

**THIRD SUPPLEMENTARY REPORT TO THE JOINT REGIONAL
PLANNING PANEL
(Sydney East Region)**

JRPP No	2012SYE009
DA Number	DA11/224
Local Government Area	City of Botany Bay
Proposed Development	<p>Integrated Development Application for the redevelopment of the site for a Bunnings Hardware and Building Supply centre in the following manner:</p> <ul style="list-style-type: none"> ▪ 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.
Street Address	140-148 Denison Street and 25-49 Smith Street, Hillsdale
Applicant/Owner	Bunnings Group Limited
Number of Submissions	Nil
Regional Development Criteria	CIV of \$26,120,000
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment;

	<ul style="list-style-type: none"> • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to development applications; • State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64); • State Environmental Planning Policy No. 55 – Contaminated Land; • State Environmental Planning Policy (Infrastructure) 2007; • Botany Local Environmental Plan (LEP) 1995; • Botany Development Control Plan 2013;
List all documents submitted with this report for the panel's consideration	Amended Draft Schedule of Conditions
Recommendation	Refusal
Report by	Christopher Mackey – Senior Assessment Planner

BACKGROUND

On the 4 September 2013, the Joint Regional Planning Panel – Sydney East considered a planning assessment report to refuse Integrated Development Application No. 11/224. The Panel resolved to defer determination, subject to the applicant submitting amended plans to relocate the loading dock away from residential properties and provide a survey of traffic conditions of Boonah, Smith and Fraser Streets.

On the 6 November 2013 the Joint Regional Planning Panel – Sydney East considered the Amended Supplementary Assessment Report to refuse Integrated Development Application No. 11/224. The Panel resolved to defer determination, subject to the applicant providing amended plans. Council publicly exhibited the amended plans and Council arranged an independent review of the applicants acoustic report.

In February 2014, both Council and the NSW Department of Planning & Infrastructure agreed to reconvene the QRA of Dangerous Goods along Denison Street Committee.

On 11 February 2014, Council informed the JRPP of its commitment with the Department to undertake a QRA of the movement of Dangerous Goods along Denison Street and recommended that determination of the application be deferred until the QRA is completed.

On 12 February 2014, the JRPP advised Council that it agreed with the recommendation to defer determination of the application until the QRA has been completed.

The Department briefed Council on the 23 June 2014 and then briefed the JRPP on the 16 July 2014 in relation to the preliminary findings of the Study, however at that time, the Department had not released the Draft or Final Study.

On the 14 August 2014, the Joint Regional Planning Panel – Sydney East considered a Further Supplementary Assessment Report for Integrated Development Application No. 11/224 for the proposed Bunnings Hardware and Building Supply centre.

The Panel made the following decision:

1. *The Panel resolves unanimously to defer the determination of the application until the Final Report on the Quantitative Risk Assessment by Scott Lister is published. Provided that the report finds that the risk posed by the proposal on this site is within acceptable limits, and subject to paragraph 2 below, the Panel is minded to approve the application. The Panel is aware that a Draft Report is to be published in the next few days for consultation with Botany Council and the community, however believes that it can rely only on the findings of a Final Report, rather than a Draft Report, which might be changed as a result of consultation.*
2. *As concerns other aspects of the proposal, the Panel is in favour of approving the application, subject to the following:*
 - a. *The acoustic roofing is to be extended to continue along the entire 5 metre high acoustic wall on the eastern boundary;*
 - b. *A condition is added requiring the dedication of the open space offered by the Applicant;*
 - c. *A condition is added specifying the hours of operation;*
 - d. *A condition is added limiting the number of trucks to four (4) per hour and the number of forklifts operating to four (4) per hour, as indicated by the applicant in the application;*
 - e. *A condition is added to require that no goods are stored externally on the northern side of the building;*
 - f. *The two conditions agreed to by the two acoustic consultants in their joint report are added to the conditions;*
 - g. *The conditions be reviewed generally for consistency, clarity and avoidance of repetition;*
 - h. *A condition is added requiring that the forklifts use “broadband” alerts rather than traditional beepers;*
 - i. *The condition requiring traffic calming devices is expressed to require the installation of these devices before the Occupation Certificate.*
3. *Once the Final Report on the Quantitative Risk Assessment is published, the Panel requests a supplementary report from the Council assessment officer as revised conditions. The Panel will then determine the application by electronic means unless it considers that another public meeting is required.*

THE FINAL DANGEROUS GOODS TRANSPORTATION QUANTITATIVE RISK ASSESSMENT (FINAL QRA STUDY)

Council received the Final QRA Study (the Study) from NSW Department of Planning & Environment on the 13 February 2015. The report prepared by Scott Lister is identified as

Issue 03, dated 12 February 2015. The Study incorporates changes made following consultation with community stakeholders and following submissions being made to the Department on the Draft QRA.

Council has engaged Peter Dryden Consulting to undertake a review of the Study and this was received on the 5 March 2015. Further submissions from community stakeholders have also been received, including NSW Ports, which is discussed in this Supplementary Report.

The key recommendations from the Study are:

- While this QRA found that the risk criteria are met at the Bunnings site, it is recommended that the transport of dangerous goods in the study area be monitored with a view to updating this study at some future date, or in the event of a significant increase in the transport of dangerous goods in the study area.
- Botany Bay City Council should review the adequacy of existing emergency evacuation arrangements for Hensley Athletic Field to ensure that appropriate mitigation measures are implemented. Consideration should also be given to possible egress restrictions imposed by current fencing arrangement.
- Industrial or port related developments that would introduce significant increases in DG traffic around the BIP should include an assessment of the DG transport risks posed to surrounding land uses.
- City of Botany Bay Council (CBBC) should review its planning controls for the area, in light of the QRA; to ensure new development does not result in a significant exposure to risks from dangerous goods transport incidents. For example, it may be desirable to discourage intensification of residential development within areas with an individual fatality risk in excess of one chance in a million, as indicated in HIPAP 4, Section 2.5.2.1.
- Bunnings should consider the risks presented by the transport of Dangerous Goods in the facility design and preparing emergency response plans.

A copy of the Study is attached as **Attachment 1**.

On the 5 March 2015, Council's Risk Consultant provided the following comments on the Study:

1. *On the information available it would appear that the QRA provides a reasonable basis for resolving the outstanding risk issues relating to the Bunnings proposal;*
2. *Based on the current operations on the BIP site and current levels and mix of Dangerous Goods movements on Denison Street, the applicable individual fatality risk criterion for commercial use (5 in a million per year) is satisfied for the Bunnings site;*
3. *The societal risk analysis shows the risk levels falling within the ALARP region and thus indicates that the criteria are satisfied provided that all reasonably practicable measures have been taken to minimise risk levels. As indicated above, it is my view that this would require that the building design should minimise vapour/gas cloud entry from the direction of the BIP and Denison Street, particular to below grade areas, and provide for emergency egress from the north eastern corner of the site. Emergency planning for the development should rigorously address the consequences*

and response to credible hazardous materials incidents on Denison Street and the BIP. It would be appropriate for any approval of the Bunnings development to be subject to conditions covering these measures;

4. *While the study shows that, with the proposed conditions in place, risk should not be an impediment to the approval of the Bunnings development, there is still an important area of uncertainty regarding risk levels at the site. The study is based on the current levels and mix of Dangerous Goods but these could change in the future, particularly as Denison Street is designated as a Port access road and its unlimited use for this purpose is protected by legislation. This could mean that future growth in bulk and containerised Dangerous Goods to and from the Port might increase and change substantially. This, possibly together with changes in movements to and from the BIP, could result in increases in risk levels at the Bunnings site which would mean that the relevant land use safety criteria were no longer satisfied. **It would be appropriate, therefore, for the Dangerous Goods traffic and risk levels to be kept under review and, if criteria levels are significantly exceeded, for the use of the Bunnings development to be discontinued. A condition to this effect should be attached to any consent for the Bunnings development;***
5. *With regard to risk related planning and development control, it is understood that Council is proposing the establishment of the working group with Planning and other authorities with roles which are relevant to determining future development and activities in the area.*
6. *It would be appropriate for the membership of the group to include Randwick Council as the bulk liquids port areas fall within their area and, importantly, Sydney Ports as the best possible information on port related Dangerous Goods traffic, both current and projected, would be essential to the task.*
7. *The working group would need to consider the cumulative risks from all four sources: the BIP; road, rail and pipeline transport through the area; the bulk liquids facilities (including the shipping transfer operations); and, the container terminal operations. Current and projected maximum levels of activities including, in particular, the worst credible case Dangerous Goods mixes from the container operations, would need to be considered. There would also need to be an updating mechanism to take account unforeseen and cumulative incremental changes.*
8. *In order to deal with societal risk, future planning and development control will need to be based on population densities, in addition to recognising land use constraints based on the individual fatality and injury risk levels. One possible approach, as mentioned above, would be to limit density on the basis of bands of individual fatality risk. For example, maximum densities could be specified for the lands between the 1 in a million and, say, 0.5 in 10 million and between 0.5 in 10 million and 1 in 10 million contours and perhaps out to the 1 in 100 million. The efficacy of this approach could then be tested by feeding in the hypothetical population numbers to the risk modelling to determine the societal risk outcomes with those populations.*
9. *In this process, careful consideration would need to be given to the treatment of populations within the BIP site as the progressive changes to activities on that site*

could invalidate the historical exclusion of the on site population from societal risk assessment of the impacts of BIP operations.

ASSESSMENT

As noted by Council's Risk Consultant in Point 4 above, the QRA is based on information and data available at the time of being published. The QRA states that the ROAR data undertaken in 2012 has been quantified together with the data presented in the BIP QRA 2012, however since this time, the through put of bulk liquids movements from Port Botany has increased significantly. The issue remains that Denison Street is designated as a Port Botany access road and its unlimited use for this purpose is protected by legislation, as discussed below. It is inevitable that in the near future, dangerous goods transportation on Denison Street will exceed those levels stated in the QRA.

In 2012, the NSW Government removed any limit on containers or bulk liquid trade at Port Botany in order to support the long term growth in trade at the Port and the State's economy. A clause to this effect was included in the Ports Assets (Authorised Transactions) Act 2012.

NSW Ports have further advised that their following concerns in relation to the Draft QRA dated September 2014, have not been adequately addressed in the Final QRA:

The draft Report acknowledges the Port Botany Expansion (PBE) PHA undertaken in 2003 considered the transportation risks associated with the transportation of DGs from the new container terminal (i.e. SICTL) and the whole Port Botany Port precinct. It should be noted that operations at the new terminal commenced in November 2013 after developing stage 1 of their development. SICTL are currently operating at a container throughput of approximately 89,000 TEUs (November 2013 to October 2014) of the assessed 1.6 million TEU capacity for this site. Therefore the current road network does not include the approved DG truck movements from the new container terminal or the other container terminals based on a container throughput of 3.2 million [Note: current container throughput is at approximately 2.3 million TEUs]. It is therefore unclear whether the draft Report included these future truck movements and DG classes on Denison St as part of assessing the risks associated with the Bunnings development.

The Shell Oil Refinery at Clyde closed production in 2012 and is now only a fuel import terminal. The Caltex Refinery at Kurnell closed in 2014 and is now only a fuel import terminal. The NSW Government forecasts indicate that annual container growth (through Port Botany alone) could be as high as 7%, reaching 3.2 million TEU's (twenty foot equivalent containers) by 2018¹. Further forecast estimates are that this will increase to 8.4 million TEU's by 2045. Of these, at least 3% (ie. 252,000 TEU's) are dangerous goods containers, a significant (almost 200%) increase from the 89,000 TEU's quoted in the Study, which the Study adopts from the Ports Expansion QRA.

Any increase in Dangerous Goods Transportation along Denison Street from that identified in the Study will alter the risk levels at the Bunnings site, making the site unsuitable for the proposed development. Increases in DG transportation on Denison Street are likely to occur from movement increases from Port Botany in the near future and will continue to increase in the long term, subject to the state of the NSW economy. Any future uses either on or in the

vicinity of Denison Street that have potential to jeopardise the function of Denison Street as a Dangerous Goods Route, are not supported.

Council's Risk Consultant suggests that a condition be imposed on any consent granted that if there is a significant exceedence in risk criteria levels for the site, that the Bunnings use should cease. However it is more appropriate to refuse the application, where there is no certainty regarding the sites suitability for the use in the future.

PREVIOUS PANEL RECOMMENDATION

On the 14 August 2014, the Joint Regional Planning Panel – Sydney East resolved that it was of the view to approve the development application, subject to the

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 - e. *A condition is added to require that no goods are stored externally on the northern side of the building;*
 - f. *The two conditions agreed to by the two acoustic consultants in their joint report are added to the conditions;*
 - g. *The conditions be reviewed generally for consistency, clarity and avoidance of repetition;*
 - h. *A condition is added requiring that the forklifts use “broadband” alerts rather than traditional beepers;*
 - i. *The condition requiring traffic calming devices is expressed to require the installation of these devices before the Occupation Certificate.*
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In respect of Point 2 above, the amended draft Conditions are attached, however each request is addressed as follows:

- a. Condition 30 requires the extension of the acoustic roof;
- b. Condition 60(b) requires the dedication of Lot 3 as a public reserve;
- c. Condition 79, requires further remediation/Site Audit Statement for proposed Lot 3 to be made suitable for use as public recreation;
- d. Condition 86 specifies the hours of operation;
- e. Condition 102(b) limits the number of trucks;
- f. Condition 88(a) restricts external storage;
- g. Condition 103 are the agreed acoustic consultant conditions, including the forklift broadband alerts;
- h. The conditions have been reviewed for clarity and avoidance of repetition;
- i. Condition 102 does not explicitly require traffic calming devices. The condition relies on the agreed recommendations of the traffic consultants assessment required in Condition 6, which will only be prepared after the Bunnings use has commenced and which may not require traffic calming devices. Condition 102 is imposed in the event that devices are required and only requires the applicant to maintain the devices for 12 months after they have been installed. Therefore, this condition remains as an ongoing condition;
- j. Conditions 13 and 14 have been amended so that the Section 94 contribution rates reflect the current indexed rates.

RECOMMENDATION

With respect and acknowledgment of the previous resolution of the Panel, which was of the view to approve the development application, it is recommended that despite the findings of the Final QRA and in light of information available, the Panel refuse Development Application No. 11/224 for the reasons outlined below:

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 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 objectives of Clause 5(3)(a), (b), (c) and (d) and 5(5)(a) and (c) 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 is incompatible with the adjacent dangerous goods route on Denison Street. (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, gives 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 in the future will be exposed 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 and regional road network; does not provide a high level of environmental amenity, is not compatible with adjoining land uses and development and in the future will be exposed 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)).
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 objectives and controls of Part 6.2.8 – Banksmeadow Industrial Precinct of Botany bay Development Control Plan 2013 in that the proposed development will be exposed 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)(iii)).
8. The subject site is not suitable for the proposed development as there is no certainty that the site will be suitable for the proposed development in the future as a result of the inevitable increases in dangerous goods transportation on Denison Street; 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 and the proposed development will have an adverse impact on the residential amenity of the locality by way of noise emissions. (Environmental Planning & Assessment Act 1979 Section 79C(1)(c)). (Environmental Planning & Assessment Act 1979 Section 79C(1)(e)).
9. The proposed development is not in the public interest due to adverse environmental impacts on the natural and built environment in the locality, it will adversely impact on the function of Denison Street as a designated Dangerous Goods Route and on the function of nearby intersections including the intersection of Denison Street and Wentworth Avenue; it is incompatible with surrounding land uses and that the subject

site will be adversely affected by levels of risk arising from dangerous goods transportation in the future, which is a matter of significant public interest. (Environmental Planning & Assessment Act 1979 Section 79C(1)(e)).