

SYDNEY EAST JOINT REGIONAL PLANNING PANEL

Meeting held at Christies Conference Centre on Wednesday 1 April 2015 at 4.00pm

Panel Members: John Roseth (Chair), Sue Francis, Julie Savet Ward, Peter Fitzgerald, Ben Keneally

Apologies: Declarations of Interest:

Determination and Statement of Reasons

2012SYE009 - Botany Bay - DA11/224 [140-148 Denison Street and 49 Smith Street, Hillsdale] as described in Schedule 1.

Date of determination: 1 April 2015

Decision:

The panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

Panel consideration:

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

Reasons for the panel decision:

1. The Panel notes the recommendation of the Third Supplementary Report to refuse the application; however, the Panel rejects that recommendation and approves the application for the following reasons.
2. On 14 August 2014 the Panel made a resolution in relation to this application. A fair reading of that resolution suggests that the Panel would approve the application subject to a number of additional conditions and the final Quantitative Risk Assessment (QRA) report reaching a finding that the risk of locating the Bunnings store along Denison Street (a Dangerous Goods Route) is acceptable. The additional conditions have now been formulated. The final QRA report has been published with the finding that the risk of locating the Bunning store on the site is acceptable. The decision to approve the application is therefore the logical consequence of the resolution of 14 August 2014.
3. While the Third Supplementary Report provides nine reasons for refusal, those nine reasons are, in reality, only one reason: namely that the traffic of dangerous goods on Denison Street may increase in the future. The report does not quantify the future increase that might occur, nor at what point the risk of locating Bunnings on the site may become unacceptable. A decision to refuse on the basis of future risk is not supported by credible expert evidence.
4. The Panel notes that the QRA study states unequivocally that the risk, including the societal risk, of locating the Bunnings store on the site is acceptable.

Conditions: The development was approved subject to the conditions annexed to the Third Supplementary Report, except as follows:

Condition 30 is amended as set out in the addendum to the draft conditions handed to the Panel on 1 April 2015, subject an amendment to subsection (c) last paragraph to read "This area must be used...to allow...". Condition 87 is amended as set out in the addendum to the draft conditions handed to the Panel on 1 April 2015.

Delete Condition 103.

Amend Condition 102(c) by adding a sentence at the end: "Forklifts are to be limited to 4 movements per hour outside the acoustic enclosure."

Delete Condition 85(c).

Amend Condition 60(b) as follows: add at the end of the first sentence "reserve as shown on Plan ref 1820LP-01, dated 19 August 2011." Further amend to include the following after the words "site audit statement"; "and, if required, a remediation action plan..."

Delete Condition 79.

Panel members:

 John Roseth (chair)	 Sue Francis	 Julie Savet Ward
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 Peter Fitzgerald	 Ben Keneally	
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SCHEDULE 1

1	JRPP Reference – 2012SYE009, LGA – Botany Bay Council, DA 11/224
2	Proposed development: Integrated Development Application for the redevelopment of the site for a Bunnings Hardware & Building Supply Centre
3	Street address: 140-148 Denison Street and 49 Smith Street, Hillsdale
4	Applicant/Owner: Applicant: Bunnings Group Limited
5	Type of Regional development: Capital Investment Value > \$20M
6	Relevant mandatory considerations <ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979 • Environmental Planning & Assessment Regulation 2000 • State Environmental Planning Policy No 64 – Advertising and Signage (SEPP 64) • State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) • State Environmental Planning Policy (Infrastructure) 2007 • Botany Local Environmental Plan 1995 • Botany Development Control Plan 2013 • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. • The suitability of the site for the development. • Any submissions made in accordance with the EPA Act or EPA Regulation. • The public interest.
7	Material considered by the panel: Council Third Supplementary Assessment Report dated: 25 March 2015 Written submissions during public exhibition: 30
8	Meetings and Site inspections by the panel: Panel Meetings: 4 September 2013, 6 November 2013 and 14 August 2014.
9	Council recommendation: Refusal
10	Conditions: Attached to council assessment report