

**Proposal:** Staged redevelopment of the site for the purpose of a Bunnings Warehouse.

**Location:** Lots 1 and 2 DP 1071647, No. 1 – 19 Bonnyrigg Avenue, Bonnyrigg

**Owner:** Bunnings Properties Pty Limited

**Proponent:** Bunnings Group Limited

**Capital Investment Value:** \$25,080,000.00

**File No:** DA 71.1/2015

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Fairfield City Council

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## **RECOMMENDATION**

That the staged redevelopment of the site for the purpose of a Bunnings Warehouse be **Approved as a Deferred Commencement**, subject to conditions as outlined in Attachment Q of this report.

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## **SUPPORTING DOCUMENTS**

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## **EXECUTIVE SUMMARY**

Council is in receipt of Development No. 71.1/2015 which seeks approval for the staged redevelopment of the site for the purpose of a Bunnings Warehouse. The proposal comprises the following:

Stage 1 – Master Plan

- A Master Plan for the Site in accordance with subclause 25H(9) of Fairfield Local Environmental Plan 1994 ('LEP 1994' or 'the LEP');

#### Stage 2 – Single Stage Development Proposal

- Demolition of all existing structures;
- Bulk earthworks and some tree removal;
- Construction of a bulky goods warehouse including hardware and building supplies, timber trade sales, outdoor plant nursery and bagged goods with a total retail area of 15,450m<sup>2</sup>;
- Vehicular access via Bonnyrigg Avenue and Elizabeth Drive;
- Car parking for 410 vehicles; and
- Associated signage and landscaping.

Pursuant to clause 3 within Schedule 4A of Environmental Planning and Assessment Act 1979, the Application is required to be determined by the Joint Regional Planning Panel (JRPP) given that the application has a capital investment value over \$20 million dollars. Accordingly the application has been referred to the Panel for consideration.

The applicant has lodged an appeal to the Land and Environment Court as a deemed refusal matter. At a Directions Hearing before the Court on 10 November 2015 the appeal was adjourned until 18 December 2015. Accordingly, the subject application has been referred to the determining authority for consideration prior to the matter being listed for a second hearing at the end of December.

The application has been staged, in order address subclause 25H(9) of LEP 1994 which requires that the consent authority must consider the preparation of a Master Plan for sites that are greater than 2,000m<sup>2</sup>. Accordingly Stage 1 seeks the approval of the submitted Master Plan (Attachment A) and Stage 2 seeks the construction and demolition works of the Bunnings Warehouse within a single stage.

The site is considered large, with an area of 22,119m<sup>2</sup>, and is located within the Southern edge of the Bonnyrigg Town Centre. The site is bounded by Elizabeth Drive to the south, Bonnyrigg Avenue to the east, the T – Way to the west and the existing Bunnings Warehouse to the North. Vehicular access for staff and customers is via Bonnyrigg Avenue and heavy vehicles serving the site will enter via Bonnyrigg Avenue and exit via Elizabeth Drive.

Bonnyrigg Town Centre is a 'deferred matter' under Fairfield Local Environmental Plan 2013 and as such falls under the provisions of the Fairfield LEP 1994. Accordingly, the subject site is within the Zone 4(c) Special Industrial as stipulated within the Fairfield City Council LEP 1994. The proposal is permissible within the zone, subject to consent.

Clause 25H Bonnyrigg Town Centre of the LEP also applies to the site which permits a mix of integrated land uses and activities that support the retail, commercial, cultural and social vitality of the Town Centre. Commercial/retail premises and residential flat buildings are permitted under this clause. In addition, the Bonnyrigg Town Centre DCP 2008, sets out detailed planning controls for the Bonnyrigg Town Centre underpinning the provisions of Clause 25H contained in Fairfield LEP 1994. In relation to the subject site key planning principles and controls are:

- The site is located on gateway position to the Town Centre and edge fronting a major road (Elizabeth Drive)

- Maximum height for mixed use development on the site ranges from 2-6 storeys.
- Under s.5.1.4 of the DCP – Site Development Principles - Controls Diagrams the site is located in Precinct 4. The precinct plan includes desired footprints and building mass for future mixed use development on the site. The plan seeks a strong built line to Elizabeth Drive and Bonnyrigg Avenue which includes an active frontage. Residential flat buildings are located behind this and a large communal open space located along the western boundary. Roads are located through the site in order to provide access and views/vistas to the communal open space.

The applicant has responded to this matter and advised that *‘whilst Clause 25H of LEP 1994 provides additional provisions relating to the Bonnyrigg Town Centre, the overriding zoning of the land permits the proposed development and the objectives of that zone are to provide a broad range of light industrial and warehouse activities and a limited range of business and retail activities compatible with nearby residential areas’*. It is considered that the proposed development is not inconsistent with the objectives of the zone.

Furthermore the applicant has indicated that in order to provide a gateway feature at the intersection of Elizabeth Drive and Bonnyrigg Avenue, the proposed development has been designed to provide a defined corner element at the intersection and has included the construction of a ‘Bonnyrigg Town Centre’ Sign on the southern corner. The applicant states that *‘it must be recognised that the DCP provisions which envisage mixed residential and non-residential uses across this site cannot override the zoning of the land under LEP 1994 which permits the proposed development’*. In addition, the applicant has indicated that *‘Bunnings has a lease in the existing premises to the north extending to 2025 and failing the approval of the subject development, Bunnings could reasonably occupy that premises until that time. Accordingly, encouraging Bunnings to relocate to the edge of the town centre will allow the earlier redevelopment of the existing Bunnings site, which would be consistent with Council’s longer term aims for a finer grain of mixed-use buildings and greater pedestrian oriented uses and permeability closer to the town centre’*.

Council’s Strategic Planning Branch is currently reviewing the LEP and DCP planning provisions for the Bonnyrigg Town Centre. The review seeks to have existing and proposed employment uses remaining in the town centre in the short to medium term, whilst in the same instance allow the potential for the transition to increased residential densities in the longer term.

Accordingly, it is considered that the proposed development is acceptable for the following:

- The proposal is permissible and meets the objectives in the 4(c) Special Industrial zone under Fairfield LEP 1994;
- It is considered to be consistent with the short to medium term vision of the Bonnyrigg Town Centre which is to maintain employment; and
- The proposed development will revitalise the site which is currently occupied by an unused bus depot; and
- Relocating the existing warehouse to the periphery of the town centre will likely provide a catalyst for other development in line for the long term vision of the Town Centre at the existing Bunnings site which is located closer to the centre.

The development is defined as Integrated Development under the provisions of Section 91 of the Environmental Planning and Assessment Act, 1979. Accordingly, the development requires the approval of Roads and Maritime Services under Section 138 of the Roads Act and Office of Water under Sections 89, 90 and 91 of the Water Management Act 2000.

The proposal seeks egress of heavy vehicles to a left only exit on Elizabeth Drive which is owned and operated by RMS. It is noted that the proposed access will traverse Lot 455 DP 817546 which is also owned by RMS. The application was referred to RMS and concurrence was granted for the proposed access. RMS have confirmed that they raise no objections to the proposed access over Lot 455 as this parcel of land will be dedicated as road in the near future.

As indicated above, the proposed works require a Controlled Activity Approval under the Water Management Act 2000. Accordingly the Application was referred to the Office of Water for Concurrence. The Department has reviewed the application and deemed it acceptable and has issued Council the General Terms of Approval.

In accordance with the Environmental Planning and Assessment Regulation 2000, the application was notified for a period of thirty (30) days in writing to surrounding properties, and in the local paper. No submissions were received during the notification period.

The proposal has been assessed against State Environmental Planning Policy No. 55 Remediation of Land as the site involves the redevelopment of a potential contaminated site. The applicant has submitted a Stage 1 Environmental Site Assessment in support of the application. The report concludes that the site is suitable for the proposed development subject to certain recommendations which includes a Stage 2 Assessment and a Remedial Action Plan. This requirement can be imposed as a condition. Notwithstanding this, it is considered that the application be a deferred commencement consent until the submission and approval of the required documentation.

The application was referred to Council's Building Control Branch, Traffic Section, Environmental Management Branch, Development Engineering Branch, Strategic Section, Natural Resource Section, Heritage Officer, Place Manager, Tree Preservation Officer and Community Health Section for comments and/or conditions. The proposal was deemed satisfactory subject to conditions of consent. The application was also referred externally to NSW Police and NSW Rural Fire Services who accepted the proposal subject to conditions.

This report summarises the key issues associated with the development application and provides an assessment of the relevant matters of consideration in accordance with the Environmental Planning and Assessment Act 1979, the Fairfield Local Environmental Plan 1994 and the Bonnyrigg Town Centre Development Control Plan 2008.

Based on the above, it is considered that the proposal is considered to be satisfactory with regard to car parking, traffic generation, traffic safety, acoustic noise, site landscaping, visual impact and overshadowing. It is considered that the proposed development is appropriate for the site and for the locality and will have minimal impact on the surrounding environment. Accordingly, the proposed development is considered acceptable and is therefore recommended for approval as Deferred Commencement subject to the conditions as outlined in Attachment Q of this report. It is considered that

the application be a deferred commencement consent until the submission and approval of a Stage 2 Contamination Assessment and a Remedial Action Plan.

## SITE DESCRIPTION AND LOCALITY

The subject site is located at the corner of Elizabeth Drive and Bonnyrigg Avenue which is on the southern edge of the Bonnyrigg Town Centre, as shown in Figure 1.



**Figure 1 Site Location**

The land is described as Lots 1 and 2 in DP 1071647, No. 1 - 19 Bonnyrigg Avenue, Bonnyrigg. The subject site has a frontage to Elizabeth Drive of approximately 105m metres, a frontage to Bonnyrigg Avenue of approximately 175 metres and the site has an overall area of 22,159m<sup>2</sup>. The site has a general slope to the north corner by approximately 2m.

Lot 1 consists of an existing bus depot for 'West Bus' which comprises a single storey brick administration building and ancillary structures throughout the site. The subject Lot is nearly 100% paved except for a small landscape strip that runs along Bonnyrigg Avenue. The Bus Depot currently has 2 vehicle access points to Bonnyrigg Avenue which has a seagull arrangement for vehicles to enter and exit the site.

Lot 2 is currently vacant and has a large stockpile located within the middle of the Lot. It is understood that the stockpile comprises soil during earthworks at the adjoining site in Lot 1.

The site is generally devoid of vegetation with only Eight (8) Eucalypts trees located along Bonnyrigg Avenue and Three (3) eucalypts trees located along Elizabeth Drive. It is proposed to remove one of these significant trees along Bonnyrigg in order to provide the service lane.

Information from NSW National Parks and Wildlife Services indicates that the adjoining site contains remnant vegetation associated with a Cumberland Plain Endangered Ecological Community. Cumberland Plain Woodland is listed as a Critically Endangered Ecological Community under the NSW Threatened Species Act 1995 and Environment Protection and Biodiversity Conservation Act 1999. In accordance with Clause 5A of the Environmental Planning and Assessment Act 1979, a Flora and Fauna and Bushfire Assessment has been submitted in support of the application.

The subject site is located within the southern edge of the Bonnyrigg Town Centre and forms part of the gateway into the centre. The site is adjoined by the following:

- North: Immediately north of the site is No. 21 Bonnyrigg Avenue which currently comprises an existing Bunnings Warehouse. The applicant has indicated that the current warehouse is not sufficient to cater for demand and seeks to develop the adjoining site. Furthermore they have indicated that they are not proposing to operate from this site once the proposal is complete;
- South: Immediately south of the site is Elizabeth Drive which is 4-lane arterial road. Over the other side are detached single and double storey residential dwellings.
- West: Immediately west of the site is the Transit Way owned and operated by Roads and Maritime Services and a Riparian Corridor. Directly adjoining the site is a large vegetation area that comprises regenerating Cumberland Plain Woodland; and
- East: Immediately east of the site is Bonnyrigg Avenue. Over the other side of the road is the Bonnyrigg New Leaf redevelopment. Currently there are existing townhouses and detached houses within this area.

The site and its immediate surroundings are industrial in nature and consist of the existing Bunnings Warehouse and the bus depot. Towards the north is commercial in nature and to the south and east are residential in nature. The site is dominated by Elizabeth Drive which is a four (4) lane Arterial Road.

## BACKGROUND

Relevant approvals are outlined below:

- Council files indicate that the bus depot was original approved on 14 November 1958 by the Cumberland County Council.
- On 7 May 1985, Council granted Development Consent No. 111/85 for 'Office and Caretakers residence'.
- On 7 November 1996, Council granted Development Consent for 'Landfill and Compaction in conjunction with work on adjoin site'.
- On 23 February 2001, Council granted Development Consent No. 904/2000 for "Demolition of Existing Buildings and Re – Development of Bus Depot Comprising Workshop Building, Two – Storey Administration Building and ancillary vehicle and bus parking. Relevant conditions are as follows:
  - Hours of Operation are Monday to Sunday 4:00am – 1:00am
- On December 2001, Council granted Development Consent No. 1490/2001 for 'Subdivision into One (1) Lot for Bus Depot and One (1) Residue Lot and Proposed new use as Car/Bus Parking'.

## PROPOSAL

The application proposes the staged redevelopment of the site for the purpose of a Bunnings Warehouse.

Specific details of the proposed development are as follows:

### Stage 1 – Master Plan

The application has been staged, in order address subclause 25H(9) of LEP 1994 which requires that the consent authority must consider the preparation of a Master Plan for sites that are greater than 2,000m<sup>2</sup>. Accordingly the applicant has staged the proposed development pursuant to Part 4 Division 2A of the Environmental Planning and Assessment Act 1979. Stage 1 seeks the approval of the submitted Master Plan (Attachment A) and Stage 2 seeks the construction and demolition works of the Bunnings Warehouse within a single stage. The applicant indicates that Subsection 83C(2) of the Environmental Planning and Assessment Act 1979 provides that if an EPI requires the preparation of a DCP, that obligation may be satisfied by the making and approval of a staged DA in respect of that land.

### Stage 2 – Demolition of existing structures and construction bulky goods warehouse

The proposed bulky goods warehouse, plant nursery and all ancillary works are proposed to be constructed in a single stage and comprise the following:

- Demolition of all existing structures and pavement;
- Bulk earthworks and tree removal;
- Construction of a bulky goods warehouse including hardware and building supplies, timber trade sales, outdoor plant nursery and bagged goods with a total retail area of 15,450m<sup>2</sup>;
- Vehicular access via Bonnyrigg Avenue and Elizabeth Drive;
- Car parking for 410 vehicles;
- Construction of 'Bonnyrigg Town Centre' Gateway sign at the southern corner of the site; and
- Associated signage and landscaping.

Specific Details of the proposed construction are as follows:

### Demolition Works

The proposal seeks to remove the existing buildings located on Lot 2 that relate to the bus depot. The proposal will maintain the majority of the existing slab and OSD system with minor excavation for footings. The stockpile is proposed to be removed on Lot 2 and proposed earthworks will occur.

### Construction of Warehouse

The proposal involves the construction of a bulky goods warehouse over ground level car parking with ancillary plant nursery and bagged goods area and is comprised as follows:

- Construct Bulky Goods Warehouse with a total retail area of 15,450m<sup>2</sup>.
- The proposed building will have a general building height of 15 metres;
- Undercroft car parking catering for 410 car parking spaces;
- Lifts and travellators to the Warehouse Level on the first floor;
- Main pedestrian entry is oriented toward Bonnyrigg Avenue;
- The building is generally setback from 5 – 30 metres from Bonnyrigg Avenue, 8.5 – 9.3 metres from Elizabeth Drive, 9.8 metres from the northern boundary and 8.7 – 9 metres from the western boundary;
- A Timber Trade Sales area at the northernmost portion of the building;
- A mezzanine office area with a GFA of 255m<sup>2</sup> at the southern elevation;
- A bagged goods canopy along the southern elevation providing a semi-permeable presentation to this frontage; and
- An outdoor nursery to the south-east of the main building with shade sales over and a semi-permeable steel mesh presenting to the east and south.

### Tree Removal and Landscaping

There is minimal significant vegetation located onsite with the exception of eight (8) trees along Bonnyrigg Ave and three (3) trees along Elizabeth Drive. It is proposed that one of these trees will be removed in order to provide the proposed service lane.

The proposal includes significant landscaping within the following setbacks:

- North (facing existing Bunnings Warehouse) is 1 – 3.5 metres
- South (facing Elizabeth Drive) is 5 – 9.3 metres



- West (facing revegetation) area is zero
- East (facing Bonnyrigg Avenue) is 5 – 30 metres.

The proposal includes the planting of 65 significant trees onsite within these landscape areas.

### Signage

Two free standing signs are proposed and several painted wall signs being the Bunnings logo and name will be used on the main warehouse.

The free standing pylon signs will be located at the corner of Elizabeth Drive and Bonnyrigg Avenue and at the main customer entry off Bonnyrigg Avenue. Each sign will be 12 metres high and will have dimensions of 7.2 x 4.8 metres for the upper panel and a lower area for a promotional banner of 3.8m x 1.4 metres.

The painted wall signs will be located on the north, east, south and west elevations with dimensions as follows:

- North – “Bunnings Warehouse” text with dimensions of 18.192m x 5.75m;
- North – hammer logo with “Lowest Prices are just the beginning...” text with dimensions of 18.425m x 7.2m;
- East – “Bunnings Warehouse” text with dimensions of 7.9m x 2.5m
- East – hammer logo with “Lowest Prices are just the beginning...” text with dimensions of 18.425m x 7.2m;
- East – “Bunnings Warehouse” text with dimensions of 3.75m by 11.9m
- South – “Bunnings Warehouse” text with dimensions of 7.9m x 2.5m;
- South – hammer logo with “Lowest Prices are just the beginning...” text with dimensions of 9.3m x 3.25m;
- South – “Bunnings Warehouse” text with dimensions of 3.75m by 11.9m
- West – “Bunnings Warehouse” text with dimensions of 18.192m x 5.75m; and
- West – hammer logo with “Lowest Prices are just the beginning...” text with dimensions of 18.425m x 7.2m.

### Use Details

The proposed hours of operation are 6am to 10pm Mondays to Fridays and 6am to 7pm Saturdays, Sundays and Public Holidays.

There is a small café section within the proposed building. The applicant has indicated that there is no food preparation and only serves pre – packaged foods and tea/coffees.

Waste is undertaken by a private company that serves all Bunnings within NSW.

### Vehicle Access

The proposal seeks a single entry and exit from Bonnyrigg Avenue for all staff and customer car parking only. Heavy vehicles serving the site enter via Bonnyrigg Avenue and exit via Elizabeth Drive. Customer pickups can enter and exit via Bonnyrigg Avenue. A raised service land has been provided along the northern and western boundaries in order to allow service vehicles to load/unload directly into the warehouse.

The proposal seeks to maintain the existing seagull arrangement from Bonnyrigg Avenue in order to enter and exit the subject site.

## STATUTORY REQUIREMENTS APPLICABLE TO THE SITE

### 1. Fairfield Local Environmental Plan 1994

Bonnyrigg Town Centre is a 'deferred matter' under Fairfield Local Environmental Plan 2013 and as such falls under the provisions of the Fairfield LEP 1994. Accordingly, the subject site is within the Zoned 4(c) Special Industrial zone as stipulated within the Fairfield City Council LEP 1994. The proposal is considered to be characterised as a 'Bulky goods salesroom or showroom' which is defined as follows:

***'Bulky goods salesroom or showroom'*** means a building or place used for the sale by retail or auction or the hire or display of items (whether goods or materials) which are of such a size, shape or weight as to require:

- (a) a large area for handling, storage or display, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading items into their vehicles after purchase or hire, but does not include a building or place used for the sale of foodstuffs or clothing.'

Bulky goods showrooms are permitted within the zone subject to Development Consent.

The objectives of zone are as follows:

- (a) to encourage the establishment of a broad range of light industrial and warehouse activities and a limited range of business and retail activities compatible with nearby residential areas to generate employment and contribute to the economic development of the City of Fairfield,
- (b) to allow community uses to serve the needs of the nearby industrial work force, and
- (c) to allow retail development only:
  - (i) where associated with, and ancillary to, light industrial purposes on the same land,
  - (ii) for the display and sale of bulky goods,
  - (iii) where it primarily serves the daily convenience needs of the local industrial work force, or
  - (iv) for motor orientated activities (that is, the use of a building or place associated with the sale by retail of motor vehicle components or goods, where that building or place has a work bay or area for the fitting of motor vehicle components or goods or a large area for the handling, storage or display of motor vehicle components or goods but not the use of a building or place elsewhere defined in this plan),and only if the proposed development will not detrimentally affect the viability of any nearby business centre.

It is considered that the proposal satisfies the objectives of the zone given that it will likely contribute to employment and economic growth and based on the submitted information unlikely impact nearby residential dwellings.

With reference to Clause 11 'Flood Liable Land', it is noted that the site is affected by overland flooding that has not been risk mapped and partly low and no risk precinct for mainstream flooding. In order to address this, a Flood Impact Assessment has been submitted in support of the application. The report concludes that the proposal meets the relevant flood criteria and this is supported by Council Engineering Section.

Accordingly, it is considered that the proposal will not adversely impact flood behaviours and meets the Council's Flood Management Policy.

With reference to Clause 12 'Development in the vicinity of creeks and waterways', Council is required to assess the potential impact to ecological systems where works are proposed within 20m of a watercourse. A flora and fauna assessment has been submitted which concludes that the proposal will unlikely impact the downstream ecological system, subject to conditions.

Clause 25H Bonnyrigg Town Centre of the LEP also applies to the site which permits a mix of integrated land uses and activities that support the retail, commercial, cultural and social vitality of the Town Centre. Pursuant to Subclause (2) the objectives of the redevelopment of Bonnyrigg Town Centre and an assessment of them is as follows:

- a) to ensure that Part 3 (Master Plan of the Bonnyrigg Town Centre) of Fairfield Development Control Plan No 28—Bonnyrigg Town Centre (as adopted by the Council on 24 February 2004) (the Town Centre DCP) is considered by the consent authority before consent is granted to proposed development,*

An assessment of Bonnyrigg Town Centre DCP 2008 is provided further down in the report

- b) to create a clearly defined urban structure for the Town Centre that is sympathetic to the scale and appearance of surrounding areas, integrating the existing public housing estate with surrounding residential areas and featuring clearly defined entrance points to the Town Centre,*

The proposed built form is in keeping with bulky goods showroom uses and is a large prominent structure. The subject site does not have a direct interface with existing residential development given that the site is isolated from the town centre as it is bounded by the T-Way, Elizabeth Drive, Bonnyrigg Avenue and the existing Bunnings store. In the long term, if residential development is provided to the adjoining site to the north (as it is permitted) the proposal incorporates a 1 – 3.5m landscape setback which includes the planting of twenty (20) significant trees along this interface to soften the appearance of the proposed structure. Furthermore the design of the proposal provides a defined corner element at the intersection and has included the provision of a 'Bonnyrigg Town Centre' Sign on the southern corner in order to provide an entrance point into the Town Centre.

- c) to allow for a mix of integrated land uses and activities that support the retail, commercial, cultural and social vitality and viability of the Town Centre,*

The proposal will replace the existing Bunnings store within the town centre and accordingly will support the economic viability of the centre.

- d) to restore the natural setting of Clear Paddock Creek and establish a vegetated riparian corridor along either side of that creek and an off-line stormwater treatment system, promoting opportunities for sustainable biodiversity and biological linkages between areas of remnant native vegetation,*

The proposal is located outside the riparian corridor and maintains the site levels of the existing bus depot. Documentation submitted concludes that the proposal will unlikely have an adverse impact to the nearby watercourse.

- e) to enhance the use and enjoyment of urban spaces and restored open space areas in the Town Centre through landscape design measures,*

The proposal does not seek to remove existing open space areas. It is noted that the proposal does not provide any open space, however large landscape areas are provided along Bonnyrigg Avenue in order to develop the site while appropriately addressing the public domain.

- f) to minimise the potential impacts of flooding, urban waste and stormwater on the Town Centre and surrounding neighbourhoods,*

A Flood Impact Assessment has been submitted in support of the application which concludes that the proposal will not result in changes to the flood levels, velocities or storage capacity and appropriate stormwater measures can be incorporated.

- g) to create a distinctive landscape character that enhances the image of the Town Centre, incorporating connections to public gathering places in Clear Paddock Creek Park and opportunities for focal points through landscape design, and highlighting the culture of the local community,*

The proposal does not include a public gathering point as indicated above as an open space area. The proposal however includes significant landscape setbacks along Bonnyrigg Avenue and will include the planting of 65 significant trees onsite. The applicant has indicated that the development of this site for the purpose of a Bunnings warehouse will foster the redevelopment of the northern site which is currently located closer to the town centre. Accordingly, it is considered that in the medium term the proposal is considered appropriate and would not affect the viability of the redevelopment of the town centre.

- h) to promote opportunities for infill development, ensuring that the form, appearance, size and placement of any such development helps to enhance the character of the Town Centre and emphasise the distinctiveness of local cultural environments,*

Given the size and scale of the site the proposed development it is not considered to be infill development. The proposal will replace an existing Bunnings store within the town centre which is a distinct part of the town centre.

- i) to enhance vehicular access and linkages within, and to and from, the Town Centre,*

The proposed relocation of the warehouse will reduce heavy vehicle movements from the centre of Bonnyrigg which is considered beneficial. The proposal will maintain the existing seagull arrangement to access the site and Council's Traffic Section have accepted this arrangement.

- j) to increase opportunities for the provision of, and access to and from, public transport,*

The proposal will not preclude access to public transport

- k) to improve access within, and to and from, the Town Centre for people with disabilities,*

The proposal will not preclude disabled access to and from the town centre.

- l) to improve pedestrian access and amenity within, and to and from, the Town Centre,*

The proposal will relocate heavy vehicles away from the town centre which is considered an appropriate outcome.

*m) to create a pedestrian and cycleway network that:*

The proposal does not impede the objective to provide a pedestrian or cycleway network throughout the town centre and is not located within the adjoining creek system.

*n) links all surrounding residential areas, public transport interchanges and areas of open space with the Town Centre, and*

The proposal does not impede the objective of providing links from public transport nodes and open areas to the town centre.

*o) minimises any potential impact on the natural environment by locating primary pedestrian pathways away from the proposed (or, after its establishment, the existing) vegetated riparian corridor along either side of Clear Paddock Creek and away from areas of remnant native vegetation,*

The proposal does not impede the objective to provide a pedestrian path along the riparian corridor given that the proposal is located within the site and not on the adjoining riparian corridor.

*p) to provide sufficient parking, and servicing access, to customers of the Town Centre, ensuring that parking and service areas are accessible to users and managed effectively,*

A detailed parking assessment has been provided further within the report.

*q) to allow development that incorporates a variety of housing, increasing housing choice and flexibility, to accommodate a range of income groups and encourage social diversity.*

The proposal seeks to provide a permitted use and not residential housing. Accordingly, this objective is not applicable to the subject application.

An assessment of Clause 25H is provided within the following table:

Criteria	Provision	Proposed	Compliance
Clause 25H Bonnyrigg Town Centre (3)	Despite the other provisions of this plan, development for the following purposes may be carried out with development consent on land within the Town Centre that is shown by vertical hatching on Sheet 2 of the map marked "Fairfield Local Environmental Plan 1994 (Amendment No 93)": (a) multi-unit housing, (b) residential flat buildings, (c) two or more of the following, incorporated within the ground or first floors of a building (for example, a residential flat building): (i) business premises,	The proposal seeks to develop the site for the purpose of a bulky goods showroom and not the specified landuses indicated under subclause (3).	Not Applicable

	(ii) community facilities, (iii) dwellings, (iv) entertainment facilities, (v) refreshment rooms, (vi) shops.		
(5)	Development for any of the purposes referred to in subclause (3) is required to comply with the height controls detailed in section 5.1.4 of the Town Centre DCP.	The proposal does not seek development specified in subclause (3) and therefore the height controls are not applicable.	Not Applicable
(8)	Before granting consent to the carrying out of any development within the Town Centre, the consent authority must consider the objectives set out in subclause (2) that are of relevance to the proposed development.	An assessment of the objectives of Clause 25H has been undertaken and the proposal is considered to satisfy these objectives.	Yes
(9)	Before granting consent to the carrying out of any development within the Town Centre on a site that is greater than 2,000 square metres, the consent authority must consider a site master plan, unless satisfied that the proposed development is minor.	The applicant has satisfied this requirement by staging the application and providing a Master Plan to support the redevelopment of the whole site.	Yes
(10)	For the purposes of subclause (9), a site master plan is a document, consisting of written information, maps and diagrams...	It is considered that the submitted master plan and other documentation addresses the requirements of subclause (10)	Yes
(11)	The consent authority must not consent to the carrying out of development on land within the Town Centre that adjoins an arterial road and would enable vehicular access to or from the land by the arterial road, unless: (a) it is satisfied that there is no other practicable means of vehicular access to or from the land.	The proposal seeks egress of heavy vehicles to Elizabeth Drive which is an arterial road. It is indicated that this exit is the only practical means of egress for heavy vehicles and therefore the proposal is considered acceptable.	Yes

Whilst the proposal does not seek to develop the site in accordance with the landuses permitted under subclause (3), it is considered that the proposal and the submitted documentation satisfactorily addresses the objectives and provisions of Clause 25H and does not result in the detrimental impact to the northern lot, to be developed.

With reference to Clause 31, it is considered that the subject site has the potential to retain Aboriginal archaeological resources because:

- the site is close to Clear Paddock Creek and to a natural drainage line which feeds into the creek;
- the site is relatively undisturbed; and,
- a search of the AHIMS database has revealed the presence of Aboriginal two Aboriginal sites

Furthermore, the subject site is located within close vicinity of Watt Khemarangsaram and Watt Khemarangsaram temples on Smithfield Road and Tarlington Parade. The applicant has submitted an Aboriginal Cultural Heritage Due Diligence Assessment in support of the application and the proposal was forwarded to Council's Heritage Officer.

Based on the documentation, Council's Heritage Officer has indicated that the proposal is acceptable with regard to heritage matters.

There are no other relevant provisions of the LEP applicable to the proposal.

## **2. Threatened Species Conservation Act 1995**

In accordance with the Threatened Species Conservation (TSC) Act 1995 as well as the provisions of the Environmental Planning and Assessment Act 1979 relating to threatened species, a flora and fauna assessment of the site was undertaken by Abel Ecology, dated 28 January 2015.

The report found that there are no threatened, protected or endangered floral or faunal species, populations, or habitat as prescribed by OEH were recorded on the proposed site.

Information from NSW National Parks and Wildlife Services indicates that the adjoining site to the west contains remnant vegetation associated with a Cumberland Plain Endangered Ecological Community. The submitted flora and fauna assessment confirms that there are Cumberland Plain Species on the site. The report concludes that the proposal will not result in any adverse impact on this vegetation subject to recommendations.

## **3. Section 91 of the Environmental Planning and Assessment Act – Integrated Development**

The development is defined as Integrated Development under the provisions of Section 91 of the Environmental Planning and Assessment Act, 1979. Accordingly, the development requires the approval of Roads and Maritime Services under Section 138 of the Roads Act and Office of Water under Sections 89, 90 and 91 of the Water Management Act 2000.

### **S138 Roads Act Approval**

The proposal seeks egress of heavy vehicles to a left only exit on Elizabeth Drive which is owned and operated by RMS. It is noted that the proposed access will traverse Lot 455 DP 817546 which is also owned by RMS. The application was referred to RMS and concurrence was granted for the proposed access subject to conditions. RMS has provided written confirmation that they raise no objections to the proposed access over Lot 455 as this parcel of land will be dedicated as road in the near future.

### **Controlled Activity Approval**

As indicated above, the proposed works require a Controlled Activity Approval under the Water Management Act 2000. Accordingly the Application was referred to the Office of Water for concurrence. The Department has reviewed the application and deemed it acceptable and has issued Council the General Terms of Approval, which are recommended to form part of the development consent.

#### **4. Rural Fires Act 1997**

Pursuant to Clause 79BA of EPA Act 1979, Council may not consent to development without a 'bushfire safety authority' issued by the Commissioner of the NSW Rural Fire Service' on bush fire prone land. The Site is not identified as being Bushfire Prone Land and therefore the proposal does not trigger the requirement for a bushfire safety authority. Notwithstanding this, the applicant has submitted a Bushfire Assessment prepared by Abel Ecology dated 28 January 2015 in respect of a Bushfire Threat from existing vegetation. The report concludes that the vegetation to the west does not pose a threat to the proposed development and development to the north, east and south is deemed to be fuel-free for the purposes of a bushfire threat assessment.

#### **5. State Environmental Planning Policy No. 55 Remediation of Land**

The proposal has been assessed against State Environmental Planning Policy No. 55 Remediation of Land as the site involves the redevelopment of a potential contaminated site. The applicant has submitted a Stage 1 Environmental Site Assessment in support of the application. The report concludes that the site is suitable for the proposed development subject to certain recommendations which includes a Stage 2 Assessment and a Remedial Action Plan. This requirement can be imposed as a condition. Notwithstanding this, it is considered that the application be a deferred commencement consent until the submission and approval of the required documentation.

#### **6. State Environmental Planning Policy (Infrastructure) 2007**

The proposed development is identified within Schedule 3 of the Infrastructure SEPP, being more than 50 car spaces with access within 90m of a classified road. As such, the application was referred to Roads and Maritime Services (RMS) for their comments.

Furthermore to the above, the proposed facility is located adjacent and seeks access to Elizabeth Drive which is an arterial road. Pursuant to Clause 101 Council must take into consideration the following:

- (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.*

As stated above, the proposal seeks a new access point for egress of heavy vehicles to Elizabeth Drive. The applicant has submitted a Traffic Report in support of the application that includes a survey of an existing Bunnings Warehouse. The proposed egress off Elizabeth Drive is considered appropriate and restricting access only to Bonnyrigg Avenue is not considered practical in this circumstance. The report concludes that traffic generated by the development is considered to be minimal. In



addition, the application was referred to Roads and Maritime Services who raised no objections to the application subject to conditions of consent.

## **7. State Environmental Planning Policy No. 64 – Advertising and Signage**

In accordance with the SEPP, the signage proposed for the external walls of the Bunnings building would be defined as building identification signs. As such, the proposed signage is not subject to referral to the RTA as per Clause 18 and 19.

However, the proposal must demonstrate that the signage is consistent with the objectives of the SEPP and that the proposed signage satisfies the assessment criteria specified in Schedule 1 of the SEPP.

It is considered that the Applicant has satisfactorily demonstrated that the proposed signage satisfies the assessment criteria as contained in Schedule 1.

The proposed finish to the building is standard practice for the Bunnings' chain and is replicated for stores nationwide. In this regard, it is considered that the proposed signage is of high quality and provides effective communication within a suitable industrial location. Furthermore, it is considered that the proposed signage is of a size and scale that is consistent with the built form.

## **8. Employment Lands Strategy 2008**

The Employment Lands Strategy adopted by Council in 2008 provides the future direction for all industrial zoned land in the LGA and provides recommendations on what to zone existing industrial land as part of the preparation of LEP 2013.

The Strategy recommends that the site be rezoned to B6 Enterprise Corridor which allows residential uses and certain retail uses. The B6 Enterprise Corridor permits bulky goods showrooms. Accordingly, it is considered that the proposal would not be contrary to the findings and recommendations provided by the Employment Lands Strategy.

## **9. Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment**

The subject development is considered to be consistent with the objectives and the requirements outlined in the above REP. In addition, the specific matters of consideration as outlined in the REP are as follows:

### ***“Specific matters for consideration***

- *The potential cumulative environmental impact of any industrial uses on water quality within the Catchment.*
- *The adequacy of proposed stormwater controls and whether the proposal meets the Council's requirements for stormwater management.*
- *Whether proposed erosion control measures meet the criteria set out in Managing Urban Stormwater: Soil and Construction Handbook (1998) prepared by and available from Landcom and the Department of Housing.*
- *Likely impact on groundwater and remnant vegetation.*
- *The possibility of reusing treated waste water on land and the adequacy of proposed waste water disposal options.*

- *Whether adequate provision has been made to incorporate vegetated buffer areas to protect watercourses, foreshores or other environmentally sensitive areas where new development is proposed.*
- *The adequacy of planned waste water disposal options."*

The applicant has submitted an flora and fauna assessment demonstrating that the proposal will not create an unreasonable environmental impact to the surrounding locality. The application is therefore considered to be satisfactory with respect to addressing the objectives and requirements of REP No. 2.

## **10. Bonnyrigg Town Centre DCP No. 28**

The proposed Town Centre DCP No. 28 provides detailed provisions relating to the redevelopment of the town centre. The subject site is located within Precinct 4 which provides a building typology that is consistent with residential and mixed use development and not the proposed bulky goods showroom. In relation to the subject site key planning principles and controls are:

- The site is located on gateway position to the Town Centre and edge fronting a major road (Elizabeth Drive)
- Maximum height for mixed use development on the site ranges from 2-6 storeys.
- Under s.5.1.4 of the DCP – Site Development Principles - Controls Diagrams the site is located in Precinct 4. The precinct plan includes desired footprints and building mass for future mixed use development on the site. The plan seeks a strong built line to Elizabeth Drive and Bonnyrigg Avenue which includes an active frontage. Residential flat buildings are located behind this and a large communal open space located along the western boundary. Roads are located through the site in order to provide access and views/vistas to the communal open space.

The proposal seeks a large significant structure onsite that has a general height of 15 metres which is in line with a 4 storey structure. The building typology sought under the DCP does not take into consideration the building typology that represents a bulky goods showroom.

The applicant has responded to this matter and advised that *'whilst Clause 25H of LEP 1994 provides additional provisions relating to the Bonnyrigg Town Centre, the overriding zoning of the land permits the proposed development and the objectives of that zone are to provide a broad range of light industrial and warehouse activities and a limited range of business and retail activities compatible with nearby residential areas'*. As discussed above, it is considered that the proposed development is not inconsistent with the objectives of the zone.

Furthermore the applicant has indicated that in order to provide a gateway feature at the intersection of Elizabeth Drive and Bonnyrigg Avenue, the proposed development has been designed to provide a defined corner element at the intersection and has included the construction of a 'Bonnyrigg Town Centre' Sign on the southern corner. The applicant states that *'it must be recognised that the DCP provisions which envisage mixed residential and non-residential uses across this site cannot override the zoning of the land under LEP 1994 which permits the proposed development'*. In addition, the applicant has indicated that *'Bunnings has a lease in the existing premises to the north extending to 2025 and failing the approval of the subject development, Bunnings could*

*reasonably occupy that premises until that time. Accordingly, encouraging Bunnings to relocate to the edge of the town centre will allow the earlier redevelopment of the existing Bunnings site, which would be consistent with Council's longer term aims for a finer grain of mixed-use buildings and greater pedestrian oriented uses and permeability closer to the town centre'.*

Council's Strategic Planning Branch is currently reviewing the LEP and DCP planning provisions for the Bonnyrigg Town Centre. The review seeks to ensure certainty for existing and proposed employment uses remaining in the town centre in the short to medium term, whilst in the same instance allow the potential for the transition to increased residential densities in the longer term.

Accordingly, despite the building topology sought under the DCP, it is considered that the proposed development is acceptable for the following reasons:

- The proposal is permissible and meets the objectives in the 4(c) Special Industrial zone under Fairfield LEP 1994;
- It is considered to be consistent with the short to medium term vision of the Bonnyrigg Town Centre which is to maintain employment; and
- The proposed development will revitalise the site which is currently occupied by an unused bus depot; and
- Relocating the existing warehouse to the periphery of the town centre will likely provide a catalyst for other development in line for the long term vision of the Town Centre at the existing Bunnings site which is located closer to the centre.

Furthermore, it is considered that the proposal would not impact the ability for the northern lot to be designed in accordance with the DCP given the following:

- the proposal incorporates a 7.6m to 9.8m setback to the building and incorporates landscape setbacks of 1 – 3.5m which include the planting of 20 significant trees. It is considered that the plantings and setbacks are sufficient in order to screen the development.
- There is a 12 metre easement owned by Fairfield Council along the southern side of the northern lot. Accordingly no development would be permitted within 12 metres of the subject site.
- Given that the subject site is located towards the south, it is reasonably expected that any residential development proposed on the adjoining site would be orientated to the West, North and East to meet Apartment Guidelines.

Given the above, despite the proposal not strictly complying with the building layout as indicated in the DCP, it does not warrant the refusal of the application.

## **11. Fairfield City-Wide Development Control Plan 2013**

The proposal has been assessed against the relevant controls stipulated within the Fairfield City Wide DCP, 2013. A brief assessment summary is provided below regarding the relevant controls within the DCP.

### **Chapter 12 – Car Parking**

The below table provides a brief assessment summary against the relevant controls stipulated within Chapter 12 Carparking of DCP 2013:

Criteria	Development Control	Proposed	Compliance
Chapter 12 Carparking, Vehicle and Access Management  Bulky Goods Showroom	1 space per 50m <sup>2</sup> gross leasable area plus the requirement for any associated use such as cafe etc.	15,363.5/50 = 307.27 spaces  55.9/7 = 7.9 spaces  Total of 315 spaces are required.  410 spaces are provided and therefore considered satisfactory.	Yes

Furthermore from the above, the applicant has submitted an Assessment of Traffic and Parking Implications in support of the application. In terms of parking, a survey was conducted at similar other Bunnings warehouses and the most appropriate rate of car parking was provided at a rate of approximately 1 space per 38m<sup>2</sup>.

### Appendix C - Advice for Designing Advertising Signs

The size of the proposed Bunnings logos do not comply with the maximum signage requirements as outlined in the DCP given that the proposed pylon signs are 12 metres and Council's maximum allows 10 metres. However, Fairfield Council has accepted that stores such as Bunnings and others have standard colours and signs painted on their walls for stores nationwide. The Applicant has demonstrated that the proposed signage is consistent with their national branding strategy, and therefore, the signage proposed for this development is considered acceptable in these circumstances.

There are no other relevant provisions within the DCP

## INTERNAL REFERRALS

During the assessment process, comments were sought from a number of sections within Council, as detailed below:

<b>Building Control Branch</b>	Acceptable, subject to standard conditions
<b>Tree Preservation Officer</b>	Acceptable, subject to standard conditions
<b>Community Health Section</b>	Acceptable, subject to standard conditions
<b>Bonnyrigg Place Manager</b>	Acceptable, subject to standard conditions
<b>Development Engineering Branch</b>	Acceptable, subject to standard conditions See below for a more detailed assessment
<b>Traffic and Road Safety Branch</b>	Acceptable, subject to standard conditions See below for a more detailed assessment
<b>Environmental Management Section</b>	Acceptable, subject to standard conditions See below for a more detailed assessment
<b>Heritage Officer</b>	Acceptable, subject to standard conditions
<b>Natural Resources Section</b>	Acceptable, subject to standard conditions

### *Development Engineering*

Given that the subject site is affected by local overland flooding and mainstream flooding, the Applicant has submitted a Flood Impact Assessment in support of the

Application. Council's Engineers are satisfied with the submitted report that the proposal will not adversely impact flood waters.

Stormwater is diverted to the existing OSD system and drained through Council's easement. Council's engineers support the submitted drainage plans.

### *Traffic and Road Safety*

Based on surveys of the surrounding road network and using comparative analysis of similar Bunnings stores, the Applicant's traffic consultant has modelled the impact of the proposed development on the locality and in particular the Bonnyrigg Avenue and Elizabeth Drive intersection and Bonnyrigg Avenue and Tarlington Parade intersection.

The traffic consultant has indicated that the proposed development will have a satisfactory traffic outcome on the operational performance of the above intersections (subject to minor changes to the existing seagull arrangement). The operational performance of the intersections taking into account the projected increase in traffic will operate at a general Level of B.

With regard to the provision of on-site parking, the traffic consultant has indicated that the proposed Bunnings store will provide a parking rate of 1 spaces per 38m<sup>2</sup> of floor area, which is similar to the average peak demand of other comparable Bunnings stores. This rate is based on a gross floor area of 15,363m<sup>2</sup> and the provision of 410 on-site parking spaces.

Council's controls for bulky goods retailing is a rate of 1 space per 50m<sup>2</sup>, and therefore the proposed Bunnings would need a total of 307 spaces. In this regard, the proposal provides in excess of Council's minimum requirements.

The traffic report submitted in support of the application indicates that the proposed Bunnings will utilise a relatively large site with the following access arrangements:

- Staff and customers will access the site via Bonnyrigg Avenue utilising the existing seagull arrangement;
- Heavy delivery vehicles will enter via Bonnyrigg Avenue and exit (left only) via Elizabeth Drive;
- Customer pickups will utilise the entry and exit via Bonnyrigg Avenue which the delivery vehicles use.

Both Council's Senior Traffic Engineer and RMS have assessed the proposed development and consider the proposed arrangement to be acceptable subject to conditions of Consent.

### *Environmental Management*

Council's Environmental Management Section has assessed the development with regard to acoustic noise and site contamination. Below is a summary of their assessment of the application in relation to these issues.

## Acoustic Noise

The proposed hours of operation for the Bunnings store are provided as follows. It is understood that these hours are invariably the same for most, if not all, Bunnings nationwide.

- Monday to Friday: 6.00am – 10.00pm
- Saturday, Sunday and pub. holidays: 6.00am – 7.00pm
- Deliveries: 7.00am – 10.00pm

The above hours are outside the times generally allowed for industrial development as prescribed within Chapter 9 of the Fairfield City-Wide Development Control Plan (DCP) 2013, which are provided as follows:

- Monday to Friday: 7:00am – 6:00pm
- Saturday: 8:00am – 12:00pm (noon)
- Sunday: no operation

However, the DCP states that proposals that operate outside of these hours will be considered upon merit and may be required to be supported by an Acoustic Engineer's Report.

The acoustic report submitted in support of the application has demonstrated to the satisfaction of Council's Environmental Management Section that all predicted noise levels for the operation of the Bunnings store are below the noise criteria (in accordance with the NSW Industrial Noise Policy) for day and evening periods.

Having regard to the above, the proposed operating hours are considered satisfactory. However, as noted above, it is proposed to deliver goods to the premises until 10.00pm. Such activities are documented within the acoustic report as complying with the relevant noise criteria, and in this regard, deliveries until 10.00pm are also supported by Council's Environmental Management Section.

## Site Contamination

The applicant has submitted a Stage 1 Environmental Site Assessment undertaken by Environmental Investigation Services in support of the application.

A site inspection revealed that the majority of the site was an existing bus depot however there was a vacant portion of land which included a large stock pile of soil. The sites history was assessed which identified that the bus depot was the subject of a soil contamination investigation and associated remedial works in 2001-2002. The remedial works involved sockpiling excavated petroleum impacted soil to the south (No. 1-9 Bonnyrigg Avenue Bonnyrigg) of the bus depot for land farming treatment.

In considering the information contained within the report, Council's Environmental Management Section believes that the contaminated land consultant has demonstrated that the premises can be made suitable for the proposed use of the land for commercial/industrial development provided that a Stage 2 Assessment and a Remedial Action Plan be submitted.

Conditions to this effect have been included within the draft conditions of consent. Notwithstanding this, it is considered that the application be a deferred commencement consent until the submission and approved of the required documentation.

## **EXTERNAL REFERRALS**

During the assessment process, comments were sought from a number of external bodies who were considered to have an interest in the proposed development. Detailed below are the comments received from those external bodies.

### *Roads and Maritime Service (RMS)*

The application is required to be referred to Roads and Maritime Services pursuant to State Environmental Planning Policy (Infrastructure) 2007 and Section 91 of the Environmental Planning and Assessment Act, 1979. The proposal seeks egress of heavy vehicles to a left only exit on Elizabeth Drive which is owned and operated by RMS. It is noted that the proposed access will traverse Lot 455 DP 817546 which is also owned by RMS. The application was referred to RMS and concurrence was granted for the proposed access. RMS have confirmed that they raise no objections to the proposed access over Lot 455 as this parcel of land will be dedicated as road in the near future.

### *Office of Water*

The proposed works require a Controlled Activity Approval under the Water Management Act 2000. Accordingly the Application was referred to the Office of Water for Concurrence. The Department has reviewed the application and deemed it acceptable and has issued Council the General Terms of Approval.

### *NSW Police*

The application was forwarded to NSW Police who have considered the proposal acceptable subject to conditions, which includes the provision of a CCTV system.

### *NSW Rural Fire Service*

The applicant has submitted a Bushfire Assessment prepared by Abel Ecology dated 28 January 2015, which was referred to NSW RFS. They raised no objection is the proposal.

## **PUBLIC NOTIFICATION**

In accordance with the Environmental Planning and Assessment Regulation 2000, the application was notified for a period of thirty (30) days in writing to surrounding properties, and in the local paper.

No submissions were received as a result of the proposed development.

## SECTION 79C CONSIDERATIONS

The proposed development has been assessed and considered having regard to the matters for consideration under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979 and no issues have arisen that would warrant the application being refused on planning grounds. The following is a brief assessment of the proposal with regard to Section 79C.

### (1) **Matters for consideration—general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

*(a) the provisions of:*

#### *(i) Any environmental planning instrument*

The proposed development is permissible within the 4(c) Special Industrial zone and is considered to be consistent with the objectives of that zone.

#### *(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

There are no draft environmental planning instruments that relate to the site.

#### *(iii) any development control plan*

Whilst the proposal does not strictly comply with the building layouts identified within the Bonnyrigg DCP 2008, the proposed development is considered appropriate and on merit the development is considered to be satisfactory and would not warrant the refusal of the application. Furthermore, the proposed development has demonstrated compliance with the requirements of the Fairfield City-Wide Development Control Plan 2013.

#### *(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*

There are no planning agreements that relate to the site.

#### *(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*



There are no matters prescribed by the Regulations that apply to this development.

- (v) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),*

There are no coastal management plans that relate to this site.

- (b) *the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

It is considered that the proposal is unlikely to result in any adverse impact upon the amenity of the locality.

The proposed development has been assessed in accordance with the relevant statutory requirements, paying particular attention to potential impacts such as acoustic noise, traffic generation and traffic safety, the adequacy of parking and visual amenity for the proposed building.

As identified throughout this report, the above issues have been assessed as being satisfactory. In this regard, it is considered that the proposal is unlikely to result in any adverse impact upon the amenity of the locality.

- (c) *the suitability of the site for the development*

Based on the information submitted it appears that the premises can be managed within the constraints of the site. Accordingly, it is considered that the site is suitable for the proposed development.

With regard to potential contamination of the site, Council's Environmental Management Section has indicated that the site can be made suitable for the proposed use of the land for development subject to conditions relating to appropriate remediation and validation.

With regard to the overland flow of stormwater, Council's Development Engineer has indicated that the overland flow can be accommodated through the existing easement without impact to the site itself or adjoining sites.

On the issue of location and accessibility, the traffic report indicates that the site has convenient access to the arterial road system and will not have an adverse impact on the surrounding road network.

Having regard to the above, it is considered that the site is suitable for the proposed development.

- (d) *any submissions made*

No submissions were received during the notification process.

- (e) *the public interest*

Based on the above, it is considered that the proposed development is in the public interest.

## **TOWN PLANNING ASSESSMENT**

Bonnyrigg Town Centre is a 'deferred matter' under Fairfield Local Environmental Plan 2013 and as such falls under the provisions of the Fairfield LEP 1994. Accordingly, the subject site is within the Zoned 4(c) Special Industrial zone as stipulated within the Fairfield City Council LEP 1994. The proposal is permissible within the zone, subject to consent.

Whilst the proposed building layout does not strictly comply with the building typology indicated in the Precinct Plan of Bonnyrigg DCP 2008, this is considered to be acceptable and on merit the proposed Bunnings store is considered to be satisfactory and worthy of support. From an assessment of the application, it would appear that there are no significant issues that would preclude a recommendation for approval. Furthermore, it is considered that the proposal would not impact the ability for the northern lot to be designed in accordance with the DCP.

From a visual point of view, the architect has designed the building having regard to the adjoining and surrounding land uses and the constraints of the site. As such, the four storey building steps down towards the boundaries so that the overall bulk and scale is reduced providing an acceptable visual presentation and ameliorating any overshadowing impact to adjoining properties. Furthermore, landscape setbacks are provided along the northern, eastern and southern boundary in order to soften the built form. The building is also designed to provide a defined corner element at the intersection and has included the provision of a 'Bonnyrigg Town Centre' Sign on the southern corner.

The noise generated by the activities associated with the operation, such as noise from plant and equipment, noise from passenger vehicles, and noise from loading and unloading operations can comply with the relevant noise guidelines for day-time and evening activities.

Whilst the proposed Bunnings will be a significant traffic generator, particularly on the weekends, the local road system will not be adversely affected, and the current level of service for the intersections will be maintained with keeping the existing seagull arrangement system. Combined traffic measures restricting heavy vehicles to enter via Bonnyrigg Avenue and exit via Elizabeth Drive will ensure safety for road users.

It is considered that relocating the existing warehouse to the periphery of the town centre will likely provide a catalyst for other development in line for the long term vision of the Town Centre at the existing Bunnings site which is located closer to the centre.

Overall, the proposed development is considered to be satisfactory and is recommended for approval as a Deferred Commencement subject to conditions.

## SECTION 94 AND SECTION 94A

It is considered that there are no outstanding Section 94 contributions applicable for this site and the proposed development does not generate the need for any additional facilities and infrastructure.

However, it is considered that the S.94A Levy applies and the fee applicable would be \$250,800.00 being 1% of the estimated cost of construction.

## CONCLUSION

Bonnyrigg Town Centre is a 'deferred matter' under Fairfield Local Environmental Plan 2013 and as such falls under the provisions of the Fairfield LEP 1994. Accordingly, the subject site is within the Zoned 4(c) Special Industrial zone as stipulated within the Fairfield City Council LEP 1994. The proposal is permissible within the zone, subject to consent.

This assessment of the application has considered all relevant requirements of s79C of the Act and finds that there would be no significant adverse or unreasonable impacts associated with the development on the locality.

The application was referred to Council's Building Control Branch, Traffic Section, Environmental Management Branch, Development Engineering Branch, Strategic Section, Natural Resource Section, Heritage Officer, Place Manager, Tree Preservation Officer and Community Health Section for comments and/or conditions. The proposal was deemed satisfactory subject to conditions of consent. The application was also referred externally to NSW Police and NSW Rural Fire Services who accepted the proposal subject to conditions.

Accordingly, it is recommended that the application be approved as a Deferred Commencement, subject to conditions outlined in Attachment Q of this report. It is considered that the application be a deferred commencement consent until the submission and approval of a Stage 2 Contamination Assessment and a Remedial Action Plan.

## RECOMMENDATION

1. That the staged redevelopment of the site for the purpose of a Bunnings Warehouse be **Approved as a Deferred Commencement**, subject to conditions as outlined in Attachment Q of this report.