit it does not eliminate it entirely and minimum freeboards are still not obtained in the south side of Koonya Circuit (eastern end).

Floor levels will need to be increased to provide adequate freeboards; if the drainage is upgraded in Koonya Circuit (as per C&M Consulting Engineers correspondence dated 16 May 2011, ref. PN-00571.L002) then the minimum floor level must be set at 7.81m AHD. If the drainage is not upgraded in Koonya Circuit then the minimum floor level will need to be set at 8.1m AHD.

Alternatively the applicant could go with the recommendations of the FloodMit's Flood Assessment Report and provide an impermeable barrier on the southern side 0.5m above the 1% AEP or step the building down the site to achieve 0.5m above the 1% AEP. A flood gate is not an acceptable impermeable barrier and the crest of any driveway leading to a habitable floor area would need to be raised to achieve 0.5m above the 1% AEP.

Recommendation

The application cannot be supported in its current form as the applicant has failed to adequately address the issue of flooding.

9.5. Traffic & Transport

The application was referred to Council's Traffic and Transport Unit for assessment. The following comments have been received from Council's Manager of Traffic and Transport.

Traffic Generation

The applicant has provided Council with additional information on traffic generation. This additional information provides traffic surveys from the Bunnings Chatswood store, which, although smaller has the same two level model as proposed for Caringbah with a similar catchment area. The main perceivable difference between the Caringbah and Chatswood stores is that the Caringbah store services a larger surrounding industrial/commercial trade area, which may result in an increased traffic generation rate.

It is generally accepted that the Chatswood surveys do provide an appropriate reference in determining traffic generation for Caringbah. Using the generation rates for Chatswood results in similar projected traffic generations to that proposed by the applicant in the initial report submitted by TTPA.

It is considered necessary to use conservative traffic generation rates to account for seasonal peak variations in trading demand, likely increased demand from surrounding land use at Caringbah and to test the sensitivity of the traffic network accordingly. In this regard the applicant, as requested, has undertaken sensitivity testing in their traffic modelling.

Traffic Modelling

At Council's request, the applicant undertook Paramics Scatsim (microsimulation) Modelling to determine traffic impacts on the surrounding road system.

The methodology used, including running the model using traffic generations 20% and 30% higher than Bunnings' initial projections (and Chatswood rates), is considered to be satisfactory.

Results

Koonya Circuit: The Paramics modelling produced results showing that whilst delays are increased, satisfactory levels of service will be maintained at the Koonya Circuit/Taren Point Road intersection. It also showed that under the changes proposed to the roundabout and new access and egress arrangements to the warehouse site, queuing through the Koonya Circuit roundabout does not have a significant impact on the level of service provided.

However, for the +30% scenario, the modelling did indicate that on occasion queuing will extend to beyond the proposed southern egress. Based on the

information provided, this is likely to reflect conditions during peak seasonal demands only.

Parraweena Road: The modelling indicates that additional traffic generation will adversely impact on the intersection of Parraweena Road and Taren Point Road. A possible solution at this location is to prohibit the right turn heading west to north bound from Parraweena Road into Taren Point Road, and to send these right turners to the intersection of Box Road and Taren Point Road, via Erskine Avenue.

At Council's request the applicant incorporated these possible changes into their Paramics model and also provided an analysis of the Box Road intersection with the reassigned right turn traffic. At this stage, both indicate a satisfactory outcome.

The RTA has indicated no objection to this proposal. If the JRPP is of the opinion that the proposal should be supported, an appropriate condition should be incorporated into the consent requiring this modification to be implemented.

Access and Egress

The design of the northern access and egress remains unsatisfactory with respect to the following:

- AS2890.1 2004 Part 1 offstreet defines the access facility as Category 4 (local road 301 - 600 spaces). In section 3.2.3 the standard states that entry for left turning vehicles into driveways in categories 3 and 4 should be gained from the kerbside lane. Whilst lanes are not marked in Koonya Circuit, under the current design left turning vehicles will be required to prop in the through travelling lane and undertake a 180 degree turn at the absolute minimum turning radius in order to access the car park.
- Contrary to 3.2.3 (v) of the standard, right turning traffic into the facility will obstruct through traffic in Koonya Circuit. Removal of kerbside parking fronting adjacent retail premises is not a satisfactory solution.
- Minimum grades of 1 in 20 have not been achieved for the first 6m inside the property boundary.

The access design is cumbersome, does not comply with the Australian Standard and is inadequate for the proposed development. Given that the site is to be fully redeveloped and as such is mostly unconstrained along both its northern and southern frontages, there is no reason why best practice should not be provided.

However, it would seem that the applicant is not prepared to provide a satisfactory design as it will affect their floor plate area and shape. This is not considered sufficient reason for Council to accept a compromised solution.

Recommendation – Traffic & Transport

The application should not be supported in its current form as the design of the of northern access and egress remains unresolved.

9.6. General Engineering

The application was referred to Council's Development Engineer for an assessment of traffic management, stormwater management, construction site management and geotechnical issues within the site during the construction and operational phases of the development.

Proposed dedication of land for road widening purposes

To further improve the safety and operational efficiency of the Koonya Circuit roundabout the proposal includes the dedication of a small area of land at the south-western corner of the site for road widening purposes.

Parking layout and dimensions

The layout and dimensions of the proposed car parking facilities have been assessed against the design criteria specified in SSDCP 2006 and the relevant Australian Standards (AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009). The proposal is generally compliant with these controls/standards.

In addition to standard car parking spaces the proposal includes dedicated parking spaces for vehicles transporting people with disabilities, vehicles towing light trailers, motor cycles, and bicycles. These facilities are also generally compliant with the relevant standards/controls.

SSDCP2006 requires the provision of defined pedestrian pathways in car parking areas. The proposal includes a single north/south defined pedestrian pathway on each car parking level to link with the location of each proposed lift entrance.

Pedestrian access onto the site

Two (2) pedestrian entry/exit precincts are proposed, one (1) located on the southern boundary and the other on the western boundary. Each proposed pedestrian entry/exit precinct is located clear of any proposed vehicular entry and exits.

Management of service vehicles

All service vehicles will enter the site from Koonya Circuit South and exit the site from Koonya Circuit North. The proposed site access arrangements for service vehicles will provide acceptable levels of public safety and convenience (subject to consent conditions which prohibit heavy service vehicle access to the site during expected periods of busy retail trade).

The loading/unloading of service vehicles has been assessed against the relevant provisions within SSDCP 2006 and the relevant Australian Standard and found to be acceptable.

Timber trade sales area

The timber trade sales area is located at the eastern end of the main warehouse. Vehicles accessing the timber trade sales use the driveway located in Koonya Circuit South, also used by service vehicles. Exiting vehicles will also use this driveway. To access the timber trade sales area for pick up purposes from the proposed car parking areas, customers (including those with trailers) will exit the car parking area across the site's southern boundary into Koonya Circuit, turn left and re-enter the site after approximately 30 metres.

Entry into the timber trade sales area will be controlled by a boom gate and can be managed in a manner which does not obstruct the entry of service vehicles onto the site and proceeding to the goods receiving area at the north-eastern corner of the site.

Stormwater management

The stormwater management proposals within the site are considered to address all relevant Council principles in relation to quantitative and qualitative stormwater management objectives specified in SSDCP2006 including:

- Reducing potable water demand by provision of a 30.0m³ on-site alternate water supply;
- Controlling peak post development discharges to minimise the potential to adversely impact on downstream areas; and
- Pre-treatment of stormwater discharges from the site during both the construction and operational phases of the development to meet relevant water quality objectives

Geotechnical Investigation Report

The submitted Jeffrey & Katauskas P/L Geotechnical Investigation Report dated 29/6/10 (Ref: 24066Vrpt Caringbah) presents investigation procedures and findings and makes comments and recommendations on the principal geotechnical aspects of the proposed development to assist the structural engineers and builders with design and construction planning.

The Report's recommendations are primarily based on information obtained from boreholes drilled in 1993 for a geotechnical investigation undertaken for the existing warehouse. This information is still considered to be relevant as sub-surface soils conditions remain unchanged, even though existing site levels are clearly different.

The scope and detail of the report is considered to be sufficient for the intended purpose of assisting the applicant's structural engineers and builders with design and construction and allows the conclusion that adequate levels of site stability can be achieved in both the construction and operational phases of the proposed development.

Construction Site Management Plan (CSMP)

The submitted CSMP (No.00571_DA09 Rev 'A') indicates details of various sediment and erosion control measures and the proposed location of three (3) temporary stabilised construction vehicle access points. The level of detail included in the submitted CSMP plan and related documents fails to adequately address various important issues associated with the demolition, deep excavation and construction proposals such as:

1. A dilapidation survey report.
2. A truck haulage route for the disposal from the site of demolition and excavated materials.
3. The disposal from the site (during the deep excavation phase) of sediment laden water located below natural surface level and how such disposal will limit suspended solids to acceptable levels.
4. Material storage areas and site facilities.
5. Site vehicle details and a construction phase traffic management plan.
6. The location and type of proposed hoardings and public area construction zones.

Should the JRPP decide that the application is worthy of approval the above matters could be dealt with via conditions of development consent.

9.7. Landscaping

The application was referred to Council's Landscape Officer who provided the following comments:

The landscape design for the site could now generally be considered satisfactory. However, it is apparent that the landscape design will not be implemented in the manner detailed in the plans. In particular, the likely change of levels and other engineering works associated with the proposed development will result in the death of the majority of significant trees on the site.

It is estimated that fill in the south-western corner of the site will be in the vicinity of 750mm at the fire stair exit. This group of trees are mature and healthy and will provide significant instant screening to reduce the scale and bulk of a large building as well as maintaining vital street tree and streetscape amenity in the location. This is considered extremely important in the context of the scale of the development. Should the trees die, and there is every indication that they will not survive the excessive amount of fill, we will be left with a large building with no mature vegetation to screen it.

Similarly, it is also considered that the need for services (eg stormwater and sewerage works) in the north-western corner will have a detrimental impact on the trees in this location. Excavation and trenching will ultimately sever roots of the mature trees, which will lead to their decline and eventual death. If the application is approved and they are maintained, their long term stability is doubtful and they will be a potential future safety hazard.

The application seeks to rely on the existing trees to create an appropriate balance between the built and unbuilt form. However, cross referencing of the plans and associated engineering works means that the longevity of the significant trees in the north-western and south-western corners is extremely unlikely. Therefore the proposal cannot be supported in its current form.

9.8. Environmental Health

The proposed development was referred to Council's Environmental Health Officer for assessment. Council's Environmental Health Officer has advised as follows:

Given the nature of the concerns raised by the residents in Willarong Road regarding excessive noise and other operational matters, it has been considered necessary to place stringent conditions on the operation of the building to minimise the impact on surrounding residents.

Should the JRPP decide that the application is worthy of approval, in addition to standard Council conditions in relation to noise and other operational issues, specific conditions can be included in relation to lighting, delivery/collection times and compliance with the recommendations of the submitted acoustic report.

9.9. Environmental Science

The application was referred to Council's Environmental Scientist to provide comment on relevant environmental issues. The following comments have been received.

Contamination

A Preliminary Environmental Site Assessment (EIS, 2010) has been prepared and submitted with the applicant's documentation. Whilst not undertaken completely in accordance with the relevant DECC guidelines, it provides a reasonable initial assessment of the potential for widespread contamination on the subject site. Although only a small number of samples were tested for contaminants of concern, previous investigations on the site failed to identify any contamination.

In addition, given the previous historical use of the site as a drive in theatre and hardware store, the potential for contamination is extremely low. This, coupled with the fact that the entire site will be excavated to bedrock, renders the potential for significant contamination as minor.

The levels of groundwater contamination identified as a result of groundwater sampling are consistent with that commonly found within an industrial catchment in Sydney. The contaminants identified are unlikely to be as a result of activities on the subject site given that no soil contamination was identified during soil investigations.

The management of excavated material and potential contamination can be effectively mitigated though the imposition of conditions of consent regarding appropriate waste classification and disposal.

Acid Sulfate Soils

The site is mapped on Council's Evview mapping system as containing Class 5 Acid Sulfate Soil (ASS). Testing has been undertaken on subsurface samples obtained from three (3) boreholes located across the site. The results from the only sample taken at depth indicate that the materials from 2.7m and onwards below ground surface contain appreciable amounts of unoxidised materials. These, however, are likely to be from organic or humic materials, given the results obtained as part of Suspension Peroxide Oxidation Combined Acidity Sulfur testing and are hence not considered to be ASS material.

Given the acidic nature of the existing subsurface materials, the excavations should be examined and tested during construction to ensure no adverse impact associated with the works results. Treatment with lime product may be required in order to offset any acidic material and all materials should be disposed of to licensed facilities in accordance with NSW DECCW Waste Classification Guidelines (2009).

Groundwater & Dewatering

Preventing seepage into the basement and eliminating the requirement for ongoing pump-out is unlikely to result in any significant impacts upon groundwater dependent ecosystems within the locality. Following dewatering as part of construction works, groundwater levels would likely return to normal over a period of time. Conditions to manage dewatering during construction should be imposed on the application.

9.10. Community Services

The application was referred to Council's Community Services Unit who provided comment in relation to accessibility and crime prevention. Council's Community Services Section has advised that subject to suitable conditions of development consent no objection is raised to the proposed development.

9.11. Building

The application was referred to Council's Building Surveyor who provided the following comments in relation to the proposed development.

The submitted Building Code of Australia (BCA) report prepared by Steve Watson & Partners indicates that there will be various and wide ranging non-compliances with the deemed to satisfy (DTS) provisions of the BCA. The report also states that "Most of these non-compliances generally occur on the majority of Bunnings Warehouses constructed" and that a fire engineered Alternate Solution will be required for this project.

Compliance with the BCA is a matter to be addressed by the Accredited Certifier (AC) at the Construction Certificate (CC) stage and the AC must ensure compliance prior to issuing a CC. Compliance can be in the form of the DTS provisions or an Alternate Solution demonstrating that the performance measures of the BCA have been satisfied.

In this regard there is no objection to the issuing of development consent subject to conditions. The applicants have been made aware by their consultants that an Alternate Solution will be required.

10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

10.1 Height

The proposed development fails to comply with the development standard for height. Clause 33(11) of SSLEP 2006 stipulates a maximum height 12m for this site. There is also a question of whether Clause 33(12) of SSLEP 2006 applies to the land and this clause stipulates a maximum height of 9m.

Clause 33(12) of SSLEP 2006 states the following:

(12) Despite subclause (11), a building on land in Zone 11—Employment that adjoins land in Zone 3—Environmental Housing (Bushland) or Zone 4—Local Housing must not exceed a height of 9 metres, as measured vertically from ground level to the highest point of the roof.

Opposite the site, in Willarong Road, are dwelling houses which are located in Zone 4 – Local Housing pursuant to SSLEP 2006. Between the subject site and the Zone 4 – Local Housing is road reserve, which is Zone 23 – Road under SSLEP 2006. One interpretation of the word “adjoin” is that the subject site does not strictly “adjoin” Zone 4 land.

However, in *Hornsby Shire Council v Malcolm* (1986) 60 LGRA 429 at [433-34] Justice Kirby P took a more liberal interpretation of “adjoin”. In *Hornsby Shire Council v Malcolm* the word “adjoins” related to wording within *State Environmental Planning Policy No. 5 – Housing for Aged and Disabled Persons* and its interpretation decided the permissibility of development on land which “adjoins” urban uses. Justice Kirby states that nowadays if “adjoins” was to be interpreted as “abutting” it should have had an adverb, such as “immediately” forward of it.

The development proposes a building which measures 14.12m in height and to support this variation the applicant has lodged an Objection pursuant to the requirements of SEPP 1. The applicant does not agree that Justice Kirby’s interpretation of “adjoins” is relevant to the consideration of the relevant height control for this site, however, they have lodged a without prejudice SEPP 1 Objection if the JRPP is of the view that the control should be interpreted in this manner.

The applicant's full SEPP 1 Objection is contained within Appendix F of this report and the most relevant section is reproduced below:

".....It is also to be noted that although such a building height development standard may be appropriate to a largely level site, it is poorly suited to a sloping site such as this, particularly for a large warehouse structure requiring large level floor areas as Bunnings does, high operational clearances in-store, and safe and serviceable ramp grades to basements, all of which generate the resultant building height in question. Furthermore, it is to be noted that the previous excavation of the existing site in order to achieve a level building pad for the present Bunnings store, has the effect of generally exaggerating any height non-compliance with the 12 metre control, due to the unusual wording of the 'ground level' definition which acknowledges the pre-excavation levels in the case of a commenced but not completed consent but does not acknowledge the post-development circumstances. It is noted that measuring EGL to excavated ground levels is not relevant to a proper measure of perceived building height. Under the circumstances, it is therefore considered that it would be both unreasonable and unnecessary to insist upon strict compliance with the 12 metre building height standard, and that the SEPP 1 Objection is well-founded.

Further, it is particularly relevant that the parts of the building that do exceed the height plane are over a minority of the site, located such that they do not contribute to perceived building bulk, and significantly ameliorated by the generous building setbacks and soft landscape screening.....

....Under the circumstances, it is also concluded that all the above findings and conclusions drawn in relation to the 12 metre height control in Clause 33(11) also apply to the analysis of the Clause 33(12) height control of 9 metres.

To summarise:-

- a) the interpretation in Hornsby Council-v-Malcolm of the word 'adjoins' in SEPP 5 is not considered applicable to the building height development standard found in Clause 33(12) of the SSLEP 2006. A formal SEPP 1 Objection is lodged without prejudice, notwithstanding.*
- b) If it were applicable however, then the non-complying section of the proposed roofline does not commence until 36 metres distance from Willarong Road, plus a further 20 metres to residential land on the other side.*
- c) an envelope complying precisely with Council's setback and 9 metre controls envelope towards Willarong Road would have significantly greater impact on that residential land than would the much more modest envelope proposed, as illustrated by the attached section.*

d) furthermore, a permissible allotment with a width of 36 metres from Willarong Road would make nugatory that 9 metres height control, even if "adjoins" were interpreted to mean "adjacent" in this case, a proposition that is not conceded."

Analysis: Firstly the question of which standard should be applied - the 9 metre or the 12 metre standard. The subject site does not directly adjoin the residential zone as there is land zoned road between the subject site and the residential zone. There are circumstances in the Sutherland Shire where residential land directly adjoins employment land and it is considered that this was the intention of the standard.

However, if the JRPP was of the opinion that Justice Kirby's interpretation of "adjoining" should be applied to the circumstances of this application, then a variation is considered to be appropriate for the following reasons:

Firstly it would be unreasonable to apply a 9 metre height development standard to the entire site since this large site could be subdivided into many smaller parcels and the control would then only apply to those allotments adjoining Willarong Road.

Secondly, the proposed development complies with the 9 metre height control for the first 35 metres inside the site.

The proposed non-compliance with the 12 metre height development standard has several driving factors, although it primarily stems from the applicant's desire for a flat floor plate on a site that falls approximately four (4) metres from east to west. The building has a length of some 120 metres and to minimise the non-compliance with the height standard the applicant has excavated the building into the ground at the eastern end of the site. Warehouse level 1 is proposed to be 610mm lower than the existing building.

The roof structure created by the shade sails is the area of greatest non-compliance, being approximately 2.1 metres over the 12 metre height control. At the worst point the main roof is 1.17m above the 12 metre height control.

In relation to the shade sail roof structure, this element of the building is stepped back from the Koonya Circuit street frontages and is internalised within the roof. This stepping of the building is important in reducing the overall perceived height of the development. This is also a visually light weight structure.

In relation to the main roof structure, the parapet height complies with the 12 metre height control and the non compliance behind, which occurs in the middle of the building, will be almost indiscernible.

In *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46, Justice Lloyd established a set of five (5) questions which now are an accepted convention for assessing a SEPP 1 Objection. An assessment of the SEPP 1 in accordance with this convention has been undertaken below.

(a) Is the Requirement a Development Standard?

Yes, Clause 33(11) and 33(12) of SSLEP 2006.

(b) What is the underlying object or purpose of the Standard?

SSLEP 2006 sets out the following objectives for the height development standard.

The objectives of this clause are as follows:

(a) to ensure the scale of buildings:

(i) is consistent with the desired scale and character of the street and locality in which the buildings are located, and

(ii) complements any natural landscape setting of the buildings,

(b) to allow reasonable daylight access to all buildings and the public domain,

(c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,

(d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,

(e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings on land in those zones.

(c) Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?

The objects of the Act are:

5(a)(i) - to encourage the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.

5(a)(ii) - to encourage the promotion and coordination of the orderly and economic use and development of land.

The proposed variation is considered to be consistent with the aims of SEPP1 and the objects of the Act. A variation to Council's maximum building height development standard is considered to be reasonable in the circumstances of the case.

(d) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

A variation to Council's maximum building height development standard is considered to be reasonable in the circumstances of the case.

(e) Is the Objection Well Founded?

Yes. The SEPP 1 Objection does provide evidence to demonstrate that compliance with the standard would be unreasonable or unnecessary in the circumstances of the case.

SEPP 1 Conclusion:

Having regard to the object and the purpose of the standard for maximum building height it is considered that:

- (i) The SEPP 1 Objection that compliance with the development standard is unreasonable and unnecessary is well founded; and
- (ii) A variation to the height development standard would be consistent with the aims of SEPP 1 as set out in Clause 3 of the Act.

10.2 Density

The proposed development fails to comply with the development standard for density contained within Clause 35(13) of SSLEP 2006, which stipulates a maximum floor space ratio of 1:1. Relying on the survey submitted by the applicant, this equates to 14 620m² of gross floor area (GFA).

At the pre-application discussion and following lodgement of the application Council raised concerns with the applicant in relation to the way in which GFA had been calculated. In response to Council's concerns the proposal was modified to reduce the size of the outdoor nursery area and to create a void within the building.

Following these modifications the applicant submitted written details and a plan seeking to demonstrate that they comply with the maximum development standard for density. These documents are inconsistent with each other and with the definition contained within SSLEP 2006.

Firstly, if the figures on the plans are added together they equal 14,628m² of GFA however the written "project data" sheet indicates compliance. This plan also states that areas used for vertical circulation have been included as GFA and this is the case for lifts and stairs, however, this is incorrect for the travelators. The travelator adjacent to the southern boundary (approximately 72m²) has been excluded from the warehouse level 1 calculations and the travelator which runs north-south (approximately 95m²) has been excluded from the warehouse level 2 calculations.

In addition, the "receiving area" on warehouse level 1 (approximately 127m²) has been included in the calculation of GFA. This area appears to be a "*space used for the loading or unloading of goods*" and should have been excluded from GFA. Also the "motor room" on warehouse level 1 (approximately 23m²) appears to satisfy the "*plant rooms, lift towers and other areas used exclusively for mechanical services or ducting*" and should have also been excluded from GFA.

Apart from the errors detailed above, a manual check of the plans submitted to assess compliance with GFA has shown that they are otherwise correct and they have been relied upon for the following calculations.

Warehouse Level 1

$9005\text{m}^2 + 72\text{m}^2 \text{ (travelator)} - 127\text{m}^2 \text{ (receiving area)} - 23\text{m}^2 \text{ (motor room)} = 8927\text{m}^2$

Warehouse Level 2

$5349\text{m}^2 + 95\text{m}^2 \text{ (travelator)} = 5444\text{m}^2$

Office/Staff Amenities

274m^2

Total = $14,645\text{m}^2$ or 25m^2 over maximum GFA

This is a very minor breach to maximum GFA in the scale of this development (less than 0.1%). Regardless, the applicant has demonstrated that the proposal does not comply.

As density is a development standard within SSLEP 2006, a variation to the development standard cannot be considered without an Objection submitted pursuant to SEPP 1. A SEPP 1 Objection has not been submitted.

The proposal breaches the statutory height control and places additional pressure on a local road network that is already under pressure. Although a minor breach in floor space is proposed, it is considered most appropriate that the proposal be modified to comply.

Should the JRPP decide that the application is worthy of support, amended plans should be submitted demonstrating compliance with the development standard for density.

10.3 Parking

SSDCP 2006 contains various controls in relation to parking for cars, motor bikes and bicycles. Each of these will be addressed in turn.

As detailed above, the proposed development was referred to the RTA as it is classified as Traffic Generating Development pursuant to State Environmental Planning Policy (Infrastructure) 2007.

SSDCP 2006 states that where development is identified as Traffic Generating Development then the parking requirement specified in the RTA Guide to Traffic Generating Development should apply. The RTA guide to Traffic Generating Development states that as there is a significant variation in car parking demands for bulky goods premises, car parking requirements should be based on like existing facilities.

The applicant submitted an assessment of traffic and parking prepared by "Transport and Traffic Planning Associates". The assessment was

undertaken of parking demand at six (6) existing Bunnings Warehouse stores and shows that there is a range in parking demands. The proposal provides car parking at 1/36m² of gross floor area. This is consistent with the high end of parking demand surveyed at other Bunnings Warehouse stores and is considered to be acceptable.

SSDCP 2006 requires motor cycle parking to be provided at a rate of 1/25 car spaces. The proposal provides parking for 16 motor cycles and complies with this requirement.

SSDCP 2006 further requires that 30 parking spaces be provided for bicycles. The application provides spaces for 25 bicycles. Should the JRPP decide that the application is worthy of approval then it is recommended that a condition be included in the consent that the application provide parking for a minimum of 30 bicycle spaces. The applicant has indicated that there is room to accommodate additional bicycle parking.

Should the JRPP decide that the proposal is worthy of support it is recommended that a condition be included in the application that the basement car park be available on a free and unrestricted basis during trading hours for staff and visitors. This should help to alleviate concerns by residents that staff at the current “Bunnings Warehouse” are allegedly being instructed to park off site.

10.4 Setbacks

As detailed above, the development site is surrounded by roads. SSDCP 2006 requires a nine (9) metre setback for development fronting Willarong Road and a three (3) metre setback to the Koonya Circuit frontages. Given the scale of the proposed development the setbacks within SSDCP 2006 are considered to be insufficient.

The applicant is proposing that the main wall of the building is set back fifteen (15) metres from Willarong Road and nine (9) metres from the Koonya Circuit frontages. Within each of these setbacks there are many significant encroachments, particularly by retaining walls, fences and in some cases structures.

Northern Setback Area (Koonya Circuit North)

The main wall of the building is set back nine (9) metres from the northern property boundary. This setback area is, however, predominately occupied by driveways and access ramps for cars and trucks. It is not possible to assess the exact impact of the retaining walls associated with these access ramps because their height is unknown. Their close proximity to the property boundary does not allow for adequate area for landscaped screening.

The section (Drawing No. 01/122/C) shows a beam with a steel box gutter, assumedly associated with a canopy over the goods receiving area, extending towards the acoustic wall. Its exact setback from the northern boundary is unclear as it is not shown on the floor or roof plans. Again it is difficult to assess the impact of this structure as its location is not fully understood.

The bulk of existing vegetation in the northern setback area is proposed to be removed, depending on which plan is relied upon, and those trees proposed to be retained are likely to be removed as a result of engineering works. Trees Nos. 91, 92 and 93 are shown on the landscape plan to be retained, however, the engineering drawings show a retaining wall with a cut in excess of a metre approximately 1.5 metres away from these trees. Their long term survival appears unlikely.

Eastern Setback (Willarong Road)

The main wall of the building is set back 15 metres from Willarong Road, with an awning within 11.75 metres. The acoustic wall associated with the service road is on a varying setback, between 6 metres and 10.7 metres.

The existing vegetation along the Willarong Road frontage is proposed to be retained and enhanced. The proposed acoustic wall behind this existing vegetation will be difficult to see if the vegetation is retained in the manner proposed.

Southern Setback (Koonya Circuit South)

The main wall of the building is set back nine (9) metres from the southern boundary. The awning over the entry area and louvers are forward of this on a 6.5 metre setback. As with the northern setback, this setback area is dominated by vehicular ramps and crossings. The retaining wall for the exit ramp has a minimum height of 1.2 metres and is set back a minimum of two (2) metres from the boundary.

Eastern Setback (Koonya Circuit West)

The main wall is set back eleven (11) metres from the western boundary, with the cornice element of the building protruding to within nine (9) metres. The charity BBQ area is provided within this setback.

The significant existing vegetation along this frontage is unlikely to survive engineering works.

Overall, the treatment of the setback areas could be significantly improved, particularly the northern setback area, which is dominated by built form. In addition, the retention of significant vegetation needs to be ensured and appropriate areas for landscape enhancement need to be provided.

10.5 Tree Removal

As has been detailed throughout this report the site contains many significant trees, all located on the perimeter of the site. Their location on the edge should make their retention relatively easy to achieve. However, the documentation submitted demonstrates that the bulk of these trees will be adversely impacted upon and that their long term survival is unlikely.

These trees provide both screening and a balance between the built and unbuilt form. A more thoughtful design process would have recognised that these trees are an asset to the development site and ensured their retention.



Existing Trees – photo looking towards north western corner

10.6 Streetscape & Building Form

SSLEP 2006 contains matters for consideration in relation to urban design. The application fails to adequately address these matters. Specifically concerns remain in relation to the quality of the design, the impact on the public domain, changes to the landform and the consequential impact on trees.

In addition, SSDCP 2006 contains specific objectives and controls for streetscape and building form. In Section 9.3 of this report, Council's ARAP and Council's internal architect raise significant concerns with the building's integration with the public domain. The presentation of the development to the public domain is considered to be important for a number of reasons. Firstly, the site is adjacent to a residential area. Secondly, the site is unusual in that it has street frontage to all four (4) elevations. Thirdly, this is a large important site in the Taren Point bulky goods precinct and the way it is developed will set a precedent for future development in this area.

The applicant made some attempts to improve the presentation of the development over the traditional big green "Bunnings Warehouse" box. The concrete louvres, with some glazing behind, on the southern and western elevations; the pedestrian entrance on the southern elevation and the retention of significant existing vegetation were all positive contributions to the scheme. However, recent modifications made to the scheme to address flooding concerns have eroded many of these improvements.

In the scale of this development the main pedestrian entrance on the southern elevation is not particularly grand. Its prominence has been further reduced by the contorted path and landscape mound (shown on engineering drawings) introduced to address flooding issues.

As detailed above, much of the significant vegetation located in the north-western and south-western corners of the site is unlikely to survive given the filling proposed to address flooding and the demolition of a sewer main and the construction of a new sewer line.

The original design of the application did little to embrace the streetscape controls contained within SSDCP 2006 and was predominately insular in its design. Modifications to the scheme to address flooding and vehicular access and the provision of increased engineering detail now render its impact on the streetscape unacceptable.

10.7 Signage

Council raised concern with the number and the size of the signs proposed and the applicant subsequently modified the proposal. The advertising component of the signage has now been removed from the proposal.

On the northern, southern and western elevations a “Bunnings Warehouse” sign measuring 14 metres wide by 4.5 metres high is proposed. On the eastern elevation (Willarong Road) a “Bunnings Warehouse” sign measuring 9.8 metres wide by 2.8 metres high is proposed. A “hammer” logo which measures 7 metres wide by 5.5 metres high is also proposed on the southern and western elevations.

10.7.1 State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)

SEPP 64 applies to the proposed signage and the application has been assessed in accordance with the relevant provisions of this SEPP.

Pursuant to definitions contained within SEPP 64 this signage is considered to be either a building identification sign or a business identification sign.

In considering an application for signage the consent authority must be satisfied that the signage is consistent with the objectives of SEPP 64 and the assessment criteria specified in Schedule 1 of the SEPP.

As stated above, the southern and the western elevations contain the “Bunnings Warehouse” name and the “hammer” logo. Having regard for the assessment criteria in the SEPP, the size of this elevation and the fact that it contains the main pedestrian entrance into the building, the signage proposed on the southern elevation is considered to be acceptable. In relation to the signage on the western elevation it is recommended that should the JRPP decide the application is worthy of approval, the “Bunnings Warehouse” name and “hammer” logo are incorporated into one sign and reduced in size. It is recommended that this signage have maximum dimensions of 9.8 metres wide by 2.8 metres high (consistent with the eastern elevation).

10.7.2 Sutherland Shire Development Control Plan 2006 (SSDCP 2006)

The controls contained within SSDCP 2006 in relation to signage limit wall signage to a maximum of 20m². Given the scale of the proposed development a variation to Council’s control is considered to be appropriate.

10.8 Hours of Operation

10.8.1 Trading Hours

The proposed trading hours are 7am to 9pm Monday to Friday and 8am to 6pm Saturday and Sunday. These hours are consistent with the trading hours of the current Bunnings Store located on the subject site.

The hours of operation have been raised in several submissions made to Council. Noise appears to have been a major concern to existing residents, particularly from operations external to the building in the evening.

The proposed hours of operation are considered to be acceptable subject to conditions that aim to minimise the impact on nearby residential properties. Should the JRPP decide the application is worthy of support separate conditions should be included in the development consent in relation to delivery hours and occupation hours. Conditions should be included that prohibit activities external to the building beyond 6pm Friday to Wednesday and 9pm Thursday and that the rear roller door be closed at 6pm daily to prevent the emission of offensive noise from the use of the cut shop.

10.8.2 Delivery Hours

The applicant is proposing delivery hours of 7am to 10pm Monday to Friday. Given the close proximity of residential properties, allowing deliveries until 10pm at night is not supported.

Should the JRPP decide that the application is worthy of support, it is recommended that a condition be included limiting delivery and collection hours to 7am to 6pm Monday to Wednesday and Friday; and 7am to 9pm Thursday. The extended hours on a Thursday evening are considered appropriate as they are consistent with Thursday late night trade.

10.8.3 Occupation Hours

The applicant has proposed that the site will be vacated by 10pm Monday to Friday. They have not stated what time the site will be vacated of a weekend.

Should The JRPP decide that the application is worthy of support a condition should be included that the site is not to be occupied more than one (1) hour before or one (1) hour after trading hours.

10.9 Operation Concerns

As detailed in the public participation section of this report many residents have concerns with the existing operations on the site including noise, after hours' activities, traffic, lighting, parking etc. The applicant was asked to address this issue and the submission of an operational management plan was suggested. The applicant did not submit any additional information in this regard.

Many of the issues raised by residents have either been designed out or could be dealt with by conditions of consent should the JRPP decide that the

application is worthy of support. It is considered appropriate that a condition requiring the applicant to provide Council and the immediate neighbours with an afterhours contact number be imposed. The purpose of this would be to allow residents to contact the operator to immediately address nuisance type matters, such as fans being left on.

10.10 Disability (Access to Premises – Buildings) Standard 2010

On May 1 2011 the Disability (Access to Premises – Buildings) Standards 2010 commenced. It applies to all Construction Certificates issued after this date as it is called up in the BCA.

As is the case with other matters dealt with by the BCA, Council's role at the development application is to try and ensure that there will not be any changes that result in the need for a s.96 application.

The introduction of this new standard was brought to the applicant's attention and concern was raised in relation to the office/staff amenities area at the upper level. There is no disabled access to this level of the development and this issue remains unresolved. Access ought to be provided to accommodate office staff or visitors who have a disability.

10.11 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (Georges River REP)

There are no specific controls within the Georges River REP for the type of development proposed. It is considered that the aims and objectives of this plan in relation to water quality management have been incorporated into the design or could be dealt with via appropriate conditions should the JRPP decide that the application is worthy of support.

10.12 Waste Storage

SSDCP 2006 requires the waste storage area to be shown on the plans and this proposal fails to do this. The applicant advised that "Bunnings Warehouse" produces very little waste that cannot be recycled and that compactors and collection bins will be located within the "receiving area".

Should the JRPP decide that the application is worthy of support then appropriate conditions should be included that all waste is to be stored within a designated waste storage area within the goods "receiving area".

10.13 Outdoor Staff Recreation Area

The development provides staff facilities at the upper level of the development, including what appears to be a meals area. It is disappointing that in the scale of this development, which will employ a significant number of people, an outdoor recreation area either at grade or on a balcony or terrace area was not provided.

11.0 SECTION 94 CONTRIBUTIONS

The proposed development is subject to the *Section 94A Developer Contributions Plan - Land within the Employment Zone*. This plan applies to

applications for development consent and applications for complying development on land within Zone 12 – Employment under SSLEP 2006.

The primary purpose of the plan is:

- To authorise the imposition of a condition on certain development consents and complying development certificates requiring the payment of a contribution under Section 94A of the Environmental Planning and Assessment Act, 1979.
- To assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area.
- To publicly identify the purposes for which the levies are required.

The applicant has requested a reduction in Section 94A contributions so that they pay a levy on the cost of construction of the additional floor space (not the total cost of construction).

The plan specifies certain exemptions (cost <\$100,000, disabled access, affordable housing, water saving, adaptive reuse of heritage item, or subject to a previous subdivision S94 condition), but this proposal does not meet any of these exemptions.

It should be noted that Section 94A(4) of the EP&A Act allows Council to levy even where *“... there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition”*.

Consequently there is no discretion for Council to give a 'credit' for the existing floor space that is to be demolished and rebuilt.

This contribution is based upon the proposed cost of the development and has been calculated at 1% of \$30,316,000.00 of the estimated cost of development (identified on the development application form). Therefore, the Section 94A Levy contribution for the proposed development would be \$303,160.00 should the JRPP decide the application is worthy of support.

12.0 DECLARATION OF AFFILIATION

Section 147 of the Environmental Planning and Assessment, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application the applicant has declared that there are no relevant political donations or affiliations.

13.0 CONCLUSION

The proposed development is for the demolition of the existing “Bunnings Warehouse” and the construction of a new “Bunnings Warehouse” at 31-35 Willarong Road, Caringbah. The development includes two (2) levels of

warehouse and a third level containing offices and staff facilities; parking for 407 cars vehicles (provided over two (2) levels); and signage.

The subject land is located within *Zone 11 – Employment* pursuant to the provisions of *Sutherland Shire Local Environmental Plan 2006*. The proposed development, being *bulky goods premises*, is permissible within the zone with development consent.

In response to public exhibition eleven (11) submissions were received, including one (1) petition containing 21 signatures and one (1) letter of support. The matters raised in these submissions have been discussed in this report. Many of concerns raised in these submissions relate to the operation of the development and can be dealt with via appropriate conditions of development consent. Other matters, such as tree loss remain outstanding.

The proposal includes a variation to the height development standard. This variation has been assessed and is considered to be supportable. The proposal also includes a minor variation to density, which cannot be supported without the submission of a SEPP 1 Objection. On balance it is considered most appropriate that the proposal be modified to comply.

The subject site is affected by flooding, yet the applicant is seeking to lower the floor level of the building by 610mm. Despite various proposals to rectify the issue this matter remains unresolved.

The driveway access into the development does not comply with the relevant Australian Standard for the reasons outlined in this report. The northern driveway design is cumbersome and unfriendly. Given that the proposal is a complete redevelopment of the site and that all access into the car park is through this singular access point, its design is unacceptable.

The architectural treatment of the building and its response to the urban design controls within SSLEP 2006 and the streetscape controls within SSDCP 2006 are considered to be poor. The removal of significant vegetation from the perimeter of the site renders the impact on the public domain unacceptable.

Putting aside the variations to development standards, the issues of streetscape, flooding and driveway access are completely unresolved. The extent of inconsistencies in the documentation is unacceptable, particularly in a project of this scale. If the JRPP were to support the proposal in its current form the physical outcome would be uncertain.

Essentially the proposal fails as a result of the failure to properly identify the constraints and opportunities of the site before design of the development commenced and a lack of detail and rigour in the preparation of documentation.

Late realisation of the extent of flooding impacts resulted in “band-aid” solutions being proposed.

Failure to identify appropriate access points into and off the site resulted in an extremely undesirable access arrangement.

The failure to recognise the importance of the trees on the site resulted in them being compromised in an attempt to address other engineering matters.

No objection is held in principle to the redevelopment of the site for a Bunnings Warehouse generally in the manner proposed. Ample time has been allowed for the issues that have arisen during the assessment process to be addressed, however, a number of important issues remain unresolved. There is insufficient certainty to deal with the outstanding issues by way of deferred commencement or conditions of consent.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. 10/1317 cannot be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

That Development Application No. 10/1317 for Demolition of the Existing Warehouse and Construction of a New Bulky Goods Retail Warehouse, Including Outdoor Nursery, Timber Trade Area, Car Parking and Signage at Lot 1 DP 837271 (Nos. 31-35) Willarong Road, Caringbah be refused for the following reasons:

1. The application is considered unacceptable pursuant to the provisions of Section 79C(a)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to comply with the development standard for maximum density contained within Clause 35(13) of Sutherland Shire Local Environmental Plan 2006 and the applicant has failed to submit a SEPP 1 Objection to enable an assessment of the proposed variation.
2. The application is considered unacceptable pursuant to the provisions of Section 79C(a)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposed development has not been designed to be compatible with the flood hazard identified on the land as required by Clause 20(3)(a) of Sutherland Shire Local Environmental Plan 2006.
3. The application is considered unacceptable pursuant to the provisions of Section 79C(a)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to satisfy the urban design matters for consideration contained within Clause 48 of Sutherland Shire Local Environmental Plan, specifically Clauses (a), (c), (d), and (e) which

relate to the quality of the design, the impact on the public domain, impact on the natural environment and landform.

4. The application is considered unacceptable pursuant to the provisions of Section 79C(a)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to satisfy the car parking matters for consideration contained within Clause 53(e) of Sutherland Shire Local Environmental Plan 2006, specifically the access to the proposed car parking area.
5. The application is considered unacceptable pursuant to the provisions of Section 79C(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to comply with the controls for flooding contained within Clause 4.b.9.1.a (i) of Sutherland Shire Development Control Plan 2006 in that the habitable floor levels of the building are not at or above 1% AEP plus 500mm freeboard.
6. The application is considered unacceptable pursuant to the provisions of Section 79C(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to comply with the streetscape controls contained within Clause 11.b.15 of Chapter 3 of Sutherland Shire Development Control Plan 2006, in particular Clauses 1, 10 and 11.
7. The application is considered unacceptable pursuant to the provisions of Section 79C(b) of the Environmental Planning and Assessment Act 1979, in that the proposed northern driveway is unacceptable and fails to comply with AS2890.1:2004.
8. The application is considered to be unacceptable in that the plans and documentation submitted with the application are unclear and uncoordinated. These plans and documentation do not allow for a thorough assessment of the application.