

Assessment Report and Recommendation Cover Sheet

JOINT REGIONAL PLANNING PANEL (Hunter Central Coast)

JRPP No	2015HCC006
DA Number	DA/171/2015
Local Government Area	Wyong Shire Council
Proposed Development	Hardware and building supplies development (Bunnings) ancillary food and drink premises including demolition, remediation and ancillary works as well as the consolidation of lots
Street Address	Lot 2 DP 24696 and Lots 5 & 6 DP 738274 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven
Applicant/Owner	Bunnings Properties Pty Ltd - Applicant Mr CP & Mrs CL Beresford - Owner
Number of Submissions	Four (4)
Regional Development Criteria (Schedule 4A of the Act)	Capital investment value of \$24,150,000
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none">• State Environmental Planning Policy (State and Regional Development) 2011• State Environmental Planning Policy (Infrastructure) 2007• State Environmental Planning Policy 55 – Remediation of Land• State Environmental Planning Policy No. 64 – Advertising and Signage• Wyong Local Environmental Plan 2013• Wyong Shire Development Control Plan 2013<ul style="list-style-type: none">- Chapter 2.6 - Signage- Chapter 2.11 – Parking and Access- Chapter 2.12 Industrial Development- Chapter 2.15 – Public Art- Chapter 3.1 Site Waste Management
List all documents submitted with this report for the panel's consideration	Officer's Assessment Report Recommended conditions Plans
Recommendation	Approval
Report by	Tracy Sharp – Senior Development Planner

Assessment Report and Recommendation

WYONG SHIRE COUNCIL

Hunter and Central Coast Joint Regional Planning Panel

DA/171/2015 - Hardware and Building Supplies Development (Bunnings) including Demolition and Remediation

Summary

An application has been received for a hardware and building supplies development (Bunnings) and food and drink premises. The application also includes demolition of the existing structures, remediation of the site and ancillary works. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A) 1979 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Bunnings Properties Pty Ltd
Owner	Mr CP Beresford and Mrs CL Beresford
Application No	DA/171/2015
Description of Land	Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven
Proposed Development	Hardware and building supplies development (Bunnings), food and drink premises including demolition and remediation
Site Area	2.39 hectares
Zoning	IN2 Light Industrial and SP2 Road and Traffic Facility
Existing Use	Formerly a concrete pipe manufacturing facility
Employment Generation	240 construction jobs and 160 full-time and part-time jobs
Value of Works	\$24,150,000

RECOMMENDATION

- 1 That the Joint Regional Planning Panel grant consent to DA/171/2015 at Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven for a hardware and building supplies development (Bunnings) including demolition and remediation of the site subject to the conditions provided in Attachment 1.***
- 2 That Council advise those who made written submissions of the Joint Regional Planning Panel decision.***

PRECIS

Proposed Development	Construction of a hardware and building supplies development (Bunnings) and ancillary café, including demolition, remediation, parking and ancillary works
Permissibility and Zoning	The proposal is permissible as ' <i>hardware and building supplies</i> ' under Wyong Local Environmental Plan (WLEP) 2013
Relevant Legislation	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• State Environmental Planning Policy (State and Regional Development) 2011• State Environmental Planning Policy (Infrastructure) 2007• State Environmental Planning Policy 55 – Remediation of Land• State Environmental Planning Policy No. 64 – Advertising and Signage• Wyong Local Environmental Plan 2013
Current Use	The site currently contains a hardstand area from the previous concrete pipe manufacturing facility.
Submissions	Four (4)

VARIATIONS TO POLICIES

The development proposes the following variations: -

DCP	Chapter 2.12 Industrial Development
Clause	2.2 Site Coverage
Standard	50%
Departure basis	The development proposes a site coverage of 55%.

DCP	Chapter 2.12 Industrial Development
Clause	2.3 Setbacks
Standard	Front Setback - 10m to other roads
Departure basis	The DCP does not have specific requirements in relation to corner allotments with two (2) street frontages. The proposed building has a varied setback to Chelmsford Road with one (1) minor element, the pedestrian entryway portion, having a proposed setback of between 1m to 3.5m to Chelmsford Road. This is a variation of 6.5m to 9m for an 18m length or 9.3% of the overall building length (192m).

DCP	Chapter 2.12 Industrial Development
Clause	2.3 Setbacks
Standard	5m landscaping within front setback
Departure basis	The entryway of the proposed building is set within the required 5m landscaped area. This variation is for 18m in length or 7.5% of the overall site length of 240m on Chelmsford Road.

The proposed variations are discussed in further detail within the report.

THE SITE AND SURROUNDING DEVELOPMENT

The subject site is commonly known as 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven and is legally described as Lot 2 DP 24696 and Lots 5 and 6 DP 738274.

The site subject to this application is located on the western side of Pacific Highway and southern side of Chelmsford Road. The site has a frontage of approximately 80m to Pacific Highway and approximately 240m to Chelmsford Road. The subject site has an overall site area of approximately 2.39 hectares. Vehicle access to the site is currently from Pacific Highway, however access for the proposed development will be from Chelmsford Road.

The site contains the existing structures mainly concrete slabs from the previous concrete pipe manufacturing facility. The site has a fall of approximately 3% from the south eastern corner to Chelmsford Road.

The site sits within an existing mix of industrial and highway related developments with the surrounding properties characterised by a variety of land uses including:

- the vacant Kellogg's buildings to the south; and
- the Millennium Health Club adjacent the western boundary.
- to the north of the site on the other side of Chelmsford Road exists a Before and After School Care, Petbarn, Bristol and Carroll's Timber and Hardware.
- low density residential development is located to the east across the Pacific Highway.
- in addition to these, the Lake Haven Home Mega Centre, which includes the existing Bunnings Warehouse and Lake Haven Shopping Centre, are located diagonally opposite the site to the north-east.

The subject site has been identified as being subject to road widening along its Pacific Highway frontage.

Lot 2 is burdened by an easement containing an electricity substation.



Figure 1 - Aerial photograph



Figure 2 – Zoning plan
THE PROPOSED DEVELOPMENT

The applicant proposes the demolition of the existing structures (concrete slabs) on the site, remediation of the site and construction and use of a hardware and building supplies including ancillary food and drink premises development. It is proposed that the Bunnings warehouse will relocate from the existing facility located diagonally opposite the site within the Lake Haven Home Mega Centre.

The proposed development comprises the following elements: -

- Demolition of all structures on site;
- Bulk Earthworks involving approximately 2.0m of cut at the Pacific Highway boundary to 2.4m of fill across the length of the Chelmsford Road frontage;
- Construction of a Bunnings Warehouse with a total floor space of 16,313 m² including:
 - Main entry – 490m²;
 - Main warehouse – 9,456m²;
 - Timber trade sales area – 3,143m²;
 - Mezzanine office/administration area - 255 m²;
 - Bagged goods canopy - 1,736m²;
 - Outdoor nursery – 1,145m²;
 - Goods receiving canopy;
 - Café selling pre-packaged goods and beverages – 88m²;
- Lifts and travellers;
- Bunnings signage theme to extend across the building:
 - 2 x 12m high pylon signs, 1 on Pacific Highway and 1 on Chelmsford Road with areas of 34.5m²;
 - Building identification wall signage (painted on) with areas of 105m², 116m², 237m² and 257m²;
- Ancillary works including firefighting water supply, landscaping areas and provision of sewer, water and stormwater services;
- Access and car park:
 - Two (2) new access points onto Chelmsford Road requiring the construction of a single lane round-about incorporating Callaghan Drive for the main customer entry and a two-way delivery and timber trade sales access/ramp along the western boundary;
 - Undercroft parking providing 410 spaces including 10 disabled spaces;
- Employment of approximately 160 full time and part time staff;
- Opening hours:
 - Monday – Friday: 6am to 10pm;
 - Saturday, Sunday and Public Holidays: 6am to 7pm;
- Delivery hours: 6.00am to 9.00pm.
- Consolidation of lots

The majority of the building will have a height of approximately 13.4m (undercroft RL to parapet RL) with the maximum height of 15.4m at the top of the entry structure. Due to the topography of the site and proposed earthworks, the building would present as height of 9.5m to Pacific Highway after the site has been cut a maximum of 2m at the Pacific Highway boundary.

The existing Bunnings within the Lake Haven Homemakers Centre has a floor space of 8,318m². The proposed Bunnings has an extra floor space of 7,250m² and will employ an additional 40 staff.



Photomontage 1: Proposed Bunnings, corner of Pacific Highway and Chelmsford Road – looking south



Photomontage 2: Proposed Bunnings (eastern facade) from Pacific Highway – looking north

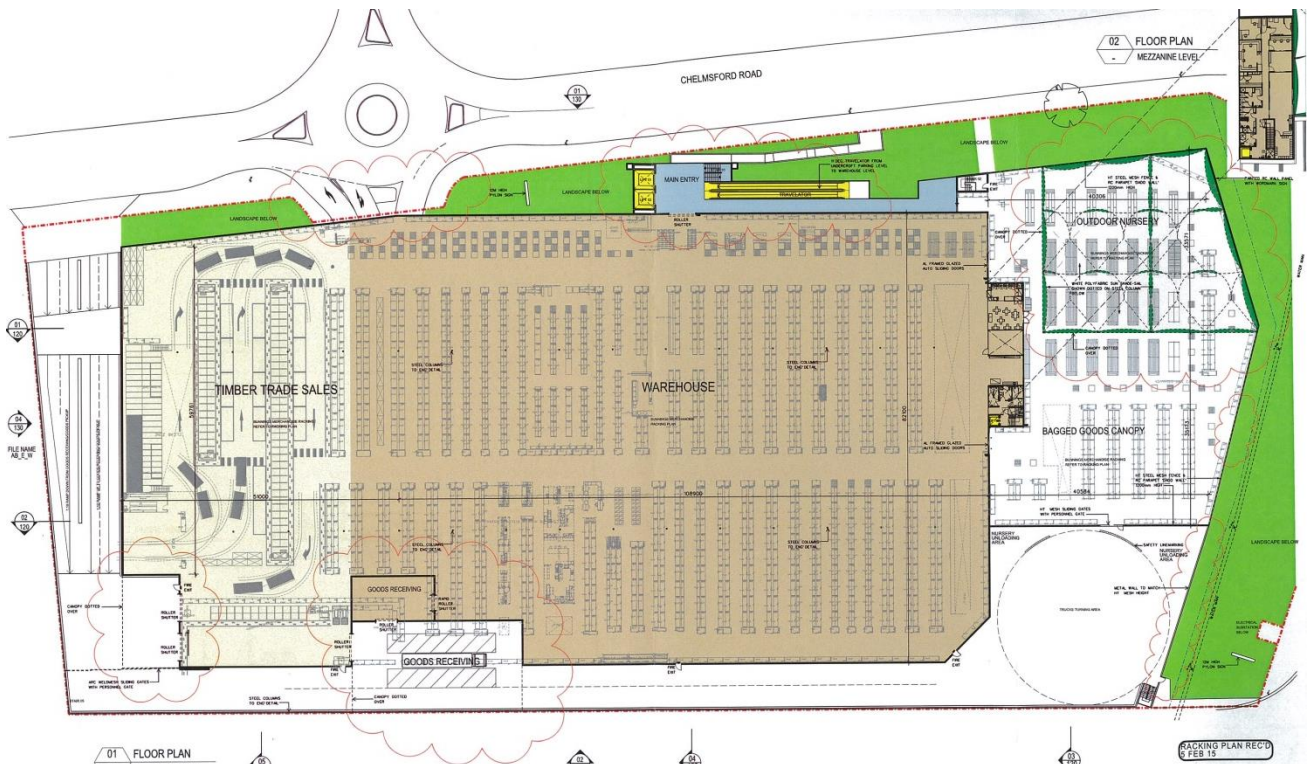


Figure 3 - Plan of proposed Bunnings sales area

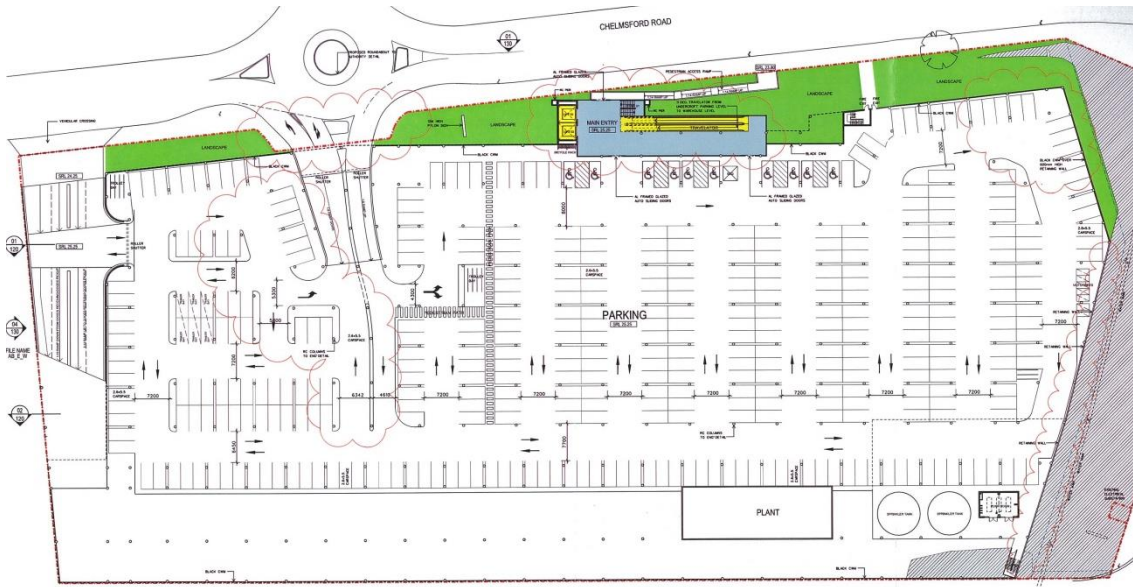


Figure 4 - Plan of undercroft car parking

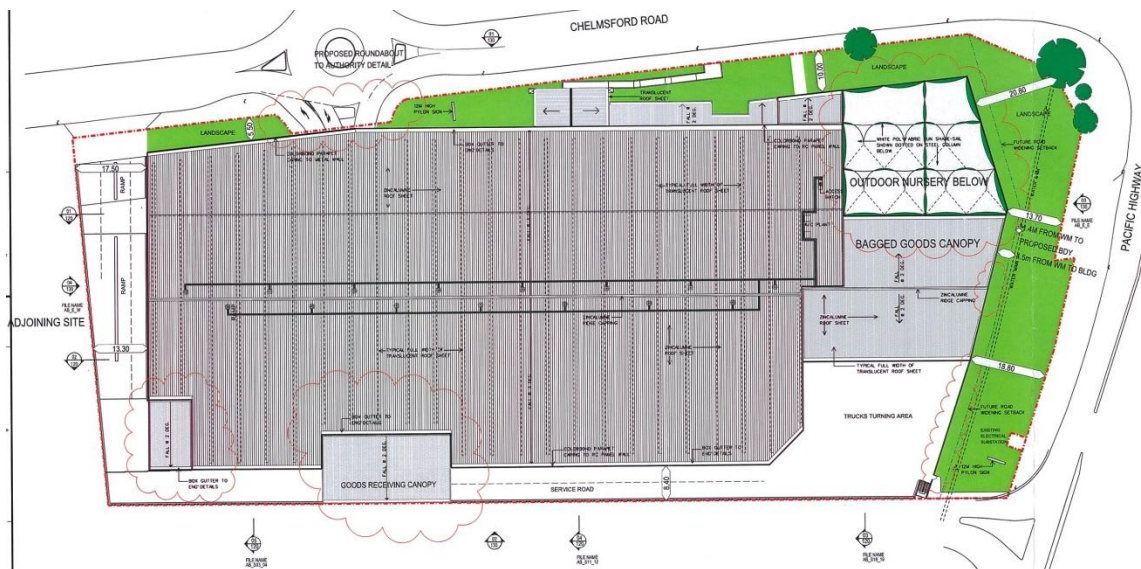


Figure 5 - Plan of roof, outdoor nursery and bagged goods canopies

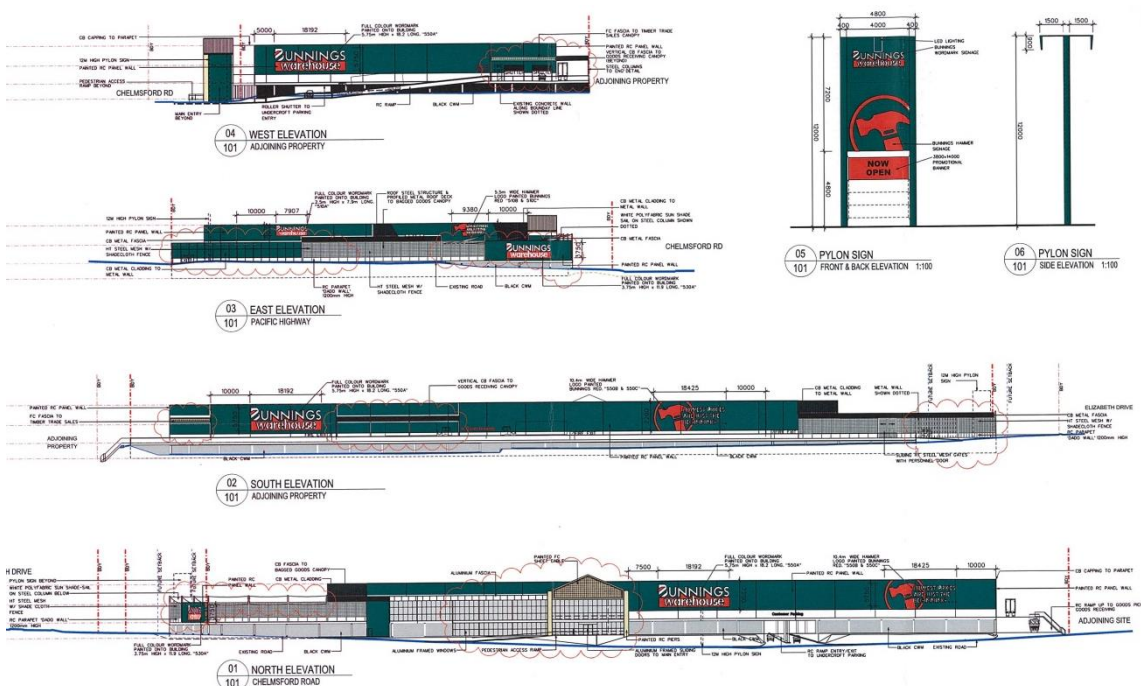


Figure 6 - Plan of proposed elevations

HISTORY

Applications

The following applications have been determined on the subject land: -

- DA/73/75 to erect a workshop (350ft x 90ft) for manufacture of plumbing and drainage material, with ancillary office and storage area” was issued on 4 May 1973.
- DA/75/68 to use bay 3 in an existing factory building as a bottle storage area was issued on 5 May 1975.
- DA/75/258 for a fencing contractor yard and display area was issued on 24 December 1975.
- DA/82/820 for alterations to existing development” was issued on 7 July 1982.
- DA/85/455 for the erection of cement silos and external storage of industrial material was issued on 18 August 1986.
- DA/376/88 for the demolition of existing amenities and construction of new facilities was issued on 22 June 1988.
- DA/1078/88 for factory bays and storage units was issued on 24 February 1989.

Recent Demolition

Prior to the development application being lodged with Council for consideration and determination, various structures on the site were demolished and/or removed without consent of Council of which the matter was investigated by Council’s compliance staff and appropriate action taken.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS

Any submission from the public

Under Wyong Development Control Plan 2013 (DCP) Chapter 1.2 Notification of Development Proposal, the proposed development was advertised and notified to adjoining property owners from 6 March 2015 to 25 March 2015 and was extended to 15 April 2015 following a request from a nearby resident. During this period four (4) submissions were received. The general issues raised in relation to the proposal are included below: -

- Distribution to other Bunnings will generate a lot more traffic.

Comment:

The proposed Bunnings Warehouse will not act as a warehouse or distribution centre as defined under the WLEP 2013. The reference to distribution included within the SEE describes how most Bunnings Warehouses operate, in that they receive their merchandise direct from the manufacturer or distribution centre in Sydney. The goods are then displayed for sale and are not distributed to other stores. The traffic assessment report written by Transport and Traffic Planning Associates indicates that the proposed development will not have any adverse traffic impacts on the road system serving the site. In addition, RMS have indicated that they have no objection to the proposed development and an upgrade of the Pacific Highway/Chelmsford Road intersection does not need to be upgraded.

- Noise from truck turning area, air-conditioning system/roof fans, undercover car park, motor bikes, PA system, forklifts/trucks outside hours of operation.

Comment:

It is anticipated that there will be a certain amount of noise associated with the proposed use. It is noted however that the subject site is zoned IN2 Light Industrial, is within an existing established industrial area, and adjoins the Pacific Highway. A noise assessment by Wilkinson Murray was submitted with the application that included the assessment noise from fixed mechanical plant, patrons, traffic and activities associated with the delivery of goods. This assessment determined that compliance with established site specific noise criteria; compliance with the established sleep disturbance screening criteria and compliance with traffic noise was established at all existing residences within directly opposite the site on the Pacific Highway and Chelmsford Road East. The hours of operation and delivery hours will be conditions so as to minimise impact upon adjoining development.

- Deliveries should be Monday to Friday 8am to 5pm, forklifts should not be used before 8am and after 5pm.

Comment:

The proposed hours of operation are Monday – Friday 6am to 10pm and Saturday, Sunday and Public Holidays 6am to 7pm. It is proposed that all delivery activities including loading and unloading shall be restricted to the hours between 7am to 7pm. The noise assessment by Wilkinson Murray has indicated that the development complies with the required noise criteria. However, the majority of Bunnings within the Hunter and Central Coast areas have hours less than those proposed by this development and therefore it is considered more appropriate to comply with those hours (Monday to Friday 7am to 9pm, Saturday 7am to 7pm and Sunday 7am to 6pm) especially as the development is located opposite existing residential development.

- Pylon sign is not in keeping with residential area and does not comply with Council's requirements.

Comment:

The proposed signage complies with the requirements of SEPP 64 advertising and the RMS has indicated that they have no objection to the proposed sign which is located on industrial not residential zoned land. The proposed pylon sign is of a similar scale to other signs utilised for commercial and industrial development in the surrounding area.

- Congestion on roundabout, deliveries should use Mataram and Arizona Road.

Comment:

A traffic report has been provided supporting the application. RMS has indicated that the proposed development does not warrant an upgrade of the roundabout (Pacific Highway/Chelmsford Road) and deliveries can utilise this intersection.

- During busy times, the public will park in front of my house and duck across the highway, pedestrian access across the Highway should not be permitted.

Comment:

The application proposes to provide 410 car parking spaces which is in excess for the required minimum number of spaces required of 323. It is envisaged that people will utilise the proposed car park and not park on the Pacific Highway.

The Pacific Highway is a very busy road with approximately 330 vehicle movements during peak periods at this intersection. Any members of the public wishing to cross the road will be encouraged to utilise the new pedestrian refuge near the Lake Haven Homemakers Centre. A condition requires a pedestrian refuge and footpaths in Chelmsford Road and this will assist in the distribution of pedestrians.

- Demolition of buildings was undertaken illegally.

Comment:

Prior to the development application being lodged with Council and after lodgement, various existing structures on the site were demolished and/or removed without the prior consent of Council. These matters were investigated and appropriate action taken.

- Concern that removal of concrete slabs will expose toxic waste.

Comment:

The removal of the concrete slabs and any structures under these slabs will need to be undertaken in accordance with the Remediation Action Plan which has been prepared as part of the application documentation and would be included as a condition of consent.

- Construction of the building will cause damage to my house (Pacific Highway) through vibration.

Comment:

The dwellings located along the Pacific Highway directly opposite the site are located approximately 50m from the subject site. Research indicates that ground vibrations from construction activities do not often reach the levels that can damage structures. It is considered that there is appropriate distance between the development site and the existing dwellings to minimise any damage during construction.

- Hours of operation exceeds hours of Lake Haven Bunnings (7am-9pm week days, 7am-7pm Saturday and 7am-6pm Sunday) and will have a detrimental impact up on the existing residential development.

Comment:

Consideration has been given to the zone objectives, the location relative to the highway and industrial/commercial nature of development on Chelmsford Road. The proposed hours of operation are Monday – Friday 6am to 10pm and Saturday, Sunday and Public Holidays 6am to 7pm. It is proposed that all delivery activities including loading and unloading shall be restricted to the hours between 7am to 7pm. The noise assessment by Wilkinson Murray has indicated that the development complies with the required noise criteria. However, the majority of Bunnings within the Hunter and Central Coast areas have hours less than those proposed by this development and therefore it is considered more appropriate to comply with those hours (Monday to Friday 7am to 9pm, Saturday 7am to 7pm and Sunday 7am to 6pm) especially as the development is located opposite existing residential development.

- Sign should be relocated to roundabout away from residential development.

Comment:

The proposed sign is located approximately 42m from the nearest residential property. The proposed sign on the Pacific Highway is considered to be located in an appropriate location a suitable distance away from the roundabout to promote sight distances, reduce distraction and promote traffic safety. The proposed Pacific Highway sign is illuminated with stationary lighting baffles to be installed to ensure there is minimal light spill to adjoining residential properties.

- Impact of light spill from trucks on residential development.

Comment:

The plans have been amended to incorporate a colour matched colorbond wall (2m high) in front of the truck tuning area along the Pacific Highway as well as landscaping to minimise light spill onto the residential properties opposite the subject site.

- Dust from handling building materials eg cement.

Comment:

There are no loose building materials stored on-site and all products are already bagged, therefore minimal dust creation from this area. In addition, this area is approximately 50m from the nearest residential property. The bagged goods area is also under a canopy and separated from residences by an 18m wide landscaping strip and the Pacific Highway (30m).

- Overdevelopment of site.

Comment:

The previous development had a significant development footprint as evidenced by the existing concrete slabs. The proposed development will remove these slabs and introduce greater setbacks and landscaping to both street frontages thereby substantially increasing pervious areas on the site. The development seeks a variation to the DCP control which requires 50% site coverage in that it proposes 55% site coverage.

The proposed variation is considered acceptable for the following reasons: -

- provides an additional 87 car parking spaces;
- increased landscaping of approximately 4,500m² comparative to the existing site which is approximately 1500m²;
- the variation to the front setback to Chelmsford Road is only for a small portion (18m) 9.3% of the overall building length (192m);
- 222m or 92.5% of the Chelmsford Road frontage achieves a minimum landscape width of more than 5.5m with the exception of the entry feature which encroaches to 1m for 18m;
- the development also provides on-site detention;
- the development is suitably located within an industrial setting adjacent to the Highway; and
- if the LEP or DCP had an FSR requirement, the FSR for the proposed development would be 0.68:1, where 0.8:1 is a common FSR requirement for industrial development.

Therefore, the proposed development is considered satisfactory and not an overdevelopment of the site.

Any submission from public authorities

The following government authorities were consulted in relation to the proposed development: -

- NSW Roads and Maritime Services

The application was referred to the NSW Roads and Maritime Services (RMS) for comment under the provisions of Clause 104 and Schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*, as the proposed development is located within 90m of a state classified road, (in this instance the Pacific Highway (HW10)) and is a traffic generating development. In addition, the application was referred to RMS in accordance with Clause 18 of *State Environmental Planning Policy No. 64 – Advertising and Signage* for the display of advertising signs higher than 8m above the ground or greater than 20m² and within 250m of and visible from a classified road.

The RMS have indicated that they have no objection to the proposed development including signage and have granted concurrence subject to several conditions being included on any consent.

- Mine Subsidence Board

The application was referred to the Mine Subsidence Board (MSB) as the subject site is located within a proclaimed mine subsidence district. MSB have assessed the application and have no objection to Council issuing an approval and have recommended several conditions be attached to any consent.

Internal Consultation

The development was referred to the following internal officers and the following comments have been provided: -

- Arborist Officer

The applicant seeks to retain vegetation along the Pacific Highway road reserve.

The application has been assessed by Council's Arborist and the application is recommended for approval subject to several conditions being included on any consent.

- Development Engineer

The application has been assessed by Council's Development Engineer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

Stormwater Management and Drainage

Catchment & Site Investigation

The inspection of the site identified that the adjoining upstream property Lot 1 DP787758 (former Kellogg's site) has a piped stormwater drainage system connecting part of the driveway access, car parking area and the roofed drainage of the original Kellogg's building along the northern boundary into a pit and 600 diameter pipeline that traverses the proposed Bunnings site. A title search indicates that there is no easement for drainage over the 600 diameter pipeline.

Further investigations revealed that the 600 diameter pipeline connects to the public stormwater drainage pit within Chelmsford Road adjacent the Callaghan Close intersection. The Chelmsford Road and Callaghan Close intersection is the sag point in this catchment area.

Surcharge stormwater flows from the entire upstream site Lot 1 DP787758 (former Kellogg's site) in excess of the Pacific Highway pipework's capacity would naturally flow into a low point and then over the subject site (Lot 2 DP 24696 and Lot 5 DP738274).

The results of these investigations have been incorporated into the engineering requirements for the proposed development as indicated below: -

Stormwater Management

In response to the identified upstream catchment stormwater discharges the applicant's consultant C & M Consulting Engineers prepared an additional drainage plan which details the construction a stormwater diversion pipeline to a 100 year ARI capacity to collect and discharge all stormwater flows generated within the upstream property (Lot 1 DP787758) catchment area for connection into the piped public stormwater drainage system within Chelmsford Road. The plan also includes the provision of a catch drain or wall with a controlled spillway across the southern boundary of the Bunnings site to accommodate any stormwater surcharges due to blockages. The spillway weir will control the flows by the formation of an emergency overland flow path through the proposed car park connecting to the sag point within Chelmsford Road.

The Stormwater Management Plan included in the “Statement of Environmental Effects” prepared by C & M Consulting Engineers provided preliminary engineering plans detailing the construction of an on-site detention system comprising of a large tank (815m³) within the car park to maintain existing stormwater discharges within the sub-catchment area. The Stormwater Management Plan also includes the provision of a rainwater re-use tank for irrigation purposes associated with the proposed nursery and toilet flushing within the Bunnings store. A comprehensive water quality system consisting of a gross pollutant trap, hydrodynamic separator and storm filter is also proposed to ensure pollution controls comply with the pollutant targets set in Council’s DCP 2013 Civil Works Design Guideline.

The proposed stormwater drainage management works including the additional diversion works have been included as conditions of consent.

Traffic and Transport

Vehicle Access

The proposed roundabout on Chelmsford Road will become the vehicle access driveway servicing the Bunnings at grade car park at its intersection with Callaghan Close. The roundabout will be designed to accommodate the swept path of an articulated vehicle (19m), a prime mover and in accordance with the Austroads “Guide to Road Design Part 4B: Roundabouts”. The roundabout will also necessitate the reconstruction of the existing stormwater drainage inlet and pipeline system, adjustment and relocation of the existing services including water and sewer mains/manholes to accommodate the proposed roundabout alignment.

The service vehicle access to the trades sale area, goods pickup and loading dock area is located along the western boundary of the site adjoining Chelmsford Road and separated from the proposed roundabout. This service access driveway connects to a ramp and truck turning area located at the upper warehouse level in the south eastern corner of the site. The construction of this wide commercial vehicle access crossing servicing the loading dock ramp will require the relocation of the existing bus stop within Chelmsford Road to a suitable location west of the proposed access crossing.

The above described road works have been included as conditions of consent.

Pedestrian Access

To provide a safe formal pedestrian link to the relocated bus stop along Chelmsford Road a concrete footpath linking the bus stop to the Bunnings building pedestrian entry is recommended by conditions. The footpath shall also extend east to cross the main vehicle entry/exit ramp a minimum of 12m from the roundabout holding line. The footpath works include the construction of pedestrian kerb ramps, a 2m wide dividing median (Splitter Island), adequate lighting and signage.

Continuing the pedestrian link access Chelmsford Road requires a pedestrian refuge adjacent to the Bunnings building pedestrian entry in accordance with the RMS Technical Direction TDT2011/01a is necessary. The refuge shall include all associated works including line marking, signage and pedestrian kerb ramps to both sides of Chelmsford Road which are conditioned.

The construction of a concrete footpath along the Chelmsford Road northern footway and the Pacific Highway linking the Chelmsford Road pedestrian refuge with the recently constructed pedestrian refuge across the Pacific Highway north of the Pacific Highway/Lake Haven Drive roundabout is required to ensure safe pedestrian movements.

The above described road works including footpath construction have been included as conditions of consent.

- Environmental Health Officer

The application has been assessed by Council's Environmental Health Officer in relation to the potential contamination impacts and the application is recommended for approval subject to several conditions being included on any consent and have provided the following comments: -

Contamination

The applicant lodged a "Preliminary Environmental Site Assessment for Proposed Commercial Development at 80-90 Pacific Highway, Lake Haven", for Andermatt Pty Ltd C/O John R Brogan & Associates Pty Ltd, report ref: E27560KGrpt by Environmental Investigation Services.

This assessment indicates that the site contains minor traces of arsenic, nickel and zinc detected in the groundwater samples as well as total petroleum hydrocarbon (TPH) in the standing water of the former diesel aboveground storage tank bund and oil/water arrestor pit. In addition some fill on the site contains asbestos.

The contamination report recommends that a remediation action plan shall be prepared for the proposed development. This plan includes remedial measures to be implemented to render the site suitable for the proposed land use. The impact upon the environment will be minimal. A validation assessment report shall be prepared to document the remediation action undertaken at the site.

Noise

The applicant lodged an acoustic assessment titled "Bunnings Warehouse, Lake Haven – Development Application Noise Assessment, Report No. 14428 version A dated February 2015 by Wilkinson Murray Pty Ltd. Background noise monitoring was used to establish the existing noise levels from which project specific noise criteria were derived. This noise assessment determined that compliance with established site specific noise criteria will be achieved at all residential receivers with the exception of a small exceedance at residences located on industrial zoned land to the north of the site. All residential receivers complied with the established sleep disturbance screening criterion and traffic noise criterion.

This assessment indicated that due to the delivery activities being located on the western end of the proposal this activity is shielded by the proposed building. It is anticipated that any noise impacts upon the environment will be minimal.

This assessment recommended that in order to minimise adverse impacts to surrounding residences, all deliveries will be restricted between 7am to 9pm. This has been included as a condition.

- Section 94 Contributions Officer

The application has been assessed by Council's Section 94 Contributions Officer and the application is recommended for approval subject a condition in relation to Section 94A contributions being paid prior to issue of the Construction Certificate being included on any consent. The following comments have been provided: -

The proposed development is subject to Section 94A contributions being 1% of the cost of development which equates to a Section 94A contribution of \$241,500. CPI is to be applied to this contribution.

- Trade Waste Officer

The application has been assessed by Council's Trade Waste Officer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

In accordance with Table 1: Exemptions of Council's Policy for Discharge of Liquid Trade Waste to the Sewerage System, provided a mixed business installs a floor waste basket and sink strainer, and housekeeping practices are complied with, a Liquid Trade Waste Application is not required. These controls will be included within the conditions of consent to ensure compliance.

- Traffic Engineer

The application has been assessed by Council's Traffic Engineer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

The proposed roundabout will assist in reducing traffic speed on Chelmsford Road and around the service vehicle entry.

The roundabout must be designed to accommodate the swept path of Council's low loader and a 19m articulated vehicle.

It appears that the roundabout will encroach into the Bunnings site. In this regard the proponent will be required to dedicate a portion of the site as road reserve to facilitate access for maintenance.

- Water and Sewer Officer

The application has been assessed by Council's Water and Sewer Officer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

Loading

The development will generate a loading of 48.3 ETs (Equivalent Tenements) on water supply and sewerage systems based on the information available as of 16 March 2015. This is based on a bulky good development (0.003ET/m^2) with an area of $16,104\text{m}^2$.

Water Supply

Water service is available for the proposed development from Chelmsford Rd (150mm AC) and Pacific Hwy (150mm AC). Council's existing system is adequate to provide water supply to the proposed development.

As stated in the Civil Engineering Plan, new entries will be constructed along Chelmsford Rd and this will require the replacement of the existing asbestos cement water main with a new PVC water main. This is required for the extent of the area to be disturbed as part of the construction of new kerb, pavement or earthworks to avoid causing damage to the asbestos cement main.

In addition, the major water trunk main feeding the north of Wyong Shire is laid on the Pacific Highway side of the site. The alignment of the main should be identified prior to any construction work with the main likely protected by an existing easement. No construction is permitted within the easement or within the water mains zone of influence as described in Council's "Build over Sewer Policy".

Any proposed adjustments to Council's water assets will require a detailed design to be prepared by the applicant for approval prior to the issue of the Construction Certificate. The design and construction of the water mains are to be in accordance with the WSAA Water Supply Code of Australia WSA – 02 Sydney Water Edition, Wyong Shire Council Amendments.

Sewer

The site is currently serviced for sewer laid on the Chelmsford Road side of the site. There is sufficient capacity within this existing sewerage network for the proposed development. Connection can be made to the sewer manhole located on the northern side of the proposed development site.

Council's "Build over Sewer Policy" applies to development within the vicinity of the existing mains.

Any proposed adjustments to Council's sewerage assets will require a detailed design to be prepared by the applicant for approval prior to the issue of the Construction Certificate. Any adjustment or protection of the sewer mains are to be fully funded by the developer. The design and construction of any sewer main adjustments are to be in accordance with the WSAA Sewerage Code of Australia WSA-02 Sydney Water Edition, Wyong Shire Council Amendments. Council will undertake final connections to its live sewer system at the developer's full cost.

DSP Contributions

The proposed development falls within the latest Development Servicing Plan for Wyong Shire implemented on 1st July 2014. Water supply and sewerage contributions will be applicable and will need to be paid prior to issue of the Occupation Certificate.

An existing credit of 12 ET is allocated to the site based on the existing industrial land use which is credited at 5ET/Ha. Therefore, the water and sewer contributions payable for this development will be 36.3ET.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and site remediation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope/combat/withstand these potential impacts.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Clause 149 Certificate details, the assessment has identified the following key issues, which are discussed for Council's information.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

a) Wyong Local Environmental Plan 2013

Permissibility

The subject site is partly zoned IN2 Light Industrial and SP2 Road and Traffic Facility under the provisions of the *Wyong Local Environmental Plan 2013* (LEP). The proposal is defined as a *hardware building supplies*, and includes *business identification signs* and an ancillary café (*Food and drink premises*) as indicated as follows under the LEP

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

Business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
 - (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,
- but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

Food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

Restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

The whole of the building with internal café and one (1) pylon sign are located within this IN2 zone which are all permissible with consent in the IN2 Light Industrial zone. One (1) pylon sign is located within the SP2 Road and Traffic Facility zone and signs are prohibited within this zone, however it is considered under Clause 5.3 Development near zone boundaries and is permissible under the IN2 Light Industrial zone.

Objectives

The objectives of the IN2 Light Industrial zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

The objectives of the SP2 Road and Traffic Facility zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To recognise existing railway land and to enable future development for railway and associated purposes.*
- *To recognise major roads and to enable future development and expansion of major road networks and associated purposes.*
- *To recognise existing land and to enable future development for utility undertakings and associated purposes.*

The proposed development complies with the objectives of the IN2 Light Industrial zone as the development is a land use compatible with the zone, providing employment, with minimal impact upon adjoining land uses, is providing services to meet the day to day needs of workers in the area and is supporting industrial uses.

One of the proposed pylon signs is located within the SP2 Road and Traffic Facility zone which RMS have indicated they have no objection to subject to the sign being erected in this location so long as it is removed at the owners cost upon road acquisition being required for future infrastructure, therefore complying with the objectives of the zone. A condition will require the removal of the sign upon acquisition of the road widening area.

Relevant Clauses

- Clause 2.7 – Demolition requires development consent

Development consent is required for the demolition of the existing structures on the subject site.

- Clause 5.1 – Relevant acquisition authority

The objective of this clause is to identify the authority of the State that will acquire land reserved for certain public purposes if the land is required to be acquired under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Council's Land Reservation Acquisition Map identifies that a portion of the subject site adjoining the Pacific Highway is required for road widening by the Roads and Maritime Services (RMS).

The application was referred to RMS who have indicated that the road widening is still required, however, there are no current plans to widen this portion of the road and acquisition is not required at this time.

The RMS have indicated that they have no objection to the proposed development and do not require dedication of the portion of land zoned SP2 at this time. With the exception of one pylon sign and landscaping there are no works provided within this space. As such the development will not substantially increase future acquisition costs for RMS.

- Clause 5.3 – Development near zone boundaries

The objective of this Clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. The relevant flexibility distance is 20m. This Clause applies to both IN2 Light Industrial and SP2 Road and Traffic Facility zones.

The proposed pylon sign is located on land zoned SP2 and is approximately 10.8m from the IN2 Light Industrial zone, where signage is a permissible form of development. Therefore, within the prescribed 20m to utilize the provisions of this Clause.

Before development consent may be granted the consent authority is to be satisfied that:

- (a) *the development is not inconsistent with the objectives for development in both zones, and*
- (b) *the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

As indicated above, it is considered that the proposed development complies with the objectives of both zones. The proposed sign is considered compatible to the proposed development. A condition will require the removal of the sign at the owners cost upon acquisition of the land. The relevant acquisition authority, RMS have not objected to this.

- **Clause 7.9 – Essential services**

This Clause requires consideration of essential services. Services such as water, sewer, electricity, stormwater drainage and road access can be adequately provided.

b) Relevant SEPPs

The relevant State Environmental Planning Policies are as follows: -

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

The proposed development has a capital investment value (CIV) over \$20 million as indicated within Schedule 4A of the *Environmental Planning and Assessment Act 1979*. In accordance with the provisions of Clause 21(1)(a) of this SEPP, the Joint Regional Planning Panel (JRPP) are the determining authority.

- *State Environmental Planning Policy (Infrastructure) 2007*

The subject site adjoins Pacific Highway which is a classified (State) road. Under Clause 101 of this SEPP, development with frontage to a classified road must be referred to the Roads and Maritime Service (RMS) for comment.

Under Clause 101(2) of this SEPP, *the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

With regards to the above,

- access to the development is provided via Chelmsford Road and not the Pacific Highway;
- The development sites existing access direct to the Pacific Highway will be removed thereby improving conditions;
- the safety, efficiency and ongoing operation of the Pacific Highway is not adversely affected by the development as access to the development is via Chelmsford Road, the

development does not generate smoke or dust and RMS have indicated that the proposed development does not generate significant traffic generation to warrant the upgrade of the Pacific Highway/Chelmsford Road intersection; and

- the proposed development is not sensitive to traffic noise or vehicle emissions arising from the Pacific Highway.

Under Clause 104 of this SEPP, the proposed development is classified as traffic generating development as the proposed commercial development exceeds 10,000m² in gross floor area and the proposed development is located within 90m of a state classified road. In accordance with Clause 104 the application was referred to RMS for comment.

The RMS has indicated that they have no objection to the proposed development or the location of the proposed pylon sign within the identified road widening area. RMS have recommended that upon the land being acquired this sign is to be removed at no cost to RMS or Council.

Under Clause 104(3) of this SEPP, *the consent authority must:*

- (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
- (b) *take into consideration:*
 - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

With regards to the above,

- Council provided written notice to RMS;
 - RMS provided a submission to Council which have been considered and included within the conditions;
 - The accessibility of the site has been considered to ensure efficiency of movement of people and freight of which the development is considered to be satisfactory; and
 - Council has considered the potential traffic safety, road congestion and parking implications of the development which has resulted in several conditions being included.
-
- *State Environmental Planning Policy No. 64 – Advertising and Signage*

This Policy applies to all signage which can be displayed with or without consent and is visible from a public place.

The LEP permits signage with consent. The provisions of this SEPP are applicable as the proposed signage is visible from a public place.

In accordance with Clause 18 of this SEPP, RMS must concur with any signage greater than 20m² and within 250m of and visible from a classified road. Pacific Highway is a classified (State) road. One (1) of the proposed pylon signs is located within the proposed road widening area adjacent to the Pacific Highway and the other pylon sign is located on Chelmsford Road, approximately 120m from the Pacific Highway intersection. In addition the applicant proposes wall signs with areas of 105m², 116m², 237m² and 257m².

Under Clause 19 of this SEPP, *the consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless:*

- (a) *a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or*
- (b) *in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines.*

With regards to the above,

- Chapter 2.6 Signage of the Wyong Development Control Plan 2013 (DCP), provides that advertisements that are not considered to be exempt development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) are considered under SEPP 64.

Under Clause 8 of this SEPP, Council must be satisfied that the proposed signage is consistent with the objectives of this SEPP set out in Clause 3(1)(a) and satisfies the assessment criteria of Schedule 1 of this SEPP.

The aims and objectives of this SEPP under Clause 3(1)(a) are as follows: -

- (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 high quality design and finish.*

The proposed signage is compatible with the desired amenity and visual amenity of this area which is a mixture of industrial, commercial and residential development set along a major transport route. The proposed signage provide effective communication in suitable locations so as not to impact upon vehicular safety and are new signs with a high quality design and finish.

The proposed signs have been assessed against the provisions of Schedule 1 – Assessment Criteria of this SEPP and the proposed development has satisfactorily addressed the assessment criteria outlined in the table within Attachment 2.

In addition, the RMS may direct the screening, modification or removal of a structure if, in the opinion of RMS, the structure is considered a traffic hazard under Section 104 of the *Roads Act 1993*.

The RMS has indicated that they have no objection to the proposed signage including the pylon sign located within the identified road widening area as this area is not required to be acquired at this time. However, they have recommended a condition be included on any consent issued, that the sign be removed upon acquisition of the road widening area.

- *State Environmental Planning Policy No. 55 – Remediation of Land*

Clause 7(1) of this SEPP is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out.

The preliminary environmental site assessment submitted with the application by Environmental Investigation Services indicated that site is contaminated as result of the previous use and contains concentrations of arsenic, nickel and zinc within the ground water samples, concentrations of TPH in the standing water of the former diesel aboveground tank bund and oil/water arrester pit and the fill material contains asbestos.

Provided that a remediation action plan and validation assessment are undertaken for the site, the site will be suitable for the proposed development. This is addressed through relevant conditions.

c) Relevant DCPs

Wyong Development Control Plan 2013 (DCP)

The following Chapters of the DCP are applicable to the proposed development: -

- Chapter 2.6 Signage

Under this Chapter, advertisements that are not considered to be exempt development under the Codes SEPP are considered under SEPP 64 subject to merit, which has been addressed previously in this report.

- Chapter 2.11 Parking and Access

Under Clause 3.2 of this Chapter, on-site car parking is required at the following rates: -

Hardware and Building Supplies

1 space per 50m² of GFA

Service requirements: 1 space up to 2,000m² GFA then 1 space per 1,000m² GFA

The proposed development has a gross floor area of 16,313m² therefore requiring 323 car parking spaces and 17 service car parking spaces.

In accordance with Clause 2.3 an Assessment of Traffic and Parking Implications by Transport and Traffic Planning Associates as included within the application documentation.

The development proposes 410 car parking spaces including 10 accessible car parking spaces, 8 motorbike parking spaces and therefore comply with the provisions of this Chapter.

- Chapter 2.12 Industrial Development

The Chapter applies to all industrial zoned land and all categories of development permissible on industrial zoned land.

Site Coverage

Under Clause 2.2 Site Coverage, the maximum site coverage is 50% or 11,985m². The development proposes a site coverage of 55%. It is noted that while the LEP establishes FSR for some sites, it does not for this site.

Under the sites previous use, which was a concrete pipe manufacturing facility, the site contained a mixture of sheds, slabs, pipe storage areas up to the boundaries of the Pacific Highway and Chelmsford Road.

The development proposes a site coverage of 13,177m² or 55% which is made up of the timber trade sales area, warehouse and main entry. The nursery and bagged goods areas are not included in the site coverage calculation as it is not classified as a building or part of a building as it is covered by white canvas sail canopies.

The DCP defers to the LEP for definitions. Under the LEP, site coverage is defined as *the proportion of a site area covered by buildings*. However, the following are not included for the purpose of calculating site coverage: -

- (a) Any basement;
- (b) Any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary;
- (c) Any eaves,
- (d) Unenclosed balconies, decks, pergolas and the like.

Whilst the development does not comply with the required 50% site coverage, it is considered that the non-compliance of 5% is minor. The development proposes adequate landscaping and increased impervious area and suitable built form for this highly exposed industrial corner site compared to the previous concrete manufacturing facility.

Front Setback – Chelmsford Road

Under Clause 2.3 Setbacks, the minimum front setback for a non-State road is 10m. This DCP does not have specific requirements in relation to corner allotments with two (2) street frontages.

The site has a 240m frontage to Chelmsford Road with the development having an overall building length of 192m. Of this building length the development setback is compliant (10m) for approximately 56m or 30%. The setback to the remaining portion of the building varies from 1m to 10m due to the entry treatment (18m wide), vehicle accessways and the angle of the building relative to the irregular property boundary. This is a maximum variation of 9m for an 18m length or 9.3% of the overall building length (192m).

222m or 92.5% of the Chelmsford Road frontage achieves a minimum landscape width of more than 5.5m with the exception of the entry feature which encroaches to a minimum of 1m for 18m from Chelmsford Road.

The proposed encroachments for the proposed main entry are considered minor in relation to the scale of the entire site and development (3%) and as such are not considered to have a negative impact on the streetscape but a positive one by providing a varied setback and breaking up what would otherwise be a straight building line.

The proposed development incorporates extensive landscaping to both street frontages, which has been enhanced around the areas of encroachment.

The corner boundary facing the visually prominent Pacific Highway/Chelmsford round-about will be planted out with a feature hedge providing an informal entry statement into the industrial area.

It is considered that the proposed variation is minor in relation to the size of the site and development and warrants support.

Side Setback – Pacific Highway

The subject site is located on the corner of the Pacific Highway and Chelmsford Road. This Chapter does not address corner allotments with dual frontages. Under Clause 2.3 Setbacks, side and rear setbacks can have a nil setback. Front setbacks are generally considered to be where access to the development is proposed, in this instance Chelmsford Road.

Despite this, the applicant does not propose a nil setback to the Pacific Highway. The applicant proposes that the setbacks from the Pacific Highway to the existing boundary prior to road widening is a minimum of 14m. After road widening the proposed setback is 3m to the roofed bagged goods area and outdoor nursery and approximately 55m to the building. Landscaping will be located within this 3m.

By locating the bagged goods area and outdoor nursery between the warehouse building and the Pacific Highway boundary and providing a separation area between the bagged goods area and outdoor nursery, the development is able to satisfy the provisions of Clause 2.4 (design and appearance of buildings) by retaining sufficient curtilage to cater for landscape works and provide visual relief of the Pacific Highway by having different construction elements.

In addition, the proposed development does not propose nil setbacks to the other boundaries, southern and western. The setbacks proposed to the building are 8m and 13m.

The photomontages below illustrate how the building will sit within the current setting: -



Photomontage 1: Proposed Bunnings, corner of Pacific Highway and Chelmsford Road – looking south



Photomontage 2: Proposed Bunnings (eastern facade) from Pacific Highway

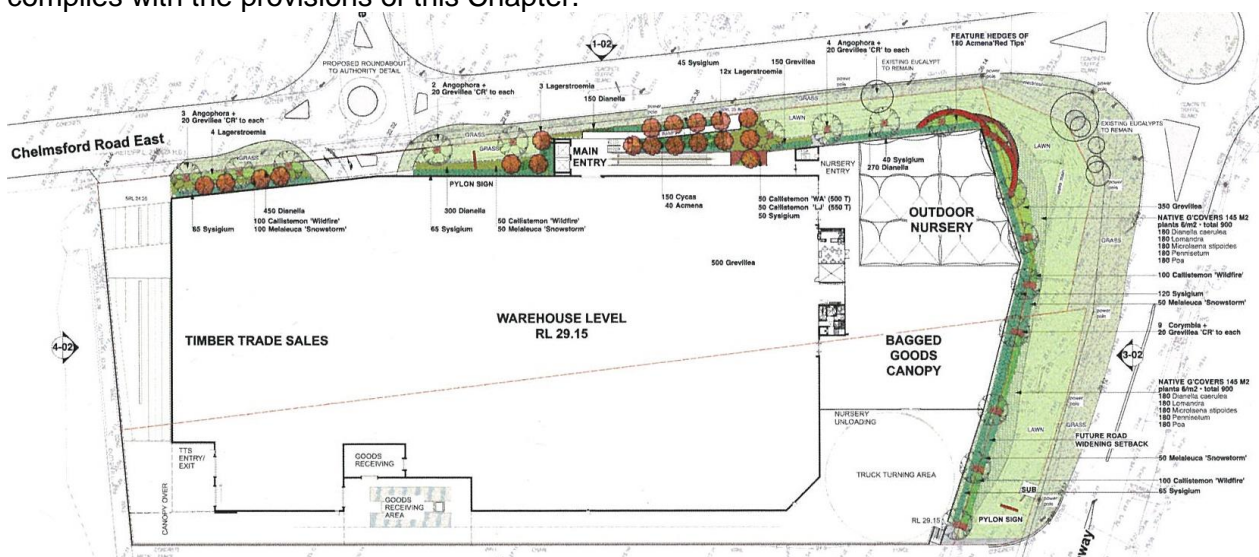
Landscaping

Under Clause 2.3 Setbacks, a minimum 5m wide landscaped area must be proposed within the required front setback.

On Chelmsford Road a portion of the building entry does not comply with the required front setback (1m-5m for a length of 18m), this portion of the site does not comply with the required 5m landscaping requirement. However, Chelmsford Road has a length of 240m and this street frontage excluding the access has been landscaped and only a small portion of this landscaping does not have a width of 5m.

Despite the variation the landscaping proposed is considered adequate and provides a visually interesting interface between the Chelmsford Road and the development.

The landscaping proposed on the Pacific Highway exceeds the 5m landscaping width and complies with the provisions of this Chapter.



- Chapter 2.15 Public Art

The objective of this Chapter is that major development comprising commercial, public administration and retail (shops) with a value of \$5 million or more provide a financial allocation towards public art which comprises 1% of the total cost of development. In this instance the total cost of the proposed development is \$24,150,000 and on the basis of 1% of the total estimated cost of the development, public art to the value of \$241,500 (minimum) is applicable.

The applicant has objected to the provision of public art.

Applicants Submission

Chapter 2.15 of the DCP requires that major developments valued at \$5M or greater must implement public art as part of the development with a minimum of 1% of the total cost of the development to be designated to the public art budget. "Major development" refers to "commercial, public administration, and retail (shops) development valued at \$5 Million". Chapter 2.15 however goes no further in defining what constitutes "commercial development".

Chapter 2.15 is essentially a replica for the now superseded DCP No. 112 (part of DCP 2005), where the exact same definition of "major development" is adopted but where commercial development was defined as "any building or place used for commercial purposes as defined by the Wyong Local Environmental Plan 1991".

Under LEP 1991 commercial premises was defined as follows:

commercial premises means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

Under LEP 1991 the subject development would have been defined as a "bulky goods sales room or showroom", not a commercial premises and therefore not subject to the provisions of DCP 112. This is further supported by the fact that the public art provisions were not applied to DA/285/2013 involving additions to the existing Bunnings in Tuggerah valued at over \$5M. With the above in mind, it is considered that Chapter 2.15 does not apply to developments such as Bunnings and it appears that Council may have adopted the Standard Template definition of "commercial premises" which is a "cover all" definition and not one intended to be the subject of this requirement. This is further supported by the fact that Chapter 2.15 specifically mentions "retail (shops)", despite this being included within the Standard Template commercial premises definition.

In addition to the above, Appendix A of Chapter 2.15 provides photographic examples of where public art provides a meaningful contribution to the built environment. The locations of the examples provided are as follows:

- *Museum of Sydney: Centre of City;*
- *Marrickville City Council: Petersham café and restaurant strip;*
- *Brighton Le-Sands: Restaurant and café strip;*
- *Lake Haven: Forecourt area at Gravity Youth Centre with the Lake Haven Shopping Centre precinct;*
- *City of Canterbury: Mary McKillop Reserve – part of a heritage walk;*
- *Facade treatment located within retail area;*
- *Canterbury Station;*
- *City of Sydney: Chifley Tower;*
- *Wyong Shire Council: Woodbury Park, Mardi;*
- *Rouse Hill Town Centre.*

The common theme amongst all of the above locations is the fact that they are within areas of high pedestrian activity i.e. cafes, shopping precincts, public spaces. None of the above locations are within an industrial precinct or included as part of an industrial/warehouse style development. Further to the above, to ascertain how the public art DCP has been applied in the past, a search of applicable development applications was undertaken which revealed the following:

DA/285/2013	Additions to Bunnings Warehouse	\$5.65 million	Centre Support	Council	Not applied
DA/514/2013	Alt & Ads to Westfields Tuggerah: 12,638m ² of retail + Gmax cinema	\$49.6 million	Business Centre	JRPP	Not applied
DA/1066/2013	Performing Arts Centre	\$11.1 million	Business Centre	JRPP	Considered unnecessary as DA purpose for exhibiting art
DA/231/2014	Office Premises – Concept Approval	\$7 million	Business Park	Council	Conditioned for next stage
DA/1079/2012	Alts & Additions to Registered Club	\$7.7 million	Special Uses	Council	Not applied
DA/14/2013	Motel	\$6 million	Special Uses	Council	Not applied
DA/212/2013	Works Depot	\$16.8 million	Light Industrial	Council	Not applied
DA/847/2013	Alts and Additions to Supa Centa	\$8.5 million	Centre Support	Council	Waived as included in building design

From the above results, we can conclude that the public art provisions have been applied inconsistently and where they have been applied they relate to retail, office and public developments within commercial/business zones rather than industrial zones – as was intended under DCP 112.

Finally, it is apparent that the intent of Chapter 2.15 is to ensure that developers give back to the community. In this regard, Bunnings help raise and contribute millions of dollars to local, regional and national charities and community organisations. At a local level, community groups are given the opportunity to raise money through the local fundraising Sausage Sizzles that are actively supported at the front of Bunnings stores on weekends and public holidays. Recently Bunnings also donated two (2) buildings valued at approximately \$60,000 to “The Glen”, a non for profit drug and alcohol rehabilitation centre, to help alleviate the pressures experienced since the closure of the Rothbury facility in September 2014 (see DA/304/2015).

In summary, it is considered that Chapter 2.15 is not intended to be applied to developments such Bunnings, nor in industrial locations such at the subject site, and this is substantiated through definitions used within the superseded version of the policy. Should Council determine that the contrary is true, any public art applied to the site would be tokenism and would have no real connection or meaning to site or surrounds. Furthermore, the amount spent on this would then be removed from the meaningful and valued charity work which Bunnings currently do and would also reduce the viability of the project even further given that \$241,500 will be payable under Section 94A plus a further \$310,873 for water and sewer contributions.

Assessment Officers Comments

It is considered that the intent of this Chapter is for public art to be located on land associated with development on business zoned land not industrial zoned land or development which has its own unique branding where public art would be lost in the background.

In addition, the development is located at a prominent intersection which will be subject to an upgrade in the future and the location of the public art at this intersection could impact upon the vehicles utilising it and become a distraction and cause an accident.

It is considered that in these circumstances that the required public art contributions are not applicable to the proposed development.

- Chapter 3.1 Site Waste Management

In accordance with this Chapter, the applicant has submitted a comprehensive Waste Management Plan for the development outlining the waste disposal, re-use and recycling (on and off site) for the construction and operational stages of the development. A condition has been included requiring the development to be carried out in accordance with the submitted management plan.

- Chapter 5.1 Retail Centres

The objectives of this Chapter are to identify a network of retail centres, identify future centres, define the objectives and function for each of the different levels of centres and provide guidance for retailing industrial areas.

This Chapter identifies the Wyong retail network. These centres within the retail network are located within B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor and B7 Business Park zoned land where retailing is permissible. The subject site is not located within any of the identified retail centres within this Chapter, and is permissible through the *hardware and building supplies* definition which is permissible in industrial zones. This is discussed further in the report.

d) Relevant Regulations

There are no matters prescribed by the Regulations that require elaboration upon.

THE LIKELY IMPACTS OF THE DEVELOPMENT

a) Built Environment

Locality and Streetscape

The proposed Bunnings is replacing the existing Bunnings within the Lake Haven Homemakers Centre located diagonally opposite the subject site. The proposed development is to be situated amongst other similar sized development within an industrial zone. The proposed development is located adjacent to the Pacific Highway. The impact of the façade of the development to the Highway is minimised with the location of the outdoor nursery and bagged goods area adjoining the Pacific Highway and through the inclusion of landscaping in front and the main building stepped back behind these areas.

The development is also set within an area of 'cut' and the car parking is predominantly underground as such the height relative to the Pacific Highway is reduced and the visual impact of car parking on the surrounding locality is minimised.

Traffic generation

RMS has indicated that the proposed development is not generate significant traffic generation and does not warrant the upgrade of the Pacific Highway/Chelmsford Road intersection. The proposed development provides 410 car parking spaces 70 spaces above what is required.

Air quality

A condition is recommended in relation to dust control during demolition, earthworks and construction requiring adoption of appropriate measures to minimise emissions into the surrounding environment. There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the ongoing operation. The development is compatible with the industrial zone provisions.

Noise and vibration

A noise assessment report by Wilkinson Murray Pty Ltd has been submitted in support of the application. There will be construction noise for a limited duration as a consequence of the development. A condition has been recommended imposing standard operating hours for the construction of the development. It is not anticipated that the development will cause ongoing excessive or unreasonable noise or vibration and conditions are recommended in relation to the operating hours for the development and deliveries. The development is considered compatible with the industrial zone.

Safety, security and crime prevention.

The proposed development will incorporate lighting in the car parking area for safety and along the facades adjoining public roads to discourage vandalism. After hours the car park, timber trades area and rear loading dock will not be able to be accessed as a roller door will be in place. In addition, the applicant has indicated that a security company will be employed to undertake regular checks of the building and an alarm will be installed.

Economic Impact

Within the Wyong Local Government Area there are nine (9) hardware and building supplies businesses (cater for a variety of products, not just timber or plumbing supplies etc). However, several cater specifically for trade businesses. These hardware and building supplies businesses are located at Gwandalan, Charmhaven, Lake Haven, North Wyong, Wyong, Tumby Umbi, Ourimbah and The Entrance.

The existing Bunnings within the Lake Haven Homemakers Centre has a floor space of 8,318m². The proposed Bunnings has an extra floor space of 7,250m². It is anticipated that the development of the new Bunnings will contribute significantly to employment during the construction (240 construction jobs) and operation (160 full-time and part-time jobs, an additional 40 staff) phases of the development.

It is considered that the new Bunnings will have minimal economic impact upon the existing hardware and building supplies businesses in the LGA as the new Bunnings is replacing the existing Bunnings and there is a separation distance between this development and the existing hardware and building supplies businesses located in the other suburbs.

A thorough assessment of the impact of the proposed development on the built environment has been undertaken in terms of statutory and DCP compliance, the submissions received and other relevant impacts. As a result, the proposed development is considered to be satisfactory in terms of the built environment.

b) Natural Environment

All relevant issues regarding the likely impacts on the natural environment have been considered and determined to be reasonable for the proposed development.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

A review of Council's Land Information mapping has identified no significant site constraints.

The subject site has been identified as being affected by future road widening.

The likely impacts of the development have been discussed throughout this report. In general, it is considered that there are no significant site constraints or hazards that would render the location of the development unsuitable for a hardware and building supplies development subject to conditions.

THE PUBLIC INTEREST (s79C(1)(e)):

The proposed development is located within an industrial site on the Pacific Highway and the main road leading into the industrial area. The Wyong LEP 2013 enables hardware and building supplies development to be located within industrial zoned land. The design of the building is considered to be consistent with industrial type building with appropriate form, layout, scale and landscaping.

There are no matters associated with the proposal that would be considered contrary to the local or community interest. The proposal will create additional employment and retail opportunities for the Central Coast Region.

OTHER MATTERS FOR CONSIDERATION

- Retail Centres Strategy

This Strategy includes provisions relating to the retail network, the role and function of centres within that network and how best to encourage investment while maintaining the viability of existing centres. These centres are located within B zoned land. The subject site is not located within any of the identified retail centres within this Strategy and is land zoned industrial. Bunnings is currently a tenant of the Lake Haven Mega Centre diagonally opposite the subject site.

Since 1996 various retail reporting has identified a shortfall of bulky goods land within the North Wyong Catchment.

The 1996 Retail Centres Strategy recognised the potential for this site for the development of centre support adjacent to the Lake Haven Shopping Centre, which would serve the northern part of the Shire. This Strategy identified that there was a clear under supply in the provision of bulky goods (non-food) floor space in the Wyong Shire of 16,700m². At the time it was estimated that there was 20,000m² of existing bulky goods floor space in the Shire and that it was projected there was a demand for 36,700m² of bulky goods floor space.

No economic statement was included as part of the documentation provided as part of this application. A small section was provided within the Statement of Environmental Effects indicating that the development is considered to represent an employment generating development by employing 160 staff and will also support the economic base for the industrial precinct by adding to the passing trade for other existing businesses in the area.

The Retail Centres Strategy Review dated September 2007 undertaken by Leyshon Consulting, set out recommendations regarding the expansion of existing centres and the development of new centres for the period 2006-2031. This Strategy identified a number of centres that were to be developed by 2011, however only the Village Centre at San Remo (Northlakes Shopping Centre) has been opened. The Strategy recommended an allowance for additional bulky goods floor space in Northern Wyong of up to 20,000m² by 2031, although a suggested location was not stated. This Review includes hardware and building supplies within the category of bulky goods. However, the LEP 2013 separately defines *bulky goods premises* and *hardware and building supplies*. The LEP 1991 did not separately define *hardware and building supplies* and the definition of *bulky goods sales room and showroom* gave latitude to include hardware premises within this definition.

The Retail Strategy 2011 provides no clear guidance as to where future bulky goods floor space will be located within the northern part of the Shire. However an allocation of an additional 20,000m² to be developed between 2016-2031. Demand for additional bulky goods floor space will increase as the population increases.

It is considered that the development of this proposed Bunnings is complimenting the Retail Strategy 2011 in providing additional bulky goods floor space.

- Section 94A Contribution Plan

The subject site is not subject to a Section 94 Contributions Plan area however, the proposed development is subject to Section 94A contributions. The Section 94A contributions are calculated on 1% of the total estimated cost of the development. The estimated cost quoted on the DA form is \$24,150,000 which equates to a Section 94A contribution of \$241,500.

Water and Sewer Contributions

Water and sewer contributions are payable for the proposal under the *Water Management Act 2000* and will be included under the Section 306 Notice of Requirements for the proposal.

CONCLUSION

The application seeks approval for construction of a proposal for a hardware and building supplies development (Bunnings) with undercroft parking and ancillary cafe including demolition, remediation and ancillary works on Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway Charmhaven.

The proposed development includes variations to DCP controls in relation to site coverage, setbacks to Chelmsford Road and landscaping. These variations are considered minor in the context of the proposal.

Aside from these proposed variations, the development is considered to be consistent with the objectives of the controls of the site and generally consistent with Council's LEP and DCP requirements. The proposal will deliver significant public benefit to the community by providing employment during construction and operation of the development. It is generally considered that the proposed development is suitable for the site and will represent a positive opportunity to provide additional services and employment opportunities within the local area.

The proposal is recommended for approval subject to conditions.

ATTACHMENTS

1. Attachment 1 – SEPP 64 Advertising and Signage Assessment
2. Attachment 2 – Draft conditions of consent