

**JOINT REGIONAL PLANNING PANEL**  
**(Sydney East Region)**

<b>JRPP No</b>	<b>2012SYE009</b>
<b>DA Number</b>	<b>DA11/224</b>
<b>Local Government Area</b>	<b>City of Botany Bay</b>
<b>Proposed Development</b>	<p><b>Integrated Development Application for the redevelopment of the site for a Bunnings Hardware and Building Supply centre in the following manner:</b></p> <ul style="list-style-type: none"> <li>▪ <b>Demolition of the existing structures on site;</b></li> <li>▪ <b>Consolidation of the existing allotments and subdivision into four new allotments;</b></li> <li>▪ <b>Construction of a hardware and building supplies centre encompassing a warehouse, covered outdoor nursery, bagged goods store, timber trade sales area, café, office, amenities, service road/ramps and loading areas;</b></li> <li>▪ <b>Provision of 421 undercroft car parking spaces;</b></li> <li>▪ <b>Construction of a signalised intersection and associated roadwork to facilitate access, including land dedication to Council for a left turn lane from Denison Street;</b></li> <li>▪ <b>One (1) 13.6 metre high Pylon sign located at the south-eastern corner of the proposed signalised intersection, three (3) painted business identification signs being one located on the northern elevation, one on the western elevation and one on the southern elevation together with two (2) “hammer” logos, being one located on the northern elevation and one located on the southern elevation;</b></li> <li>▪ <b>Proposed hours of operation are 7:00am to 9:00pm, Monday to Friday and 8:00am to 6:00pm Saturday, Sunday and Public Holidays.</b></li> </ul>
<b>Street Address</b>	<b>140-148 Denison Street and 25-49 Smith Street, Hillsdale</b>
<b>Applicant/Owner</b>	<b>Bunnings Group Limited</b>
<b>Number of Submissions</b>	<p><b>1<sup>st</sup> round = 47 submissions and two (2) petitions with a total of 254 signatures;</b></p> <p><b>Local Area Traffic Review submissions = 15 submissions and one (1) petition with 54 signatures;</b></p> <p><b>2<sup>nd</sup> round = 28 submissions</b></p>
<b>Recommendation</b>	<b>Refusal</b>

<b>Report by</b>	<b>Rodger Dowsett, Director Planning and Development</b>
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## **PRECIS**

Council received Integrated Development Application No. 11/224 on the 2 November 2011, seeking consent for Integrated Development for the redevelopment of the site for a Bunnings Hardware and Building Supply centre in the following manner:

- Demolition of the existing structures on site;
- Consolidation of the existing allotments and subdivision into four new allotments;
- Construction of a hardware and building supplies centre encompassing a warehouse, covered outdoor nursery, bagged goods store, timber trade sales area, café, office, amenities and loading areas;
- Provision of 421 undercroft car parking spaces;
- Construction of a signalised intersection and associated roadwork to facilitate access, including land dedication to Council for a left turn lane from Denison Street;
- One (1) 13.6 metre high Pylon sign located at the south-eastern corner of the proposed signalised intersection, three (3) painted business identification signs being one located on the northern elevation, one on the western elevation and one on the southern elevation together with two (2) “hammer” logos, being one located on the northern elevation and one located on the southern elevation;
- Proposed hours of operation are 7:00am to 9:00pm, Monday to Friday and 8:00am to 6:00pm Saturday, Sunday and Public Holidays.

The application has been referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act) as the Capital Investment value of the proposed development exceeds \$20 million.

The proposed development is Integrated Development under the provisions of Section 91 of the Environmental Planning and Assessment Act. The Development requires the concurrence of the NSW Roads and Maritime Service (RMS) as the development involves the construction of a deceleration lane and signalised intersection at the site frontage on Denison Street. The RMS has granted concurrence on 17 May 2013, despite repeated attempts by Council and its Traffic Consultant to consider the concerns of Council and its Consultant.

The original application was publicly exhibited for a period of thirty (30) days from 22 November 2011 to the 21 December 2011, from which a total of thirty four (34) submissions were received.

Council subsequently received an amended Traffic Report and amended plans in relation to the proposed Denison Street intersection/access on the 12 December 2011 and was required to re-notify the application for a further thirty (30) days from 10 January 2012 to 9 February 2012. In total, forty-seven (47) submissions and two petitions containing a total of 254 signatures (some duplicates) were received following the extended exhibition period. The

Applicant submitted a formal response to the issues raised in the public submissions on the 13 June 2012. The issues raised in the public submissions, which are discussed in this report include hazard and transport risk assessments, traffic generation/traffic impact, contamination, amenity and noise.

Council undertook a second notification period of thirty (30) days from the 12 March 2013 to the 11 April 2013. This notification period was to publicly exhibit the amended plans and reference documents received on 12 June 2012 and subsequent amended reports received by Council. However, the Panel should note that due to incorrect reference documents being placed on Council's website, the second exhibition of the development application has not been undertaken correctly. Notwithstanding the above oversight, Council received a total of twenty eight (28) submissions.

On the 15 September 2011, Council's Design Review Panel (DRP), prior to the lodgment of the application considered the proposed development and concluded that the development can be supported.

The following additional information was received from the Applicant:

- 12 December 2011, Council received a revised Traffic Report and amended plans to delete the four way intersection on Denison Street. This was required as the consent of all affected landowners had not been sought by the Applicant.
- 13 June 2012, Council received:
  - An Environmental Site Assessment in relation to site contamination;
  - An amended subdivision plan indicating proposed stormwater easements;
  - Swept path templates indicating the movements of a 19 metre articulated vehicle, 8.8 metre rigid vehicle and Class 1 vehicles into and out of the site;
  - A Flood Evacuation Plan prepared by Warren Smith & Partners, dated 12 June 2012;
  - A Stormwater Management Plan prepared by C & M Consulting Engineers, dated June 2012;
  - Revised civil engineering details and plans;
  - Revised architectural plans;
  - Tree Report prepared by Abel Ecology, dated 14 May 2012;
  - A response to Council's letter and issues raised in the submissions;
- 14 August 2012, Council received a supplementary town planning statement in relation to amenity impact of the proposed development; an Energy Efficiency Report, prepared by Floth Sustainable Building Consultants, dated July 2012 and an Economic Impact Assessment prepared by Leyshon Consulting Pty Ltd, dated August 2012.
- 24 September 2012, Council received an amended Transport Risk Assessment Report, prepared by Sinclair Knight Merz, (Final Rev 1) dated 21 September 2012.
- 19 October 2012, Council received a copy of a letter from the Applicants Traffic Consultant to the Applicant, which advised that it was not feasible or appropriate to undertake further traffic modelling of the proposed development together with

the traffic generated from Port Botany, the approved Orica subdivision and the BATA (British American Tobacco Australia) site north of Westfields Eastgardens Shopping Centre.

- 29 October 2012, Council received an amended subdivision plan, which removes the two lots zoned residential fronting Smith Street (Lot A in DP 345700 and Lot 1 in DP 18290) from the proposed subdivision. The original application sought to consolidate both allotments (originally proposed Lot 3) to create one allotment of 1204 m<sup>2</sup>. The demolition of the existing commercial building on site still forms part of the proposed development.
- 30 October 2012, Council received an amended Noise Assessment Report on the, prepared by Wilkinson Murray, dated October 2012 (Rev C), as a response to the issues raised by councils Independent Acoustic Consultant.
- 9 November 2012, Council received an amended Traffic Report prepared by Transport and Traffic Planning Associates (Issue E);
- 16 January 2013, Council received an amended Traffic Report prepared by Transport and Traffic Planning Associates (Issue G);
- 31 January 2013, Council received an amended Transport Risk Assessment Report (Final Rev 2);
- 19 February 2013, Council received an amended Preliminary Risk Assessment (Final Rev O), dated 19 February 2013.
- 1 March 2013, Council received an amended Preliminary Risk Assessment (Final Rev 1), dated 1 March 2013.
- 31 May 2013, Council received an amended Traffic Report prepared by Transport and Traffic Planning Associates (Rev B);
- 16 July 2013, Council received a Final relating to the Risk Assessment (land use/transport risk) prepared by Sinclair Knight Merz dated July 2013.

The proposed development remains substantially the same as that amended by the Applicant on the 13 June 2012, which resulted in a marginal reduction in the retail floor area of the proposal. Despite having received amended plans and supporting documents from the Applicant over time, the information supplied to date does not adequately address the concerns raised in relation to noise impact, traffic generation, site contamination, risk assessment and economic impact.

In relation to the issues of risk, traffic, noise and contamination, Council has engaged specialist consultants to assist Council in the assessment of this development application.

It should be noted that Botany Bay LEP 2013 was gazetted on 21 June 2013 and came into force on 26 June 2013, however due to savings provisions is not applicable to this DA. The subject site is now zoned B5 – Business Development pursuant to BBLEP 2013 and the proposed development is a permissible within the B5 – Business Development zone.

It is also noted here that prior to gazettal of BBLEP 2013, numerous other traffic generating uses were permissible within the 4(a) Industrial zone, including *air freight forwarders* and *road transport terminals* (container terminals).

### **Officer Recommendation**

The application is referred to the Joint Regional Planning Panel (JRPP) for determination pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act as the Capital Investment Value of the proposed development exceeds \$20 million.

*It is recommended that the Joint Regional Planning Panel (JRPP), as the determining Authority in this instance, resolve to:*

*Refuse Development Application No. 11/224 for the redevelopment of the site for a Bunnings Hardware and Building Supply centre, for the reasons set out in this report.*

### **REPORT BACKGROUND**

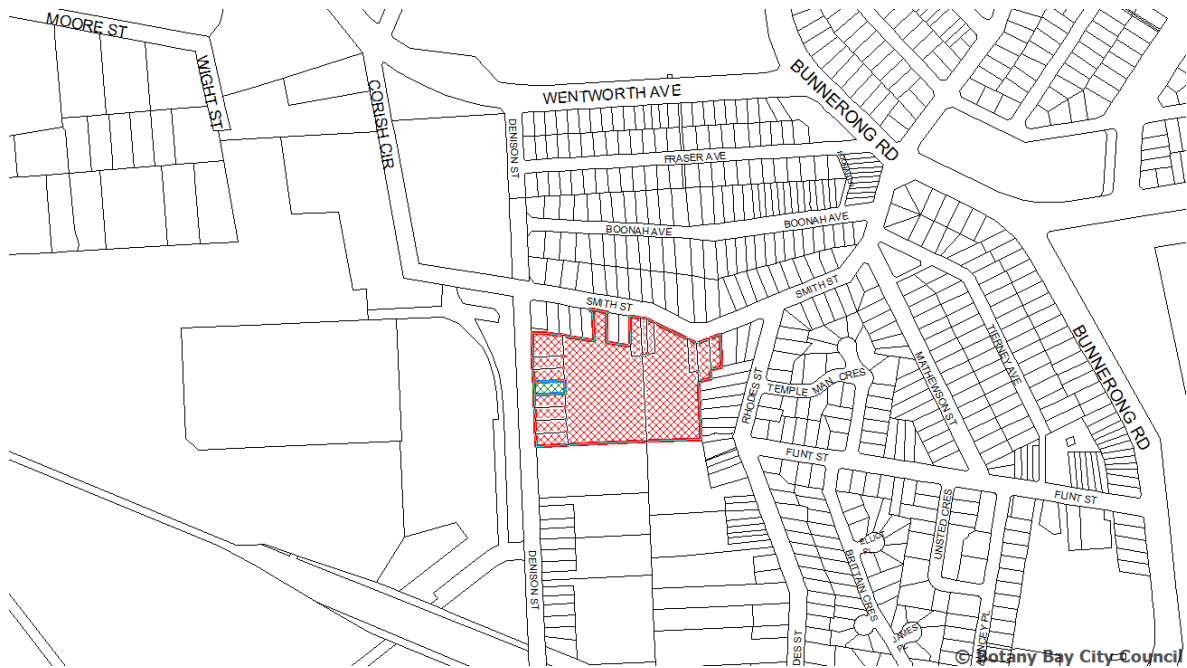
#### **Site Description**

The subject site is located on the eastern side of Denison Street between Wentworth Avenue to the north and Beauchamp Road to the south. The site is bound to the north by properties fronting Smith Street and the subject site includes land with a frontage to Smith Street.

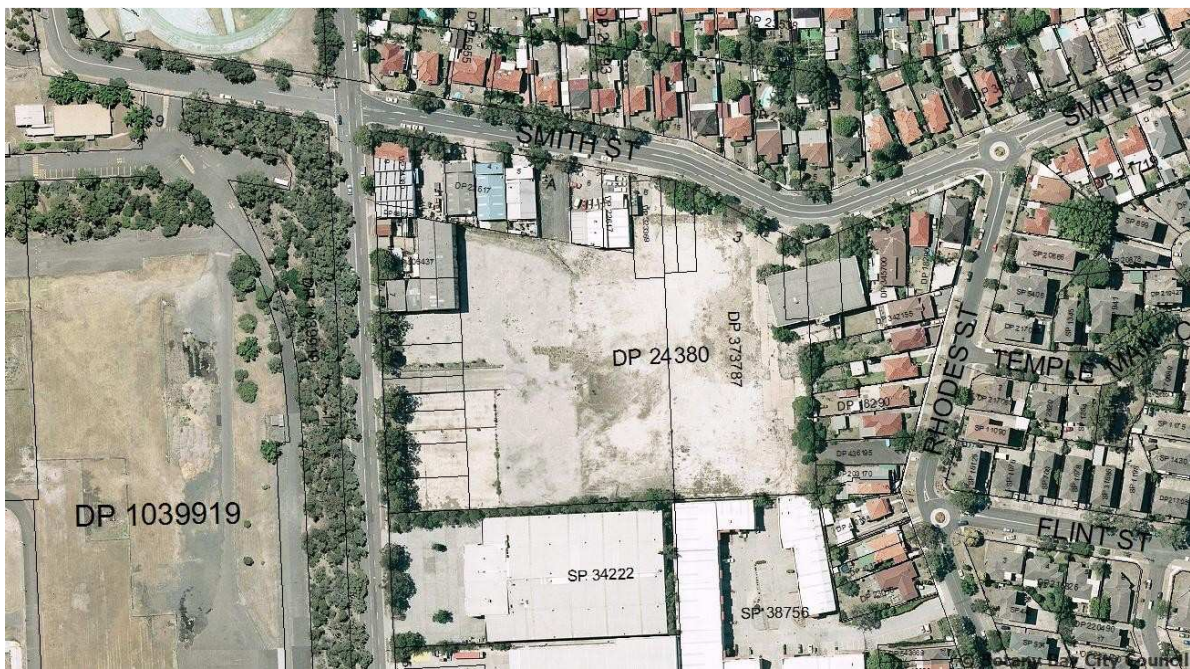
The land is legally identified as Lot B in DP 406437 and Lot 7 in DP 24380 (known as 140-148 Denison Street); and

Lot A in DP 24380, Lots 1-6 in DP 24380, Lot B in DP323369 and Lots 1-4 in DP 373787 (known as 49 Smith Street).

As identified in Figure 1 below, the site is irregular in shape with a total site area of 25,567m<sup>2</sup> with a total frontage to Denison Street of approximately 135 metres. The depth of the site is approximately 192 metres along the southern boundary. The northern allotments fronting Smith Street extend further north by approximately 36 metres tapering to 13 metres, forming an irregular shaped site. There is a fall from north-west to south-east across the site. The site is consistently 3-4 metres below the existing levels on Denison Street and the adjoining residential land to the east.



**Figure 1. Locality Plan**



**Figure 2 – Site Aerial Photo**

A two storey commercial building exists at the north-eastern part of the site, which has a frontage to Smith Street and adjoins residential dwellings. An industrial building exists to the western part of the site which has a frontage to Denison Street.

The vacant part of the site was formerly occupied by an industrial building, now demolished and the site has undergone remediation works. An existing concrete ramp exists at the Denison Street frontage into the site.

Trees exist in a scattered configuration along the perimeter of the site towards the Denison Street and Smith Street frontages, not being remnant but planted trees, some of which are indigenous.

The site is burdened by Sydney Water stormwater asset and easements which traverse the site from north to south.

### **Development in the Locality**

The properties surrounding the site are the Botany Industrial Park (BIP) situated directly west of the site on the opposite side of Denison Street, known as 16-20 Beauchamp Road, Banksmeadow. The BIP site contains a number of hazardous land uses that contribute to the designation of Denison Street as an identified Dangerous Goods Route as well as a Marginal Site in respect of DCP 30. The north-eastern part of BIP is the subject of Development Consent No. 10/486 for a twenty-two (22) lot industrial subdivision, approved by the NSW Land & Environment Court on the 31 August 2012.

The BIP site is a large industrial complex upon which industrial operations commenced on land within the BIP in 1942, with the establishment of a carbon bisulfide production facility by the Imperial Chemical Industries of Australia and New Zealand (ICIANZ) (part of the UK based ICI Plc Group). Industrial operations expanded over time to manufacture a range of products, including:

- chlorine and caustic products for water treatment and swimming pools;
- polypropylene used for car bumpers and interiors;
- polyethylene for plastic film and containers;
- solvents such as perchlorethylene for dry cleaning fluids;
- polyvinyl chloride for plastic pipes and electrical insulation;
- ammonium nitrate and urea for fertilisers; and
- surfactants used in making detergents.

Orica Ltd was formed in February 1998. Orica then sold its surfactant operations within the BIP to the Huntsman Chemical Company of Australia Pty Ltd, and in 1999 merged its olefines businesses with ExxonMobil to form Qenos (Qenos was subsequently sold to China National Chemical Corporation (ChemChina) in 2006).

The Botany Industrial Park was formed and subdivided in 1999 to reflect and rationalise the separate operations of Orica, Huntsman and Qenos on the site, pursuant to the Ministers Consent No. 30/98. Since this subdivision, little new industrial development has occurred within BIP, with the exception of the replacement of Orica's chlor-alkali plant from 2002.

Due to more than half a century of heavy industrial operations on the site, the site is subject to ongoing remediation of contaminated soil and groundwater, and the safe management and disposal of chemical wastes.

To the south are industrial warehouses uses extending south along Denison Street. To the east are residential dwellings with frontages to Rhodes Street. To the north are industrial warehouses uses on the southern side of Smith Street with residential dwellings on the northern side of Smith Street. Extending east on Smith Street, residential dwellings are located on both sides of the street.



Within close proximity is the Hensley Athletic Field which is located to the north on the western side of Denison Street and the Westfield's Eastgardens Shopping Centre which is situated on the northern side of Wentworth Avenue.

The residential streets of Eastgardens are located directly north of the subject site, from the northern side of Smith Street up to Wentworth Avenue, which includes Boonah Avenue and Fraser Avenue. The suburb of Hillsdale in the main, is situated directly east of the subject site, and includes those industrial properties on the southern side of Smith Street, together with a cluster of walk up residential flat buildings.

Denison Street is a Dangerous Goods Route and also identified as a State Road, being a link between Port Botany at the southern edge of Banksmeadow and the Wentworth Avenue to the north of the site, which provides a link to Southern Cross Drive (northbound to Harbour Crossing) and General Holmes Drive (westbound to M5).



**Figure 3 Site Photo view from Denison Street to the east**





**Figure 4 – Site Photo view from Smith Street to the south**

### **Site History**

The development site comprises of two historic parcels of land.

Historically, No. 25-49 Smith Street was used for light industry from 1951-1970, including furniture manufacturing. Prior to 1951, the site was used as farmland and residential use.

The site was owned and operated by Master Foods of Australia until 1991.

Council approved Development Application No. 2851 in 1992, for the preparation of food products, warehousing and packaging of breakfast cereal products for export. Under this consent, both Kellogg (Aust) Pty Ltd and then Gazelle Foods Pty Ltd operated across the majority of the subject site.

Council approved Development Application No. 06/164 on the 20 December 2005, for the demolition of all structures on site and installation of pavement in order to prepare the site for future development. This consent did not extend to the existing brick commercial building at the north-eastern part of the site.

Council approved Development Application No. 05/258 on the 22 February 2006, for the subdivision and amalgamation of subject allotments, and construction of five (5) warehouse/office units and 2 industrial/store buildings, together with the Strata Subdivision of proposed Lot 10.

Council approved Development Application No. 08/126 on the 6 November 2008 for the site consolidation and re-subdivision into 3 lots; construction of 58 industrial units and cafe including ancillary landscaping and car parking on proposed Lot 3.

No. 140-148 Denison Street was historically used for market gardening and residential use until approximately 1961, where light industrial/warehouse buildings were present. The existing buildings have been used for engineering workshops and bulk stores.

## Strategic Background

A summary of the rezoning process specific to the subject development site is Annexed to this report for the benefit of the Panel, as **Annexure 1**.

In 2010 Bunnings made an application to Council to have their land that fronts Denison Street removed from SEPP (Major Development) 2005 and zoned under the Botany LEP 1995 to permit a ***hardware and building supplies*** which means a building or place the principal purpose of which is the sale or hire of goods and materials, including household fixtures, timber, tools, paint, wallpaper, plumbing supplies, landscaping supplies or the like, that are used in the construction and maintenance of buildings (and adjacent outdoor areas).

An Amendment was made to Botany LEP 1995 and to the SEPP (Major Development) Amendment (Port Botany) 2010) and published in Govt. Gazette 123 dated 29/10/10. The amendment:

- Amended SEPP (Major Development) 2005 by removing the Bunnings land from the SEPP and zoning it 4(A) Industrial under the Botany LEP 1995;
- Amended Botany LEP 1995 by:
  - **Inserting in** alphabetical order in Schedule 1 Definitions:
    1. ***hardware and building supplies*** means a building or place the principal purpose of which is the sale or hire of goods and materials, including household fixtures, timber, tools, paint, wallpaper, plumbing supplies, landscaping supplies or the like, that are used in the construction and maintenance of buildings (and adjacent outdoor areas).
  - **Inserting at** the end of the Schedule:
    1. Land at Hillsdale, being Lot B, DP 406437 and Lot 7, DP 24380, known as 148 Denison Street; Lots 6 and 7, DP 22617, known as 45 Smith Street; Lot A, DP 24380, Lots 1–6, DP 24380, Lot B, DP 323369 and Lots 1–4, DP 373787, known as 49 Smith Street; Lots 3–5, DP 22617, known as 51–55 Smith Street; Lot 2, DP 22617, Lot 9, DP 24380 and Lot 1, DP 660951, known as 57 Smith Street—hardware and building supplies, with a maximum building height of 19 metres from natural ground level and all access to and from the site restricted to Denison Street, Hillsdale with no access from Smith Street.

It is also noted here that prior to gazettal of BBLEP 2013, numerous other traffic generating uses were permissible within the 4(a) Industrial zone, including *air freight forwarders* and *road transport terminals* (container terminals). The *hardware and building supplies* use was in the land use table when the Draft BBLEP 2013 was placed on public exhibition in January 2013.

## 5. Relevant Planning Controls

SEPP State and Regional Development 2011

SEPP 55 – Remediation of Land

SEPP Infrastructure 2007

Botany Bay Local Environmental Plan 1995

Development Control Plan No. 30 – Botany Randwick Industrial Land Use Safety Study

Development Control Plan No. 33 – Industrial Development

## 6. Description of Development

The development application, in its amended form, seeks consent for the redevelopment of the site for a Bunnings Hardware and Building Supply centre in the following manner:

### *Demolition*

- Demolition of all existing structures on site;

### *Subdivision*

- Consolidation of all existing allotments and subdivision into four new allotments, as follows:

Proposed Lot No.	Site Area	Frontage	Intended Use
Lot 1	562 m <sup>2</sup>	21.5m to Smith St	Not known
Lot 2	1530 m <sup>2</sup>	54.32m to Smith St	Not known
Lot 3	545 m <sup>2</sup>	33.415m to Smith St	Not known
Lot 4	22,930 m <sup>2</sup>	134 m to Denison St	Proposed hardware and building supplies centre

**Table 1 – Proposed Subdivision**

### *Built Form*

- Construction of a hardware and building supplies centre on proposed Lot 4
- A café, amenities, playground and DIY area is proposed to be located at the western elevation of the warehouse level providing a secondary access point to the nursery and bagged goods area. The finished floor level of the warehouse will be RL20.80 which is approximate to the street level at the Denison Street boundary;
- A first floor office/administration area is proposed above the café area;
- A proposed external nursery area covered with White poly fabric sun shade cloths are proposed with an overall height of 7.5 metres and a nursery unloading area is proposed on the service road adjacent to the bagged goods area;
- The proposed timber trade sales area is to be located on the eastern side of the warehouse with internal manoeuvring area via two roller doors;
- A goods receiving area is proposed to be located at the north-eastern corner of the building, accessible from the proposed service road;
- Materials proposed are concrete panels to exterior walls with a painted finish and painted fibre cement fascia to the timber trade sales area and main entrance;
- Colourbond metal cladding is proposed to the western elevation to Denison Street with a matching canopy over the bagged goods area on the western elevation of the building.
- Floor area breakdown as follows:

Proposed use	Floor Area
Warehouse	14,920 m <sup>2</sup>

Timber Trade Sales	2,120 m <sup>2</sup>
Nursery Area	3,060 m <sup>2</sup>
Car Parking	421 spaces

**Table 3 – Proposed Floor Areas**

### ***Parking***

- Construction of a 5 metre high concrete retaining wall being setback 6 metres from the Denison street boundary to support the nursery and bagged goods are above and to facilitate a deep soil planting area on the Denison Street frontage;
- Provision of 421 undercroft car parking spaces (includes twelve (12) disabled spaces) constructed at RL16.90 metres;
- Two (2) separate motorcycle parking areas and one (1) bicycle parking area;
- Main entrance with two (2) lifts and a travelator providing access to the retail area above;
- A sprinkler tank and multiple plant rooms are proposed to the perimeter of the parking area and a barbeque area adjacent to the travelators.

### ***Access***

- Construction of a signalised intersection on Denison Street and associated roadworks to facilitate access, including land dedication to Council for a left turn lane from Denison Street.

### ***Service Road***

- A two-way service road accessible via a ramp from the Denison Street intersection is proposed of up to 9 metres in width down to the car park access, with a 1.2 metre high concrete parapet wall;
- Beyond the car park access, the service road continues east, up a proposed two way ramp to the timber trade sales area;
- Beyond the timber trade sales area, the service road becomes one-way with restricted access to the goods receiving area with a separate egress point at Denison Street via a ramp down to street level.
- The service road will have a variable width, up to 8.5 metres on the southern boundary setback, 7.5 metres along the eastern and northern elevations.

### ***Signage***

- One (1) x 13.6 metre high Pylon sign located at the south-eastern corner of the proposed signalised intersection. This will accommodate one 4m x 4.5m main sign with two (2) smaller (1.6m x 4m) back lit inter-changeable signage panels, with a total advertising area of 30.8m<sup>2</sup>;
- One (1) painted business identification sign to the northern elevation with dimensions of 18.2m x 6.5m and one “hammer” logo sign of 18.4m x 7.4m;
- One (1) painted business identification sign on the western elevation with dimensions of 7.9m x 3m;

- One (1) painted business identification sign on the southern elevation with dimensions of 13.3m x 4.2m together with one “hammer” logo with dimensions of 13.52m x 7.7m, being one located on the northern elevation and one located on the southern elevation;
- One (1) “hammer” logo sign to the nursery screen wall with dimensions of 4.5m x 3.2m.

#### ***Proposed Use***

- Hours of operation and delivery hours are 7:00am to 9:00pm, Monday to Friday and 8:00am to 6:00pm Saturday, Sunday and Public Holidays;
- Up to four deliveries per day by Class 3-9 vehicles;
- Employee numbers are variable at any one time, with a total payroll workforce of 200 employees.

#### ***Landscaping/Fencing/Noise Attenuation Barriers***

- A 4.95m high screen wall with feature concrete louvres is proposed to screen the nursery at the proposed Denison Street intersection and located behind the landscape garden bed.
- The screen fencing continues north along Denison Street being setback 4 metres off the new aligned boundary (following dedication of land for the proposed left turn lane). This is in the form a 1.2 metre high concrete wall painted white, with a 3.775 metre high powder coated mesh fence above, with a total height of 4.975m (above warehouse floor level). The nursery canopy projects above the mesh fence to an overall height of 7.5m (above warehouse floor level);
- A landscape setback of 4 metres is proposed at the main vehicular entrance within the western boundary, expanding to 6 metres at the northern end of the Denison Street frontage.
- No landscape setback is proposed to the northern boundary, except where the eastern surplus lot (proposed Lot 2) commences and is provided with a 3 metre landscape setback;
- A 10.8 metre landscape setback is proposed to the eastern boundary and a 3 metre landscape setback is proposed to the southern boundary.
- A 2.4 metre high boundary fence is proposed to the entire boundaries of proposed Lot 4 only (Bunnings site);
- A noise attenuation barrier is proposed to be installed at the edge of the service road, beyond the timber trade sales area, to a height of 5 metres, extending north, but at a reduced height of 3.5 metres above the service road level.
- A noise attenuation barrier is proposed to the undercroft car park at its northern extremity adjacent to proposed Lot 2, along its eastern elevation (being 29 metres from the eastern boundary) and returning west along the southern extremity.

## **6. SECTION 79C CONSIDERATIONS**

In considering the Development Applications, the matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 have been taken into consideration in the preparation of this report and are as follows:

### **6.1 The provisions of any EPI, draft EPI and DCP and any other matters prescribed by the Regulations.**

**6.1.1 Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development**

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development application.

The subject application is Integrated Development in accordance with Roads Act 1993 as a left turn lane and signalised intersection are proposed on Denison Street.

Before granting development consent to an application, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

In this regard, the application was referred to NSW Roads and Maritime Service (RMS). On the 17 May 2013, NSW RMS granted its approval to the proposed traffic signals on Denison Street under Section 87 and its concurrence to the proposed new vehicular crossings on Denison Street under Section 138 of the Roads Act. This matter is discussed in further detail in this report.

**6.1.2 State Environmental Planning Policy (State and Regional Development) 2011**

The State and Regional Development SEPP aims to:

- (a) *to identify development that is State significant development;*
- (b) *to identify development that is State significant infrastructure and critical State significant infrastructure;*
- (c) *to confer functions on joint regional planning panels to determine development applications.*

The proposed development has a capital investment value of \$26.1 million.

Part 4 of the SEPP states that the regional panel will determine development applications for development identified in Schedule 4A of the EP & A Act 1979.

Schedule 4A of the EP & A Act includes general development with a capital investment value of greater than \$20 million.

On this basis, the development application is referred to the Joint Regional Planning Panel for determination.

**6.1.3 State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land**

This policy was gazetted in 2005. The Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- (a) *by specifying when consent is required, and when it is not required, for a remediation work, and*



- (b) *by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
- (c) *by requiring that a remediation work meet certain standards and notification requirements.*

The development application has been accompanied by a number of Contamination reports relating to different parts of the site. Part of the site has been remediated as a result of the former use of the site for food manufacturing.

A Site Audit Report and Site Audit Statement prepared by Graham Nyland of Environ Australia Pty Ltd, dated 18 October 2006. This Statement only relates to Lot A in DP 24380 and Lots 1-6 on DP 24380 and stated that the site was suitable for commercial/ industrial use.

A further Site Audit Report and Site Audit Statement prepared by Graham Nyland of Environ Australia Pty Ltd, dated 18 March 2008 relates to Lot B in DP 323369, Lots 1, 2 and 3 in DP373787 and Part Lot A in DP 24380. This Statement states that the site is suitable for residential use with accessible soil, including garden (excluding poultry); day care centre, pre school, primary school, secondary school, residential with minimal opportunity for soil access (including units), park/recreation/open space/playing field, and commercial/industrial use.

The part of the site that was not subject to an assessment of contamination includes Lot 7 in DP 24380, Lot B in DP 406437, Lot 4 in DP373787, Lot 1 in DP 18290 and Lot A in DP 345700. In this regard, the three latter lots (4, 1 and A) above have been used for commercial purposes (existing commercial building) only and therefore no assessment of contamination is warranted.

Despite the above Statements being issued, the development application was accompanied by a Review of Contamination Issues prepared by Cavvanba Consulting Pty Ltd dated January 2010.

The contamination reports submitted with the development application were referred to Council's Environmental Scientist for assessment and comment. It was identified in the Cavvanba Review of Contamination Issues Report, that no assessment of contamination has been undertaken for two lots fronting Denison Street being Lot 7 in DP 24380 and Lot B in DP 406437, which have both been used for industrial purposes. Further, it was noted in the report that potential remains on site for asbestos and groundwater impacts. Phase Separated Hydrocarbons (PSH) were detected in two (2) groundwater monitoring wells at a depth of 8 metres below ground level and detection of low concentration of contaminants in wells that were not previously impacted. The source of contamination is not identified, however it is suggested that impacted soil surrounding the Sydney Water sewer easement at great depth is a contributing factor together with the possibility that further underground UST (underground storage tanks ) remain on site that were not previously identified.

In a letter dated 13 April 2012, Council wrote to the Applicant requesting that an assessment be undertaken of the two lots not previously assessed fronting Denison Street. In addition, the letter outlined the concern with the findings in the Cavvanba

Report and the need for a further Site Audit Statement to confirm that with the increases in on site contamination that the remains suitable for the proposed uses and whether ongoing management of this contamination is required for the site to be suitable for the respective uses. Council's letter further notes the owner's responsibility to notify the NSW Office of Environment and Heritage that the site is contaminated following the detection of phase separated hydrocarbons.

On the 13 June 2012, Council received an Environmental Site Assessment for Lot B in DP 406437 and Lot 7 in DP 24380, known as 148 Denison Street, Hillsdale. The report identifies that subject to additional investigation of soils on site once buildings are demolished and inspections undertaken during demolition and excavation to assess any unexpected conditions, that the site can be made suitable for the proposed development.

On the 13 June 2012, the Applicant advised Council in relation to the contamination of the following:

*“On the 11 May 2012, Bunnings Group Ltd engaged the original Site Auditor (Graham Nyland from Environ Australia) to update the previous site audits and extend its coverage to include 148 Denison Street, ultimately to provide a consolidated and comprehensive site audit statement to cover the entire development site.*

*To date, progress has been made with additional groundwater testing by Cavvanba Consulting (under supervision of the auditor) and it is highly likely that a Site Audit Statement will ultimately be issued.*

*On these grounds, it is reasonable to suggest that, if required, a condition can be imposed on the consent requiring the issue of a Site Audit Statement prior to the issue of the Occupation Certificate.”*

To date, Council has not received any further information from the Applicant in relation to contamination on the subject site.

Council on the 10 July 2013, engaged an Independent Consultant with appropriate expertise to review each of the documents submitted by the Applicant.

In a letter dated the 12 July 2013, the Independent Consultant has advised Council of the following:

- *Any construction at the site will require a management plan for asbestos as asbestos remains on site and will be encountered during works. Safe handling practices will be required;*
- *Given the presence of Phase Separated Hydrocarbons (PSH), the site falls within the requirements for notification to the EPA (which have changed since 2008);*
- *The PSH are much thicker to that found when remediation was completed so it needs to be further investigated again to determine why the rebound has occurred and if further remedial works need to be undertaken;*

- *The detections in MW02 indicate that the plume is moving down gradient and this also needs to be reinvestigated to make sure that the conclusions about it not being able to move off site are correct, especially given that the detections are for the heavier end TPH fractions which move much less easily with the groundwater due to their low solubility;*
- *The above matters should be discussed with the EPA (and potentially Sydney Water seeing as it might be material remaining in their easement that is the source) to decide the appropriate next steps;*
- *Until the above matters have been addressed, by way of further investigation and an updated Site Audit Statement, the site is not considered suitable for the proposed development.*

Clause 7 of State Environmental Planning Policy 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. In this regard, based on the comments received from Council's Independent Consultant and the information provided to date by the applicant, Council is not satisfied that the subject site is suitable or can be made suitable for the proposed development. The Applicant has not undertaken any further investigation, or if this has occurred, has not as a consequence furnished any further information to Council.

On this basis, it is considered that the proposed development is not consistent with aims and provisions of SEPP 55 - Remediation of Land in that the applicant has not demonstrated that the site is suitable for the proposed use, where remediation is required.

#### **6.1.4 State Environmental Planning Policy (Infrastructure) 2007**

The proposed development falls within the provisions of Schedule 3 of the SEPP – Traffic Generating Development that is required to be referred to the NSW RMS. The application was accompanied by a Traffic Impact Assessment prepared by Traffic & Traffic Planning Associates, Ref No. 09255 dated November 2011 (Issue D).

Plans and documentation were referred to the RMS's Sydney Regional Development Advisory Committee (SRDAC) for consideration and comment. In a letter dated 7 February 2012, the SRDAC advised that it had no objection to the proposed traffic signals on Denison Street, but that it did not support the proposed treatments to the intersection of Wentworth Avenue and Denison Street (which converted a through lane on Wentworth Avenue into a shared through/right turn lane into Denison Street). This letter requested that alternative treatments be investigated such as the provision of an additional right turn lane on Wentworth Avenue into Denison Street to improve the intersection performance.

In a letter to NSW RMS dated 9 February 2012, the Applicant's Traffic Consultant further reinforced the need for the proposed change in lane allocation to the Wentworth Avenue/Denison Street intersection.

On the 9 March 2012, Council received a further letter from NSW RMS in response to the Applicant's Traffic Consultant's letter, advising that they no longer require the

Applicant to undertake lane allocation works of any kind at the Wentworth Avenue/Denison Street intersection.

On the 19 July 2012, Council wrote to RMS advising of the receipt of amended plans for the proposed development. Specifically, Council sought clarification from RMS, that there was no objection to the intersection design on Denison Street, which incorporates a right turn from Denison Street into the subject site.

As a result of the position of RMS (over time), Council engaged an Independent Traffic Consultant to review the submitted traffic report/s and the correspondence provided by RMS.

On the 26 September 2012, Council requested the applicant to provide additional traffic modelling for the proposed development which incorporated the concept design for the intersection of Denison Street and Corish Circle (approved by the NSW Land & Environment Court under DA10/486), together with the Linsig modelling for the Orica development. In addition, Council requested that the additional modelling address other developments in the vicinity of the site including the Ports expansion and the BATA development.

On 25 October 2012, the applicant submitted a letter from their Traffic Consultant, which indicated that it was not reasonable or feasible to undertake additional modelling, considering that RMS had accepted the Bunnings traffic modelling already and that those other developments to be addressed had been approved without any requirement to address the traffic modelling of other developments in the locality.

In the interim, Council placed on public exhibition the Local Area Traffic Management Plan (LATMP) prepared by its Independent Traffic Consultant, McLaren Traffic Engineering from the 26 October 2012 to 5 November 2012, which resulted in 15 submissions and one (1) petition with 54 signatures.

On the 6 November 2012, Council wrote to the applicant requesting that the issues raised by the residents in their opposition to the LATMP recommendations, be addressed in a revised traffic report. Again, the applicant was requested to amend the traffic report to address the approved Orica subdivision and the impacts (if any) on the Bunnings Traffic assessment, both with and without modifications to the intersection of Denison Street and Corish Circle, to advise in specific terms how traffic, both retail and service traffic is to enter and exit the development when complete, and to consider in the amended traffic report the traffic impacts that arise from the Hensley Athletic Field.

In a letter dated 8 November 2012, NSW RMS advised Council (in response to the letter dated 19 July 2012) that it had no objection to the proposed right turn from Denison Street into the Bunnings site at the proposed signalised intersection.

On the 13 November 2012, Council's Independent Traffic Consultant provided the following advice in relation to the Bunnings traffic report:

- *The application of average traffic generation rates to the subject site is highly questionable when due regard is given to the catchment area of the proposal as shown in the lodged Economic Impact Statement. The adoption of four (4) vehicle trips per hour (vtph) per 100sqm during the Saturday AM peak is considered to be too low when due regard is given to the research conducted by Hyder (copy attached). A rate of 6-7 vtph per 100sqm is considered to be more appropriate when considering the catchment area. The applicants traffic consultant shall fully detail any departure from the Hyder rates referred to above by detailed comparison data that includes catchment data, however an average rate is unlikely to be accepted in the revised traffic report;*
- *The traffic assignment adopted in the traffic report ought to reflect the catchment area referenced in the lodged economic impact assessment report. Traffic assignment through the localised precinct, particularly along Smith Street (in the absence of any future full or partial road closure) and Fraser and Boonah Avenues and further afield are to be provided;*
- *All SIDRA modelling electronic files of the lodged analysis is to be provided for review together with RMS formalised acceptance of the model input parameters, particularly the cycle times, phase times and lane arrangements;*
- *The RMS advice with regard to lane arrangements at the proposed driveway from Denison Street and at Wentworth Avenue/Denison Street (particularly the TTPA assessment of dual right turn lanes from Wentworth Avenue and RMS view on this aspect) to be provided that also identifies the land required to achieve the lane arrangements necessary to allow the swept path needs of vehicles up to 19m in length (articulated vehicles) at the appropriate design speed for turning at public road junctions. It is understood that B double are not intended to visit the site (a condition restricting maximum size trucks to be provided);*
- *The electronic files of the AUTOTURN/AUTOTRACK or other similar program used to generate swept path a analysis is to be provided for review.*

In a letter dated 9 November 2012, the applicant submitted a revised traffic report Issue E) with specific reference to the outcomes of the Orica development and a detailed compilation of the responses to the issues raised by McLaren.

On the 15 November 2012, Council wrote to the applicant, requesting the following:

*The Traffic Impact Assessment prepared by Transport and Traffic Planning Assoc. must take into consideration the following:*

- *The RMS submissions dated 8 March 2012 to Ross Nettle and the letter dated 8 November 2012 to Council.*
- *Clear reference documented in the report in respect of the following:-*

- *The cumulative traffic impacts of the locality in respect of sporting activity upon the Hensley Athletic Field, the Westfields Eastgardens Shopping Centre and the Bunnings development as assessed on Saturday, and Sunday; and*
- *The likely traffic impacts upon the residential streets of Smith Street, Fraser Avenue and Boonah Avenue and in the case of the latter, the report must take into account their current level of service and physical constraints of road reserve widths;*
- *If the economic model is not to be relied upon, then what is the reference document for the development's likely source of the future customer base, particularly in respect of the residential population, tradespersons and industrial sources.*
- *The availability of traffic lights at the intersection of Denison Street/Smith Street/Corish Circle as well as the likelihood that at the time of store opening the intersection may not be signalised and the traffic impacts on the locality should this situation arise.*

On the 14 December 2012, Council received an email from NSW RMS. The email states the following:

*RMS has assessed the cumulative traffic impact as a result of the proposed development and other proposed and approved (existing) developments in the locality. As part of the assessment, the preferred solution identified by RMS was to construct an additional right turn lane from Wentworth Avenue into Denison Street, which would require additional land from either Hensley Athletic Field or Westfield's, which Council has advised is not feasible. In addition, RMS anticipates that the maximum traffic generated from the development will occur during weekends where spare road capacity is available on the surrounding road network.*

*Also RMS did not support the proposed treatments at the intersection of Wentworth Avenue and Denison Street in the traffic report (Ref: November 2011 – Issue D) by converting a through lane on Wentworth Avenue into a shared through/right turn lane into Denison Street, which was previously stated in the SRDAC letter to Council dated 7 February 2012.*

*As a result of the above considerations, no additional work requirements by RMS have been placed on the Bunnings development at the intersection of Wentworth Avenue and Denison Street.*

Council maintained serious concern with the position of RMS and the unwillingness of the applicant to address the cumulative traffic impacts in the locality. The Hensley Athletic Field is in full operation on Saturdays and Sundays, together with the Westfields Shopping Centre both of which are in close proximity to the development site. With the addition of the proposed Bunnings store, the impact of these traffic generating uses is significant and one that must be addressed.



On the 16 January 2013, Council received an amended Traffic Report prepared by Transport and Traffic Planning Associates (Issue G).

Council together with its Independent Traffic Consultant met with NSW RMS and Bunnings together with their Traffic Consultant on the 21 January 2013. The outcome of this meeting was that NSW RMS then issued a letter to Bunnings on the 21 February 2013, which stated the following:

*As discussed at the meeting, both Council and RMS request Bunnings to undertake further investigation to the following options that explore methods to improve the operation of Wentworth Avenue and Denison Street intersection:*

- 1. Consult with Westfields to acquire a sliver of land to accommodate an additional right turn lane on Wentworth Avenue into Denison Street to be established as shown on the concept plan attached as prepared by RMS. A written response from Westfields regarding this matter should be submitted to Council and RMS demonstrating their position and willingness to contribute land to facilitate the works under investigation;*
- 2. Explore the reduction of existing lane width on Wentworth Avenue to accommodate the additional right turn lane within the existing road reserve or combines with minor kerb adjustments. A concept plan is to be submitted to RMS and Council for approval if this option is achievable. It is noted that Council is not willing to accept a reduction of the existing footpath widths;*
- 3. Option 1 but to include the swapping of land along Wentworth Avenue with Westfields at no cost to RMS and Council.*

*It is paramount that these options are explored and ensure road constraints are investigated properly and documented.*

Following the issue of the letter by RMS, Bunnings approached Westfields to address the matters in the RMS letter. Westfields then requested a meeting between Council and RMS, which was held on the 8 April 2013. The outcome of this meeting was that Westfields would not make additional land available for any additional lanes on Wentworth Avenue. Despite this, it was also agreed between RMS, Council and Westfields that the required additional land was in fact part public land and not entirely owned by Westfields, however a boundary re-alignment would still be required.

Following the meeting on the 8 April 2013, the applicant attempted to arrange a further meeting between RMS and Council for 2 May 2013, however RMS was unwilling to attend any further meetings, having firstly accepted attendance and then cancelling prior to the scheduled meeting.

The matter regarding the additional land required from Westfields was not successfully resolved by the applicant and in a letter dated 17 May 2013, NSW RMS

granted its concurrence to the proposed development, including the proposed intersection on Denison Street and advised Council of the following:

*RMS wish to confirm that after undertaking further analysis of the existing signalised intersection of Wentworth Avenue and Denison Street, RMS does not require the developer to construct an additional right turn lane on the Wentworth Avenue west approach to this intersection. Motorists currently have three opportunities within one signal cycle to turn right from Wentworth Avenue into Denison Street with these signal phases being a leading, trailing and filtered right turn movements.*

***Council's Current Position on the Traffic Matters***

Despite all of the above having taken place, Council maintains strong concern in relation to cumulative traffic impacts resulting from the proposed development.

In a letter dated 24 July 2013, Council's Independent Traffic Consultant advised:

*The submissions made by TTPA in relation to the proposed development has failed to adequately address the external impact of traffic on weekends in terms of cumulative impact of:*

- (a) Bunnings and its higher trip generation rate of 6.3vph/100sqm;*
- (b) Westfields and its new approved restaurant precinct;*
- (c) Hensley Athletic Field use/sport events. Confirmation has not been received about whether the fields were in use during survey periods nor has any raw data/survey sheets been provided to confirm the survey period;*
- (d) Traffix report on the Orica DA with particular attention to the new signalised intersection of Smith Street/Denison Street and traffic flows through the Orica site;*
- (e) Colston Budd Hunt & Kafes traffic impact assessment on the BATA site.*
- (f) The impact on the local residential/commercial Smith Street and residential Streets of Fraser and Boonah Avenue, which the applicant states could be done by way of a condition of consent, which is inappropriate.*

With respect to (f) above, it is the stated preference of the Council and indeed the local area residents that traffic calming measures be in place ahead of the land use. The applicant has a preference assess traffic impact once land use has attained its design intent.

Based on the extensive review undertaken by Councils Independent Traffic Consultant, the proposed development will have a significant adverse impact on the cumulative traffic in the locality.

Clause 101 of SEPP (Infrastructure) 2007, states that:

- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

(b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*

(iii) *The nature, volume or frequency of vehicles using the classified road to gain access to the land.*

On this basis, it is considered that the proposed development is not consistent with Clause 101(2)(b) of SEPP (Infrastructure) 2007.

#### **6.1.5 State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)**

The Applicant proposes to install building identification signage as follows:

<b>Content</b>	<b>Sign Description</b>	<b>Location</b>	<b>Dimension</b>	<b>Area</b>
One (1) Pylon Sign	N/A	Denison Street entrance	13.60m x 4.0m	30.8m <sup>2</sup>
One (1) High Elevation sign (painted)	“Bunnings”	North elevation of proposed building	18.20m x 6.5m	118.3m <sup>2</sup>
One (1) High Elevation sign (painted)	Hammer logo	North elevation of proposed building	18.4m x 7.4m	136.16m <sup>2</sup>
One (1) High elevation sign (painted)	“Bunnings”	South elevation of proposed building	13.3m x 4.2m	55.86m <sup>2</sup>
One (1) High Elevation sign (painted)	Hammer logo	South elevation of proposed building	13.52m x 7.7m	104.10 m <sup>2</sup>
One (1) Building Entry sign	Hammer logo	West elevation of proposed building	4.5m x 3.2m	14.4 m <sup>2</sup>

**Table 4 – Proposed Signage**

The proposed signage whilst large in size, is commensurate with the scale of the proposed building and its intended use and is therefore considered to be consistent with the aims and objectives of SEPP 64 and satisfies the assessment criteria of the policy, which seeks to ensure the signs are compatible with the character of the area, existing streetscape and buildings, and will not adversely affect the safety of motorists or pedestrians.

In accordance with SEPP 64, the following definitions are relied upon:

***signage*** means all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes:

- (a) *building identification signs, and*
  - (b) *business identification signs, and*
  - (c) *advertisements to which Part 3 applies,*
- but does not include traffic signs or traffic control facilities.*

***building identification sign*** means a sign that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but that does not include general advertising of products, goods or services.

**wall advertisement** means an advertisement that is painted on or fixed flat to the wall of a building, but does not include a special promotional advertisement or building wrap advertisement.

**freestanding advertisement** means an advertisement that is displayed on an advertising structure that is mounted on the ground on one or more supports.

The proposed signs may be classified as signage, which includes building identification signs, wall advertisements and a freestanding advertisement.

Accordingly, the proposal for signage is assessed against Clause 8 of SEPP 64 which requires Council to determine consistency with the aims and objectives stipulated under Clause 3(1) (a) of the SEPP and to assess the proposal against the assessment criteria of Schedule 1.

Clause 3(1) (a) of the SEPP states the following:

- (1) *This Policy aims:*
  - (a) *to ensure that signage (including advertising):*
    - (i) *is compatible with the desired amenity and visual character of an area, and*
    - (ii) *provides effective communication in suitable locations, and*
    - (iii) *is of a high quality design and finish.*

The proposed signage is considered to satisfy the aims and objectives of the policy by ensuring that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regard to both design and finishes. The proposed use of the site for a hardware and building supply centre is permissible in the subject zone and the proposed signage is of consequence to this use, without adversely impacting on the function of the local road network or the amenity of adjacent residential and industrial uses.

The matters of consideration contained in Schedule 1 are addressed in detail below:

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is compatible with the existing and desired future character of the locality and is consistent with the type of signage associated with a large scale retail development.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There are no predominant themes for advertising in the locality. Business identification signs are of a scale proportional to existing built form of commercial and industrial development in the locality.	YES
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or	The site is located within the Banksmeadow industrial precinct, which supports Port Botany. Residential land to the north and south will not be adversely affected by the proposed signage, with the proposed northern elevation signs	YES

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
other conservation areas, open space areas, waterways, rural landscapes or residential areas?	being obscured by The proposed wall advertisements are not proposed to be internally illuminated, is of a high quality finish and design which will not detract from the visual quality of the area or on residential amenity.	
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The proposed signage is designed to be positioned on the proposed building as wall signage and will not obscure or compromise any important views. The proposed pylon sign on Denison Street will not obscure any significant views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage will be positioned within the proposed built form and will not project beyond the building either horizontally or vertically and will therefore not dominate the skyline. The proposed pylon sign will not exceed the height of the proposed building on site.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not obscure any existing signage and respects the viewing rights of other advertisers.	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is not considered to adversely impact on the surrounding streetscape, setting or landscape. The proposed pylon sign will be positioned within the landscape gardens bed adjacent to the Denison Street frontage and will provide a key identification point for customers and delivery vehicles accessing the site. The proposed painted wall signs to the northern elevation, whilst large in size are represented as a percentage of the total northern elevation of 26% and this is considered acceptable as it assists in breaking up the blank face of the painted wall and the location of the signs is 65 metres from the Denison street frontage, 43 metres from the Smith Street frontage and are obscured behind the existing industrial buildings on Smith Street. On the southern elevation, the two signs represent 11% of the face of the eastern elevation and this is considered acceptable as the location of the signs are setback approximately 110 metres from Denison Street.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage will be incorporated into the existing landscape and that landscape will be embellished with additional plantings to enhance the streetscape appearance of the proposed development.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	It is considered that the proposed signage will be of an appropriate scale and design so as to not contribute to the proliferation of signage in this precinct.	YES
Does the proposal screen unsightliness?	The proposed signage is of a high quality that will enhance the appearance of the development.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal will be positioned within the proposed building footprint and proposed tree canopy.	YES

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is considered to be compatible with the scale, proportion and other characteristics of the site and building.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage has been designed to be consistent with the proposed scale and built form and to that of surrounding development, as such the proposal is considered to respect the important features of the site and buildings.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage demonstrates innovation in its contemporary design.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed 'Bunnings' wall signage and hammer logo signs will be painted to the walls of the building. The proposed pylon sign will have footings within the landscape garden bed.  No other safety devices are not warranted in this instance.	YES
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The Applicant proposes to install flood lighting to illuminate the signage. This is considered acceptable given the proposed hours of operation to 9:00pm, and is more appropriate than internally illuminated signage.  Council will not support any illumination between the hours of 9:00pm to 7:00am the next day to ensure that there are no adverse impacts on the residential amenity of adjacent and nearby residential streets.	Condition to comply
Can the intensity of the illumination be adjusted, if necessary?	Flood lights are to be positioned and managed in a manner that does not adversely affect residential dwellings.	Condition to comply
Is the illumination subject to a curfew?	Council requires illumination to cease between 9:00pm and 7:00am the next day	YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage is not considered to have any adverse impact upon the safety for any public road, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	Due to the location of the proposed signage within the landscape setback of the proposed development and on the external walls, it will not disrupt sightlines from public areas.	YES

**Table 5 – SEPP64 Compliance**

The proposed signage is therefore considered to be consistent with the aims and objectives of SEPP 64 and satisfies the assessment criteria of the policy, which seeks to ensure the signage is compatible with the character of the area, existing streetscape and buildings, and will not adversely affect the safety of motorists or pedestrians.

#### **6.1.6 Botany Local Environmental Plan (LEP) 1995**

*Clause 5 (3) (a) – Retail and commercial development*



The provisions of Clause 5(3) have been considered in the assessment of the development application as follows:

- (a) *to enhance the convenience, viability, and general amenity of all commercial centres and encourage a greater diversity in the range of goods and services offered to cater for the retail, commercial, entertainment, welfare and recreational need of residents, the workforce and visitors;*
- (b) *to encourage developments which will contribute to the economic growth and employment opportunities within the commercial and neighbourhood centres so that they remain commercially attractive and viable;*
- (c) *to improve the pedestrian environment, access and movement in all commercial centres, and*
- (d) *to ensure that new development in the commercial centres does not unduly affect the amenity of adjoining residential areas by virtue of the use, design, bulk, scale of the development and any traffic generation.*

#### Comment

*Clause 5(3)(a)* - The proposed development is for the redevelopment of the site for a hardware and building supply centre and subdivision of the land into four allotments. By virtue of its traffic generation/s this traffic assessment, which has been disputed by Council's Independent Traffic Consultant during the assessment of the development application, it is considered that the proposed development will contribute to significant cumulative traffic impacts, including on a Dangerous Goods Route, which will adversely impact on the convenience, viability and general amenity of the locality.

The subject site is located within close proximity to commercial and industrial uses, together with Westfields Shopping Centre to the northern side of Wentworth Avenue. Despite the position of NSW RMS, Council maintains concern with the expected level of traffic generation, the impact of this traffic on the local road network, including the intersection of Wentworth Avenue and Denison Street and the resulting impact on the viability of the nearby commercial and industrial uses, which form the commercial precinct.

Therefore, it is considered that the proposed development is not consistent with Clause 5(3)(a) of Botany LEP 1995.

*Clause 5(3)(b)* - The Applicant has submitted an Economic Impact Statement on 15 August 2012 prepared by Leyshon Consulting Pty Ltd, dated August 2012. The report identifies the following in relation to the proposed Bunnings store:

The submitted report contains a disclaimer. For the benefit of the Panel, the disclaimer is reproduced as follows:

*"This Report has been prepared solely for the purposes recorded at Section 1 of the Report and solely for the benefit of the party to whom the report is addresses. No third party is entitled to rely upon this Report for any purpose without the written consent of Leyshon Consulting Pty Ltd having first been sought and obtained.*

*This Report involves the making of future projections. Those projections are grounded upon the facts and matters contained in the Report. Some or all of those*

*facts and matters comprise assumptions and/or representations upon which Leyshon Consulting Pty Ltd has relied but about which it has no knowledge of its own. By reason of this, Leyshon Consulting Pty Ltd cannot warrant or represent the correctness or accuracy of such assumptions and/or representations. It follows that, while the projections contained in this Report are made with care and judgement, Leyshon Consulting Pty Ltd cannot confirm, warrant or guarantee that actual results achieved will be consistent with the result projected by this Report.”*

Council sought advice from its Solicitor in relation this disclaimer. In a letter dated 16 July 2013, they advised that Council cannot rely upon the submitted Economic Impact Assessment Report, in its current form as the author has not disclosed those assumptions or representations upon which the author has relied, but which the author has no knowledge of its own.

On this basis, Council is unable to rely upon the submitted report in its assessment of the proposed development. Therefore, it is considered that at present, the proposed development is not consistent with Clause 5(3)(b) of Botany LEP 1995.

*Clause 5(3)(c)* – As stated above, the level of traffic generation is such that Council engaged an Independent Traffic Consultant to undertake a review of the submitted traffic report and to advise Council of impacts the proposed development would have on the adjacent commercial/residential streets, particularly Smith Street.

In October 2012, Council’s Independent Traffic Consultant completed a Local Area Traffic Management Plan (LATMP) prepared by McLaren Traffic Engineering, which identifies local area traffic management measures that would be required, should the proposed development proceed.

The completed LATMP which affects both commercial and residential properties on Smith Street and the residential streets of Frazer Avenue, Boonah Avenue and Rhodes Street, recommended that Smith Street be partially closed to only allow traffic to enter from Denison Street and to eliminate traffic exiting from Smith Street onto Denison Street.

The LATMP was placed on public exhibition to those properties affected by the Local Area Traffic Management Plan from the 26 October 2012 to 5 November 2012. Following the exhibition period of the LATMP, Council received a total of fifteen (15) submissions and a petition containing fifty four (54) signatures.

On the 21 January 2013, Council held a meeting with those residents that responded to the exhibited LATMP. The purpose of the meeting was for Council to fully understand the views of the residents, and to consider and possible acceptable solutions to mitigate the potential traffic movements on the affected streets as a result of the proposed development.

On this basis, it is considered that the proposed development is not consistent with Clause 5(3)(c) of Botany LEP 1995.

*Clause 5(3)(d)* – The proposed development has been designed with a service road at the perimeter of the warehouse building. The service road is raised above the basement car park level which is intended to accommodate vehicles of up to 19 metre articulated in size to the proposed loading bay at the rear of the site, adjacent to nearby residential properties. In a letter dated the 13 June 2013, Council’s Independent Acoustic Consultant has advised that the proposed development will have an adverse impact on the surrounding residential properties in terms of noise

emission. Based on these findings, which are discussed in further detail in this report, together with the concerns in relation to traffic generation, it is considered that the proposed development is not consistent with Clause 5(3)(d) of Botany LEP 1995.

#### *Clause 10 – Zoning*

The subject site is zoned 4(a) Industrial in accordance with Clause 10 of the LEP. The proposed building supply and hardware store is to be located on proposed Lot 4, on land zoned 4(a) Industrial. In a letter dated 29 October 2012, the Applicant amended the proposed subdivision to delete existing Lot 1 and Lot A, which are zoned 2(a) Residential. Therefore, as amended, no part of the proposed development falls within the 2(a) zone. Subdivision is permissible in the 4(a) Industrial zone.

*Hardware and building supplies* are defined within Schedule 1 of Botany LEP 1995 as follows:

***Hardware and building supplies*** means a building or place the principal purpose of which is the sale or hire of goods and materials, including household fixtures, timber, tools, paint, wallpaper, plumbing supplies, landscaping supplies or the like, that are used in the construction and maintenance of buildings (and adjacent outdoor areas).

The proposed development falls within this definition and is a permissible use on the subject land only, pursuant to *Clause 20 – Development for certain additional purposes*, and Schedule 2 of Botany LEP 1995 with the appropriate consent of Council.

The primary objective of the 4(a) Industrial zone is as follows:

*The primary objective is to ensure that development for industrial purposes is carried out in a manner which contributes to the economic and employment growth of the area and, in so doing, improves amenity and does not affect adversely the environment or give rise to unacceptable levels of risk in the area.*

#### Comment:

The proposed development, being for a hardware and building supplies store is not consistent with this primary objective of the 4(a) Industrial zone.

As a result of Council Independent Traffic Consultants review of the proposed development, the predicted traffic generation that is likely to result from the proposed development is an underestimation, and will result in a significant contribution to adverse cumulative traffic impacts in the locality, particularly the function of the local/regional road network, including the intersection of Wentworth Avenue and Denison Street (also a Dangerous Goods Route) together with the local residential/commercial Smith Street, as well as the residential streets of Boonah and Fraser Avenues.

The submitted Economic Impact Assessment (which has not been relied upon by Council other than to compare with the catchments identified in the applicant's traffic report) is found to be inconsistent with the catchments identified in the applicants submitted traffic reports. As such, there is likely to be an adverse economic impact in the locality as a result of excessive traffic generation, particularly on weekends. It is noted here, that a higher traffic generation than that

identified by the applicants traffic reports, would also generate a higher demand of off street car parking, which would result in customer parking spilling over into local streets. This is not considered to be acceptable.

Whilst the proposed development will not involve any significant volumes of Dangerous Goods storage on site, the sites location in close proximity to the BIP on Denison Street has been the subject of rigorous assessment by Council.

The development application has been accompanied by a Preliminary Risk Assessment Report (PRA), which has been amended numerous times and is discussed further in this report, under DCP 30 assessment. Council engaged an Independent Consultant with suitable expertise to review the various risk reports submitted with the development application (including the Transport Risk Assessment) and in a letter dated the 12 August 2013, Councils Independent Risk Consultant advises of the following:

*In response to the conclusions in the Gawecki letter (dated 9 July 2013), to the effect that the individual and societal risk levels have been demonstrated to be acceptable, are not justified.*

*In particular the hazardous materials transport risk has yet to be dealt with as has the cumulative individual risk levels from transport risk and the BIP risk combined. The societal risk question is similarly yet to be resolved. The incident identification which should be available for building design and emergency planning considerations is also yet to be addressed.*

*As stated in my previous advice in respect of the PRA, this should not be taken as a conclusion that the site is unsuitable for the development, just that the information provided by the applicant and the applicants consultant in this submission does not provide the basis for an informed judgement to be made.*

Based on the information presently accompanying the development application in relation to the contamination on site, the predicted levels of traffic generation and unresolved societal risk assessment and risk associated with Denison Street as a Dangerous Goods Route, it is considered that the proposed development is not consistent with the primary objective of the 4(a) Industrial zone.

The secondary objectives of the zone are as follows:

- (a) *to encourage development which does not affect adversely the efficient operation of the local and regional road system;*
- (b) *to improve the environmental quality of the local government area by ensuring that industries conform to strict environmental and hazard reduction guidelines;*
- (c) *to provide for retail and non-industrial development which provides direct services to the industrial activities and their workforce; and*
- (d) *to encourage energy efficiency and energy conservation in all forms of development permissible within the zone.*

Comment:

It is considered that the proposed development is not consistent the secondary objectives (a) and (b) in respect of the assessment of traffic impact on the local

residential streets or on the adjacent classified roads. The contamination of the site remains unresolved and as such may have an environmental impact on the locality. The issue regarding individual risk, societal risk and risk arising from dangerous goods transportation on Denison Street has not been adequately addressed by the applicant.

The proposal development will not involve any noxious, offensive or hazardous use as it is retail in nature providing direct services to the immediate industrial activities and their workforce, therefore it is considered that it is consistent with objective (c).

The development has been designed to achieve energy efficient standards and will incorporate a number of energy conservation measures and suitable stormwater management. The proposal is therefore considered to be consistent with objective (d).

#### *Clause 10(3) – Zone Objectives and development control table*

Clause 10(3) states:

*“The Council may only grant consent to the carrying out of development of land to which this plan applies if the Council is of the opinion that the carrying out of the development is consistent with the primary objective of the zone in which the development is proposed to be carried out. In granting consent, the Council must take into account other relevant objectives of the plan and the zone in which the development is proposed to be carried out.”*

Comment: It is considered, based on the discussions above under Clause 5 and Clause 10, that the proposed development is not consistent with the primary objective and secondary objectives of the zone. As the proposed development is not consistent with the primary objective of the zone, Council cannot grant consent to the proposed development.

#### *Clause 11 – Subdivision*

The requirements of clause 12 have been considered in the assessment of the development application, which states that:

*a person may subdivide land to which this plan relates, but only with the consent of the council.*

The proposed development seeks to consolidate the existing allotments and to subdivide into four new allotments of land. Proposed Lots 1-2, which front onto Smith Street are proposed to remain vacant, proposed Lot 3 fronting Smith and is proposed to be dedicated to Council as a public reserve. Proposed Lot 4 is the site of the proposed Bunnings centre. The proposed subdivision is therefore considered acceptable.

#### *Clause 12 – Floor space ratios*

The requirements of Clause 12 have been considered in the assessment of the development application. The maximum FSR permitted for the subject site is 1:1. The development is proposed with an FSR of 0.5:1 as detailed in the table below, which is consistent with clause 12.

<b>FSR under Clause 12 of Botany LEP 1995</b>	<b>Proposed FSR</b>

1:1 (22,930sqm)	0.51:1 (11,689sqm)
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**Table 6 – FSR Compliance Table**

*Clause 17(1) – Development in Industrial Zones*

Before granting consent to any development on land within Zone 4(a) Industrial, Council must be satisfied that the development complies with the following:

- (a) *the development provides adequate off-street parking,*

Comment: The development application proposes a total of four hundred and twenty one (421) car parking spaces to be provided in the proposed undercroft and open areas at grade level. The Applicant submitted a Traffic Impact Assessment Report prepared by Transport and Traffic Planning Associates, dated November 2011 (Issue D) that takes into consideration survey and research of eight (8) other large Bunnings warehouse stores. The proposed four hundred and twenty one (421) car parking spaces includes ten (10) disabled car parking spaces. The following table is reproduced from the Traffix Report, which compares other large Bunnings warehouse stores:

<b>Store Location</b>	<b>Store Size</b>	<b>Rate per 100m<sup>2</sup></b>
North Parramatta	9,800m <sup>2</sup>	2.7 spaces
Thomastown	10,625m <sup>2</sup>	1.37 spaces
Minchinbury	11,932m <sup>2</sup>	2.0 spaces
Penrith	13,500m <sup>2</sup>	1.17 spaces
Hoopers Crossing	11,169m <sup>2</sup>	1.74 spaces
Scoresby	11,882m <sup>2</sup>	2.51 spaces
Mornington	10,599m <sup>2</sup>	2.39 spaces
Box Hill	13,762m <sup>2</sup>	1.41 spaces
<b>Hillsdale</b>	<b>14,920m<sup>2</sup></b>	<b>2.8 spaces</b>

**Table 7 – Comparison of other large Bunnings Stores**

As detailed in the above table, it is evident that the proposed Hillsdale store will provide a greater rate of parking spaces per 100m<sup>2</sup> when compared to other large Bunnings warehouse stores of a smaller size.

Council's Off Street Car Parking Development Control Plan does not specifically outline the car parking requirements for building and hardware supply stores. The car parking rate for retail development is one space per 40m<sup>2</sup> of gross leasable floor area.

In this regard, a total of 373 car parking spaces would be required for the proposed development. On this basis, it is considered that an assessment of other existing Bunnings stores provides a more accurate representation of off street car parking requirements and based on this the proposed development provides four hundred and twenty one (421) car parking spaces.

The amended traffic report submitted by the applicant (Rev B, dated May 2013), states that RMS has commissioned an assessment of large format hardware stores, which identifies an average range of peak parking of 1.16 spaces per 100sqm. As indicated in the table above, the proposed development will have 2.8 spaces per 100sqm, which is above the range identified by RMS.



Accordingly, the application is considered acceptable in respect of Clause 17(1)(a) of BLEP 1995.

- (b) *the development provides an efficient and safe system for the manoeuvring, loading and unloading of vehicles,*

Comment: The development has been designed so that all vehicular access is to be provided from a new signalised intersection at Denison Street. The development application was referred to the NSW RMS for assessment and in a letter dated 17 May 2013, NSW RMS granted its concurrence to the proposed development, including the proposed intersection on Denison Street, which provides adequate access for a 19 metre articulated vehicle to enter the site.

All delivery vehicles will enter the site at the intersection, descend down the access ramp, pass the car park entrance, and ascend up another ramp to the timber trade sales area, which is a “drive thru” arrangement for the pick up of timber. The development application has been accompanied by turning templates for a Medium Rigid Vehicle of 8.8 metres length which demonstrates that the maneuvering into and out of the timber trade sales area is acceptable. The service road continues east then north around the building, which is at RL 20.80 (the same level as the warehouse). The service road past the timber trade sales area is restricted access for store deliveries only to the rear goods receiving area and bagged goods pick up area.

The goods receiving area will have internal dimensions of 15.5m x 7m and a roller door to the eastern elevation. A 19 metre articulated vehicle will not reverse into the building but will be unloaded from the service road. At this point there is potential for conflict where a 19 metre truck is stationary for unloading and customer vehicles are attempting to pass the truck to gain access to the bagged goods pick up area. However, the Applicant has confirmed in their response to the submissions, that only four (4) truck deliveries per day are expected at the store and on this basis, the potential for conflict is minimized.

Despite the above, the assessment of the submitted acoustic report in relation to the operation of the proposed development indicates that it will have an adverse impact on the surrounding residential environment by way of noise emission. Given this, it is considered that the location and configuration of the proposed service road and loading/unloading areas are not efficient and are inappropriate if they are to have an adverse impact on the amenity of the surrounding residential dwellings.

Accordingly, it is considered that the proposed development is not consistent with Clause 17(1)(b) of BLEP 1995.

- (c) *the operations of the development will not have an adverse impact on the functions of the surrounding road network,*

Comment: As previously mentioned, Council engaged McLaren Traffic Engineering to undertake an Independent review the prevailing local area traffic impacts of the proposed development. This report highlights that the peak Saturday vehicle trips per hour identified in the Bunnings Traffic Report and detailed above are a significant underestimation. As a result, it is more likely that a range of possible values from 4.03 vtp/h up to 7.2 vtp/h (the average for NSW plus one standard deviation). This will have an affect on intersection performance, particularly on Wentworth Avenue and will also have an effect on the local residential streets in that with poor intersection performance there becomes a greater tendency for the use of local roads as an alternative to the use of designated roads. As such, due to no works now being

required at the intersection of Wentworth Avenue and Denison Street (as per RMS letter dated 17 May 2013), traffic diversion is likely to occur and the following assumptions are made:

- *A number of vehicles travelling north on Bunnerong Road, wanting to use Fraser Avenue to avoid both the Wentworth Ave/Denison Street intersection and Smith Street/Bunnerong Road intersection;*
- *Vehicles wanting to travel south on Bunnerong Road will use Smith Street; and*
- *Vehicles travelling north on Bunnerong Road would also use Smith Street to access the Bunnings site.*
- *Ultimately, impatient vehicles would avoid all traffic lights and access Bunnings via Fraser Avenue and Boonah Avenue.*
- *For the purposes of calculating future traffic impact along Fraser Avenue (or Boonah Avenue), it will be assumed that 50% of traffic turning right from Denison Street into Wentworth Ave will use Fraser Ave to avoid the traffic signals and make an easy left turn onto Bunnerong Road at the eastern end of Fraser Ave.*
- *It is predicted that 50% of vehicles travelling from Bunnerong Road (north) will turn right onto Wentworth Ave then left on to Denison Street, while the other 50% will travel further south along Bunnerong Road and right turn at Smith Street then left onto Denison Street.*

As a result of the potential and likely assumptions made in the McLaren Report, the report recommends the following local area traffic management measures to counteract the potential traffic diversions:

- ***Partial Closure of Smith Street at Denison Street*** – *This will prohibit any egress from Smith Street onto Denison Street. Local residents travelling only via Wentworth Avenue will still be able to access Smith Street from Denison Street (left turn in only).*
- ***Kerbside Parking restriction in Smith Street*** – *To avoid any future problem of staff parking in local streets or overflow parking during peak periods such as Christmas, it is recommended that 4 hour parking restrictions be implemented along both sides of Smith Street (west of Rhodes Street) applying from 8am to 6pm, 7 days per week.*
- *On street kerbside parking demand within a 400m radius of Bunnings shall be monitored over a few weeks, particularly on weekends after Bunnings has been trading for 6 months to assess whether the kerbside parking management needs to be extended.*
- ***Option A – End of Block threshold treatment.*** *For best effectiveness, this should be installed at the Denison Street end of both Fraser and Boonah Avenues, approximately 12m-15m from the intersection and should be a single lane variant. Landscaping around the treatment, and its location, will visually discourage drivers from entering Fraser or Boonah Avenue.*
- *A traffic survey count should be completed approximately 6months after the Bunnings store opens to detect whether there has been any significant effect on either Fraser Avenue or Boonah Avenue.*

- *If further action is required on any of these three roads, then a mid-block threshold should be installed. This can be any one of: Chicanes, Option A, Option C (single or dual) or a median island requiring significant path deflection with some localised lane narrowing.*
- *Supplementary to these recommendations is a similar procedure, examining residential amenity and road capacity following the completion of other large scale development on Denison Street.*

The McLaren report (the LATMP) was placed on public exhibition from from the 26 October 2012 to 5 November 2012, which resulted in 15 submissions and one (1) petition with 54 signatures.

To date, the applicant has not satisfied Council that they have adequately addressed the concerns of the residents and the finding of the LATMP. As such, the it is considered that the proposed development is not consistent with Clause 17(1)(c) of BLEP 1995. However, the Panel is advised that in so far as the local area traffic is concerned, the applicants strategy is to “wait and see”, that is to say assess the local area traffic impacts once the land use is established and trading.

- (d) *any goods, plant, equipment and other material resulting from the operations of the development will be stored within a building or wholly within the site and screened suitably from public view,*

Comment: The proposed bagged goods area and proposed nursery will be suitably screened from Denison Street by way of a 3.5 metre high meshed fence above a 1.2m high painted masonry wall. There are no areas of the proposed development that would provide for external storage of goods, plant, equipment or other material to be in public view. Accordingly, the application is considered acceptable in respect of Clause 17(1)(d) of BLEP 1995.

- (e) *there is sufficient area on site for the storage and parking of vehicles associated with the operations of the development,*

Comment: As stated above, the proposed development accommodate up to four hundred and twenty one (421) off street car parking spaces within the undercroft and at grade level for employee and customer parking (combined). The service road provides access for delivery vehicles and customer pick up from the bagged goods store. The parking and storage of forklifts associated with the warehouse operation is within the warehouse and this is considered appropriate for the efficient operation of the warehouse. Accordingly, the application is considered acceptable in respect of Clause 17(1)(e) of BLEP 1995.

- (f) *landscaping will be provided that is integral to the design and function of the building and the site to improve the appearance of the development, enhance the streetscape and add to the amenity of the adjoining area,*

Comment: The development application involves the removal of existing Eucalyptus street trees on Denison Street and numerous native and weed species across the existing hardstand area over the site. This is considered acceptable to accommodate the proposed development, as the trees proposed to be removed are not significant trees. The design of the proposed development incorporates the provision of adequate landscape setbacks to all boundaries and to Denison Street in order to enhance the streetscape, improve the amenity of the area and the appearance of the development.

The development application was referred to Councils Landscape Architect, who has recommended the proposed landscape design be enhanced in the following manner:

- *The proposed white powder coated screen mesh boundary fence to Denison Street remains at 5 metres in height. Original concerns regarding the height of the fence remain and its likely visual impact on the streetscape and public domain. The fence will in effect impart a solid screen wall. A 5 metre fence is considered excessive and the Applicant has not provided reasons for it. The screen fence is located approx. 2.6 metres inward of the property boundary in front of the nursery area.*

*Although the street setback is proposed to be quite densely landscaped, a 2.4 metre high fence/screen would appear satisfactory to provide security and compliance with Council requirements. The amended plans have proposed blades to enhance the appearance of the fence but have not reduced height.*

*The success of the proposed landscaping in screening the fence, as shown on the western elevation where landscaping is shown to completely obscure the fence, is dependent on the native screen landscaping being planted appropriately and effectively to ensure a contiguous and consistent planting of the taller shrubs in the planting palette mix across the frontage. There is insufficient detail in the landscape plan to ensure this will occur and so will be dependent on the landscape contractor's plan assumptions. A landscape details sheet was provided with the original submission but not with the revised landscape plans. Applicant to clarify whether this original plan/sheet 3 is still relevant.*

- *Tall canopy trees have not been included across the entire frontage of the site and are restricted to the northern end of the frontage. Additional tall canopy trees are required for planting across the entire frontage.*
- *Crepe Myrtle, a small deciduous tree, is proposed for the more than half of the street frontage. Being deciduous, the tree will provide no screening benefit to the site or the mesh screen fence in the autumn-winter period and is to be replaced with a mid-height feature evergreen species. This is to occur in conjunction with tall canopy trees across the frontage.*
- *Due to the slip lane, the width of approx. half the landscape setback has been reduced to under 3 metres (approx. 2.6 metres) therefore additional tree planting is required in the Denison Street setback as discussed above. The setback is not 4-6.5 metres in width as stated by the Applicant in their response to Council issues Dimensions are approx. 2.6 to 6 metres.*
- *The Applicant has not provided a landscape proposal for the road verge area indicating footpath, street tree planting and other landscaping. Considering street trees are required to be removed to accommodate the slip lane a public domain proposal is mandatory.*

Accordingly, the proposed development is not considered acceptable in respect of Clause 17(1)(f) of BLEP 1995.

- (g) *the building height, scale and design that is sympathetic to adjoining land uses and built form,*

Comment: The proposed development comprises of one building across a large rectangular footprint. It will have a height reaching RL30.30 metres, being 13.4 metres above the finished floor level of the undercroft parking area (RL16.90 metres) and 9.50 metres above the warehouse floor level (RL20.80 metres). Denison Street is at the same level as the warehouse floor level.

The maximum building height permitted at this site is 19 metres above natural ground level pursuant to Schedule 2 of Botany LEP 1995. Therefore, the proposed building height is approximately 6 metres below the 19 metre height limit.

The design incorporates architectural elements to the proposed fence on Denison Street to provide interest to the frontage, which also assists in breaking up the bulk of the warehouse building behind the nursery and bagged goods store.

Through further embellishment of the proposed landscape garden beds fronting Denison Street and to the eastern and southern boundaries, the development will contribute to the streetscape and residential amenity of the area and will have a visual relationship with the public domain area. A 10 metre landscape setback is provided to the eastern boundary to the adjacent residential dwellings.

The design now forming part of this development application currently before the Panel was referred to the Design Review Panel (DRP) prior to lodgement of the application, which met on 15 September 2011. The DRP supported the design in principle and made recommendations, particularly in relation to the Denison Street perspective. Table 12 of this report discusses the matters raised by the DRP in further detail.

The Applicant has incorporated additional design changes to the Denison Street elevation as recommended by the DRP and accordingly, the application is considered acceptable in respect of Clause 17(1)(g) of BLEP 1995.

- (h) *the building design and finishes are sympathetic and complementary to the built form, the streetscape and the public domain in the vicinity,*

Comment: The proposed development will incorporate a painted concrete finish exterior walls, signage, landscaping and architectural features to assist in breaking up the bulk nature of the building. White poly fabric sun shade cloths are proposed with an overall height of 7.5 metres to above the nursery area fronting Denison Street, which extends to over half of the frontage of the building and assists in screening the warehouse behind. A 5m high screen wall with feature concrete louvres is proposed to screen the nursery at the Denison Street and located behind the landscape setback. The screen fencing continues north along Denison Street being setback 2.6 metres off the new aligned boundary (following dedication of land for the proposed left turn lane). This is in the form a 1.2 metre high concrete wall painted white, with a 3.8 metre high powder coated mesh fence above, with a total height of 5 metres.

The proposed design and finishes of the building are considered acceptable and will not result in any adverse reflectivity or unsightliness in the locality. The resulting development will contribute to an improved public domain area by way of a new intersection, new footpath to Denison Street and Smith Street, Smith Street road

closure and dedication of proposed Lot 3 (545m<sup>2</sup> of land) for a public reserve in Smith Street. Accordingly, the application is considered acceptable in respect of Clause 17(1)(h) of BLEP 1995.

- (i) *the design and operation of the development will protect the visual and aural amenity of adjoining non-industrial uses,*

Comment:

The development application was accompanied by a Noise Assessment Report prepared by Wilkinson Murray dated October 2011 (Version A), which recommends that a noise attenuation barrier is installed at the edge of the service road, beyond the timber trade sales area, to a height of 5 metres, extending north, but at a reduced height of 3.5 metres above the service road level. A noise attenuation barrier is also proposed to the undercroft car park at its northern extremity adjacent to proposed Lot 2, along its eastern elevation (being 29 metres from the eastern boundary) and returning west along the southern extremity. Attenuation of car park exhaust fans are proposed. The report identifies that daytime noise predictions at residential receivers in Rhodes Street and Smith Street are modelled on the worst case scenario, being 600 car movements and 4 truck movements per hour. The results indicate that the daytime noise levels comply with Council's Standard Noise Criteria, however there is a marginal exceedence in the evening period due to truck deliveries.

Council received numerous submissions from nearby residents concerned with the proposed attenuation barrier and its effectiveness, the frequency and hours of truck deliveries and the impact this will have on the residential amenity of nearby dwellings.

The Applicants response to the noise issues raised in the submissions, are as follows:

- *Exposure to any noise from operations is proposed to be minimised by the installation of a sound wall barrier between the site and residences on Rhodes Street to protect the acoustic amenity of these residents to ensure compliance of the operation with established acoustic criteria.*
- *The quoted "four" truck deliveries "per hour" is incorrect and should read "per day". There will not be 200 staff on site at any one time, this is the total workforce. The number of staff at one time varies significantly reflecting the trade profile with a maximum on weekends and lesser number in the early morning and in the evening.*
- *Noise from forklift reversing alarms can be ameliorated by the installation of low noise "broadband" reversing alarms. This point of objection is not sustainable.*
- *The relevant authority is the City of Botany Bay, which has its own noise policy "the City of Botany Bay Standard Noise Criteria", which addresses industrial noise. The Industrial Noise Policy (INP) is advisory in this case. Nonetheless, a review of the noise criteria based on the INP and SNC has been conducted. The site specific criteria for the SNC is generally more stringent than the INP therefore if development complies with the SNC*

*criteria, it follows that compliance with the INP derived noise criteria will be achieved.*

- *The dominant noise source on a truck in the yard is the engine which is at a source height of 1.5m. The exhaust (source height of 3.6m) noise level is in the order of 8dBA lower in level. The modelling and barrier height takes this into account.*
- *No night time period (10pm to 7am) is proposed as part of the development. Therefore no assessment of is required for this period.*

Despite the Applicants response to the issues raised in the submissions, Council engaged an independent acoustic consultant (The Acoustic Group) to review the proposed development and the submitted acoustic report to identify whether the proposed acoustic attenuation measures are adequate enough to reduce adverse acoustic amenity impacts on nearby residential dwellings. The findings of this report dated 23 August 2012, are as follows:

- *The projects specific criteria that have been nominated would not in terms of Industrial Noise Policy amenity criteria have taken into account the industrial noise sources therefore requiring an adjustment to the amenity project specific target.*
- *The proposal requires relatively high barriers around the perimeter of the site so as to address noise emission from the subject development;*
- *The report indicates the need for relatively high barriers to provide acoustic shielding on the basis of an average noise level over the week. However the logger graphs reveal ambient background levels on the weekend to at times noticeably lower than the week day and therefore it may be appropriate to separate weekday activities from weekend activities where there would be different acoustic criteria that reflect the change in acoustic environment of the area between week days and weekends.*
- *Consideration of the noise impact for weekends versus the week may alter the proposed operations and/or noise controls required for the development.*

Council received an amended Noise Assessment Report on the 30 October 2012, prepared by Wilkinson Murray, dated October 2012 (Rev C). The amended report was submitted in response to Council's issues in The Acoustic Group review, and responds as follows:

- *Adverse weather conditions have been excluded from noise logging;*
- *Daytime and evening amenity criteria have been corrected;*
- *It has been assumed that the site is affected by industrial noise and the industrial noise contribution is the background noise level;*
- *The resultant controlling noise criteria for the project, after the corrections identified by TAG, remain unchanged.*
- *Table 6-2 has been corrected to indicate a marginal exceedence (1dBA) at 23 Smith Street;*
- *Recommendations for the treatment of plant along with enclosure of the car park along the permitter remain the same;*

- *A clear statement that a 2.5 perimeter barrier is recommended on the eastern perimeter of the site has been made. The predicted exceedence of 1dBA in the evening is considered marginal and acoustically insignificant. Therefore the investigated higher barrier is not recommended;*
- *It is noted that the assessment has been conducted on a typical worst case scenario and therefore for much of the time noise emissions from the site would be lower than predicted;*
- *The traffic figures in the previous report have been updated to reflect previous correspondence and advice to Council and to be consistent with the traffic report. The result of these changes results in a predicted reduction in traffic noise level.*

The recommendations in the amended report, have changed in respect of the required height of the attenuation barrier to the eastern part of the service road. The amended report, which has undertaken further modelling of the marginal 1dBA exceedence in the evening period, has recommended that the 3.5m – 5m acoustic attenuation barrier only provides a marginal benefit of 1dBA for the predicted evening (6:00pm to 10:00pm) period for Nos. 83 and 89 Rhodes Street and 23 Smith Street (which is a result of the truck deliveries). The report recommends that the height of this attenuation barrier can be reduced to 2.5m to allow the marginal exceedence.

The amended acoustic report was further reviewed by Council's Independent Acoustic Consultant. Under letter dated 13 June 2013, Council's Consultant having assessed the amended report and heard at first hand the concerns of the locally affected residents at a meeting held on 4 June 2013, advised that:

*The subject development will by way of the DA noise assessment give rise to a noticeable increase in noise for nearby residential dwellings;*

*The amended DA acoustic report has provided limits for the operation of the development upon which noise levels have been determined that satisfy the criteria in the day, by reason of a 2.5 metres high barrier;*

*The nature of elevated exhaust pipes associated with trucks will give rise to a noise source above the proposed barrier wall. As the Leq level over 15 minutes is an average level the residents will experience each and every time a truck utilises the access road to be subject to noise levels significantly greater than background +5dB(A).*

*The amended acoustic assessment report has failed to identify the nature of the noise by way of any graphical results of noise from a Bunnings operation so as to show how the derived noise levels will occur, in a graph similar to that contained in the glossary of terms prior to the introduction of the report;*

*The graph of a typical sound pressure level versus time provided in the glossary of terms indicates that for an Leq level of around 38dB(A) the average maximum L10 level is a further 5dB higher and at the maximum noise level would appear to be an additional 6 or 7dB higher.*



*The current acoustic report (version C) for the subject development is still somewhat vague in relation to the operation of the site and noise emission that would occur from the use of the site that would require stringent operating conditions which formed the basis of the assessment just complying with the nominated limits. This can place the operation easily into non-compliance to the detriment of nearby residents if any of the assumptions are slightly altered.*

*The concept of even identifying the matter of acoustic non-compliance in the assessment and then dismissing such non-compliance as of no consequence is not a matter that would be accepted by the residents in view of the intermittent nature of audible noise generated on the site.*

*The report has failed to address the matter of non-compliance for the commercial boundary and has made no attempt to address the issue of non-compliance.*

*Despite the amended (version C) report addressing a number of deficiencies in the original report, there are a number of questions as to the accuracy of the predicted noise levels based upon generalised assumption/source data for the subject development. At present time we are unable to support the position that the proposed development will not create an adverse impact on the surrounding residential properties. Further work is required to ameliorate noise emission from the subject site with correct and appropriate source material, and calculations to verify the predicted outcomes of the further modified application to be provided.*

Based on Council's Independent Acoustic Consultants review, it is considered that the proposed development is not consistent with Clause 17(1)(i) of BLEP 1995.

- (ia) *the development is of a high standard of design, provides a high level of environmental amenity and is compatible with adjoining land uses and development,*

Comment: Whilst the proposed development complies with the scheduled height limit of 19 metres and the FSR permitted under BLEP 1995, the proposed development is considered to be incompatible with adjoining land uses and development, particularly adjoining residential dwellings. For the reasons outlined under Clause 17(1)(i) above, the proposed development will have an adverse impact on the surrounding residential dwellings in terms of noise emissions.

This report highlights the concerns held by Council and the residents in relation to traffic impact, particularly the contribution the proposed development will have to cumulative traffic impacts. Further, the applicant has not furnished adequate information in relation to societal risk and risk from dangerous goods transport on Denison Street for Council to have a degree of certainty that the development will be compatible with dangerous goods traffic on Denison Street or the hazardous land use operations on the BIP site to the west.

As such, it is considered that the proposed development is not compatible with surrounding land uses and does not provide a high level of environmental amenity.

Accordingly, it is considered that the proposed development is not consistent with Clause 17(1)(ia) of BLEP 1995.

(j) *any noise generated from the operation of the development is minimized,*

Comment: The proposed development will increase the level of noise emissions on surrounding residential dwellings as discussed above. Therefore, it is considered that the proposed development is not consistent with Clause 17(1)(j) of BLEP 1995.

(k) *any risk to human health, property or the natural environment arising from the operation of the development is minimized,*

Comment: The subject site is located directly opposite a major hazards land uses on the western side of Denison Street, which consequently is a Dangerous Goods Route. As such, the development application was accompanied by a Transport Risk Assessment Report prepared by Sinclair Knight Mertz, dated October 2011, Revision O, the submission of which is a requirement of Development Control Plan No. 30 – Botany/Randwick Industrial Area land Use Safety Study (DCP 30).

The Transport Risk Assessment report was forwarded to the NSW Department of Planning - Major Hazards Unit for review and in a letter dated 29 February 2012, the Department provided comments in relation to the Transport Risk Assessment Report, which acknowledged that the proposed development is not potentially hazardous and that SEPP 33 does not apply. Further, it was concluded that the applicant has carried out a qualitative transport risk assessment, which confirms a low level of off site risk.

The Department further advised that Council should consider the potential cumulative impacts of the two developments (Bunnings and Orica subdivision). Council then wrote to the Department to seek further clarification, as Council would require access to the most recent BIP Qualitative Risk Assessment (QRA) report which is required to be prepared every three years to assess the risk of the BIP site facilities on its surrounding population. The presence of this report, known as the Sherpa QRA 2009, became apparent to Council during the assessment of DA10/486, as it was referenced in the Orica Hazard Risk Assessment Report, but not relied upon in that report.

Access to this report, in Council's opinion is paramount to the assessment of cumulative risk to the surrounding area. The Department responded to Council's letter on the 15 June 2012 advising that it cannot release the BIP Site Risk Assessment Report (the QRA) at this point in time, as it is a draft report and has not yet been finalized.

As such, Council received an amended Preliminary Risk Assessment Report from the Applicant on the 19 February 2013.

This amended report was forwarded to the NSW DoPI – Major Hazards Branch for review in accordance with the requirements of DCP 30. In a letter dated 4 April 2013 (incorrectly dated), the Major Hazards Branch advised the following:

*It is noted that the Risk Assessment was undertaken to address the requirements of Council's DCP 30 and DCP 33 which is a matter for Council.*

Council has received similar advice from the Major Hazards Branch over time in relation to the review the applicants submitted hazard risk and transport risk reports. Council sought assistance from the Department in the absence of the BIP QRA being released by the Department. Clearly the Department does not wish to comment on the applicants submitted report in relation to individual risk, societal risk and risk arising from dangerous goods transportation on Denison Street in respect of the requirements of DCP 30 and DCP 33.

Notwithstanding the above, Council engaged Dryden Consulting to undertake an independent review of the submitted preliminary risk assessment reports (PRA) submitted by the applicant. On the 21 March, 2013, Dryden Consulting provided Council with its findings on the PRA, which concluded that:

*The PRA recognizes the existence of incident scenarios which could impact on the site as it references the BIP emergency information. The potential for hazardous materials releases to impact on the site is also recognized.*

*There is however no information on the presented on the individual or societal risk level which would apply at the Bunnings site or analysis of the implications of the risk exposure for the acceptability or otherwise of the proposed development. There is also no analysis of the nature of the impact of any BIP release events in the Bunnings development and people using it.*

*The PRA does not appear to recognize the potential for impacts of hazardous materials incidents involving trucks using Denison Street.*

*Whilst there is comment and some recommendations relating to the need for emergency planning in site to deal with releases originating in the BIP, and the possible need for evacuation, there is no specific discussion of the features of the proposed development in relation to such incidents.*

As such, Council maintained concerns with regards to risk assessment undertaken by the applicant in relation to the subject site.

On the 23 May 2013, Council received a copy of the Botany Industrial Park Quantitative Risk Assessment (Summary Report only) from the Department of Planning & Infrastructure – Major Hazards Branch, and referred this to its Consultant, Dryden Consulting.

As such, the applicant was requested to address the BIP QRA Summary Report 2012 in a revised Preliminary Risk Assessment Report. On the 15 July 2013, Council received an amended PRA from the applicant prepared by Sinclair Knight Merz dated July 2013, which was combined with previous documentation submitted to Council. This report was forwarded to NSW DoPI – Major Hazards Branch, NSW Police Service, NSW Fire & Rescue, Workcover NSW and the BIP on the 31 July 2013. At present, Council has not received a response from the Major Hazards Branch.

On the 12 August 2013, Dryden Consulting advised Council in response to the amended PRA (dated July 2013), that:

*In response to the conclusions in the Gawrecki letter (dated 9 July 2013), to the effect that the individual and societal risk levels have been demonstrated to be acceptable, are not justified.*

*In particular the hazardous materials transport risk has yet to be dealt with as has the cumulative individual risk levels from transport risk and the BIP risk combined. The societal risk question is similarly yet to be resolved. The incident identification which should be available for building design and emergency planning considerations is also yet to be addressed.*

*As stated in my previous advice in respect of the PRA, this should not be taken as a conclusion that the site is unsuitable for the development, just that the information provided by the applicant and the applicants consultant in this submission does not provide the basis for an informed judgement to be made.*

Based on the comments received from Councils Independent Risk Consultant, it is considered that the information provided by the Applicant to date in relation to risk arising from surrounding development has not been adequately addressed in the amended PRA. Accordingly, it is considered that the proposed development is not consistent with Clause 17(1)(k) of BLEP 1995.

- (1) *the provisions of [State Environmental Planning Policy No 55—Remediation of Land](#) will be complied with in relation to the land.*

Comment:

The development application has been accompanied by a number of Contamination reports relating to different parts of the site. Part of the site has been remediated as a result of the former use of the site for food manufacturing.

A Site Audit Report and Site Audit Statement prepared by Graham Nyland of Environ Australia Pty Ltd, dated 18 October 2006. This Statement only relates to Lot A in DP 24380 and Lots 1-6 on DP 24380 and stated that the site was suitable for commercial/ industrial use.

A further Site Audit Report and Site Audit Statement prepared by Graham Nyland of Environ Australia Pty Ltd, dated 18 March 2008 relates to Lot B in DP 323369, Lots 1, 2 and 3 in DP373787 and Part Lot A in DP 24380. This Statement states that the site is suitable for residential use with accessible soil, including garden (excluding poultry); day care centre, pre school, primary school, secondary school, residential with minimal opportunity for soil access (including units), park/recreation/open space/playing field, and commercial/industrial use.

The part of the site that was not subject to an assessment of contamination includes Lot 7 in DP 24380, Lot B in DP 406437, Lot 4 in DP373787, Lot 1 in DP 18290 and Lot A in DP 345700. In this regard, the use of three latter lots (4, 1 and A) above have been for commercial purposes only and therefore no assessment of contamination is warranted.

Despite the above Statements being issued, the development application was accompanied by a Review of Contamination Issues prepared by Cavvanba Consulting Pty Ltd dated January 2010.

The contamination reports submitted with the development application were referred to Council's Environmental Scientist for assessment and comment. It was identified in the Review of Contamination Issues Report, that no assessment of contamination

has been undertaken for two lots fronting Denison Street being Lot 7 in DP 24380 and Lot B in DP 406437, which have both been used for industrial purposes. Further, it was noted in the report that potential remains on site for asbestos and groundwater impacts. Phase separated hydrocarbons were detected in two (2) groundwater monitoring wells at a depth of 8 metres below ground level and detection of low concentration of contaminants in wells that were not previously impacted. The source of contamination is not identified, however it is suggested that impacted soil surrounding the Sydney Water sewer easement at great depth is a contributing factor together with the possibility that further underground UST (underground storage tanks ) remain on site that were not previously identified.

In a letter dated 13 April 2012, Council wrote to the Applicant requesting that an assessment be undertaken of the two lots not previously assessed fronting Denison Street. In addition, the letter outlined the concern with the findings in the Cavvanba Report and the need for a further Site Audit Statement to confirm that with the increases in on site contamination that the remains suitable for the proposed uses and whether ongoing management of this contamination is required for the site to be suitable for the respective uses. Council's letter further notes the owner's responsibility to notify the NSW Office of Environment and Heritage that the site is contaminated following the detection of phase separated hydrocarbons.

On the 13 June 2012, Council received an Environmental Site Assessment for Lot B in DP 406437 and Lot 7 in DP 24380, known as 148 Denison Street, Hillsdale. The report identifies that subject to additional investigation of soils on site once buildings are demolished and inspections undertaken during demolition and excavation to assess any unexpected conditions, that the site can be made suitable for the proposed development.

On the 13 June 2012, the Applicant advised Council in relation to the contamination of the following:

*"On the 11 May 2012, Bunnings Group Ltd engaged the original Site Auditor (Graham Nyland from Environ Australia) to update the previous site audits and extend its coverage to include 148 Denison Street, ultimately to provide a consolidated and comprehensive site audit statement to cover the entire development site.*

*To date, progress has been made with additional groundwater testing by Cavvanba Consulting (under supervision of the auditor) and it is highly likely that a Site Audit Statement will ultimately be issued.*

*On these grounds, it is reasonable to suggest that, if required, a condition can be imposed on the consent requiring the issue of a Site Audit Statement prior to the issue of the Occupation Certificate."*

To date, Council has not received any further information from the Applicant in relation to contamination on the subject site.

Council engaged an Independent Contamination Consultant to review each of the documents submitted by the Applicant.

In a letter dated the 12 July 2013, the Independent Consultant has advised Council of the following:

- *Any construction at the site will require a management plan for asbestos as asbestos remains on site and will be encountered during works. Safe handling practices will be required;*
- *Given the presence of Phase Separated Hydrocarbons (PSH), the site falls within the requirements for notification to the EPA (which have changed since 2008);*
- *The PSH are much thicker to that found when remediation was completed so it needs to be further investigated again to determine why the rebound has occurred and if further remedial works need to be undertaken;*
- *The detections in MW02 indicate that the plume is moving down gradient and this also needs to be reinvestigated to make sure that the conclusions about it not being able to move off site are correct, especially given that the detections are for the heavier end TPH fractions which move much less easily with the groundwater due to their low solubility;*
- *The above matters should be discussed with the EPA (and potentially Sydney Water seeing as it might be material remaining in their easement that is the source) to decide the appropriate next steps;*
- *Until the above matters have been addressed, by way of further investigation and an updated Site Audit Statement, the site is not considered suitable for the proposed development.*

Clause 7 of State Environmental Planning Policy 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. In this regard, based on the comments received from Council's Independent Contamination Consultant and the information provided to date by the applicant, Council is not satisfied that the subject site is suitable or can be made suitable for the proposed development. The Applicant, as far as Council is aware, has not undertaken any further investigation, or if this has occurred, has not furnished any further information to Council.

On this basis, it is considered that the proposed development does not comply with the provisions of SEPP 55 - Remediation of Land in that the applicant has not demonstrated that the site is suitable for the proposed use. Accordingly, it is considered that the proposed development is not consistent with Clause 17(1)(1) of BLEP 1995.

*Clause 22 – Greenhouse effect, global warming, air and water pollution and energy efficiency*

Clause 22 of the LEP and the requirements of Council's Development Control Plan for Energy Efficiency have been considered in the assessment of the development application.

Clause 2 states:

*“The Council before granting consent to any development with a value in excess of \$250,000, or of a type that is likely to give rise to significant soil, air or water pollution is to have regard to a study addressing the following matters:*

- (a) in relation to global warming:*
  - (i) possible measures which could be incorporated within the development to reduce the consumption of non-renewable forms of energy and the production of greenhouse gases which contribute to the greenhouse effect;*
  - (ii) whether any measures incorporated into the development designed to improve energy efficiency, to reduce the emission of greenhouse gases, or to respond to global warming are considered appropriate and adequate, and*
  - (iii) measures that have been taken to alleviate any possible adverse effects on the development as a result of climate change due to the greenhouse effect.*

Comment: The design of the proposed building has incorporated energy efficiency measures such as building orientation, adequate passive solar design, building materials and structural design to stabilise internal temperatures, insulation, mechanical ventilation using thermal comfort modelling, ceiling fans, radiant gas heaters and natural daylight access. The position of the nursery with its canopy above on the western elevation of the building will assist in reducing temperatures within the building.

Council received a revised Energy Efficiency Report prepared by Floth –Sustainable Building Consultants, dated 19 July 2012 (Issue 3), which highlights the above measures as being adequate and appropriate for the proposed building. Therefore, the proposed development is considered acceptable in respect of Clause 22 (a) of BLEP 1995.

- (b) in relation to air and water pollution*
  - (i) the expected composition and quantity of all gaseous emissions or liquid discharges (apart from uncontaminated stormwater runoff) from the proposed development which possibly may be emitted from any part of the premises, or any plant or equipment present on the premises, and in the case of liquid discharges or contaminated stormwater runoff, the expected frequency, composition and quantity of any discharges to the stormwater system.*
  - (ii) the anticipated future air emissions or liquid discharges (apart from uncontaminated stormwater runoff) from the proposed development, including all premises, plant or equipment involved and, in the case of liquid discharges or contaminated stormwater runoff, the expected frequency, composition and quantity of any discharges to the stormwater system,*
  - (iii) the details of all pollution control equipment to be used as a result of the development,*
  - (iv) the details of all the measures to be used to ameliorate or control any gaseous emissions or liquid discharges from the development,*

- (v) *calculation of the cumulative ground level concentrations of any air pollutants released, or liquids discharged from the development.*

Comment: The operation of the premises will not involve any storage, process or manufacturing of hazardous and offensive goods and materials. The application has been accompanied by an Odour Impact Assessment Report in relation to the proposed nursery, which surveys an existing plant nursery at a similar Bunnings store. During the four days survey period, there were no offensive odour events identified.

The design of the development incorporates multiple stormwater detention tanks, which will adequately treat stormwater. Additional tanks for rainwater collection are proposed for the development and runoff from the nursery will be discharged to a specific treatment tank for ongoing reuse in the nursery. Therefore, the proposed development is considered acceptable in respect of Clause 22 (b) of BLEP 1995.

- (c) *in relation to energy efficiency and energy conservation*
- (i) *details of the total energy requirements of the development,*
- (ii) *any measures which minimise energy requirements of the proposed development, including building design, construction methods, materials, solar orientation, plant and equipment technology, space heating, cooling and lighting systems, and landscaping,*

Comment: The submitted Energy Efficiency Report states that the expected energy calculation of the proposed development is as follows:

Total average energy usage per year (MJ/pa.m<sup>2</sup>) = 812.0

Total CO<sub>2</sub> emission per year (kg CO<sub>2</sub>/pa.m<sup>2</sup>) = 200

The estimated energy consumption of 812 MJ/pa.m<sup>2</sup> identified in the submitted report is well below the recommended target of 860MJ/m<sup>2</sup>.pa allowance in the Building Code of Australia (BCA) 2007 Table JV2.

The design, construction and operation of the proposed development incorporates appropriate measures to reduce energy running costs by way of thermal massing, minimised external glazing, efficient use of roof lights, balanced natural light, insulation, high floor to roof heights, natural ventilation to the nursery and timber sales store and efficient use of radiant gas heaters for winter heating. Therefore it is considered that the proposed development is considered acceptable in respect of clause 22(c) of BLEP 1995.

- (d) *in relation to soil and groundwater contamination*
- (i) *details of methods to be used to minimise the opportunities for polluting incidents to occur, and*
- (ii) *operating practices and technology to be employed to overcome the effect of such incidents,*

Comment: The design of the proposed development incorporates stormwater detention tanks, pollutant discharge tanks from the nursery and additional rainwater collection tanks. The operation of the premises will not involve the transportation, storage or sale of dangerous goods or materials of a quantity to be offensive or hazardous development as defined under SEPP33. Notwithstanding, the operation of the store will involve the sale of LPG cylinders, paints, solvents, sealants and



aerosols. The storage of such goods is confined to the warehouse floor area, however the potential for spills is also extends to the undercroft car park. Any resulting spills will be the subject of operational procedure to comply with the requirements of Workcover and the Occupational Health and Safety Act. Therefore it is considered that the proposed development is considered acceptable in respect of clause 22(d) of the LEP.

- (e) *details of the facilities and programs to be provided within the development to promote waste minimisation and reuse or recycling practices.*

Comment: The development application was accompanied details of waste management agreement with SITA Environmental Solutions, which is details paper and cardboard recycling, plastic recycling, timber recycling and general waste. Additional services include fluorescent tube recycling, battery recycling and green waste recycling.

Council received a Sustainability Policy relating to the ongoing operation of the store from the Applicant on 21 September 2012. The policy details appropriate methods for waste minimisation, water efficiency and reuse, energy efficiency, ethical sourcing, community involvement and engagement/awareness. It is considered that the methods outlined are appropriate for the proposed development. Therefore it is considered that the proposed development is considered acceptable in respect of clause 22(e) of the LEP.

#### *Clause 28 – Excavation and filling of land*

Clause 28 of the LEP has been considered in the assessment of the development application as the Applicant seeks consent for excavation to a depth of approximately RL7.6 metres. Some additional depth of 0.5 metres to RL7.1 is expected for trenching.

The Applicant has submitted a revised Geotechnical Investigation Report on the 28 September 2011, prepared by Douglas Partners and dated September 2011. The report indicates that groundwater was detected at RL5.2, RL5.8 and RL5.2. The proposed undercroft car park will be finished at RL 16.90 metres, being 15 metres above 1m AHD and is unlikely to affect the watertable. As such, there will be no penetration of groundwater as a result of the construction of the proposed building. Therefore, the proposed development is considered acceptable in respect of Clause 28 of BLEP 1995.

#### *Clause 30A – Development on land identified on Acid Sulfate Soil Planning Map*

The site is located within both Class 5 Acid Sulfate Soil Areas. As such under Clause 30A of the Botany LEP 1995 any works that are within 500mm adjacent Class 1, 2 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2 or 4 land requires the submission of an Acid Sulfate Soils Management Plan.

The subject site is located within 500 metres of adjacent Class 4 land. Therefore, the issue relates to the potential impact of works on site lowering the water table below 1 m AHD. To do this works would need to lower water tables at the site below 1 m AHD to have a potential impact on lowering the water table in the adjacent Class 4 areas. Therefore works would need to be occurring greater than 9 m below the existing ground surface to affect the adjacent Class 4 area.

The proposed undercroft car park will be finished at RL 16.90 metres, being 15 metres above 1m AHD and is unlikely to affect the watertable. It is known that groundwater at the subject site is contaminated at great depth and that remediation works may be required to allow the site to be considered suitable for the proposed development. Therefore it is recommended in this report that a condition be imposed on any consent granted to ensure that where any remediation or excavation that disturbs the water table onsite occurs, an investigation of Acid Sulfate Soils shall be undertaken.

*Clause 38 – Water, wastewater and stormwater systems*

The provisions of Clause 38 have been considered in the assessment of the development application. Council must not grant consent to the carrying out of development as follows;

- (i) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate water and sewerage services will be available to the land it is proposed to develop;*
- (ii) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop.*

The proposed warehouse building traverses the existing Sydney Water stormwater easement which burdens the subject site (7.62 metres wide).

The easement contains a box culvert 1981mm x 1295mm which caters for a 34ha upstream residential/commercial catchment.

The DA was referred to Sydney Water on two (2) occasions and on the 9 May 2012 Sydney Water advised that they do not support the proposed building over the existing easement. It must be 1 metre clear of the easement. Sydney Water have advised they are prepared to consider options to deviate the easement, subject to any design meeting their criteria. To date, no further details have been provided by the applicant. The applicant's solution to this matter is that this form a condition of consent, for any deviation work to be approved and undertaken prior to the issue of a Construction Certificate. However, this may affect the findings of the submitted Flood Impact Reports. Therefore the proposed development does not satisfy clause 38 of the BLEP 1995.

### **6.1.7 Botany Bay Local Environmental Plan 2013**

#### Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 (BBLEP 2013) was gazetted on 21 June 2013 and commenced on 26 June 2013.

Clause 1.8A of the BBLEP 2013 states: *If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

The application the subject of this report was lodged prior to the gazettal of the BBLEP 2013, as such the provisions of the BBLEP 2013 have been considered with respect to the future intent of the planning scheme in the assessment of this Development Application. Under the Botany Bay LEP 2013 the subject site is zoned B5 Business Development. The uses permissible under this zone are as follows:

### **3 Permitted with consent**

*Bulky goods premises; Child care centres; Food and drink premises; Garden centres; **Hardware and building supplies**; High technology industries; Landscaping material supplies; Neighbourhood shops; Passenger transport facilities; Respite day care centres; Roads; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4*

The proposed use under this LEP is defined as **Hardware and building supplies**, therefore the development is permissible with development consent.

The following assessment is provided under the provision of the BBLEP 2013:

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	N/A	The site is zoned B5 Business Development under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	Hardware and building supplies are permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives in the BBLEP 2013:  <i>To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.</i>
Does Schedule 1 – Additional Permitted Uses apply to the site?	No	The subject site is not identified within Schedule 1 – Additional Permitted Uses
What is the height of the building?  Does the height of the building exceed the maximum building height?	Yes	The proposed building height is 13.4metres above existing ground level, which is below the 19 metre height limit permitted on the Height of Buildings Map.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	Yes	The proposed FSR is 0.51:1, which complies with the permitted FSR of 1:1 indicated on the FSR Map for the subject site.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m2	No	The subject site is not located within the R3 or R4 zone.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
min and maximum height of 22 metres and maximum FSR of 1.5:1?		
Is the site within land marked “Area 1” on the FSR Map?	No	The subject site is not land marked as “Area 1” on the FSR Map.
Is the land affected by road widening?	No	The subject site is not affected by road widening on the Land Reservation Acquisition Map.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	No	The subject site is not listed as a heritage item or within a heritage conservation area.
<p>The following provisions in Part 6 of BBLEP 2013 apply to the development – Stormwater;</p> <p>Land at Hillsdale, fronting Denison and Smith Streets; and</p>		<p>Refer to Clauses in Part 6 of BBLEP 2013</p> <p>Clause 6.9 - Stormwater applies to the proposed development. The development application is accompanied by detailed hydraulic engineers details, proposing stormwater easements for the proposed new lots fronting Smith Street. The application also involves on site detention tanks, rainwater collection tanks and discharge tanks from nursery overflow for ongoing re-use. It is considered that the proposal is consistent with Clause 6.9.</p> <p>Clause 6.13 – Land at Hillsdale fronting Denison and Smith Streets applies to the proposed development as identified on the Key Sites Map.</p> <p>Clause 6.13 (2) states that:  <i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that vehicular access to any development on land to which this clause applies is provided only from Denison Street.</i></p> <p>The proposed hardware and building supply centre on proposed Lot 4 will have its vehicular access only from Denison Street via a new signalised intersection.</p> <p>Proposed Lots 1-3, which front Smith Street are proposed to remain vacant as part of the intended subdivision. Clause 6.13 also applies to these new lots and these lots will continue to have direct access to Smith Street. Whilst inconsistent</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Acid Sulfate Soils.		<p>with Clause 6.13(2), this is an existing situation, the lots are surplus to the requirements of the proposed hardware and building supply centre and this represents the orderly development of the land. It is considered that the proposal is consistent with Clause 6.13.</p> <p>Clause 6.14 Acid Sulfate Soils applies to the proposed development. The subject site is located within Class 5 ASS area. The proposed undercroft car park will have a finished floor level of RL 16.90, which is well above the 5 AHD level. Therefore, it is unlikely that the excavation associated with the proposed development would extend to a depth of 11 metres below existing ground level. It is considered that the proposal is consistent with Clause 6.14.</p>

**Table 8 – BBLEP 2013 compliance**

The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application.

#### **6.1.8 Off Street Car Parking DCP**

The requirements of Councils Off Street Car Parking DCP have been considered in the assessment of the development application. Councils Off Street Car Parking DCP does not specifically outline the car parking requirements for building and hardware supply stores. The car parking rate for retail development is one space per 40m<sup>2</sup> of gross leasable floor area.

In this regard, a total of 373 car parking spaces would be required for the proposed development. Therefore, it is considered that an assessment of other existing Bunnings stores provides a more accurate representation of off street car parking requirements and the proposed development provides for four hundred and twenty one (421) car parking spaces are required.

The development application proposes a total of four hundred and twenty one (421) car parking spaces to be provided in the proposed undercroft and open areas at grade level. The Applicant has submitted a Traffic Impact Assessment Report prepared by Transport and Traffic Planning Associates, dated November 2011 (Issue D) that takes into consideration survey and research of eight (8) other large Bunnings warehouse stores. The proposed four hundred and twenty one (421) car parking spaces includes ten (10) disabled car parking spaces. The following table is reproduced from the Traffix Report, which compares other large Bunnings warehouse stores:

Store Location	Store Size	Rate per 100m <sup>2</sup>
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North Parramatta	9,800m <sup>2</sup>	2.7 spaces
Thomastown	10,625m <sup>2</sup>	1.37 spaces
Minchinbury	11,932m <sup>2</sup>	2.0 spaces
Penrith	13,500m <sup>2</sup>	1.17 spaces
Hoopers Crossing	11,169m <sup>2</sup>	1.74 spaces
Scoresby	11,882m <sup>2</sup>	2.51 spaces
Mornington	10,599m <sup>2</sup>	2.39 spaces
Box Hill	13,762m <sup>2</sup>	1.41 spaces
<b>Hillsdale</b>	<b>14,920m<sup>2</sup></b>	<b>2.8 spaces</b>

**Table 9 – Comparison of other large Bunnings Stores**

As detailed in Table 9 above, it is evident that the proposed Hillsdale store will provide a greater rate of parking spaces per 100m<sup>2</sup> when compared to other large Bunnings warehouse stores of a smaller size.

As discussed earlier in the report the proposed development will impact on the traffic within the area and based on the extensive review undertaken by Councils Independent Traffic Consultant, the proposed development will have a significant adverse impact on the cumulative traffic in the locality.

Therefore based the above the development does not satisfy the Section 2.2 Objectives and Aims of the Off-Street Parking Development Control Plan.

#### **6.1.9 Subdivision Development Control Plan No. 7**

The requirements of DCP No. 7 have been considered in the assessment of the development application. The proposed development seeks to consolidation of all existing lots and subdivision into four (4) new lots. Council received an amended subdivision plan on the 29 October 2012, which seeks to create the following allotments of land:

<b>Proposed Lot No.</b>	<b>Site Area</b>	<b>Frontage</b>	<b>Intended Use</b>	<b>Zoning under BLEP 1995</b>
Lot 1	562 m2	21.5m to Smith St	Not known	4(a) Industrial
Lot 2	1530 m2	54.32m to Smith St	Not known	4(a) Industrial
Lot 3	545 m2	33.415m to Smith St	Not known	4(a) Industrial
Lot 4	22,930 m2	134 m to Denison St	Proposed hardware and building supplies centre	4(a) Industrial

**Table 10 Proposed Subdivision and zoning under BLEP 1995**

Clause 9. 3 of DCP 7 states that:

*Council shall not grant consent to the subdivision of land within any industrial zone unless it is satisfied that:*

- (a) *The area of each Torrens Title allotment to be created is not less than 1500m<sup>2</sup> net area;*
- (b) *The frontage of each allotment to be created is not less than 25 metres;*

- (c) *Any lot created fronts a public road, which is not less than 20 metres in width. Variation from the 20 metres standard may be permitted where Council is satisfied that the roadway width enables:*
- *trucks to pass each other side by side;*
  - *on street parking;*
  - *Creation of a nature strip which will accommodate trees up to 3 storeys in height/9 m high;*
  - *A 1.2m wide footpath along each side of the street fronted by buildings.*

Comment: As indicated in the above table, proposed lots 2 and 4 comply with the requirements of the Subdivision DCP. Proposed Lot 1 is both undersized, being 562 m<sup>2</sup> with a 21.5 (splayed) metre frontage to Smith Street. The depth of the allotment is 33.53m and its rear boundary is 15.445m. This is the current layout of the existing allotment which is consistent with the pattern of adjacent industrial allotments on the southern side of Smith Street, to the west.

The width of Smith Street at this site is 19.5 metres (boundary to boundary), which is below the 20m specified in Clause 9.3(c). A nature strip exists providing sufficient area for small shrubs to be planted (under the existing overhead cables). On this basis, the non-compliance with Clause 9(c) is considered acceptable.

Proposed Lot 3 is also undersized, being 545m<sup>2</sup> and a complying frontage of 33.415 metres. The Applicant amended the proposed subdivision on the 29 October 2012 and has provided a written undertaking that proposed Lot 3 will be dedicated to Council for future use as a public reserve. The amended subdivision plan removes the two lots zoned Residential 2(a) under BLEP 1995 from the proposal. These being 25 and 27 Smith Street (containing the existing commercial building).

On this basis, the proposed variation to the minimum allotment size for proposed Lots 1 and 3 is considered acceptable. The future use of proposed Lots 1 and 2 are not known at this stage and are proposed to remain vacant. This represents the orderly development of the land. Therefore, the proposed subdivision, whilst not strictly compliant with the requirements of Clause 9 of the DCP is considered acceptable.

#### **6.1.10 Development Control Plan No. 30 – Botany Randwick Industrial Area Land Use Safety Study**

The requirements of DCP 30 have been considered in the assessment of the development application. The subject site is not located directly within the Botany Randwick Industrial Area Land Use Safety Study or within the Consultation Region. However, the site has direct frontage to Denison Street, a Dangerous Goods Route and *Section 7.2 – Development on sites adjacent to/or within the vicinity of routes defined as a “Dangerous Goods Route”* applies to the proposed development.

The subject site is also considered to be a Marginal Site pursuant to Section 8 of DCP 30 and applies to the proposed development.

Section 7.2 of DCP 30 states that:

*before granting consent to development that will result in increased traffic volumes on Dangerous Goods Routes, the Council must:*

- *consider a transport risk assessment report. The contents and outcomes of a Transport Risk Assessment report are to be in general accordance with the principles outlined in the Hazardous Industry Paper No. 6 Guidelines for Hazard Analysis (Planning NSW, 1992), Hazardous Industry Advisory Paper No. 4 Risk Criteria for Land Use Safety Planning (Planning NSW, 1992) and draft Route Selection Guidelines (Planning NSW 1992).*
- *receive development concurrence for the application from the NSW Department of Planning in accordance with Clause 5.11 of Councils Notification of Development Applications – Development Control Plan No 24.*

Clause 8 of DCP 30 states that:

*Where a site is considered by Council to be located partly within any region or adjacent to a dangerous goods route defined in this plan, any development on the site will be assessed and viewed as though it was located within the area with the more stringent risk-related development controls specified in this plan.*

The development application was accompanied by a Transport Risk Assessment Report prepared by Sinclair Knight Merz dated 7 October 2011 (Rev O).

The Transport Risk Assessment Report was referred to the NSW Department of Planning – Major Hazards Unit for concurrence. In a letter dated 29 February 2012, the Department advised that the proposed development is not considered to be hazardous or offensive development pursuant to SEPP 33 and that the number of dangerous goods traffic to the subject site represents only 1% of all deliveries to the site. The Department also advised that the Applicant has carried out a qualitative transport risk assessment, which confirms a low level of off-site risk. The Department recommends that the recommendation detailed in Section 6.2 of the report be included as conditions on any consent granted. These recommendations are as follows:

1. *Dangerous Goods Routes – Arrangements covering the transport of hazardous materials including details of routes to be used for the movements of trucks. Further, the Applicant shall enter into contractual arrangements with contract drivers to require the use of routes determined under this condition except where necessary for local deliveries.*
2. *Spill Kits – It was identified that a number of corrosive materials are stored for sale. Spills of these materials will require rapid clean up to minimise the potential for release beyond the containment or for contact with personnel. It is therefore recommended that corrosive materials spill kits be installed throughout areas where corrosive materials are stored, handles and used at the site.*
3. *Emergency Plan (HIPAP No. 1) – Emergency plans should extend to transport incidents on site, fire or liquid spill and the appropriate response.*



As part of the assessment of both this development application and the development application for Orica's 22 lot industrial subdivision (DA10/486), Council engaged Roar Data to undertake traffic counts on Denison Street to determine the level of dangerous goods traffic against non-dangerous goods traffic. The survey was undertaken for north bound and southbound traffic, 24 hours per day for a period of 11 days and the dangerous goods survey was separated into tankers and non-tankers. The location of the survey was at the main entrance (Gate 3) to the Botany Industrial Park.

The results of the survey indicate that the percentage of dangerous goods traffic on Denison Street is insignificant, when compared to non-dangerous goods traffic.

A copy of the data was forwarded to the Applicant for inclusion in a revised Transport Risk Assessment Report, so that a comparison of the proposed dangerous goods traffic associated with the Bunnings store could be made against the data collected for Denison Street.

The Applicant submitted an amended Transport Risk Assessment Report on the 24 September 2012, prepared by Sinclair Knight Merz, dated 21 September 2012 (Rev 1). The amended report was again referred to the NSW Department of Planning for concurrence.

In a letter dated 12 October 2012, the Department advised that the amended report highlights that the proposed development would result only result in an increase of 1.6% to 3.4% in overall dangerous goods traffic, all representing relatively small quantities. Again, the Department highlights the recommendation in Section 6.2 of the report, as detailed above.

On the 31 January 2013, Council received an amended Transport Risk Assessment from the Applicant (Final Rev 2), dated 31 January 2012. The amended report sought to address Council's concerns relating to the sensitive use requirements of DCP 30, and the extent to which the sensitive use provisions of the DCP apply to the proposed development.

In a letter dated 5 February 2013, Council wrote to the applicant in relation to the requirements of DCP 30. In Council's view, the submitted PRA and TRA (as amended) does not adequately consider Clause 8 of DCP 30 – Marginal sites.

As such, Council received an amended Preliminary Risk Assessment Report from the Applicant on the 19 February 2013.

This amended report was forwarded to the NSW DoPI – Major Hazards Branch for review in accordance with the requirements of DCP 30. In a letter dated 4 April 2013 (incorrectly dated), the Major Hazards Branch advised the following:

*It is noted that the Risk Assessment was undertaken to address the requirements of Council's DCP 30 and DCP 33 which is a matter for Council.*

Council has received similar advice from the Major Hazards Branch over time in relation to the review the applicants submitted hazard risk and transport risk reports. Council sought assistance from the Department in the absence of the BIP QRA being released by the Department. Clearly the Department does not wish to comment on the applicant's submitted report in relation to individual risk, societal risk and risk

arising from dangerous goods transportation on Denison Street in respect of the requirements of DCP 30 and DCP 33.

Council engaged Dryden Consulting to undertake an independent review of the submitted preliminary risk assessment reports (initial PRA) submitted by the applicant. On the 21 March, 2013, Dryden Consulting provided Council with its findings on the PRA, which concluded that:

*The PRA recognizes the existence of incident scenarios which could impact on the site as it references the BIP emergency information. The potential for hazardous materials releases to impact on the site is also recognized.*

*There is however no information on the presented on the individual or societal risk level which would apply at the Bunnings site or analysis of the implications of the risk exposure for the acceptability or otherwise of the proposed development. There is also no analysis of the nature of the impact of any BIP release events in the Bunnings development and people using it.*

*The PRA does not appear to recognize the potential for impacts of hazardous materials incidents involving trucks using Denison Street.*

*Whilst there is comment and some recommendations relating to the need for emergency planning in site to deal with releases originating in the BIP, and the possible need for evacuation, there is no specific discussion of the features of the proposed development in relation to such incidents.*

As such, Council maintained concerns with regards to risk assessment undertaken by the applicant in relation to the subject site.

On the 23 May 2013, Council received a copy of the Botany Industrial Park Quantitative Risk Assessment (Summary Report only) from the Department of Planning & Infrastructure – Major Hazards Branch, and referred this to its Consultant, Dryden Consulting.

As such, the applicant was requested to address the BIP QRA Summary Report 2012 in a revised Preliminary Risk Assessment Report. On the 15 July 2013, Council received an amended PRA from the applicant prepared by Sinclair Knight Merz dated July 2013, which was combined with previous documentation submitted to Council. This report was forwarded to NSW DoPI – Major Hazards Branch on the 31 July 2013. At present, Council has not received a response from the Major Hazards Branch.

On the 9 August 2013, Dryden Consulting advised Council in response to the amended PRA (second submission, dated July 2013), that:

*In response to the conclusions in the Gawecki letter (dated 9 July 2013), to the effect that the individual and societal risk levels have been demonstrated to be acceptable, are not justified.*

*In particular the hazardous materials transport risk has yet to be dealt with as has the cumulative individual risk levels from transport risk and the BIP risk combined. The societal risk question is similarly yet to be resolved. The incident identification which should be available for building design and emergency planning considerations is also yet to be addressed.*

*As stated in my previous advice in respect of the PRA, this should not be taken as a conclusion that the site is unsuitable for the development, just that*

*the information provided by the applicant and the applicants consultant in this submission does not provide the basis for an informed judgement to be made.*

*In relation to the amended Transport Risk Assessment Report, the report makes no attempt to address the central issue: the risk imposed on the site by the total movements of hazardous materials along Denison Street, but rather concentrates on the contribution to Dangerous Goods traffic movement of vehicles travelling to and from the Bunnings development.*

Based on the comments received from Council's Independent Risk Consultant, it is considered that the information provided by the Applicant to date in relation to risk arising from surrounding development has not been adequately addressed in the amended PRA and TRA and as such does not adequately address the requirements of DCP 30 – Botany Randwick Industrial Area Land Use Safety Study.

#### **6.1.10 Development Control Plan (DCP) No. 33 – Industrial Development**

The requirements of Sections 2 and 5.9 of DCP No. 33 have been considered in the assessment of the development application below.

##### **Section 2 – Design Quality Principles and Precinct Controls**

*P1 The contribution of Industrial/Commercial land use activity at the Local, Regional and State levels.*

Comment: The proposed development will contribute to the economic viability of the state and region through the provision of employment generation and provision of goods. The site is situated within close proximity to the adjacent residential population and industrial workforce and the resulting use of the site will contribute to the range of industrial business activities in the area.

*P2 The improvement to the built form / urban form and public domain of the industrial areas of the City*

Comment: The subject site is presently vacant and overgrown. The proposed building height is appropriate for the site, being less than the 19 metres permitted by the LEP. The site is not a gateway site, however the scale of building is appropriate for its context within the precinct. The bulk of the building is broken up through the inclusion of appropriate landscape setbacks, and articulation to the Denison Street elevation to provide interest. The building will be suitably screened from Denison Street and residential dwellings to the east and north through adequate landscape setbacks.

*P3 The continuation of the landscaping theme in the public and private domain throughout the city.*

Comment: There are currently numerous native saplings and weed species across parts of the site, that will be removed as part of the proposed development. The proposed development seeks to create a 10 metre landscape setback to the eastern boundary, 2.6-6 metre landscape setback to Denison Street. The submitted landscape plans have been referred to Council's Landscape Architect and it is considered that

further additional plantings be required within the front landscape setback and the species selected for the front setback be amended to embellish the landscape beds.

*P4 The efficient design, operation and function of industrial / commercial land uses.*

Comment: The operation of the proposed development will be wholly contained within the site. Dedicated and separated car parking areas, loading and unloading areas are proposed. The development proposes adequate off street car parking and will have a single access point at the new Denison Street intersection. Notwithstanding, it is considered that unless the acoustic impacts on surrounding residential dwellings can be adequately resolved, the current design of the proposed development with its elevated service road at the perimeter of the warehouse building is not appropriate and should be reconsidered by the applicant. Given the issues raised during the assessment of the development application, it would be desirable for the loading dock to be relocated to the southern side of the building to eliminate the need for the service road extending along the eastern and northern boundaries of the site.

*P5 The need for a compatible and workable relationship between industrial and non-industrial uses.*

Comment: For the reasons outlined in this report, the proposed development in its current form is considered to adversely impact on the adjoining and surrounding residential dwellings in respect of the emission of noise and traffic generation. Further, insufficient information has been provided to Council adequately determine whether the proposed development is compatible with the land uses in operation at the BIP site to the west.

*P6 The promotion of developments that are sustainable and encourage the protection of the environment.*

Comment: The proposed development incorporates energy efficiency performance measures through the design, finishes and operation of the building. An on site stormwater detention tank is proposed within the perimeter of the undercroft and additional rainwater tanks together with discharge tanks from nursery runoff for re-use are proposed. It is considered that the final development will provide a comfortable level of amenity for customers and employees of the building, however the issue regarding the transmission of noise onto the surrounding residential area remains unacceptable.

The subject site is located in the Banksmeadow Industrial Precinct. The proposed development is considered to satisfy part of the objectives of the precinct and represents the orderly and appropriate development of the land. However, in its present form, the proposed development is considered to have an adverse impact on the locality in terms of noise emission onto the surrounding residential dwellings and traffic generation and as such is not consistent with P3, P4 and P5 of Section 2 of DCP 33.

*Section 2.7 – Banksmeadow Industrial Precinct*

The objectives for the Banksmeadow Industrial Precinct are as follows:

- O1 To encourage the development and use of Port Feeder Road accessing sites to the north of McPherson Street within the Precinct;*
- O2 To encourage the use of Foreshore Drive for industrial traffic;*
- O3 To promote access to the railway corridor for the transport of goods;*
- O4 To encourage the office component of industrial development to front the road or any adjoining residential area;*

Comment: Due to the retail nature of the proposed development, Objectives 1-4 of the Banksmeadow Industrial Precinct do not specifically relate to the proposed use.

- O5 To ensure that industrial uses are compatible with adjoining established residential areas;*

Comment: The proposed development (in its current form) is considered to be incompatible with the surrounding residential environment in terms of noise emission and traffic generation.

- O6 To allow for the widening of roads within the Precinct to allow for improved traffic access and manoeuvrability;*

Comment: Despite having obtained concurrence from NSW RMS, Council maintains that the level of traffic generation resulting from the proposed development is of a level that would warrant additional treatments to the intersection of Wentworth Avenue and Denison Street, which may include the widening of the existing lane configuration.

- O7 To ensure that any risk to human health, property or the natural environment arising from the operation of the development is minimised and addressed;*

Comment: The subject site remains contaminated. Potential therefore remains for contaminants to move offsite and adversely affect the natural environment, however further information in relation to this matter is required to ascertain if contaminants will move off site.

The issue regarding hazard risk and transport risk has been discussed throughout this report. At present, it is considered that Council has insufficient information to determine whether the subject site, once operational will endanger the health and safety of its occupants, arising from events at the adjacent BIP site.

- O8 To ensure that existing pipelines are identified and protected during the assessment process;*

Comment: The subject site is affected by a Sydney Water stormwater assets and easements, which traverse the site north to south. The development application, which proposes to construct the warehouse building over the easement, was referred to Sydney Water for comment. In a letter dated 9 May 2012, Sydney Water advised Council of the following:

*Consistent with previous advice to the applicant, Sydney Water will not support the construction of building structures over its stormwater assets. This is because building over stormwater assets increases the public costs to operate, maintain and renew these assets, and increases construction risks.*

*Notwithstanding the above, Sydney Water is prepared to consider options to deviate the stormwater asset around proposed building structures, provided such options meet our design criteria . Any asset adjustment and deviation must be undertaken to Sydney Waters Asset Creation process.*

This matter has been raised with the applicant and the applicant anticipates that this matter could be dealt with as a condition of consent, requiring deviation prior to the issue of the Construction Certificate. However, this is likely to impact on the current conclusions in the Flood Impact Assessment submitted with the development application and amended on the 12 June 2012.

Standard & Clause	Requirement	Proposed	Complies
<b>Section 2.7 – Banksmeadow Industrial Precinct</b>			
<b>Control C1</b>	Industrial sites with access from Rhodes Street or Smith Street are to have low vehicular generation characteristics and exclude the use of container handling or semi trailers	The part of the site fronting Smith Street are proposed to remain vacant as part of the proposed subdivision. The residue of the site fronts Denison Street and therefore traffic associated with the proposed hardware and building supply store will be restricted to Denison Street.	Yes
<b>Control C2</b>	Transport of hazardous substances should be directed away from residential areas and a traffic route study indicating the proposed transport routes to accompany the application	The amount of hazardous substances to be transport to the subject site is not significant. The site is located on a Dangerous Goods Route with a northbound route to Wentworth Avenue and Southern Cross Drive	Yes
<b>Control C5</b>	Sites fronting Stephen Road, Denison St, Smith Street and Rhodes Street are to have their commercial offices (or other non-industrial activities fronting the road/street.	The proposed hardware and building supply store will have its nursery fronting Denison Street and this is the most appropriate location, being away from residential dwellings. The main office is located behind the nursery at the front of the warehouse building.	Yes
<b>Control C6</b>	Development is not to adversely impact on the surrounding established area through noise, traffic pollution and risk.	These matters have been discussed throughout the assessment report and it is considered that the proposed development will have an adverse impact on the locality in terms of noise emission and traffic generation.	Yes
<b>Control C7</b>	Redevelopment of site is to take into account any road widening affectation.	The subject site is not affected by a road widening resolution of the Council or by any other roads authority. The application involves the dedication of land to Council on Denison Street for a left turn lane into the subject site.	Yes
<b>Control C8</b>	Survey to be submitted with the application identifying the location of pipelines.	An existing Sydney Water easement exists on site at great depth. The extent of this has been indicated on the submitted plans and supporting geotechnical reports.	Yes

<b>Control C9</b>	All applications are to address the risk issues outlined in (4) below	<b>Refer to Note 1 below</b>	<b>No – Refer to Note 1 below</b>
<b>(4) Risk</b>	Site within the Botany/Randwick Industrial Area Land Use Safety Study are to be the subject of a Hazard Risk Assessment Report	The subject site is located outside of the Study Area, however is considered by Council to be a Marginal Site, directly adjoining the study area. The issue of Hazard Risk has been assessed and it is discussed at <b>Note 1 below</b> .	<b>No– Refer to Note 1 below</b>
<b>Section 3 – General Design Elements</b>			
<b>A1 - Energy Efficiency</b>	Report submitted for works in excess of \$250,000 Compliance with Energy Efficiency DCP	Energy Efficiency Report submitted with the Application.	Yes
<b>A2 - Drainage</b>	Hydraulic plan submitted Compliance with Guidelines for Stormwater	Hydraulic details submitted with the application, and include numerous detention tanks and discharge tanks, and stormwater easement for proposed lots to be created.	Yes
<b>A3 – Site Contamination</b>	Preliminary assessment undertaken where required	Yes, however only for part of the subject site. Refer to discussion at <b>Note 2 below</b>	<b>No – Refer to Note 2 below</b>
<b>A4 – Acid Sulfate Soils</b>	Management plan submitted where required	Proposed works are unlikely to alter the watertable below 1m AHD. Therefore, an Acid Sulfate Soils Assessment is not warranted in this instance.	Yes
<b>Section B - Building Form and Character</b>			
<b>B1 – Land Title</b>	<ul style="list-style-type: none"> <li>▪ Lots consolidated where applicable</li> </ul>	Consolidation of all existing allotments and subdivision into four (4) lots	Yes
<b>B2 – FSR</b>	1:1	0.51:1	Yes
<b>B3 – Site Area &amp; Frontage</b> From Subdivision DCP	<ul style="list-style-type: none"> <li>▪ 1500m<sup>2</sup> (min)</li> <li>▪ Allotment frontage - 25m (min)</li> <li>▪ Road frontage – 20m (min) Control C1 requires compliance with the provisions of this DCP</li> </ul>	Lot 1 = 562 m <sup>2</sup> Lot 2 = 1530 m <sup>2</sup> Lot 3 = 545 m <sup>2</sup> Lot 4 = 22,930 m <sup>2</sup>  Lot 1 = 21.545 m Lot 2 = 54.32 m Lot 3 = 33.415 m Lot 4 = 134 m	<b>No</b> Yes <b>No</b> Yes  Yes Yes  <b>No Refer to discussion under DCP 7</b>
<b>B4 – Site Layout</b>	<ul style="list-style-type: none"> <li>▪ Site analysis plan submitted</li> <li>▪ Loading facilities and majority of parking located at rear or</li> </ul>	Site Plan submitted with the application.  Parking areas are internally located within site. Loading	Yes  Yes

	side of buildings	areas are	
<b>B5 – Height &amp; Overshadowing</b>	<ul style="list-style-type: none"> <li>Shadow diagrams submitted where shadows cast on residence or public open space. Min. 2 hours sunlight maintained to windows of habitable rooms and POS</li> </ul>	Shadow Diagrams have not been submitted with the development application. Residential dwellings adjacent to the site on the eastern boundary will not be adversely affected by overshadowing. The building has a setback of 18.75 metres from the eastern boundary.	Yes
	<ul style="list-style-type: none"> <li>All rooftop or exposed structure including lift motor rooms, plant rooms, etc. together with air conditioning, ventilation and exhaust systems are to be suitably screened and integrated into the building design.</li> </ul>	All rooftop plant is concealed behind a parapet.	Yes
<b>B6 – Building Design &amp; Appearance</b>	<ul style="list-style-type: none"> <li>Schedule of finishes and colour scheme provided</li> </ul>	Colour and finishes schedule submitted with application.	Yes
	<ul style="list-style-type: none"> <li>Glazing reflectivity no more than 20%</li> </ul>		No detail provided
	<ul style="list-style-type: none"> <li>Finishes to be vandal resistant</li> </ul>		No detail provided
<b>B7 – Setbacks</b>  <b>Front</b> <ul style="list-style-type: none"> <li>Landscaping</li> <li>Building</li> </ul> <b>Side</b> <ul style="list-style-type: none"> <li>Landscaping</li> <li>Building</li> </ul> <b>Rear</b> <ul style="list-style-type: none"> <li>Landscaping</li> <li>Building</li> </ul>	<ul style="list-style-type: none"> <li>4m</li> <li>4m</li> </ul>	4m – 6m landscape 6m to bagged goods area 2.6m to nursery  <u>Northern boundary</u> 2.6m landscape setback 6.5m to building <u>Southern boundary</u> 3m landscape setback 17.5m to building <u>Eastern boundary</u> 10.8m landscape setback 18.75m to building	Yes Yes  Yes Yes Yes Yes Yes Yes
<b>B9 – Parking and Vehicular Access</b>			



<ul style="list-style-type: none"> <li>Office</li> <li>Warehouse</li> </ul> <p>Floor Area</p>	<p>1 space/ 40m<sup>2</sup> floor area</p> <p>1 space/ 80m<sup>2</sup> floor area</p> <ul style="list-style-type: none"> <li>Traffic details or report submitted including delivery routes</li> <li>Internal loading dock and adjoining goods handling area</li> </ul>	<p>Total Floor area = 14,920 m<sup>2</sup></p> <p>Required spaces 373</p> <p>Proposed spaces = 421</p> <p>Traffic Report submitted with the application.</p> <p>Internal loading area to timber trade sales area</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>B11 – Site Facilities</b>	<ul style="list-style-type: none"> <li>Site facilities and open storage areas appropriately designed/sited</li> <li>Underground cabling</li> <li>Name and address clearly displayed</li> </ul>	<p>Site facilities are appropriately designed and sited.</p> <p>All cabling is proposed to be underground.</p> <p>Street numbers and business names will be clear.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Section C – Environmental Amenity</b>			
<b>C1 – Landscape</b>	<ul style="list-style-type: none"> <li>10% of site area to be landscaped</li> <li>A continuous landscape buffer shall be provided between the driveway and side boundary, and be a minimum of 2 metres wide</li> <li>Planter beds apart from setback landscaping shall be a minimum of 1 metre wide</li> <li>3 tiers of landscaping are required in all mass planted areas</li> </ul>	<p>3,225.40m<sup>2</sup> = 14%</p> <p>3m provided to southern boundary</p> <p>Landscape beds are no smaller than 1 metre in width.</p> <p>There are 3 tiers proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>C4 – Residential/Non Residential Interface</b>	<ul style="list-style-type: none"> <li>Where significant amounts of traffic are likely to be generated which could affect residential areas or residential zoned land schedules of vehicle movements and their routes shall be provided.</li> <li>New development is to be designed so that noise producing activity is remote from the interface boundary;</li> <li>New manoeuvring areas and parking areas facing existing residential areas are not</li> </ul>	<p><b>Refer to Traffic discussions under SEPP Infrastructure 2007</b> heading in this report.</p> <p>Proposed elevated service road to the perimeter of the site adjacent to residential dwellings and residential zoned land. Refer to discussion on submitted acoustic reports.</p>	<p><b>No – Refer to Note 3</b></p> <p><b>No – Refer to discussion on the acoustic reports</b></p>

	<p>permitted due to noise resulting from such activities;</p> <ul style="list-style-type: none"> <li>▪ The warehouse/factory functions of new developments are to be located away from residential areas;</li> <li>▪ Loading and unloading times are not to detract from the amenity of nearby residential areas or residentially zoned land.</li> </ul>		
<b>C3 - Fences</b>	<ul style="list-style-type: none"> <li>▪ Located behind 3m landscape setback or incorporated into landscaping</li> <li>▪ Max height 1.8m</li> <li>▪ Access gates to swing inwards</li> </ul>	<p>Front fence is located behind landscape garden beds</p> <p>1.2m high masonry painted fence with 3.5 metre high mesh fence above.</p> <p>No gates proposed</p>	<p>Yes</p> <p><b>No – See Note 4</b></p> <p>Yes</p>
<b>C6 - Waste</b>	<ul style="list-style-type: none"> <li>▪ Adequate waste storage facilities provided.</li> <li>▪ Waste Management Plan required</li> </ul>	<p>Adequate space within the proposed warehouse building for waste storage.</p> <p>Waste Management Plan submitted with application relating to construction waste and ongoing use waste.</p>	<p>Yes</p> <p>Yes</p>
<b>C8 – Risk/ SEPP No. 33</b>	Risk assessment required for Botany/Randwick Industrial Land Use Safety Study, any use involving storage/transport of hazardous substances or adjacent to sites containing hazardous substances	The subject site is located outside of the Botany/Randwick Industrial Land Use Safety Study Area, however is considered to be a Marginal Site. A Transport Risk Assessment report has been submitted with the application due to the sites location fronting a Dangerous Goods Route and is discussed in this report. A preliminary Risk Assessment has been submitted with the development application and is discussed in detail in this report.	<b>No – Refer to Note 1 below</b>

**Table 11 – DCP 33 Compliance**

**Note 1 – Risk**

The subject site is not located directly within the Botany Randwick Industrial Area Land Use Safety Study or within the Consultation Region. The site has direct frontage to Denison Street, a Dangerous Goods Route and *Section 7.2 – Development on sites adjacent to/or within the vicinity of routes defined as a “Dangerous Goods Route”*

The subject site is however considered to be a “Marginal Site” under Section 8 and as such, the provisions of DCP 30 apply to the subject site as though its was located within the Study area. The issues regarding Hazard Risk Assessment and Transport Risk Assessment are discussed under the DCP 30 heading in this report at Section 6.1.10.

Based on the findings of Council’s Independent Risk Consultant, it is considered that the applicant has not provided sufficient information to adequately address the requirements of DCP 30. Therefore, in its current form, the proposed development is not consistent with Control C9 of Section 2.7 – Banksmeadow Industrial Precinct and Part 4 of Section 2.7, together with Section C8 of Part C of DCP 33 – Industrial Development.

#### **Note 2 – Site Contamination**

The matter of site contamination is discussed under the SEPP 55 and DCP 34 headings in this report. Based on a review of the information submitted to date, it is considered that the applicant has not supplied Council with sufficient information for Council to be certain that the site is or can be made suitable for the proposed development. Therefore, it is considered that the proposed development, in its current form is not consistent with Pat A4 of Section 3.0 General Design Elements of DCP 33 – Industrial Development.

#### **Note 3 – Residential/Non Residential Interface**

As discussed in this report, the proposed development involves an elevated service road at the perimeter of the warehouse building running along the southern elevation, eastern elevation and northern elevation of the building. Whilst an acoustic attenuation barrier is proposed, Council engaged an Independent acoustic consultant to review the submitted acoustic reports. As discussed in this report under Clause 1 of BLEP 1995, it is considered that the proposed development will have an adverse impact on the amenity of surrounding residential properties by way of noise emission and traffic generation. Therefore, it is considered that the proposed development, in its current form is not consistent with Section C4 of Part C of DCP 33 – Industrial Development.

#### **Note 4 - Fences**

Control C1 of Section C3 – Fences of Development Control Plan No. 33 – Industrial Development states that the maximum height of front fences is not to exceed 1.8 metres. The proposed development seeks to construct a 1.2 metre high masonry fence setback behind the landscape garden bed that will be painted white. A 3.5 metre high powdercoated mesh white painted fence is proposed above the masonry fence, to create a front fence with an overall height of 5.3 metres. This will be treated with feature vertical louvres.

The proposed front fence is considered acceptable as its will provide interest to the streetscape, being embellished with additional planting within the front landscape garden beds. White polyfabric sun shades are proposed behind the fence, over the nursery that will project 2.6m above the fence to an overall height of 8.2 metres above existing ground level. The height of the fence is necessary to protect plants from the westerly aspect, minimise water consumption and odour impacts within the nursery, and to create an environment conducive to plant life. The fence will create

visual relief from the bulk of the warehouse building behind which also assists in enhancing the streetscape amenity. On this basis, the proposed variation to the maximum front fence height of 1.8 metres is considered acceptable.

#### **6.1.11 Contaminated Land Development Control Plan No. 34**

The provisions of DCP 34 have been considered above in the assessment of the application as part of the assessment against the requirements of SEPP 55.

The development application has been accompanied by a number of Contamination reports relating to different parts of the site. Part of the site has been remediated as a result of the former use of the site for food manufacturing.

A Site Audit Report and Site Audit Statement prepared by Graham Nyland of Environ Australia Pty Ltd, dated 18 October 2006. This Statement only relates to Lot A in DP 24380 and Lots 1-6 on DP 24380 and stated that the site was suitable for commercial/ industrial use.

A further Site Audit Report and Site Audit Statement prepared by Graham Nyland of Environ Australia Pty Ltd, dated 18 March 2008 relates to Lot B in DP 323369, Lots 1, 2 and 3 in DP373787 and Part Lot A in DP 24380. This Statement states that the site is suitable for residential use with accessible soil, including garden (excluding poultry); day care centre, pre school, primary school, secondary school, residential with minimal opportunity for soil access (including units), park/recreation/open space/playing field, and commercial/industrial use.

The part of the site that was not subject to an assessment of contamination includes Lot 7 in DP 24380, Lot B in DP 406437, Lot 4 in DP373787, Lot 1 in DP 18290 and Lot A in DP 345700. In this regard, the three latter lots (4, 1 and A) above have been used for commercial purposes (existing commercial building) only and therefore no assessment of contamination is warranted.

Despite the above Statements being issued, the development application was accompanied by a Review of Contamination Issues prepared by Cavvanba Consulting Pty Ltd dated January 2010.

The contamination reports submitted with the development application were referred to Council's Environmental Scientist for assessment and comment. It was identified in the Cavvanba Review of Contamination Issues Report, that no assessment of contamination has been undertaken for two lots fronting Denison Street being Lot 7 in DP 24380 and Lot B in DP 406437, which have both been used for industrial purposes. Further, it was noted in the report that potential remains on site for asbestos and groundwater impacts. Phase Separated Hydrocarbons (PSH) were detected in two (2) groundwater monitoring wells at a depth of 8 metres below ground level and detection of low concentration of contaminants in wells that were not previously impacted. The source of contamination is not identified, however it is suggested that impacted soil surrounding the Sydney Water sewer easement at great depth is a contributing factor together with the possibility that further underground UST (underground storage tanks ) remain on site that were not previously identified.

In a letter dated 13 April 2012, Council wrote to the Applicant requesting that an assessment be undertaken of the two lots not previously assessed fronting Denison Street. In addition, the letter outlined the concern with the findings in the Cavvanba Report and the need for a further Site Audit Statement to confirm that with the increases in on site contamination that the remains suitable for the proposed uses and whether ongoing management of this contamination is required for the site to be suitable for the respective uses. Council's letter further notes the owner's responsibility to notify the NSW Office of Environment and Heritage that the site is contaminated following the detection of phase separated hydrocarbons.

On the 13 June 2012, Council received an Environmental Site Assessment for Lot B in DP 406437 and Lot 7 in DP 24380, known as 148 Denison Street, Hillsdale. The report identifies that subject to additional investigation of soils on site once buildings are demolished and inspections undertaken during demolition and excavation to assess any unexpected conditions, that the site can be made suitable for the proposed development.

On the 13 June 2012, the Applicant advised Council in relation to the contamination of the following:

*"On the 11 May 2012, Bunnings Group Ltd engaged the original Site Auditor (Graham Nyland from Environ Australia) to update the previous site audits and extend its coverage to include 148 Denison Street, ultimately to provide a consolidated and comprehensive site audit statement to cover the entire development site.*

*To date, progress has been made with additional groundwater testing by Cavvanba Consulting (under supervision of the auditor) and it is highly likely that a Site Audit Statement will ultimately be issued.*

*On these grounds, it is reasonable to suggest that, if required, a condition can be imposed on the consent requiring the issue of a Site Audit Statement prior to the issue of the Occupation Certificate."*

To date, Council has not received any further information from the Applicant in relation to contamination on the subject site.

Council on the 10 July 2013, engaged an Independent Consultant with appropriate expertise to review each of the documents submitted by the Applicant.

In a letter dated the 12 July 2013, the Independent Consultant has advised Council of the following:

- *Any construction at the site will require a management plan for asbestos as asbestos remains on site and will be encountered during works. Safe handling practices will be required;*
- *Given the presence of Phase Separated Hydrocarbons (PSH), the site falls within the requirements for notification to the EPA (which have changed since 2008);*

- *The PSH are much thicker to that found when remediation was completed so it needs to be further investigated again to determine why the rebound has occurred and if further remedial works need to be undertaken;*
- *The detections in MW02 indicate that the plume is moving down gradient and this also needs to be reinvestigated to make sure that the conclusions about it not being able to move off site are correct, especially given that the detections are for the heavier end TPH fractions which move much less easily with the groundwater due to their low solubility;*
- *The above matters should be discussed with the EPA (and potentially Sydney Water seeing as it might be material remaining in their easement that is the source) to decide the appropriate next steps;*
- *Until the above matters have been addressed, by way of further investigation and an updated Site Audit Statement, the site is not considered suitable for the proposed development.*

Clause 7 of State Environmental Planning Policy 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. In this regard, based on the comments received from Council's Independent Consultant and the information provided to date by the applicant, Council is not satisfied that the subject site is suitable or can be made suitable for the proposed development. The Applicant has not undertaken any further investigation, or if this has occurred, has not as a consequence furnished any further information to Council. Therefore it is considered that the proposed development does not adequately address the requirements of DCP 34 – Contaminated Lands.

#### **6.1.12 Access Development Control Plan Premises Code**

Accessible car parking has been provided at grade with sixteen (16) disabled car parking spaces, being in excess of the DCP requirements. A Disability Access Report prepared by Lindsay Perry Access and Architecture dated 27 October 2011, has been submitted with the development which provides an assessment against the Building Code of Australia 2011 (Class 6 buildings), the Disability Discrimination Act 1992, Council's Access Development Control Plan and AS1428 – Design for access and mobility.

The report recommends a number of requirements including, travelators, lifts, stairs, unisex accessible toilet facilities, adequate doorway widths and hardware.

#### **6.2 The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality.**

These matters have been considered in the assessment of the Development Application. It is considered that the proposed development will have significant adverse impact on the built environment in terms of traffic generation and the cumulative impact of this traffic on a Dangerous Goods Route, on the classified roads of Denison Street and Wentworth Avenue and their associated intersections.

The issue of contamination on site remains unresolved as the applicant has not provided sufficient information for Council to be satisfied that the site is or can be made suitable. As such, there is potential adverse impacts on the natural environment from contamination.

The operations arising from the proposed development will have an adverse impact on the surrounding residential environment in terms of noise emissions.

The applicant has not provided Council with adequate information for it to determine whether there is an economic impact in the locality, however given the discrepancies between the catchments identified in the economic impact assessment and the amended traffic reports and that Council maintains those traffic generation figures are an underestimation, it is likely that an adverse economic impact will result from the significant traffic generation levels and contribute to adverse cumulative traffic impact, which will adversely impact on the economic viability of the locality.

It is considered that the information provided by the Applicant to date in relation to risk arising from surrounding development, from dangerous goods transportation and societal risk has not been adequately addressed in the amended PRA and TRA. As such, it is not known whether there will be a risk to human health and safety and/or whether significant societal risk arises from the operation of the surrounding land uses or the function of Denison Street as a Dangerous Goods Route. If this was found to be the case in the future, then the site would be considered unsuitable for the proposed development and would likely result in there being an adverse economic impact on surrounding land uses as a result of the proposed development.

Based on the above matters, it is considered that the proposed development will have adverse impact on the natural and built environment and an economic impact on the locality and as such is not consistent with Section 79C(1)(b) of the EP & A Act 1979.

### **6.3 The suitability of the site for the development.**

These matters have been considered in the assessment of the development application. The subject site is not considered suitable for the proposed development.

The site is contaminated by an unknown source and at unspecified location. The subject site is required to be properly remediated prior to any development occurring on site. Council is required pursuant to Clause 7 of SEPP 55 to be satisfied that the site is suitable for its intended use. At present, Council is not satisfied that the subject site is suitable or can be made suitable for the proposed development in terms of its contaminated state.

The proposed development is considered to be incompatible with the surrounding residential properties to the north and east in terms of traffic impacts, noise emission and as such, the site is not considered suitable in respect of this incompatibility.

As discussed above, Council has not been presented with adequate information for it to be satisfied that the proposed development will not be adversely impacted upon by risk arising from the operations of surrounding land uses and from the function of Denison Street as a Dangerous Goods Route. Therefore, at this stage the subject site is be unsuitable in respect of risk, societal risk and risk arising from dangerous goods transportation.

The site is located in close proximity to other traffic generating uses. Therefore, it is considered that the proposed development will contribute to significant cumulative traffic impacts and therefore, it is considered that the subject site is not capable of accommodating the proposed development.

Based on the above matters, it is considered that at present, the subject site is not suitable for the proposed development and is inconsistent with Section 79C(1)(c) of the EP & A Act 1979.

#### **6.4 Any submission made in accordance with the Act or Regulations.**

These matters have been considered in the assessment of the development application. In accordance with Council's Notification Policy (Development Control Plan No. 24), the original application was publicly exhibited for a period of thirty (30) days from 22 November 2011 to the 21 December 2011, from which a total of thirty four (34) submissions were received.

Council subsequently received an amended Traffic Report and amended plans in relation to the proposed Denison Street intersection/access on the 12 December 2011 and was required to re-notify the application for a further thirty (30) days from 10 January 2012 to 9 February 2012. In total, forty-seven (47) submissions and two petitions containing a total of 254 signatures (some duplicates) were received following the extended exhibition period. The Applicant submitted a formal response to the issues raised in the public submissions on the 13 June 2012. The issues raised in the public submissions, which are discussed in this report include hazard and transport risk assessments, traffic generation/traffic impact, contamination, amenity and noise.

Council undertook a second notification period of thirty (30) days from the 12 March 2013 to the 11 April 2013. This notification period was to publicly exhibit the amended plans and reference documents received on 12 June 2012 and subsequent amended reports received by Council. However, the Panel should note that due to incorrect reference documents being placed on Council's website, the second exhibition of the development application has not been undertaken correctly. Notwithstanding the above oversight, Council received a total of twenty eight (28) submissions.

The main issues raised in the submissions are summarised below:

##### ***Traffic and Parking***

- ***The proposed development will generate significant traffic on Denison Street, Wentworth Avenue and surrounding local residential streets;***
- ***The submitted traffic report does not address local streets such as Smith Street, Boonah Avenue and Fraser Avenue;***
- ***The development will result in non residents entering Smith Street to park on Smith Street, when the car park is full.***

##### **Comment:**

As previously mentioned, Council engaged McLaren Traffic Engineering to undertake an Independent review the prevailing local area traffic impacts of the proposed development. This report highlights that the peak Saturday vehicle trips per hour identified in the Bunnings Traffic Report and detailed above are a significant underestimation. As a result, it is more likely that a range of possible values from 4.03 vtp/h up to 7.2 vtp/h (the average for NSW plus one standard deviation). This will have an affect on intersection performance, particularly on Wentworth Avenue



and will also have an effect on the local residential streets. As such, due to no works now being required at the intersection of Wentworth Avenue and Denison Street (as per RMS letter dated 17 May 2013), traffic diversion is likely to occur and the following assumptions are made:

- *A number of vehicles travelling north on Bunnerong Road, wanting to use Fraser Avenue to avoid both the Wentworth Ave/Denison Street intersection and Smith Street/Bunnerong Road intersection;*
- *Vehicles wanting to travel south on Bunnerong Road will use Smith Street; and*
- *Vehicles travelling north on Bunnerong Road would also use Smith Street to access the Bunnings site.*
- *Ultimately, impatient vehicles would avoid all traffic lights and access Bunnings via Fraser Avenue and Boonah Avenue.*
- *For the purposes of calculating future traffic impact along Fraser Avenue (or Boonah Avenue), it will be assumed that 50% of traffic turning right from Denison Street into Wentworth Ave will use Fraser Ave to avoid the traffic signals and make an easy left turn onto Bunnerong Road at the eastern end of Fraser Ave.*
- *It is predicted that 50% of vehicles travelling from Bunnerong Road (north) will turn right onto Wentworth Ave then left on to Denison Street, while the other 50% will travel further south along Bunnerong Road and right turn at Smith Street then left onto Denison Street.*

As a result of the potential and likely assumptions made in the McLaren Report, the report recommends the following local area traffic management measures to counteract the potential traffic diversions:

- ***Partial Closure of Smith Street at Denison Street*** – *This will prohibit any egress from Smith Street onto Denison Street. Local residents travelling only via Wentworth Avenue will still be able to access Smith Street from Denison Street (left turn in only).*
- ***Kerbside Parking restriction in Smith Street*** – *To avoid any future problem of staff parking in local streets or overflow parking during peak periods such as Christmas, it is recommended that 4 hour parking restrictions be implemented along both sides of Smith Street (west of Rhodes Street) applying from 8am to 6pm, 7 days per week.*
- *On street kerbside parking demand within a 400m radius of Bunnings shall be monitored over a few weeks, particularly on weekends after Bunnings has been trading for 6 months to assess whether the kerbside parking management needs to be extended.*
- ***Option A – End of Block threshold treatment.*** *For best effectiveness, this should be installed at the Denison Street end of both Fraser and Boonah Avenues, approximately 12m-15m from the intersection and should be a single lane variant. Landscaping around the treatment, and its location, will visually discourage drivers from entering Fraser or Boonah Avenue.*

- *A traffic survey count should be completed approximately 6months after the Bunnings store opens to detect whether there has been any significant effect on either Fraser Avenue or Boonah Avenue.*
- *If further action is required on any of these three roads, then a mid-block threshold should be installed. This can be any one of: Chicanes, Option A, Option C (single or dual) or a median island requiring significant path deflection with some localised lane narrowing.*
- *Supplementary to these recommendations is a similar procedure, examining residential amenity and road capacity following the completion of other large scale development on Denison Street.*

The McLaren report (the LATMP) was placed on public exhibition from from the 26 October 2012 to 5 November 2012, which resulted in 15 submissions and one (1) petition with 54 signatures.

To date, the applicant has not satisfied Council that they have adequately addressed the concerns of the residents and the finding of the LATMP. As such, the it is considered that the proposed development will have a significant traffic generation over that stated by the TTPA reports submitted by the applicant, which in turn will contribute to significant cumulative traffic impact on Dangerous goods route, the classified roads of Wentworth Avenue and Denison Street. The Panel is advised that in so far as the local area traffic is concerned, the applicants strategy is to “wait and see”, that is to say assess the local area traffic impacts once the land use is established. This is not considered to be acceptable.

#### *Noise*

- *The proposed hardware and building supply store will increase noise levels in the area affecting nearby residents;*
- *The loading and unloading area at the northern end of the site will create noise pollution from forklifts and from trucks reversing;*
- *The noise barriers proposed to the service road are too low and the height of the trucks and their exhaust stacks will project above the barrier, making the barrier redundant;*
- *Failure of the Noise Assessment to comply with the NSW Industrial Noise Policy.*

#### Comment:

The development application was accompanied by a Noise Assessment Report prepared by Wilkinson Murray dated October 2011 (Version A), which recommends that a noise attenuation barrier is installed at the edge of the service road, beyond the timber trade sales area, to a height of 5 metres, extending north, but at a reduced height of 3.5 metres above the service road level. A noise attenuation barrier is also proposed to the undercroft car park at its northern extremity adjacent to proposed Lot 2, along its eastern elevation (being 29 metres from the eastern boundary) and returning west along the southern extremity. Attenuation of car park exhaust fans are proposed. The report identifies that daytime noise predictions at residential receivers in Rhodes Street and Smith Street are modelled on the worst case scenario, being 600 car movements and 4 truck movements per hour. The results indicate that the

daytime noise levels comply with Council's Standard Noise Criteria, however there is a marginal exceedence in the evening period due to truck deliveries.

The Applicants response to the noise issues raised are as follows:

- *Exposure to any noise from operations is proposed to be minimised by the installation of a sound wall barrier between the site and residences on Rhodes Street to protect the acoustic amenity of these residents to ensure compliance of the operation with established acoustic criteria.*
- *The quoted "four" truck deliveries "per hour" is incorrect and should read "per day". There will not be 200 staff on site at any one time, this is the total workforce. The number of staff at one time varies significantly reflecting the trade profile with a maximum on weekends and lesser number in the early morning and in the evening.*
- *Noise from forklift reversing alarms can be ameliorated by the installation of low noise "broadband" reversing alarms. This point of objection is not sustainable.*
- *The relevant authority is the City of Botany Bay, which has its own noise policy "the City of Botany Bay Standard Noise Criteria", which addresses industrial noise. The Industrial Noise Policy (INP) is advisory in this case. Nonetheless, a review of the noise criteria based on the INP and SNC has been conducted. The site specific criteria for the SNC is generally more stringent than the INP therefore if development complies with the SNC criteria, it follows that compliance with the INP derived noise criteria will be achieved.*
- *The dominant noise source on a truck in the yard is the engine which is at a source height of 1.5m. The exhaust (source height of 3.6m) noise level is in the order of 8dBA lower in level. The modelling and barrier height takes this into account.*
- *No night time period (10pm to 7am) is proposed as part of the development. Therefore no assessment of is required for this period.*

Despite the Applicants response to the issues raised in the submissions, Council engaged an Independent Acoustic Consultant (The Acoustic Group) to review the proposed development and the submitted acoustic report to identify whether the proposed acoustic attenuation measures are adequate enough to reduce adverse acoustic amenity impacts on nearby residential dwellings. The findings of this report were as follows:

- *The projects specific criteria that have been nominated would not in terms of Industrial Noise Policy amenity criteria have taken into account the industrial noise sources therefore requiring an adjustment to the amenity project specific target.*
- *The proposal requires relatively high barriers around the perimeter of the site so as to address noise emission from the subject development;*

- *The report indicates the need for relatively high barriers to provide acoustic shielding on the basis of an average noise level over the week. However the logger graphs reveal ambient background levels on the weekend to at times noticeably lower than the week day and therefore it may be appropriate to separate weekday activities from weekend activities where there would be different acoustic criteria that reflect the change in acoustic environment of the area between week days and weekends.*
- *Consideration of the noise impact for weekends versus the week may alter the proposed operations and/or noise controls required for the development.*

Council received an amended Noise Assessment Report on the 30 October 2012, prepared by Wilkinson Murray, dated October 2012 (Rev C). The amended report addresses the issues in The Acoustic Group review as follows:

- *Adverse weather conditions have been excluded from noise logging;*
- *Daytime and evening amenity criteria have been corrected;*
- *It has been assumed that the site is affected by industrial noise and the industrial noise contribution is the background noise level;*
- *The resultant controlling noise criteria for the project, after the corrections identified by TAG, remain unchanged.*
- *Table 6-2 has been corrected to indicate a marginal exceedence (1dBA) at 23 Smith Street;*
- *Recommendations for the treatment of plant along with enclosure of the car park along the perimeter remain the same;*
- *A clear statement that a 2.5 perimeter barrier is recommended on the eastern perimeter of the site has been made. The predicted exceedence of 1dBA in the evening is considered marginal and acoustically insignificant. Therefore the investigated higher barrier is not recommended;*
- *It is noted that the assessment has been conducted on a typical worst case scenario and therefore for much of the time noise emissions from the site would be lower than predicted;*
- *The traffic figures in the previous report have been updated to reflect previous correspondence and advice to Council and to be consistent with the traffic report. The result of these changes results in a predicted reduction in traffic noise level.*

The recommendations in the amended report, have changed in respect of the required height of the attenuation barrier to the eastern part of the service road. The amended report, which has undertaken further modelling of the marginal 1dBA exceedence in the evening period, has recommended that the 3.5m – 5m acoustic attenuation barrier only provides a marginal benefit of 1dBA for the predicted evening (6:00pm to 10:00pm) period for Nos. 83 and 89 Rhodes Street and 23 Smith Street (which is a result of the truck deliveries). The report recommends that the height of this attenuation barrier can be reduced to 2.5m to allow the marginal exceedence.

The amended acoustic report was further reviewed by Council's Independent Acoustic Consultant. In a letter dated 13 June 2013, Councils Consultant advised that:

*The subject development will by way of the DA noise assessment give rise to a noticeable increase in noise for nearby residential dwellings;*

*The amended DA acoustic report has provided limits for the operation of the development upon which noise levels have been determined that satisfy the criteria in the day, by reason of a 2.5 metres high barrier;*

*The nature of elevated exhaust pipes associated with trucks will give rise to a noise source above the proposed barrier wall. As the Leq level over 15 minutes is an average level the residents will experience each and every time a truck utilises the access road to be subject to noise levels significantly greater than background +5dB(A).*

*The amended acoustic assessment report has failed to identify the nature of the noise by way of any graphical results of noise from a Bunnings operation so as to show how the derived noise levels will occur, in a graph similar to that contained in the glossary of terms prior to the introduction of the report;*

*The graph of a typical sound pressure level versus time provided in the glossary of terms indicates that for an Leq level of around 38dB(A) the average maximum L10 level is a further 5dB higher and at the maximum noise level would appear to be an additional 6 or 7dB higher.*

*The current acoustic report (version C) for the subject development is still somewhat vague in relation to the operation of the site and noise emission that would occur from the use of the site that would require stringent operating conditions which formed the basis of the assessment just complying with the nominated limits. This can place the operation easily into non-compliance to the detriment of nearby residents if any of the assumptions are slightly altered.*

*The concept of even identifying the matter of acoustic non-compliance in the assessment and then dismissing such non-compliance as of no consequence is not a matter that would be accepted by the residents in view of the intermittent nature of audible noise generated on the site.*

*The report has failed to address the matter of non-compliance for the commercial boundary and has made no attempt to address the issue of non-compliance.*

*Despite the amended (version C) report addressing a number of deficiencies in the original report, there are a number of questions as to the accuracy of the predicted noise levels based upon generalised assumption/source data for the subject development. At present time we are unable to support the position that the proposed development will not create an adverse impact on the surrounding residential properties. Further work is required to ameliorate noise emission from the subject site with correct and appropriate source material, and calculations to verify the predicted outcomes of the further modified application to be provided.*

Based on Council's Independent Acoustic Consultants review of the proposed development and the submitted acoustic reports, it is considered that the proposed development will have an adverse impact on the surrounding residential properties/land and as such the development application, in its current form is not supported.

#### ***Site operations/Amenity***

- ***The proposed hours of operation are not complementary to the nearby residential area;***
- ***Delivery hours will affect the residential amenity of the neighbourhood.***

#### **Comment:**

As discussed above, the operation of the proposed development is considered to have an adverse impact on the residential amenity of the surrounding residential area in terms of noise emission and traffic generation.

#### ***Economic Impact***

- ***Will a proper economic analysis of the proposal be required;***
- ***Botany Council has already indicated (through the Gateway Proposal process) their in principle support for the proposal, is this appropriate given the omissions;***
- ***The report (gateway proposal Colston Budd Hunt and Kafes 2010) also neglects to mention the Alexandria store, which was already approved at the time, and is now nearing completion. When operational it will be the biggest single hardware store in the country. This makes the statement mentioned incorrect;***
- ***If we are looking to remove anti-competitive barriers, is it appropriate to have Bunnings in control of all three hardware stores in the eastern suburbs that have a floor area greater than 60,00m2. Does this encourage competition or is it rather an obvious monopoly of the market;***
- ***Bunnings already have stores at Alexandria, Randwick and Rose Bay. The Bunnings Alexandria store is nearing completion and they are working towards opening a trade only outlet (they have previously lodged a DA with Sydney City for the corner of Canal Rd and Burrows for a 3500m2 trade only outlet) between these operations, it is estimated, they would have in total five stores turning over something near \$200 million per annum.***

#### **Comment:**

The Applicant has submitted an Economic Impact Statement on 15 August 2012 prepared by Leyshon Consulting Pty Ltd, dated August 2012. The report identifies the following in relation to the proposed Bunnings store:

The submitted report contains a disclaimer which states:

*The report makes projections which are grounded upon facts and matters contained in the report. Some or all of the facts and matters comprise assumptions and /or representations upon which the author has relied but about which, the author has no knowledge of its own.*

As stated previously, Council sought advice from its Solicitor in relation this disclaimer. In a letter dated 16 July 2013, they advised that Council cannot rely upon the submitted Economic Impact Assessment report, in its current form as the author has not disclosed those assumptions or representations upon which the author has relied, but which the author has no knowledge of its own.

Based on the advice received, it is considered that the information submitted to Council in relation to economic impacts of the proposed development is inadequate for Council to assess the likely economic impacts of the proposed development.

#### ***Hazard Risk***

- ***The 2001 Botany/Randwick Industrial Land Use Safety Study identified the site as a Dangerous Goods Route;***
- ***The 2001 Study established a 'future case' consolidation region, the current planning standard. The 2001 Study 'future case' Consolidation region planning control restricts development involving residential, active recreation, large commercial or sporting facilities;***
- ***The 2001 Study recommendations p5. "The Study focuses on risks from fixed facilities. Risk arising from the movement of dangerous goods by road have not been estimated. Significant movements of dangerous goods are known to take place along Denison Street and Stephens Road.***
- ***The Bunnings warehouse development is a large commercial facility that has a frontage to Denison Street. A designated Dangerous Goods Route. The Bunnings proposal is not in the current 'future case' consolidation area. As the future case consolidation area was made without the risk transportation of hazardous materials being included as part of the cumulative risk assessment, the Bunnings application cannot be determined until an assessment of the cumulative risk from the significant transportation of hazardous materials are integrated with all other cumulative risk from the Botany/Randwick industrial complex and Port Botany is made.***

***A new assessment of the boundary of the 'future case' consolidation region based on all hazards is assessed and made and planning controls applicable to the 2001 Study 'future case' consolidation region are applied to ensure that the merits of the Bunnings proposal are properly assessed in relation to off site risk and offence before the application is determined.***

Comment: The issue regarding both hazard risk assessment and transport risk assessment have been discussed throughout this report. It is considered that the information provided by the applicant to date is not adequate for Council to undertake a proper assessment of the risk associated with surrounding land uses and the likely impacts of this on the proposed development in terms of individual risk, societal risk and risk arising from dangerous goods transportation.

#### **(e) The public interest.**

These matters have been considered in the assessment of the development applications. Based on the rigorous assessment of this development application by

Council officers and its Independent Consultants, it is considered that the proposed development is not in the public interest as it is incompatible with the surrounding residential environment as a result of traffic generation and noise emissions.

The proposed development will have an adverse impact on the natural and built environment arising from site contaminants, traffic generation, cumulative traffic impacts and noise emission.

The proposed development will have a likely adverse impact on the economic viability of the locality as a result of excessive traffic generation and cumulative traffic impacts. Other economic impacts on the locality are not known at this point in time, as inadequate information has been submitted by the applicant.

The issue of individual risk, societal risk and risk arising from dangerous goods transportation on the subject site and any future occupants of the subject site has not been adequately addressed by the applicant. This is considered to be a matter of significant public interest.

Based on these matters, it is considered that the proposed development, is not in the public interest pursuant to Section 79C(1)(e) of the EP & A Act 1979.

## **7. Other Matters**

### **7.1 External Referrals**

#### *Roads & Maritime Service*

As discussed earlier in this report, final concurrence from NSW RMS was received on the 17 May 2013, despite repeated attempts Council and its Independent Consultant to consider the concerns of Council and its Independent Consultant.

#### *Mascot Police Local Area Command*

Correspondence received from Mascot Police Local Area Command dated 30 April 2012, raised no objection to the proposed development, subject to recommendations. However, to date there has been no response in relation to the Preliminary Risk Assessment report.

#### *NSW Department of Planning & Infrastructure – Major Hazards Unit*

The most recent Preliminary Risk Assessment Report and Transport Risk Assessment Report received by Council on the 15 July 2013 was referred to NSW DoPI – Major Hazards branch on the 31 July 2013. To date no response has been received.

#### *NSW Fire & Rescue*

To date, no response has been received from NSW Fire & Rescue, in respect of the Preliminary Risk Assessment report.

#### *Workcover NSW*

In a letter dated the 9 August 2012, Workcover have advised that they have reviewed the submitted TRA and PRA and have no comments over that provided by the Dept. of Planning & Infrastructure – Major Hazards Branch.

#### *Sydney Water*

The proposed warehouse building traverses the existing Sydney Water stormwater easement which burdens the subject site (7.62 metres wide).



The easement contains a box culvert 1981mm x 1295mm which caters for a 34ha upstream residential/commercial catchment.

The DA was referred to Sydney Water on two (2) occasions and on the 9 May 2012 Sydney Water advised that they do not support the proposed building over the existing easement. It must be 1 metre clear of the easement.

Sydney Water have advised they are prepared to consider options to deviate the easement, subject to any design meeting their criteria.

## **7.2 Internal Referrals**

The development application was referred to relevant internal departments within Council, including the Traffic Engineer, Development Engineer, Landscape Officer, Environmental Officer, and Health Officer for comment.

### **Design Review Panel (DRP)**

The design concept now forming part of this development application currently before the Panel was referred to the DRP, which met on 15 September 2011. The DRP made the following recommendations:

*It is generally an appropriate use for the site and compliant with the critical planning controls.*

The following is a response to each suggestion made by the DRP:

	<b>Issue</b>	<b>Response</b>
1	<u>Context</u> To the west there is potential for good road access from Denison Street. To the east existing detached dwellings lots abut the site, resulting in interface conditions which the application has addressed. To the north, fronting Smith Street there are a number of lots surplus to the needs of the subject development, which the Applicant has advised may be disposed of for industrial or possibly community uses.	The current design before the Panel remains largely unchanged from the put to the Design Review Panel. Access is proposed via a single point on Denison Street at a signalised intersection with a left turn lane.  An expansive landscape setback is proposed to the eastern boundary adjoining residential dwellings.  The surplus lots fronting Smith Street are proposed to remain vacant and could be used for industrial purposes.
2	<u>Scale</u> Although the proposed building will be very large, it will not be out of place in an industrial area. On the eastern boundary the proposed setback in combination with landscaping would deal with the change of scale to the residential zone. On the western frontage to Denison Street the new landscape	The suggested increase in height of the sail canopies over the proposed nursery facing Denison Street have been made. An overall height of 7.5 metre will provide adequate screening of the bulk warehouse behind.

	Issue	Response
	planting and sailcloth canopy structures, with the changes suggested below, should satisfactorily screen the bulk of the warehouse building.	
3	<p><u><i>Built Form</i></u></p> <p>The basic building form has been generated by the generic requirements of the proponent for a high bay racking warehouse environment”, in this case with the customer parking below. This has the advantage in environmental terms of limiting the hard surface footprint of the development and allowing space for landscaping. The visual bulk of the main structure is ameliorated by the projecting forms along the southern side including the entrance area, and the canopy structures along the Denison Street frontage.</p> <p>The major concern of the Panel related to the presentation of the development to Denison Street where reconsideration of the form of screen fencing and the sail canopies is suggested.</p>	<p>The screen fencing proposed to the Denison Street frontage and landscape detail was amended by the Applicant on the 13 June 2012. It includes a 1.2 metre high painted masonry wall with a 3.775 metre high painted screen mesh fence on top to give an overall height of 4.975m at the proposed intersection and increasing in height to 6.2 m at the northern end of the Denison Street frontage.</p> <p>The Applicant argues that the full height fence is required to create a suitable environment conducive to plant life for the proposed nursery. This will assist in lowering water consumption and regulating direct solar impact on the plants from the westerly aspect. Given the overall site context the location of the nursery on the Denison Street frontage is required in order to reduce the impact of any offensive odour event on nearby residential dwellings.</p> <p>Therefore, whilst not ideal from a streetscape perspective, the proposed height of the fence is supported.</p> <p>The Applicant has incorporated horizontal louvres to the front fence to create interest. The fence will be located behind the landscape garden bed which incorporates three tiers of planting and which will be further embellished with additional trees species suitable for screening and streetscape enhancement.</p>
4	<p><u><i>Resource Energy &amp; Water Efficiency</i></u></p> <p>The large roof area is ideal for rainwater collection and solar collectors. Every opportunity should be taken to maximise opportunities for water recycling and solar power generation.</p>	<p>An on site detention tank is proposed of a significant size. Rainwater collection tanks are proposed to the undercroft and a discharge tank is proposed for nursery runoff and reuse.</p> <p>At this stage, no solar power generation is proposed, however it remains that there is significant potential for this to occur. The design of the roof incorporates a combination</p>

	Issue	Response
		of large expansive translucent roof sheeting and zinc sheeting, diagonally offset to provide natural solar access to the warehouse.
5	<p><u>Landscape</u></p> <p>There are opportunities for significant landscape planting. On the Denison Street frontage and in the main entrance areas to the south this would enhance the image of the operator and provide more welcoming ambience. The full length of the southern boundary is available for screen planting as indicated on the draft landscape plans, and to the east dense planting could effectively minimise impacts on the residential neighbouring properties. Planting is indicated on part of the northern boundary and should be extended if possible for the full length.</p> <p>Detailed landscape plans nominating species will be a critically important part of the developed submission.</p>	<p>A total of 14% of the site is to be landscaped, which is in excess of the 10% requirement of DCP 33.</p> <p>The planting along the northern boundary has not been extended for its full length. The adjoining properties to the north are industrial in nature and are setback off the common boundary 4m-8m. However, due to level changes between the two properties, any landscaping on the northern setback of the Bunnings building would not be effective in screening the building. This would only be achieved by the presence of the buildings at Nos. 45-55 Smith Street.</p>
6	<p><u>Amenity</u></p> <p>Noise impacts from vehicles on the adjacent residential dwellings to the east should be resolved in principle by the noise barrier and landscape as indicated, but the Panel defer to expert acoustic advice as to whether these measures would be adequate.</p>	<p>The issues regarding noise, odour and amenity have been addressed as part of the assessment of the development application. It is considered that the current design before the Panel is inappropriate in terms of the proposed service road and its noise emission on nearby residential dwellings.</p>
7	<p><u>Aesthetics</u></p> <p>The major concern with the application is its presentation to Denison Street. Some of the existing substantial trees would have to be removed to allow for the slip lane, as illustrated in the montage view the boundary fencing appears far too dominant and uninviting, and the curved solid wall element at the corner entrance appears unresolved. The following strategy is suggested:</p> <ul style="list-style-type: none"> <li>Design fence to present as</li> </ul>	<p>The curved solid wall remains and incorporates the Bunnings Hammer logo and feature concrete louvres. The louvre effect is continued across the entire frontage to Denison Street and down the southern face of the building.</p> <p>On the 13 June 2012, the Applicant amended</p>

	Issue	Response
	<p>essentially a ‘green wall’, and or alternatively to allow greater transparency and sense of activation of the street front view into the site and legibility of the main entry and entry awning. The café could be extended outdoors also to assist with this objective;</p> <ul style="list-style-type: none"> <li>▪ The offices at first floor level might also have louvre windows to further assist in modelling the western façade;</li> <li>▪ The redesigned fence could also follow the curve on the alignment as indicated for the solid wall, perhaps being higher and terminating with a solid gatepost form.</li> <li>▪ Replace lost trees along frontage with new large trees, the species to conform to Council policy for the streetscape. If necessary to ensure sufficient space for mature trees the boundary fence may have to be marginally further setback.</li> <li>▪ Increase height of shade canopies to further soften the appearance of the frontage.</li> </ul> <p>The signage as proposed is consistent with the standard corporate image use by the operator, which although very large should be acceptable in this location.</p> <p>It is appreciated that the gable form of the entry lobby is a standard Bunnings design component, but the Panel would welcome a more imaginative design solution to this element.</p>	<p>the Denison Street landscape detail and fence elevations. A significant amount of green screen planting is now proposed to the fence. These are considered acceptable. The amended plans were assessed by Councils Landscape Architect and appropriate conditions are recommended including a change to the proposed Crepe Myrtle tree proposed in the front landscape bed to a feature evergreen species.</p> <p>Sunshades are proposed to the two first floor office windows and these are considered acceptable.</p> <p>The fence follows the curve of the alignment, however no gatepost form has been included. The projection of the sail canopies above the fence create interest to the entrance without adding an further bulk to the design.</p> <p>The current landscape detail will be sufficient to screen the fence at its current setback, which has been marginally setback to be 4m -6m.</p> <p>The proposed height of the shade canopies at 7.5m is considered sufficient to soften the appearance of the frontage.</p> <p>No change has been made to the standard gable form of the store entry.</p>

**Table 12 – Design Review Panel comments**

It is considered that the Applicant has not adequately addressed the concerns of the Design Review Panel in the design currently before the Panel, particularly in terms of the proposed

elevated service road which will have an adverse impact on the amenity of nearby residential dwelling in terms of noise emission. The design is required to be amended to relocate all loading/unloading bays at the north eastern part of the proposed building to the west elevation of the building fronting Denison Street, and away from any nearby residential receivers and delete the proposed elevated service road.

## **8 Conclusion**

Development Application No. 11/224 seeks consent for the Integrated Development Application for the redevelopment of the site for a Bunnings Hardware and Building Supply centre in the following manner:

- Demolition of the existing structures on site;
- Consolidation of the existing allotments and subdivision into four new allotments;
- Construction of a hardware and building supplies centre encompassing a warehouse, covered outdoor nursery, bagged goods store, timber trade sales area, café, office, amenities, service road/ramps and loading areas;
- Provision of 421 undercroft car parking spaces;
- Construction of a signalised intersection and associated roadwork to facilitate access, including land dedication to Council for a left turn lane from Denison Street;
- One (1) 13.6 metre high Pylon sign located at the south-eastern corner of the proposed signalised intersection, three (3) painted business identification signs being one located on the northern elevation, one on the western elevation and one on the southern elevation together with two (2) “hammer” logos, being one located on the northern elevation and one located on the southern elevation;
- Proposed hours of operation are 7:00am to 9:00pm, Monday to Friday and 8:00am to 6:00pm Saturday, Sunday and Public Holidays.

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. A total of forty-seven (47) submissions and two petitions containing a total of 254 signatures (some duplicates) were received following the extensive public exhibition process. The design currently before the Panel has been the subject of a design review process. It is the opinion of the Council as the planning body that the proposed development does not adequately address the issues raised in the submissions and on this basis the proposed development in its current form is not supported.

The application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Local Environmental Plan 1995* and it is recommended to the Panel that the application be refused, for the reasons set out in this report.

## **RECOMMENDATION**

In view of the preceding comments, it is RECOMMENDED that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the Consent Authority, resolve to:

- (a) Refuse Development Application No. 11/224 for the redevelopment of the site for a Bunnings Hardware and Building Supply centre, for the reasons set out in this report.

**Premises: 140-148 Denison Street & 25-49 Smith Street, Hillsdale**

**DA No: 11/224**

## **REASONS FOR REFUSAL**

1. The proposed development fails to satisfy the requirements of Clause 101(2)(b) of SEPP Infrastructure 2007, in that the proposed development will adversely affect the safety, efficiency and ongoing operation of the classified roads, namely Denison Street and Wentworth Avenue as a result of significant traffic generation and cumulative traffic impact (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(i)).
2. The proposed development fails to satisfy the aims of the SEPP55 – Remediation of Land and the requirements of Clause 7 of SEPP 55 – Remediation of Land, in that the applicant has not provided adequate information relating to the contamination of the subject site and the extent and method of remediation, which is required (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(i)).
3. The proposed development fails to satisfy the objectives of Clause 5(3)(a), (b), (c) and (d) of Botany Local Environmental Plan 1995, in that the proposed development will have an adverse impact on the locality in terms of excessive traffic generation, adverse economic impact, impacts on the pedestrian environment, access and movement in the locality and the incompatibility with the adjoining residential land uses. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(i)).
4. The proposed development fails to satisfy the primary objective and the secondary objective (a) and (b) of the 4(a) Industrial zone pursuant to Clause 10 of Botany Local Environmental Plan 1995 in that it will have an adverse economic impact on the locality, will not improve the amenity of the area as it will give rise to noise emission, excessive traffic generation on local residential streets, including classified roads being Wentworth Avenue and Denison Street and the intersection of these streets, and will give rise to unacceptable levels of risk, being individual risk, societal risk and risk arising from the transportation of dangerous goods. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(i)).
5. The proposed development fails to satisfy Clause 17 of Botany Local Environmental Plan 1995 in that the proposed development will generate excessive traffic and will contribute to adverse cumulative traffic impacts on the local road network; does not accommodate efficient loading and unloading areas; its landscape design will not adequately improve the appearance of the development, enhance the streetscape or

add to the amenity of the adjoining area; the proposed development will not protect the visual and aural amenity of the area; the proposed development does not provide a high level of environmental amenity and is not compatible with adjoining land uses and development; risk to human health, property of the natural environment is not minimised and the provisions of SEPP 55 are not complied with. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(i)).

6. The proposed development fails to satisfy Clause 38 of Botany Local Environmental Plan 1995 in that the proposed development will adversely affect existing Sydney Water stormwater assets on the subject site. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(i)).
7. The proposed development fails to satisfy the Section 4 – Objectives of the Plan, Section 7 – Land Use Controls and Section 8 – Marginal Sites as required by Development Control Plan No. 30 - Botany Randwick Industrial Area Land Use Safety Study, in that the proposed development has not provided sufficient information ensure the development will not adversely impact the surrounding development, has not addressed the cumulative risk to the community and the risk arising from dangerous goods transportation on Denison Street nor the existing locality. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(iii)).
8. The proposed development fails to satisfy the requirements of Development Control Plan No. 33 – Industrial Development, in that the proposed development has provided insufficient information ensure the development will not adversely impact the surrounding development, has not addressed the cumulative risk to the community and the risk arising from dangerous goods transportation on Denison Street. The proposed development is not compatible with surrounding land uses and the proposed development does not comply with the requirements of SEPP55-Remediation of Land. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(iii)).
9. The proposed development fails to satisfy the requirements of Development Control Plan No. 34 – Contaminated Land, in insufficient information has been submitted relating to the remediation of the subject site. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(iii)).
10. The subject site is not suitable for the proposed development as the proposed development will be incompatible with surrounding land uses; the proposed development will have an adverse economic impact on the locality; the proposed development will create significant traffic generation and contribute to cumulative traffic impacts, which cannot be accommodated; the proposed development will have an adverse impact on the residential amenity of the locality by way of noise emissions; the subject site is affected by hazard risk from hazardous land uses of the locality and risk arising from dangerous good transportation; the subject site is contaminated. (Environmental Planning & Assessment Act 1979 Section 79C(1)(c)). (Environmental Planning & Assessment Act 1979 Section 79C(1)(e)).

11. The proposed development fails to satisfy Section 2.2 Aims and Objectives of the Plan of the Off Street Parking Development Control Plan in that proposed development will increase traffic generation in the local area and will impact on the amenity of the area. (Environmental Planning & Assessment Act 1979 Section 79C(1)(a)(iii)).
12. The proposal is contrary to the public interest in that some issues raised in public submissions are relevant to other reasons for refusal (*Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979*).
13. The proposed development is not in the public interest due to adverse environmental impacts on the natural and built environment in the locality, its incompatibility with surrounding land uses and that the subject site is adversely affected by levels of individual risk, societal risk and risk arising from dangerous good transportation, which is a matter of significant public interest. (Environmental Planning & Assessment Act 1979 Section 79C(1)(e)).

## **ANNEXURE 1**

**Strategic Process to allow the following at No.25-49 Smith Street and No.132-148 Denison Street, Hillsdale:**

1. Remove the land from the SEPP (Major Development) 2005;
2. Revert the land back to its original land use zoning 4(a) General Industrial under BLEP 1995; and
3. Permit additional land uses to apply to the land under Schedule 2 of the BLEP 1995.



	Sequence of Events	Council Response to Events
1	On the <b>1 March 2010</b> Council receives a Planning Proposal from Bunnings seeking Gateway determination from the Department of Planning & Infrastructure (DoPI) to amend SEPP (Major Development) 2005 and Council's BLEP 1995.	<i>The Planning Proposal is to enable the redevelopment of No.25-49 Smith Street &amp; 132-148 Denison Street, Hillsdale for a hardware and building supplies warehouse with associated car parking.</i>
2	A confidential report was considered by Council's Development Committee on the <b>17 March 2010</b> and supported by full Council on the <b>22 March 2010</b> . The report was confidential at Bunnings' request due to commercial implications.	<p><i>The Council determined:</i></p> <ul style="list-style-type: none"> <li>(1) <i>Council note the actions of Council Officers to date in referring the Gateway Planning Proposal prepared by Bunnings Group Limited to the Department of Planning for their consideration in light of the land use zoning implications under State Environmental Planning Policy (Major Development) 2005 Three Ports Amendment;</i></li> <li>(2) <i>That the planning proposal prepared by Bunnings Group Limited be forwarded to Council's LEP Standards and Urban Design Consultant, Neustein Urban Planning Design Architecture for an independent review and that this review be subject to a separate fee proposal from Neustein Urban;</i></li> <li>(3) <i>Council resolve to prepare a planning proposal in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 if recommended by Neustein Urban Planning Design Architecture as part of their independent review;</i></li> <li>(4) <i>That Council authorise the General Manager, on behalf of Council, to submit the planning proposal to the Minister for Planning for a Gateway determination under Section 56 of the Environmental Planning and Assessment Act 1979; and</i></li> <li>(5) <i>Council Officers request that Bunnings Group Limited be subject to Council's standard rezoning application fees.</i></li> </ul>
3	On the <b>4 April 2010</b> Council receives the independent review from Neustein Urban Planning.	<i>The report recommends Council should take forward the rezoning by recommending it to the Department of Planning. It was also recommended that the proposal be amended however that all access be restricted to Denison Street, closing Smith Street at its junction with Denison Street and requiring a better architectural solution than that evident at the comparable facility at Mascot.</i>
4	On the <b>12 April 2010</b> Council's General Manager informs the DoPI of the Council resolution, the appointment of Neustein Urban Planning and recommendations from the independent review.	<i>Furthermore Council clarifies its intention to support a Planning Proposal. The letter requests that the Department inform Council of its support for the Planning Proposal before Council embarks on any further work in preparing the Gateway application.</i>
5	On the <b>20 May 2010</b> a Planning Proposal is submitted to the Minister for Planning for Gateway determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).	
6	On the <b>30 September 2010</b> a meeting occurred between Council Officers and DoPI. Clarification was sought by the DoPI as to the allotments which formed part of the rezoning and the Council request that traffic access be restricted to Denison Street.	<p><i>Clarification was provided as follows:</i></p> <ul style="list-style-type: none"> <li>○ <i>Bunnings and the surrounding land as agreed to will be removed from SEPP (Major Development) 2005 by the Department of Planning;</i></li> <li>○ <i>The zoning will revert back to the zoning under the Botany</i></li> </ul>

		<p><i>Local Environmental Plan 1995 as amended – 4(a) Industrial Zone, with Clause 16 of the LEP applying to development; and</i></p> <ul style="list-style-type: none"> <li>○ <i>The Department will amend the Botany LEP 1995 to allow a “hardware and building supplies” on the subject site.</i></li> <li>○ <i>Vehicular access to the site would be restricted to Denison Street.</i></li> </ul>
7	On 8 October 2010 Department requested additional clarification on the allotments affected by the amendment to the SEPP.	<i>Council Officer replied via email dated 11 October 2010 as to the sites affected.</i>
8	On the <b>13 October 2010</b> the DoPI provide Council Officers with a copy of the draft amendments prepared by Parliamentary Counsel.	<i>The amendments include State Environmental Planning Policy (Major Development) 2005 Schedule 3 Part 20 – Three Ports Site and the Botany Local Environmental Plan 1995.</i>
9	On the <b>29 October 2010</b> amendments gazetted to the Botany LEP 1995 and SEPP (Major Development) 2005 via Government Gazette No.123.	<p><i>State Environmental Planning Policy (Major Development) Amendment (Port Botany) 2010 was gazetted which:</i></p> <ul style="list-style-type: none"> <li>(1) <i>Amended SEPP (Major Development) 2005 to remove the subject site from the SEPP; and</i></li> <li>(2) <i>Amended the Botany LEP 1995 by:</i> <ul style="list-style-type: none"> <li><i>Inserting in alphabetical order in Schedule 1 Definitions:</i> <ul style="list-style-type: none"> <li>(a) <i>hardware and building supplies means a building or place the principal purpose of which is the sale or hire of goods and materials, including household fixtures, timber, tools, paint, wallpaper, plumbing supplies, landscaping supplies or the like, that are used in the construction and maintenance of buildings (and adjacent outdoor areas).</i></li> </ul> </li> <li><i>Inserting at the end of Schedule 2:</i> <ul style="list-style-type: none"> <li>(b) <i>Land at Hillsdale, being Lot B, DP 406437 and Lot 7, DP 24380, known as 148 Denison Street; Lots 6 and 7, DP 22617, known as 45 Smith Street; Lot A, DP 24380, Lots 1–6, DP 24380, Lot B, DP 323369 and Lots 1–4, DP 373787, known as 49 Smith Street; Lots 3–5, DP 22617, known as 51–55 Smith Street; Lot 2, DP 22617, Lot 9, DP 24380 and Lot 1, DP 660951, known as 57 Smith Street—hardware and building supplies, with a maximum building height of 19 metres from natural ground level and all access to and from the site restricted to Denison Street, Hillsdale.</i></li> </ul> </li> </ul> </li> <li>(3) <i>Schedule 2 of the Botany LEP 1995 now allows the following additional use:</i> <ul style="list-style-type: none"> <li>(a) <i>Land at Hillsdale, being Lot B, DP 406437 and Lot 7, DP 24380, known as 148 Denison Street; Lots 6 and 7, DP 22617, known as 45 Smith Street; Lot A, DP 24380, Lots 1–6, DP 24380, Lot B, DP 323369 and Lots 1–4, DP 373787, known as 49 Smith Street; Lots 3–5, DP 22617, known as 51–55 Smith Street; Lot 2, DP 22617, Lot 9, DP 24380 and Lot 1, DP 660951, known as 57 Smith Street—hardware and building supplies, with a maximum building height of 19 metres from natural ground level and all access to and from the site restricted to Denison Street, Hillsdale.</i></li> <li>(b) <i>Hardware and building supplies means a building or place the principal purpose of which is the sale or hire of goods and materials, including household fixtures, timber, tools, paint, wallpaper, plumbing supplies, landscaping supplies</i></li> </ul> </li> </ul>

		<p><i>or the like, that are used in the construction and maintenance of buildings (and adjacent outdoor areas).</i></p> <p><i>The above amendment to BLEP1995 is consistent with the existing Clause 16 of the Botany LEP 1995.</i></p>
<b>10</b>	Letter dated 7 December 2010 from the Department to Council advising that due to the recent review and the resulting amendments to the SEPP, the Department has withdrawn the planning proposal	Please refer to <b>attached</b>