

## JOINT REGIONAL PLANNING PANEL

### (Southern Region)

JRPP No	<b>2016STH016</b>
DA Number	DA-2016/358
Local Government Area	Wollongong City
Proposed Development	Demolition of existing structures, clearing of vegetation, bulk earthworks, construction and use of a hardware and building supplies development including plant nursery and landscape supplies, associated roadworks including public infrastructure works (roundabout on Northcliffe Drive) and re-subdivision of five (5) lots into two (2) lots.
Street Address	Lot 50 DP 879625, 1-3 Canterbury Road, KEMBLA GRANGE; Lot 52 DP 879625, 9 Canterbury Road, KEMBLA GRANGE Lot 1 DP 1118629, 638 Northcliffe Drive, KEMBLA GRANGE Lot 2 DP 1118629, 642 Northcliffe Drive, KEMBLA GRANGE Lot 51 DP 879625, 644-650 Northcliffe Drive, KEMBLA GRANGE
Applicant/Owner	Applicant – Bunnings Properties Pty Ltd
Number of Submissions	Four (4) submissions received.
Regional Development Criteria (Clause 4.5(b) of the Act and SEPP (State and Regional Development) 2011)	The proposal has been referred to the Joint Regional Planning Panel as the consent authority under Clause 4.5(b) of the Environmental Planning & Assessment Act 1979 as the proposal is for general development over \$30 million which is defined as Regionally significant development under the SEPP (State and Regional Development) 2011 Schedule 7 Clause 2. The applicant's CIV estimate for the project is \$30,250,000.
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> <li>• List all of the relevant environmental planning instruments: s4.15(1)(a)(1) –  <u>State Environmental Planning Policies (SEPPs):</u> <ul style="list-style-type: none"> <li>▪ SEPP No. 55 – Remediation of Land;</li> <li>▪ SEPP (Infrastructure) 2007;</li> <li>▪ SEPP No. 64 Advertising and Signage;</li> <li>▪ SEPP (State and Regional Development) 2011; and</li> <li>▪ SEPP (Vegetation in Non-Rural Areas) 2017</li> </ul> <u>Local Environmental Planning Policies:</u> <ul style="list-style-type: none"> <li>▪ Wollongong Local Environmental Plan 2009</li> </ul> <u>Other policies</u> <ul style="list-style-type: none"> <li>▪ Wollongong Section 94A Development Contributions Plan 2017</li> </ul> </li> <li>• List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii) <ul style="list-style-type: none"> <li>▪ Nil</li> </ul> </li> <li>• List any relevant development control plan: s4.15(1)(a)(iii) Wollongong Development Control Plan 2009</li> <li>• List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iiia) <ul style="list-style-type: none"> <li>– Bunnings Properties Pty Ltd has requested that Council enter into a Planning Agreement for the shared cost of constructing a roundabout on Northcliffe Drive, Kemplla Grange, between Phar Lap Avenue and the Princes Highway.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 AS 2601 in respect of any demolition.</li> <li>List any coastal zone management plan: s4.15(1)(a)(v) There is no Coastal Zone Management Plan currently applicable to the land.</li> </ul>
List all documents submitted with this report for the panel's consideration	Plans – Architectural, Landscape, Traffic and Engineering Aerial photograph, WLEP 2009 zoning map, site photographs and extract of deposited plan Clause 4.6 Exception to Development Standard Statement Wollongong DCP 2009 Assessment Clause 8 Variation to Development Controls Statements Draft conditions
Recommendation	It is recommended that DA-2016/358 be approved subject to the draft conditions contained within <b>Attachment 6</b> .
Report by	Rodney Thew, Development Project Officer

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#### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

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#### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP* **Yes**

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#### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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#### Conditions

Have draft conditions been provided to the applicant for comment? **Yes**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

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# Assessment Report and Recommendation Cover Sheet

## Executive Summary

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### Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to the Joint Regional Planning Panel as the consent authority pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act 1979 as it involves general development with a capital investment value of more than \$30 million which is defined as Regionally significant development under State Environmental Planning Policy (State and regional Development) 2011 Schedule 7 Clause 2.

### Proposal

The proposal comprises demolition of existing structures, clearing of vegetation, bulk earthworks, construction and use of a hardware and building supplies development including plant nursery and landscape supplies, associated roadworks including public infrastructure works (roundabout on Northcliffe Drive) and re-subdivision of five (5) lots into two (2) lots.

### Permissibility

The site is zoned B6 Enterprise Corridor pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposal is categorised as a *hardware and building supplies, roads and advertising structures (building identification signs) development* and is permissible in the zone with development consent.

### Consultation

The proposal was notified in accordance with Council's WDCP 2009 Appendix 1: Public Notification and Advertising. There were four (4) submissions.

### Main Issues

The main issues arising from the assessment are:-

- Traffic access and egress and roadworks including the roundabout design which have been considered by the NSW Roads and Maritime Services and Council's Traffic Officers.
- Exception to a development standard in respect of building height (Clause 4.3) of WLEP 2009 to all elevations;
- Development control plan variations in respect to the number of flush wall mounted signs per elevation, height and advertising area of pole or pylon signage, motorbike and bicycle parking as well as an exemption to the need for an Economic Impact Statement; and
- Voluntary Planning Agreement between Bunnings Properties Pty Ltd and Council for the shared cost of constructing a roundabout on Northcliffe Drive, Kembla Grange, between Phar Lap Avenue and the Princes Highway.

### Conclusion

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the B6 Enterprise Corridor zone. The development is consistent with most of the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 with the exception of the height of building variation sought which has been discussed in the body of this report and is considered capable of support.

The design of the development is appropriate with regard to the controls outlined in the Wollongong DCP 2009 including the variation request to and Economic Impact Assessment, signage matters and motorbike and bicycle parking.

Some of the issues received in submissions though technically unresolved area considered to be adequately addressed either through design or by way of condition of consent. Any remaining issues are not considered sufficient to warrant refusal of the application.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

### RECOMMENDATION

It is recommended that DA-2016/358 be approved subject to the draft conditions provided in **Attachment 6**.

## 1. APPLICATION OVERVIEW

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### 1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP No. 64 Advertising and Signage
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development ) 2011

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong Section 94A Development Contributions Plan 2017

### 1.2 PROPOSAL

The proposal comprises the following:

1. Demolition of all existing structures;
2. Tree removal and pruning;
3. Bulk earthworks;
4. Construction of a hardware and building supplies development with a gross floor area (GFA) of 14,650m<sup>2</sup> and an additional 4,827m<sup>2</sup> of outdoor landscape supplies, bagged goods and outdoor shaded plant nursery, ancillary offices (for Bunnings Staff) and café with associated signage and landscaping;
5. Construction of Pad site (including indicative footprint with a GFA of 2000m<sup>2</sup>) for a future development and access off Canterbury Road. The Pad site is to be formed up via earthworks at this stage and defined by landscaping works with no formal pavement constructed.
6. Car parking for a total of 403 car parking spaces associated with Bunnings.
7. Re-subdivision of five (5) lots into two (2) lots.
8. Construction of roundabout on Northcliffe Drive, providing the main vehicular site access from the South, jointly funded by Bunnings and Wollongong City Council, as set out in a Voluntary Planning Agreement (VPA); and
9. Enhancement to the Princes Highway/Northcliffe Drive intersection.

### 1.3 BACKGROUND

*Development History*

A history of the development site indicates a number of application attempts to enable the site(s) to be developed.

Most recently:

- 1-3 and 9 Canterbury Road and 644-650 Northcliffe Drive has been used for a wholesale nursery with associated buildings and a caretakers cottage.
- 638 Northcliffe Drive was used for Television Station and Transmission equipment.

*Pre-lodgement meetings*

PL-2015/86, Demolition of existing structures and construction of new Bunnings Warehouse including tree removal, retaining walls and earthworks.

#### *Customer service actions*

There are no outstanding customer service requests of relevance to the development.

### **1.4 SITE DESCRIPTION**

The subject sites are described as follows:

- 1-3 Canterbury Road, title reference Lot 50 DP 879625.  
Situating on 1-3 Canterbury Road is a disused depot for sand, aggregate and landscaping supplies, two small administration buildings and ancillary structures. Practical vehicular access to the site is gained via a driveway off Canterbury Road. The site is bounded by Canterbury Road to the North, Northcliffe Drive to the South and the Princes Highway to the West. The lot has an overall site area of approximately 4353.7m<sup>2</sup>. The site falls to the South i.e. towards Northcliffe Drive with a cross fall to the West. The site is burdened by the following easements:
  - Drain Water (1m wide);
  - Drain sewage (1m and 5m wide); and
  - Effluent Disposal (2m, 2.5m and variable width).
- 9 Canterbury Road, title reference Lot 52 DP 879625.  
Situating on 9 Canterbury Road is a vacant dwelling house and swimming pool. Practical vehicular access to the site is gained via a driveway off Canterbury Road. The lot has an overall site area of approximately 1074m<sup>2</sup>. The site is burdened by the following easements:
  - Right of carriage way (Variable width); and
  - Services (1m wide).
- 638 Northcliffe Drive, title reference Lot 1 DP 1118629.  
Situating on 638 Northcliffe Drive is a former television station, car parking and transmission equipment. Practical vehicular access to the site is gained via a driveway off Canterbury Road. The lot has an overall site area of approximately 11420m<sup>2</sup>. Council mapping indicates a small stand of trees mapped as Natural Resource Sensitivity towards the Canterbury Road boundary of the site. The site is burdened by the following easements:
  - Electricity purposes (10m wide) - Lot 1 DP 1118629; and
  - Lease to Optus Mobile – Lot 1 DP 1118629.
- 642 Northcliffe Drive, title reference Lot 2 DP 1118629.  
642 Northcliffe Drive is currently vacant and has no formalised vehicular access. The lot has an overall site area of approximately 12010m<sup>2</sup>. The site is burdened by restrictions as to use relating to the requirement for On Site Detention, kerb and guttering and vehicular ingress and egress to the lot is not to be obtained across the Northcliffe drive boundary without Council permission. The restrictions as to use as relates to the application are considered to have minimal impact on the proposed development.
- 644-650 Northcliffe Drive title reference Lot 51 DP 879625.  
Situating on 644-650 Northcliffe Drive is the former nursery and associated buildings and caretakers residence. Practical vehicular access to the site is gained via a right of carriage way off Northcliffe Drive. The lot has an overall site area of approximately 12580m<sup>2</sup>. The site is burdened by the following easements:
  - Right of carriage way (Variable width);
  - Drain Water (1m wide and variable);
  - Drain sewage (1m and 5m wide);
  - Effluent Disposal (2m, 2.5m and variable width); and
  - Services (1m wide).

The overall development site, consisting of the five (5) separate allotments, forms an irregular shaped allotment with an overall site area of 41438m<sup>2</sup>.

The street scene in the immediate vicinity is characterised by a mixture of land uses including Club Germania and Hansen and Cole funerals (south-east), an industrial area on Canterbury Road and rural residential uses on the opposite side of Northcliffe Drive accessed via Phar Lap Avenue.

Aerial photographs of the site and locality, zoning extract and a copy of the deposited plans are provided at **Attachment 2** to this report.

#### Property constraints

- Council records identify the land as being impacted by acid sulphate soils.
- Council records identify 638 Northcliffe Drive, title reference Lot 1 DP 1118629 as having an area of Natural Resources Sensitivity located on the lot.
- D.P. 879625 and D.P. 11188629 indicate that there are 88B restrictions on the use of the land for the subject site. A review of the Section 88B instruments for D.P. 879625 and D.P. 11188629 as relates to this proposal has been undertaken as part of this assessment process and accounted for in the draft conditions of consent.

## **1.5 CONSULTATION**

### **1.5.1 INTERNAL CONSULTATION**

Details of the proposal were referred to Council's Geotechnical, Stormwater, Traffic, Subdivision, Environment, Landscape, Building, Community Services, SCAT, Health, Property and Contributions Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

### **1.5.2 EXTERNAL CONSULTATION**

#### **Roads and Maritime Services**

Details of the application submission were referred to the Roads and Maritime Services for comment on 5 April 2016 in accordance with Clauses 101 and 104 of SEPP (Infrastructure) 2007. Concerns were raised regarding the safety of the access arrangements at Pharlap Avenue, linemarking, the re-grading of Northcliffe Drive and its impacts on private driveways and sight distances from Pharlap Avenue and the grade of Ramps 1, 2 and 3. Additional information was submitted by the applicant to resolve traffic concerns raised which was re-referred to the Roads and Maritime Services for comments on 3 August 2016. Further concerns were raised regarding the access arrangements. Amended plans were submitted by the applicant that included a roundabout on Northcliffe Drive and an offer to enter into a Voluntary Planning Agreement for works for the roundabout to resolve traffic concerns raised. Traffic concerns were raised regarding the amended plans. Amended plans were submitted by the applicant to resolve the traffic concerns raised regarding the proposed roadworks which were re-referred to Roads and Maritime Services for comments on 14 December 2017. Additional information was requested by the Roads and Maritime Services with additional traffic analysis required. Additional information was again provided which now addresses the outstanding matters raised by the Roads and Maritime Services and the proposal is now considered satisfactory. The Roads and Maritime Services recommended conditions are included in the draft conditions at **Attachment 6** of this report.

#### **Endeavour Energy**

Details of the application submission were referred to Endeavour Energy for comment in accordance with Clause 45 of SEPP (Infrastructure) 2007. Advice received indicates the proposal is considered conditionally satisfactory. Endeavour Energy's draft conditions are included in the draft conditions at **Attachment 6** of this report.

#### **Sydney Water**

Details of the application submission were referred to Sydney Water for comment. Advice received indicates that the drinking water main and waste water systems have adequate capacity to service the development. Formal requirements will be determined as part of the Section 73 application. Conditions of consent have been recommended for imposition and these are included in the draft conditions at **Attachment 6**.

## Sydney Trains

The proposal was notified to Sydney Trains for comment however no response was provided.

## 2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

### SECTION 4.15 ASSESSMENT

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#### 2.1 SECTION 4.15 1(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

##### 2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

#### 7 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

A preliminary Environmental Site Assessment was conducted by Envirowest on the four (4) subject lots with development history in accordance with Clause 7(3). Areas of environmental concern with potential soil and ground water contamination were identified. A Remediation Action plan (RAP) has been prepared by Environmental Investigation Services which details the procedure for site remediation so that the site will be suitable for the proposed use.

In accordance with Clause 7(2) Council's Environmental Officer has reviewed the history of the site in conjunction with the report prepared by Environment Investigation Services and notes that the site has the potential for contaminated soils and groundwater. Draft conditions are included at **Attachment 6** requiring an Interim Site Auditors Statement, site remediation and validation, waste classification of excavated soils, Site Auditors Report and Site Auditors Statement confirming that the site has been satisfactorily remediated and is suitable for the proposed development so as to satisfy Clause 7(1)(c).

It is considered the proposal will be satisfactory with regard to SEPP 55 matters.

## 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

### Clause 45 Determination of development applications—other development

The application was referred to Endeavour Energy under Clause 45 of the ISEPP 2007 as there are works occurring within/adjacent to easements for electricity purposes situated on the land. Advice received indicates the proposal is considered conditionally satisfactory. Endeavour Energy's recommended conditions are included in the draft conditions at **Attachment 6** of this report

### Clause 101 Development with frontage to classified road and Clause 104 Traffic generating development

The application was referred to the RMS as the application proposes development with frontage to a classified road, being the Princes Highway and traffic generating development under Clause 104 and Schedule 3 of State Environmental Planning Policy (infrastructure) 2007 as the proposal involves parking for 200 or more vehicles on site.

The RMS raised a number of matters in particular safety concerns over access arrangements over three (3) separate referrals. However additional information has now been provided that addresses the outstanding matters raised by the Roads and Maritime Services and the proposal is now considered satisfactory. The Roads and Maritime Services recommended conditions are included in the draft conditions at **Attachment 6** of this report.

## 2.1.3 STATE ENVIRONMENTAL PLANNING POLICY NO. 64 – ADVERTISING AND SIGNAGE

Signage is proposed with the proposed development and as such SEPP 64 is applicable.

The proposed signage is as follows:

- Several painted wall signs on each elevation of the main warehouse; and
- One (1) pylon sign.

An assessment against this policy as outlined below.

### 1 Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

The site is located within a business zone, B6 Enterprise Corridor, with a light industrial zone adjoining to the North east. The proposed signage is well separated from residential development on the South western side of Northcliffe Drive. There is a range of signage within the immediate vicinity of the subject site. It is considered that the proposal is in keeping with the amenity or character of the locality.

- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The proposal will result in signage which will not be consistent with signage in the general locality.

### 2 Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The proposed signage is not expected to detract from the amenity or visual quality of the area.

### 3 Views and vistas

- *Does the proposal obscure or compromise important views?*

No. The proposal it is considered will not impact on any important views.

- *Does the proposal dominate the skyline and reduce the quality of vistas?*

No. The proposed signage it is considered will not to dominate the skyline or reduce the quality of vistas.

- *Does the proposal respect the viewing rights of other advertisers?*



Yes. The proposal will have minimal impact on the viewing rights of other advertisers as the proposed signage relates to the business.

#### 4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*

Yes. The proposed signage is considered to be appropriate for the streetscape. There is a range of signage within the immediate vicinity of the subject site.

- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*

The proposal is considered to contribute to the visual interest of the streetscape.

- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*

The proposal does not appear cluttered and is of an appropriate size and scale for the site.

- *Does the proposal screen unsightliness?*

The proposed signage does not screen unsightliness.

- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*

The pylon signage it is considered will not protrude above the dominant skyline when viewed from ground level within a visual catchment of 1 kilometre.

- *Does the proposal require ongoing vegetation management?*

The proposal does not require ongoing vegetation management.

#### 5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*

Yes. It is considered that the proposed signage is compatible with the scale, proportion and other characteristics of the building.

- *Does the proposal respect important features of the site or building, or both?*

Yes. The proposed signage will be ancillary to the use of the site as a hardware and building supplies business and as such is compatible with the site.

- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The proposal follows a similar design to other similar premises in the LGA.

#### 6 Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

No safety devices or platforms form part of the proposal.

#### 7 Illumination

- *Would illumination result in unacceptable glare?*

No. The signage is not proposed to be illuminated via neon or light boxes. Rather illumination will be provided with directional lighting on to the wall and pylon signs.

- *Would illumination affect safety for pedestrians, vehicles or aircraft?*

No. Details of the application submission were referred to the RMS and Council's Traffic Officer and no issues were raised with regards to the illumination of the advertising signage.

- *Would illumination detract from the amenity of any residence or other form of accommodation?*

No. The illumination is not considered to detract from amenity and safety. It will be designed and installed in accordance with the relevant Australian Standards. Draft conditions account for illumination such that it will have minimal impact on the amenity of the adjoining properties.

- *Can the intensity of the illumination be adjusted, if necessary?*

Yes.

- *Is the illumination subject to a curfew?*

Not considered necessary.

## 8 Safety

- *Would the proposal reduce the safety for any public road?*

The proposal is not envisaged to increase risks to public safety.

- *Would the proposal reduce the safety for pedestrians or bicyclists?*

The proposal is not expected to reduce the safety for any pedestrians or bicyclists. Details of the application submission were referred to the RMS and Council's Traffic Officer and no issues were raised with regards to the advertising signage.

- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The proposal is not expected to reduce the safety for any pedestrians and does not obscure any sightlines. Details of the application submission were referred to the RMS and Council's Traffic Officer and no issues were raised with regards to the advertising signage.

### 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011 SCHEDULE 7 CLAUSE 2

The development has a capital investment value of more than \$30 million and accordingly the application is required to be determined by the Joint Regional Planning Panel pursuant to Clause 4.5(b) of the Environmental Planning & Assessment Act, 1979.

### 2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

Under Clause 7 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* a person must not clear any vegetation in any non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part.

Clause 9 of Part 3 indicates that this Part applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.

The subject site is zoned B6 Enterprise Corridor a non-rural area. It is considered that the vegetation proposed to be removed is vegetation declared by a development control plan, WDCP 2009 Chapter E17, to which Part 9 would apply.

Council's Landscape and Environment Officers have assessed the application submission, which included a Flora and Fauna report. Conditionally satisfactory referral advice was received and draft conditions as at **Attachment 6** specify trees to be removed, trees to be retained, compensatory plantings and tree protection and management.

### 2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

#### **Part 1 Preliminary**

##### Clause 1.4 Definitions

**Demolition:** In relation to a building means wholly or partly destroy, dismantle or deface the building.

**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.

**Note.** Hardware and building supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**Signage** means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,

- (b) a building identification sign,
  - (c) a business identification sign,
- but does not include a traffic sign or traffic control facilities.

#### Clause 1.8A Savings provision relating to pending development approvals

Clause 5.9 has been repealed as at the 1 September 2017.

Clause 1.8A of WLEP 2009 stipulates that if a development application has been made before the commencement of this Plan to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced. The application was lodged on the 24 March 2016 prior to the commencement of this Plan therefore Clause 5.9 has been taken into consideration in the assessment of this application as the application proposes the removal of several trees.

## **Part 2 Permitted or prohibited development**

### Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B6 Enterprise Corridor.

### Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting retailing activity.*
- *To encourage activities which will contribute to the economic and employment growth of Wollongong.*
- *To allow some diversity of activities that will not:*
  - (a) significantly detract from the operation of existing or proposed development, or*
  - (b) significantly detract from the amenity of nearby residents, or*
  - (c) have an adverse impact upon the efficient operation of the surrounding road system.*

The proposal is satisfactory with regard to the above objectives. It is considered that the proposal will not significantly detract from the existing or proposed development, amenity of nearby residents or have an adverse impact on the efficient operation of the road system.

The land use table permits the following uses in the zone.

*Advertising structures; Bulky goods premises; Business premises; Car parks; Child care centres; Community facilities; Depots; Entertainment facilities; Environmental facilities; Garden centres; **Hardware and building supplies**; Heavy industrial storage establishments; Hotel or motel accommodation; Industrial retail outlets; Landscaping material supplies; Light industries; Office premises; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreational facilities (outdoor); Registered clubs; Respite day care centres; Roads; Service stations; Serviced apartments; Sex services premises; Shop top housing; Storage premises; Take away food and drink premises; Timber yards; Transport depots; Truck depots; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres*

The proposal is categorised as hardware and building supplies as described above and is permissible in the zone with development consent.

### Clause 2.6 Subdivision—consent requirements

Subdivision is permissible with consent as the subject site is on land to which the Wollongong Local Environmental Plan 2009 applies.

### Clause 2.7 Demolition requires development consent

Demolition of a building may be carried out only with development consent. Demolition of the existing structures on the subject sites is proposed.

## Part 4 Principal development standards

### Clause 4.1 Minimum Subdivision Lot Size

The minimum allotment size for the subdivision of land under Part 4.1 of WLEP2009 is 3999m<sup>2</sup>. The proposed two (2) lot Torrens title subdivision following consolidation of the five (5) existing lots will result in Lot sizes of 6690m<sup>2</sup> for Lot 101 and 3.487ha (34870m<sup>2</sup>) for Lot 102 which are both compliant with the clause.

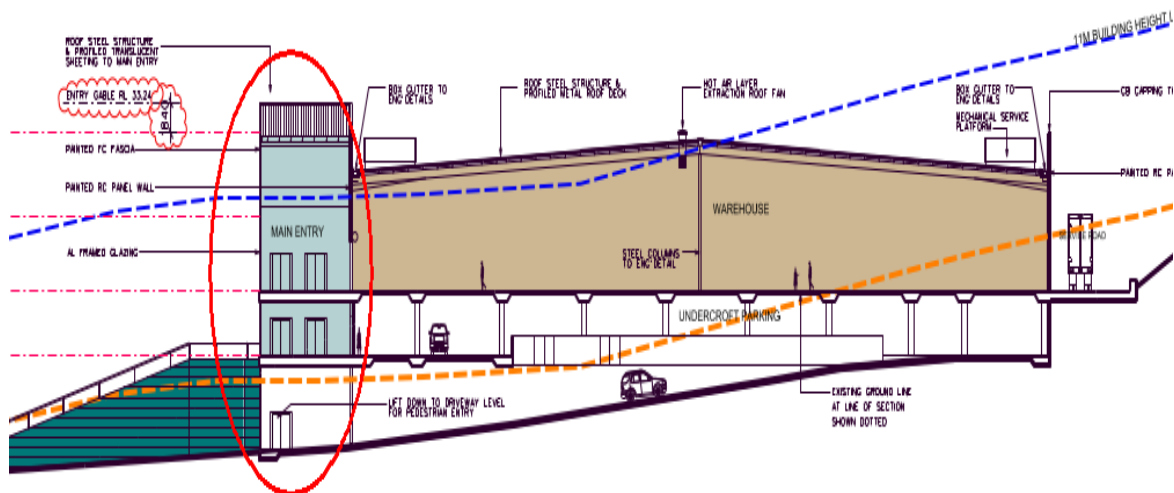
### Clause 4.3 Height of buildings

This clause prescribes a maximum height of 11 metres for the Site, as shown on the Height of Buildings Map. The proposal has a maximum overall height of 16.6m. The proposed development does not comply in full with Clause 4.3 and a departure request statement has been provided by the applicant addressing Clause 4.6 of the LEP. A copy is provided at **Attachment 3**.

- (1) The objectives of this clause are as follows:
  - (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
  - (b) to permit building heights that encourage high quality urban form,
  - (c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

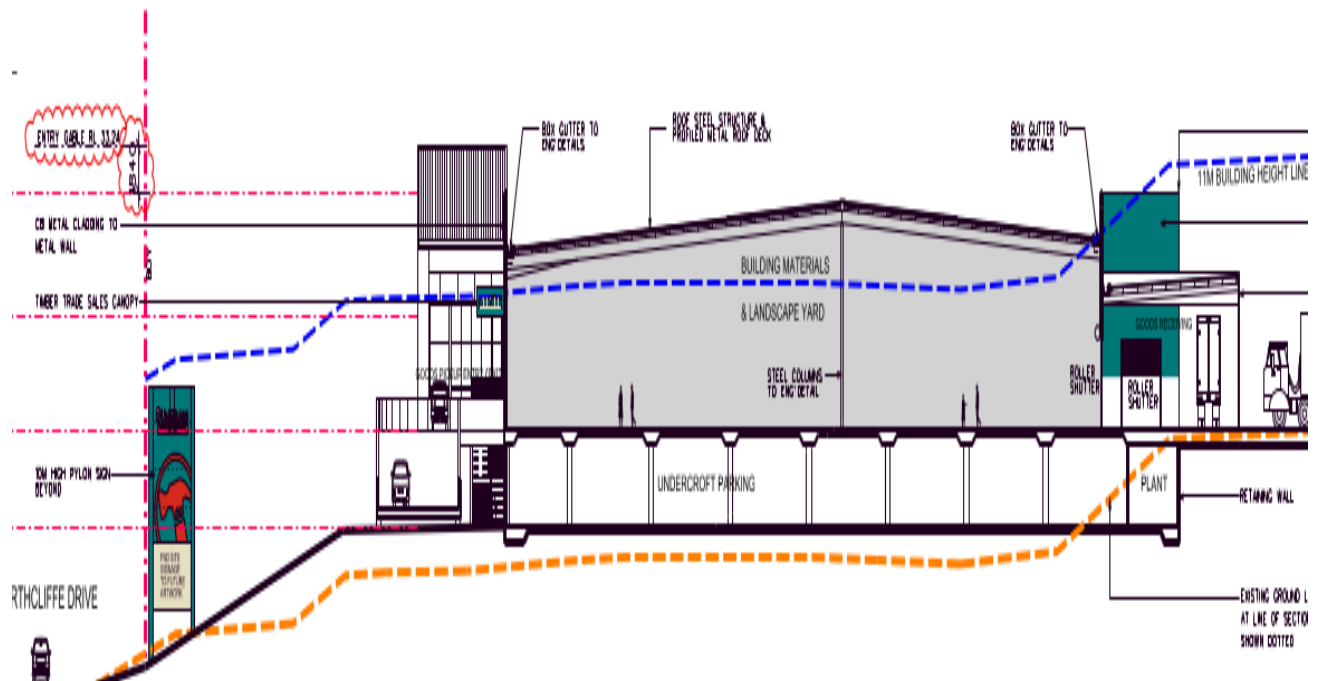
The building departs from the development standard (as depicted by the blue dotted line in the diagrams below) as follows:-

- The proposed hardware and building supplies building has an overall height of 16.6m at the ridge of the main pedestrian entrance on the Southern elevation which exceeds the maximum height of 11m shown for the land on the Height of Buildings Map. See Figure 1 below.



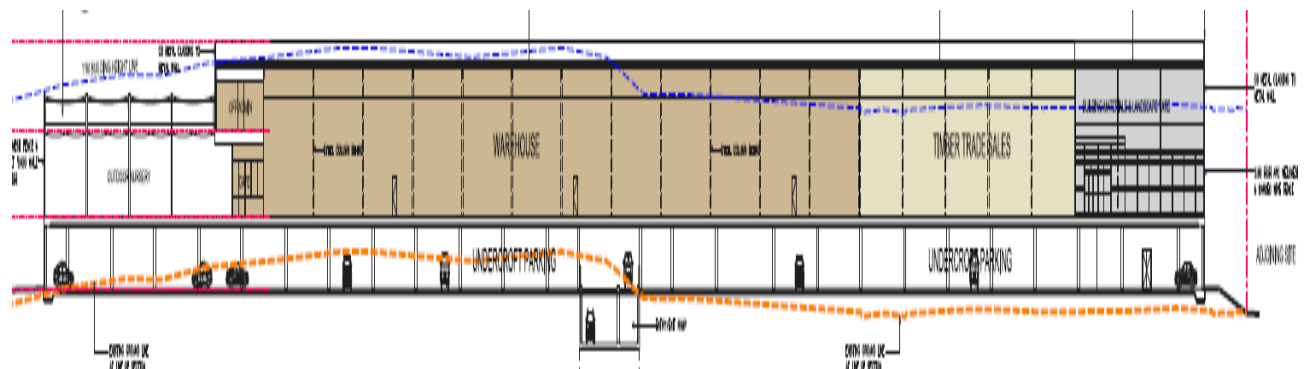
**Figure 1:** North South Section of proposed building with maximum building height of 16.6m circled in red.

- Elsewhere the building ranges between 10.3m and 15.8m in height. The following lists the extent of the departures:
  - o Between 0 and 4.6m on the Eastern elevation. See Figure 2 below.



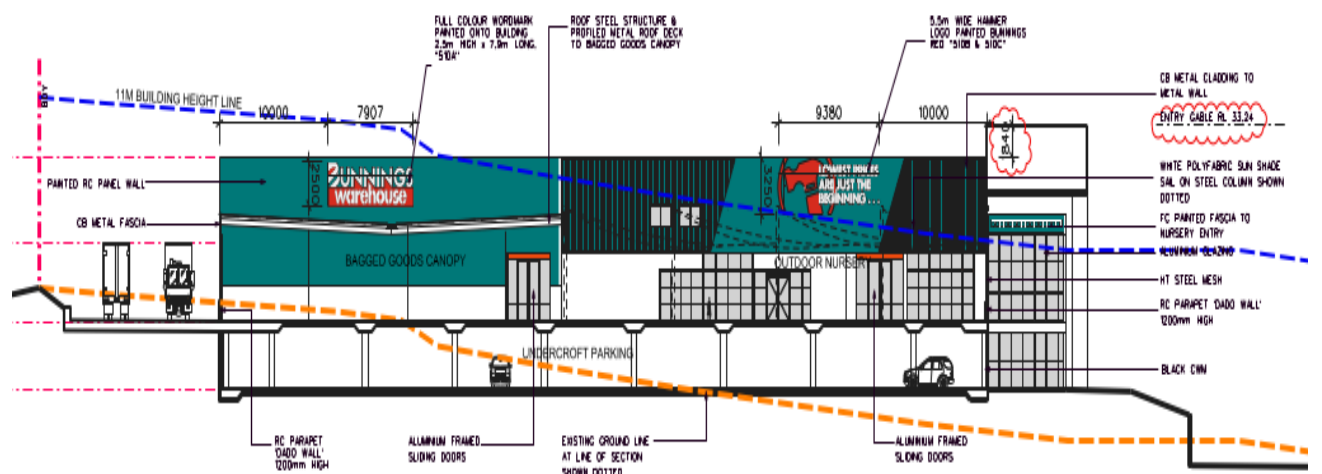
**Figure 2:** Eastern elevation of the proposed hardware and building supplies building.

- Between 3m and 5.6m along the Southern elevation. The majority of this departure consists of the 23m wide entry feature which comprises approximately 10% of the Southern façade.



**Figure 3:** East – West section of the proposed hardware and building supplies building.

- Between 0 and 4.6m on the Western elevation. See Figure 3 below.



**Figure 4:** Western elevation of the proposed hardware and building supplies building.

- Between 0 and 3.6m on the Northern elevation.

#### Clause 4.4 Floor space ratio

Maximum FSR permitted for the site: 0.5:1  
 Resultant FSR provided for Lot 101: No GFA is proposed for Lot 101 – Pad Site  
 Resultant FSR provided for Lot 102:  $14650\text{m}^2/34870\text{m}^2 = 0.42:1$

The proposed floor space ratio does not exceed the maximum permissible for the site.

#### Clause 4.6 Exceptions to development standards

Clause 4.6 of the Wollongong LEP “Exceptions to development standards” provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

In this instance, a departure is sought in respect of Clause 4.3 Height of Buildings. The applicant has provided a departure request statement prepared with reference to Clause 4.6. A copy is provided at **Attachment 3**. The development departure is dealt with as follows.

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 Floor Space Ratio
Is the planning control in question a development standard	<p>Yes</p> <p>Clause 4.3 requires the maximum height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. For the subject site, a maximum height of buildings of 11m applies.</p>
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes</p> <p>A written statement has been submitted that justifies compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:</p> <p><i>The proposal is consistent with the objectives of the Height of Buildings development standard for the following reasons:</i></p> <ul style="list-style-type: none"> <li>- <i>Notwithstanding the non-compliance with the maximum building height, the proposed development complies with the FSR applicable to the Site and provides for significant setbacks and soft landscaping opportunities around the perimeter of the building. The proposed soft landscaping for proposed Lot 102 (i.e. the Bunnings building) constitutes 31% of the site area which vastly exceeds the DCP requirement of 10%, being 7,413m<sup>2</sup> of additional landscaping than required;</i></li> <li>- <i>The proposed warehouse and building supplies building is considered to be of high quality urban form for a development of this nature which is atypical of more traditional forms of development permissible in the B6 Zone such as office buildings but not entirely dissimilar to other forms of permissible development in the B6 Zone such as light industry;</i></li> <li>- <i>Notwithstanding the non-compliance with the maximum building height, the proposed warehouse and building supplies building will not result in significant adverse impacts in terms of views of the sky from public areas or exposure of public or private spaces to sunlight. The latter is clearly demonstrated in the shadow analysis prepared by JRB (see <b>Figure 5</b>) which shows that whilst the proposed building will overshadow a small part of the expansive road reservation of Northcliffe Drive at 9am at midwinter, this will</i></li> </ul>

dissipate to no overshadowing of the road reservation at midday at midwinter. Furthermore, only a small area of the German Club land at 636a Northcliffe Drive will be overshadowed in the late afternoon at midwinter and no surrounding residential development will be overshadowed.

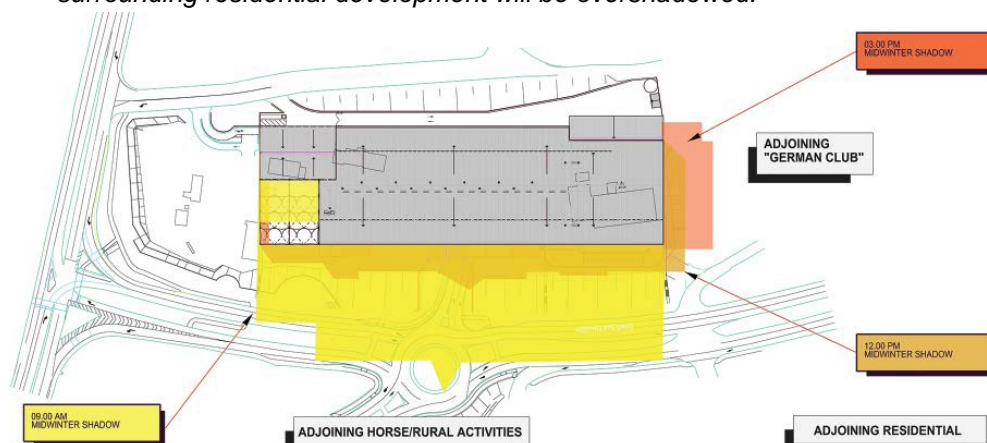


Figure 5 Extract of Solar Analysis by JRB

It is also relevant to consider the objectives of the B6 Enterprise Corridor Zone expressed in the Land Use Table to Clause 2.3 of LEP 2009 as follows:

- “• To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To encourage activities which will contribute to the economic and employment growth of Wollongong.
- To allow some diversity of activities that will not:
  - (a) significantly detract from the operation of existing or proposed development, or
  - (b) significantly detract from the amenity of nearby residents, or
  - (c) have an adverse impact upon the efficient operation of the surrounding road system.”

The proposal is consistent with the objectives of the B6 Zone for the following reasons:

- The proposed development will provide for a mix of compatible and permissible land uses on land bounded by two major arterial roads where only several small scale businesses and vacant land currently exist. This context will ultimately change as a consequence of changes to the arterial road network including the roundabout on Northcliffe Drive and the future road ‘flyover’ to the West Dapto urban release area to the west. Accordingly, the height of the proposed building needs to be considered in the context of this expansive road reservation and the contribution of the building to that future streetscape will be positive rather than overbearing or excessive;
- The proposed development will provide for a hardware and building supplies land use which will be a major employment generator in this locality whilst also providing scope for a future bulky goods premises and residue land for similar or other permissible land uses which will also generate employment;
- The proposed development does not contain traditional retail land uses

	<p><i>such as speciality shops or supermarkets which are prohibited in the zone and thus will protect the economic strength of retail centres in the LGA;</i></p> <ul style="list-style-type: none"> <li>- <i>The proposed hardware and building supplies building and potential for future bulky goods and similar land uses will generate employment and contribute to the economic growth of Wollongong;</i></li> <li>- <i>The Site is bounded to the north and west by arterial roads, with industrial development to the north-east, private recreational and business uses to the south and semi-rural and residential development a significant distance to the south- west. Accordingly, the proposed development will not significantly detract from the operation of existing or proposed development in the locality;</i></li> <li>- <i>The above assessment of shadow impact and the acoustic assessment by Wilkinson Murray demonstrate that the proposed development will not significantly detract from the amenity of residents on the south-western side of Northcliffe Drive or farther afield in terms of solar access or noise; and</i></li> <li>- <i>The traffic assessment by TTPA demonstrates that the proposed development will not have an adverse impact upon the efficient operation of the surrounding road system.</i></li> </ul> <ul style="list-style-type: none"> <li>• <b><i>Is compliance with the standard consistent with the aims of the policy, and in particular, does compliance with the standard tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning &amp; Assessment Act 1979?</i></b></li> </ul> <p><i>The non-compliance with the development standard allows for an orderly use of the land, which, notwithstanding its sloping topography, has the capacity to accommodate the proposed form of development with variations to the height control in some parts of the building, whilst other parts of the building are well within the height limit provided for by the LEP. This enables the proposal to provide for undercroft car parking instead of vast areas of surface car parking, thereby increasing the quantum of landscaped setbacks well in excess of the DCP requirement whilst minimising excess spoil associated with cut and fill.</i></p> <p><i>It should be noted that this amended DA, including shifting the building to a flatter part of the site, reduces the extent of the building height non-compliance. The original DA had a maximum building height of 18.2 metres whereas the amended proposal includes a maximum building height of 16.6 metres. Therefore, the maximum building height has been reduced by 1.6 metres.</i></p> <p><i>Alternative designs for a hardware and building supplies development would entail relocating car parking around the periphery of the building thereby reducing setbacks and landscaping opportunities or excavating further into the Site thereby resulting in significant exporting of spoil. The proposal is considered to be a better planning outcome for this Site than these alternatives.</i></p> <p><i>Accordingly, requiring strict compliance with the development standard would be inconsistent with the objectives of clause 4.6 which are to provide flexibility in the application of the standard and to achieve better outcomes for and from development through such flexibility.</i></p> <p><i>Furthermore, it is considered that the relevant Objects of the Act are satisfied as the proposed non-compliance with the Height of Buildings development standard:</i></p> <ul style="list-style-type: none"> <li>- <i>will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and</i></li> </ul>
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	<p><i>villages for the purpose of promoting the social and economic welfare of the community and a better environment. Indeed the proposal will facilitate social and economic</i></p> <p><i>welfare by activating the Site for an employment generating land use in the locality; and</i></p> <ul style="list-style-type: none"> <li>- <i>will promote the orderly and economic use and development of the Site in a manner which achieves the objectives of the relevant planning controls.</i></li> </ul> <p><i>Accordingly, strict compliance with the development standard is considered to hinder the promotion and co-ordination of the orderly and economic use and development of land comprising the Site.</i></p>
that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes</p> <p>The statement justifies that there are sufficient environmental planning grounds to justify contravening the development standard:</p> <ul style="list-style-type: none"> <li>• The proposed development complies with FSR requirements for the site and provides for significant setbacks and soft landscaping around the perimeter of the building.</li> <li>• The proposed warehouse and building supplies building is considered to be of a high quality urban form for this type of development which is atypical of more traditional forms of development permissible in the zone such as office buildings but not dissimilar to other forms of development in the zone such as light industry.</li> <li>• The proposed warehouse and building supplies building will not result in significant adverse impacts in terms of view of the sky from public areas or exposure of public or private spaces to sunlight as is demonstrated in the shadow analysis diagrams.</li> <li>• The non-conforming additional portions of the building are considered not likely to have adverse visual, privacy or amenity impacts to other properties or public areas.</li> <li>• These non-compliant portions are not likely to cause adverse or additional impacts than if the development standard were met.</li> </ul> <p>In addition, the proposed development is satisfactory having regard to environmental planning grounds, including:</p> <ul style="list-style-type: none"> <li>• Minimal impact on adjoining neighbours (overshadowing);</li> <li>• It does not prejudice State, Regional or Local Planning objectives for the area;</li> <li>• Will not establish any precedent whereby any DCP or LEP standards is undermined;</li> <li>• Other development standards contained within WLEP 2009 (as discussed in the Statement of Environmental Effects prepared by DFP Planning Consultants;</li> <li>• The relevant Chapters of WDCP 2009;</li> <li>• Section 4.15 of the Environmental Planning and Assessment Act 1979 ;</li> </ul> <p>The increase to the height of building does not create additional impacts on the subject land or adjoining sites than if the maximum allowable height of building was met on the proposed allotment.</p>
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's	The statement submitted by DFP Planning Consultants is considered to have adequately addressed the matters required to be demonstrated by subclause (3). In

<p>written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p>demonstrating that compliance to the development standard is unnecessary or unreasonable in the circumstances of the case, the statement appropriately includes consideration of Land and Environment Court matters <i>FourtoFive Pty Ltd v Ashfield Council</i> [2015] NSWLEC 1009 and <i>Wehbe v Pittwater Council</i> [2007] NSWLEC 827. In demonstrating that there is sufficient planning grounds the statement appropriately provides reasons that are specific to the site.</p> <p>Compliance to the development standard is considered to be unreasonable and unnecessary in the circumstances of this case as:</p> <ul style="list-style-type: none"> <li>• the proposal is considered to achieve the objectives of the development standard;</li> <li>• the proposal is considered to achieve the objectives of the B6 Zone;</li> <li>• the development standard has been abandoned previously as Council has granted an exception to the 11m height of buildings standard on the subject site (638 Northcliffe Drive) with the approval of the 40m high Telecommunications Tower;</li> <li>• the proposal is considered to have positive outcomes for the Site and surrounding locality; and</li> <li>• The proposal will have minimal adverse Impacts on the natural and built environment.</li> </ul> <p><b>The proposal is considered to achieve the objectives of the Height of Buildings standard (WLEP Clause 4.3):</b></p> <p><i>(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i></p> <p>The proposal though exceeding the maximum building height complies with Council's floor space ratio development standard and provides boundary setbacks greater than that required under the WDCP 2009.</p> <p>Landscaping proposed totalling 31% of the site area exceeds the minimum of 10% of the site area as required under DWCP2009.</p> <p><i>(b) to permit building heights that encourage high quality urban form,</i></p> <p>The proposed building is considered to be of high quality. The main pedestrian entrance where the variation is greatest due to the topography it is considered provides an area of articulation and visual interest to the building.</p> <p><i>(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></p> <p>The proposal is not expected to have significant impacts on views to the sky or the solar access of the adjoining properties.</p> <p><b>The proposal is considered to achieve the objectives of the B6 Enterprise Corridor</b></p> <p>Objectives of the B6 Zone:</p> <ul style="list-style-type: none"> <li>• <i>To promote businesses along main roads and to encourage a mix of compatible uses.</i></li> <li>• <i>To provide a range of employment uses (including business, office, retail and light industrial uses).</i></li> <li>• <i>To maintain the economic strength of centres by limiting retailing activity.</i></li> <li>• <i>To encourage activities which will contribute to the economic and employment growth of Wollongong.</i></li> <li>• <i>To allow some diversity of activities that will not:</i> <ul style="list-style-type: none"> <li><i>(a) significantly detract from the operation of existing or proposed development, or</i></li> </ul> </li> </ul>
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	<p><i>(b) significantly detract from the amenity of nearby residents, or</i></p> <p><i>(c) have an adverse impact upon the efficient operation of the surrounding road system.</i></p> <p>The proposal is satisfactory with regard to the above objectives. The site is located in a business zone with the adjoining zone to the North east being light industrial There is an area of rural/residential zoned land to the South west of the subject site. The wide road reserve of Northcliffe Drive separates the subject site from the rural zone.</p> <p>The proposal is located on corner of the Princes Highway and Northcliffe Drive both major roads and adds to the mixture of compatible land uses within the area whilst contributing to the economic and employment growth of the region.</p> <p>It is considered that the proposal will not significantly detract from the existing or proposed development, amenity of nearby residents or have an adverse impact on the efficient operation of the road system.</p> <p><b>The development standard has been abandoned by Council's own actions in granting a consent departing from the standard.</b></p> <p>The development standard has been abandoned previously as Council has granted an exception to the 11m height of buildings standard on the subject site (638 Northcliffe Drive) with the approval of the 40m high Telecommunications Tower under DA-1988/797.</p>
<p>the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p>The statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the standard as follows:</p> <p><i>The proposal is consistent with the objectives of the Height of Buildings development standard for the following reasons:</i></p> <ul style="list-style-type: none"> <li>- <i>Notwithstanding the non-compliance with the maximum building height, the proposed development complies with the FSR applicable to the Site and provides for significant setbacks and soft landscaping opportunities around the perimeter of the building. The proposed soft landscaping for proposed Lot 102 (i.e. the Bunnings building) constitutes 31% of the site area which vastly exceeds the DCP requirement of 10%, being 7,413m<sup>2</sup> of additional landscaping than required;</i></li> <li>- <i>The proposed warehouse and building supplies building is considered to be of high quality urban form for a development of this nature which is atypical of more traditional forms of development permissible in the B6 Zone such as office buildings but not entirely dissimilar to other forms of permissible development in the B6 Zone such as light industry;</i></li> <li>- <i>Notwithstanding the non-compliance with the maximum building height, the proposed warehouse and building supplies building will not result in significant adverse impacts in terms of views of the sky from public areas or exposure of public or private spaces to sunlight. The latter is clearly demonstrated in the</i></li> </ul> <p><i>shadow analysis prepared by JRB (see <b>Figure 5</b> ) which shows that whilst the proposed building will overshadow a small part of the expansive road reservation of Northcliffe Drive at 9am at midwinter, this will dissipate to no overshadowing of the road reservation at midday at midwinter. Furthermore, only a small area of the German Club land at 636a Northcliffe Drive will be overshadowed in the late afternoon at midwinter and no surrounding residential development will be overshadowed.</i></p>

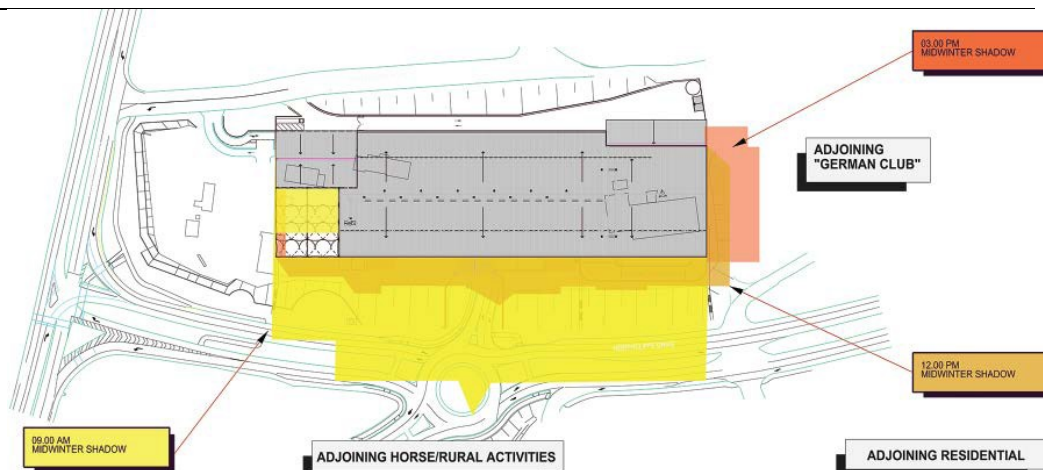


Figure 5 Extract of Solar Analysis by JRB

The proposal is considered to be consistent with the objectives of the zone as the proposal provides a business along main road providing employment opportunities and thus contributes to the economic and employment growth of the area as discussed above. The statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the B6 Zone as follows:

The proposal is consistent with the objectives of the B6 Zone for the following reasons:

- *The proposed development will provide for a mix of compatible and permissible land uses on land bounded by two major arterial roads where only several small scale businesses and vacant land currently exist. This context will ultimately change as a consequence of changes to the arterial road network including the roundabout on Northcliffe Drive and the future road 'flyover' to the West Dapto urban release area to the west. Accordingly, the height of the proposed building needs to be considered in the context of this expansive road reservation and the contribution of the building to that future streetscape will be positive rather than overbearing or excessive;*
- *The proposed development will provide for a hardware and building supplies land use which will be a major employment generator in this locality whilst also providing scope for a future bulky goods premises and residue land for similar or other permissible land uses which will also generate employment;*
- *The proposed development does not contain traditional retail land uses such as speciality shops or supermarkets which are prohibited in the zone and thus will protect the economic strength of retail centres in the LGA;*
- *The proposed hardware and building supplies building and potential for future bulky goods and similar land uses will generate employment and contribute to the economic growth of Wollongong;*
- *The Site is bounded to the north and west by arterial roads, with industrial development to the north-east, private recreational and business uses to the south and semi-rural and residential development a significant distance to the south- west. Accordingly, the proposed development will not significantly detract from the operation of existing or proposed development in the locality;*
- *The above assessment of shadow impact and the acoustic assessment*

	<p><i>by Wilkinson Murray demonstrate that the proposed development will not significantly detract from the amenity of residents on the south-western side of Northcliffe Drive or farther afield in terms of solar access or noise; and</i></p> <ul style="list-style-type: none"> <li><i>The traffic assessment by TTPA demonstrates that the proposed development will not have an adverse impact upon the efficient operation of the surrounding road system.</i></li> </ul> <p>The proposal is satisfactory with regard to the above objectives.</p> <p>The proposal is satisfactory with regard to the above objectives. The site is located in a business zone with the adjoining zone to the North east being light industrial There is an area of rural/residential zoned land to the South west of the subject site. The wide road reserve of Northcliffe Drive separates the subject site from the rural zone.</p> <p>The proposal is located on corner of the Princes Highway and Northcliffe Drive both major roads and adds to the mixture of compatible land uses within the area whilst contributing to the economic and employment growth of the region.</p> <p>It is considered that the proposal will not significantly detract from the existing or proposed development, amenity of nearby residents or have an adverse impact on the efficient operation of the road system.</p> <p>The requested departure from the development standard will not hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&amp;A Act.</p> <p>As discussed above, the statement has satisfactorily demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds specific to the site to justify contravening the development standard.</p> <p>It is considered that strict compliance with the Height of Buildings development standard in the context of the proposal site would not result in any significant public benefit.</p>
the concurrence of the Secretary has been obtained.	The concurrence of the Secretary is assumed for regionally significant development reported to the JRPP for determination.
Comment:	The Clause 4.6 statement is considered as capable of support.

## Part 5 Miscellaneous provisions

### Clause 5.9 Preservation of trees or vegetation - repealed

Clause 5.9 has been repealed as at the 1 September 2017.

However Clause 1.8A of WLEP 2009 stipulates that if a development application has been made before the commencement of this Plan to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced. The application was lodged on the 10 April 2017 prior to the commencement of this Plan therefore Clause 5.9 has been taken into consideration in the assessment of this application as the application proposes the removal of several trees.

Council's Landscape and Environment officers have assessed the application submission including a Flora and Fauna report, with conditionally satisfactory referral advice received. Draft conditions at **Attachment 6** specify trees to be removed, trees to be retained, compensatory plantings and tree protection and management.

## **Part 7 Local provisions – general**

### Clause 7.1 Public utility infrastructure

This clause seeks to ensure that sufficient infrastructure is available to service development and requires that consent not be granted for development unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The site is already serviced by electricity, water and sewerage services. It is expected that the existing utility services can be augmented to support the proposed development.

If approved, conditions should be imposed upon the development consent requiring approval from the relevant authorities for the connection of electricity, water and sewerage to service the site.

Advice received from Sydney Water and Endeavour Energy indicates the proposal is considered conditionally satisfactory.

### Clause 7.2 Natural resource sensitivity – biodiversity

The site is identified as “Natural Resource Sensitivity – Biodiversity”. Details of the application submission including a Flora and Fauna Assessment report, Microbat Assessment Addendum Report and Seven-part Test Addendum Report were referred to Council’s Environment Officer for comment. Conditionally satisfactory referral advice was received and draft conditions are included at **Attachment 6** requiring fauna ecologist to conduct a microbat survey with results to be reported to Council. If microbats are detected in the survey draft conditions at **Attachment 6** specify the results of the survey are to include revised assessments of significance and considerations of management and mitigation measures prior to the removal of trees on the subject site.

With regards to flora, Council’s Landscape and Environment officers have assessed the application submission including a Flora and Fauna report, with conditionally satisfactory referral advice received. Draft conditions at **Attachment 6** specify trees to be removed, trees to be retained, compensatory plantings and tree protection and management.

### Clause 7.5 Acid Sulfate Soils

The subject site is identified as being affected by Class 5 acid sulphate soils and is less than 200m from a Class 4 acid sulphate soils area. However as the proposed works are to be located at and above 10m A.H.D and are not likely to lower the water table beyond 1m it is considered that there is minimal impact. Council’s Environment Officer has considered the application submission and raised no issues with regards to Acid Sulphate Soils.

### Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the building’s two levels of basement car parking. The earthworks have been considered in relation to the matters for consideration outlined in Clause 7.6 and are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of surrounding land. Council’s Environment and Geotechnical Officer’s have considered the application submission and have provided satisfactory referrals subject to conditions.

### Clause 7.13 Ground floor development on land within business zones

The objective of Clause 7.13 is to ensure active uses are provided at the street level to encourage the presence and movement of people. The clause requires that development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:

- (a) will not be used for the purpose of residential accommodation, and
- (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.

The proposal will not be used for residential accommodation and provides an active use at ground floor level in accordance with this control.

## **2.1 SECTION 4.15(A)(II) ANY PROPOSED INSTRUMENT**

None applicable to the site or proposed development.

## **2.2 SECTION 4.15 1(A)(III) ANY DEVELOPMENT CONTROL PLAN**

### **2.2.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

The development has been assessed against the relevant chapters of WDCP 2009. Compliance tables can be found at **Attachment 4** to this report. It is noted that the development departs from the following design controls:

- Exemption to the need for an Economic Impact Statement (Chapter B4);
- The number of flush wall mounted signs per elevation (Chapter C1);
- Height and advertising area of pole or pylon signage (Chapter C1; and
- Motorbike and bicycle parking (Chapter E3).

These are dealt with in the compliance tables and are supported.

### **2.2.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2017)**

The estimated cost of works is \$30,250,000 and a Section 7.12 levy of 1% would therefore normally be applicable as the threshold figure is \$100,000.

However the applicant has entered into a Voluntary Planning Agreement under S7.4 of the Environmental Planning and Assessment Act 1979 for the shared cost of constructing a roundabout at the Western end of Northcliffe Drive, Kembla Grange. The Planning Agreement excludes the application of Section 7.12 of the Environmental Planning and Assessment Act 1979. Draft conditions at **Attachment 6** require the Voluntary Planning Agreement to be executed forthwith.

## **2.3 SECTION 4.15 1(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4**

The following planning agreement has been entered into under S7.4 which affects the development:

- Bunnings Properties Pty Ltd entered into a planning agreement for the shared cost of constructing a roundabout at the Western end of Northcliffe Drive, Kembla Grange. This roundabout is required to address traffic management issues in relation to DA-2016/358 and to facilitate the future extension of Northcliffe Drive as identified in the West Dapto Access Strategy.

## **2.4 SECTION 4.15 1(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)**

Clause 92 What additional matters must a consent authority take into consideration in determining a development application?

*(1) For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:*

*(a) in the case of a development application for the carrying out of development:*

*(i) in a local government area referred to in the Table to this clause, and*

*(ii) on land to which the Government Coastal Policy applies,*

*the provisions of that Policy,*

*(b) in the case of a development application for the demolition of a building, the provisions of AS 2601.*

A draft condition at **Attachment 6** requires notification of demolition and compliance with AS 2601.

## **2.5 SECTION 79C 1(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT**

There is no Coastal Zone Management Plan currently applicable to the land.

## **2.6 SECTION 4.15 1(B) THE LIKELY IMPACTS OF DEVELOPMENT**

Context and Setting:

In regard to the matter of context, the planning principle in *Project Venture Developments v Pittwater*

Council [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The proposed development involves demolition of existing structures, construction of hardware and building supplies building, bulk earthworks, roadworks and subdivision. The proposed lots allow for reasonable siting of the proposed building to satisfy the objectives of Council's boundary setback requirements so as to have minimal impact on the adjoining properties in terms of privacy and overshadowing and to allow reasonable solar access.

In regard to the visual impact, the development is considered to be largely in harmony with the surrounding character the area. The immediate area surrounding the site is characterised by a mixture of business and light industrial developments, of varying architectural styles with a rural residential estate located opposite the subject site on the Southern side of Northcliffe Drive. The proposed development satisfies the objectives Council's Floor Space Ratio and Building Height development standards as identified in the Wollongong Local Environmental Plan 2009, and overall the bulk and scale of the proposed development is considered acceptable in this circumstance.

The scale of the development as viewed from the street is considered comparable to other developments in the locality.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible lot size and existing and future character of the area, and is considered to be compatible with the local area.

#### Vehicular Access, Transport and Traffic:

The proposal is satisfactory with regard to carparking, vehicular access, manoeuvring and servicing. Provision has been made for appropriate arrangements for on-site servicing and deliveries.

Traffic generation from the development can be readily absorbed into the existing street network. Pedestrians will be safely accommodated. Advice received from NSW Roads and Maritime Services and Council's Traffic Officer indicates the proposal is considered conditionally satisfactory.

#### Public Domain:

The proposal involves roadworks and frontage works including public footpaths to Northcliffe Drive, the Princes Highway and Canterbury Road. The proposed works are considered a positive public domain outcome for the locality. Separately the VPA process further proposed a roundabout on Northcliffe Drive that was separately exhibited and reported to Council.

#### Utilities:

The proposal is not expected to place an unreasonable demand on utilities supply. Existing utilities are likely to be capable of augmentation to service the proposal. If approved, draft conditions could require the developer to make appropriate arrangements with the relevant servicing authorities prior to construction. Advice received from Sydney Water and Endeavour Energy indicates the proposal is considered conditionally satisfactory

#### Heritage:

No nearby heritage items are expected to be affected by the proposed development.

#### Other land resources:

The proposal is not expected to impact upon any valuable land resources.

#### Water:

*Supply & infrastructure* - The site is presently serviced by Sydney Water's reticulated water and sewerage services. It is expected that these services can be extended/ augmented to meet the requirements of the proposed development.

*Consumption* - The proposal is not envisaged to involve excessive water consumption having regard



to the uses proposed within the building. Rainwater harvesting is proposed.

*Water quality* – the application was accompanied by a Water Sensitive Urban Design Strategy which demonstrates that the compliance with the water quality objectives outlined in Chapter E15 of WDCP 2009 – Water Sensitive Urban Design can be achieved.

#### Soils:

It is expected that, with the use of appropriate erosion and sedimentation controls during construction, soil impacts will not be unreasonably adverse.

The soil profile is considered to be acceptable for the construction of the proposed development. Council's Geotechnical and Environment Officers have assessed the application submission and considered it satisfactory subject to consent conditions.

#### Air and Microclimate:

The proposal is not expected to have negative impact on air or microclimate.

#### Flora and Fauna:

Several trees are proposed to be removed as part of this proposal to facilitate the development. Council's Landscape and Environment Officers have reviewed the application submission including the Tree Assessment report and landscape plan, and raised no issues with the proposed removal of the trees subject to draft conditions that specify trees to be removed, trees to be retained, compensatory plantings and tree protection and management.

The proposal is not expected to adversely impact fauna. Council's Environment Officer has reviewed the application submission including the Microbat Assessment Addendum report and Seven-part Test Addendum report prepared by Abel Ecology, and raised no issues with the proposal subject to draft conditions.

#### Waste:

Waste management during construction can be managed through proper arrangements. A condition should be imposed if consent is granted requiring the use of an appropriate receptacle for any waste generated during the construction and compliance with the Site Waste Management and Minimisation Plan provided with the DA.

On-going waste management arrangements are satisfactory and comply with the relevant provisions of Wollongong DCP 2009 as detailed within this report. Advice received from Council's Traffic Officer indicates the proposal is considered conditionally satisfactory.

#### Energy:

The proposal is not envisaged to have unreasonable energy consumption.

#### Noise and vibration:

Noise and vibration impacts during demolition, excavation and construction are unavoidable. If the development is approved, a suite of conditions are recommended for imposition (see **Attachment 6**) to minimise nuisance during demolition and construction.

#### Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal. The application includes an Energy Efficiency report.

#### Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

The proposal is identified as being affected by Class 5 acid sulphate soils. However as the proposed works for the subdivision are to be located at and above 10m A.H.D and are not likely to lower the water table beyond 1m it is considered that there is minimal impact- See also SEPP55 commentary at Section 2.1.1.

#### Safety, Security and Crime Prevention:

Refer to WDCP compliance table at **Attachment 4**. The proposal is not expected to provide increased opportunities for criminal or antisocial behaviour and is considered to be reasonably well designed with regard to CPTED principles subject to some matters including lighting and landscaping being

dealt with via draft conditions; see **Attachment 6**.

Social Impact:

No significant adverse social impacts are expected to arise from approval of the proposed development.

Economic impact:

There are not expected to be adverse economic impacts arising from approval of the proposed development.

Site Design and Internal Design:

The proposal does involve an exception to WLEP 2009 development standard for Height of Buildings. The exception is considered to have been adequately justified via the submission of an appropriate justification statement and capable of support.

The proposal also requests consideration for variations to Council's WDCP 2009 in relation to the number of flush wall mounted signs per elevation and height of proposed pole or pylon sign, motorbike and bicycle parking and an exemption to the need for an Economic Impact Statement. The requests have been considered at **Attachment 4** and are capable of support.

Construction:

Construction impacts have the potential to impact on the amenity of the neighbourhood. If approved, it would be appropriate to impose a suite of conditions to reduce the impact of construction works including those relating to hours of work, erosion and sedimentation controls, dust mitigation, works in the road reserve, excavation, demolition management, waste management, and use of any crane, hoist, plant or scaffolding, amongst others. These are included in the draft conditions at **Attachment 6**.

A condition is also included in the draft conditions at **Attachment 6** that all works are to be in compliance with the Building Code of Australia.

Cumulative impacts:

Approval of the proposal is not expected to give rise to adverse cumulative impacts.

## **2.7 SECTION 4.15 1(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT**

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

## **2.8 SECTION 4.15 1(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS**

Details of the original proposal and subsequent amended plans were publicly exhibited in accordance with Appendix 1 of the Wollongong Development Control Plan (WDCP) 2009 on two (2) separate occasions. No submissions were received from the first notification period 11 April 2016 to 29 April 2016.

A total of three (3) submissions were received from the second notification period 14 July 2017 to 3 August 2017. The second notification period was required following receipt of amended architectural and traffic plans which included the proposed roundabout on Northcliffe Drive.

A further submission to the application was received following the separate (to Development Application process) public exhibition period 7 February 2018 to 9 March 2018 of the Voluntary Planning Agreement for the proposed roundabout.

Therefore a total of four (4) submissions have been received. The main issues identified within the submissions are discussed below.

**Table 1: Submissions**

Concern	Comment
1. Traffic Noise and Pollution	<p>Council's long term West Dapto Access Strategy includes an extension of Northcliffe Drive to the West, with an expected bridge over the Princes Highway and the Southern rail line. The road corridor for this extension is identified and predominantly already owned by Council. The extension has previously been conceptualised by internal civil design to include a roundabout in the proposed location at the intersection where the extension joins Northcliffe Drive. The Northcliffe Drive extension supports Stages 1 and 2 of the West Dapto Release Area.</p> <p>Northcliffe Drive is a regional classified road and will experience an increase in traffic volumes as West Dapto Release Area develops further. It is considered that the traffic generated by the proposed development will not be unreasonable in this circumstance, and is within the environmental capacity of the local road network.</p> <p>The initial concept by the developer for vehicles entering/exiting the subject site was for a revised signalised intersection within the vicinity of the location of the proposed roundabout.</p> <p>Advice from Council's Traffic section indicates that regardless of the Northcliffe Drive extension considerations, a roundabout is a strongly preferred to signals for the proposed Bunnings development access for reasons of maintaining and managing traffic flow in this location.</p> <p>The application submission included an acoustic report which was referred to Council's Environment Officer for comment. Advice received indicated that the proposed development was acceptable with regards to noise generation in this circumstance.</p>
2. Ability for people to wander off the bicycle track onto private property	<p>The proposed development will include directional signage for bicycle tracks and pedestrian pathways so as to clearly define private and public land.</p>
3. Drainage	<p>The application submission, included a flood report and concept stormwater drainage plan which Council's Stormwater Officer has considered to be conditionally acceptable. Draft conditions as at <b>Attachment 6</b> account for stormwater run-off from the proposed development such that is not directed so as to have an adverse effect on adjoining properties.</p>
4. Business access during construction	<p>Northcliffe Drive is a regional classified road and therefore traffic flow will be required to be maintained through the area during construction.</p> <p>To alleviate concerns draft condition 11 at <b>Attachment 6</b> requires access to be maintained at all times and any alteration to access whether it be temporary or permanent must not commence until such time that written evidence is submitted to Council or the Principal Certifying Authority indicating agreement by the affected owners.</p>
5. Directional Signage	<p>The proposed development will have no impact on</p>

Concern	Comment
	existing vehicular access arrangement to private property from Northcliffe Drive.  To alleviate concerns regarding vehicular access during construction of the proposed roundabout draft condition 11 requires access to be maintained at all times and any alteration to access whether it be temporary or permanent must not commence until such time that written evidence is submitted to Council or the Principal Certifying Authority indicating agreement by the affected owners.
6. Parking During Construction	Parking during construction is required to be in accordance with the road rules and as directed by the Site Supervisor.  Should there be concerns regarding parking during construction the Site Supervisor and Principal Certifying Authority's details will be provided on the site.
7. Disregard for Equine Estate	The application has been assessed against the relevant planning controls by both internal and external referral groups. These planning controls are in place so as to minimise amenity impacts on adjoining properties.  The proposed development is considered to be acceptable in this circumstance.

**Table 2: Number of concerns raised in submissions**

Concern	1	2	3	4	5	6	7
Total	3	1	1	1	1	1	1

Submissions from public authorities

**Roads and Maritime Services**

Details of the application submission were referred to the Roads and Maritime Services for comment on 5 April 2016 in accordance with Clauses 101 and 104 of SEPP (Infrastructure) 2007. Following multiple requests for additional information advice now received indicates the proposal is considered conditionally satisfactory.

**Endeavour Energy**

Details of the application submission were referred to Endeavour Energy for comment in accordance with Clause 45 of SEPP (Infrastructure) 2007. Advice received indicates the proposal is considered conditionally satisfactory.

**Sydney Water**

Details of the application submission were referred to Sydney Water for comment. Advice received indicates the proposal is considered conditionally satisfactory.

**2.9 SECTION 4.15 1(E) THE PUBLIC INTEREST**

The proposed development is considered appropriate with consideration to the zoning and the character of the area. Approval of the proposed development is considered to be in the public interest.

**3. CONCLUSION**

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the B6 Enterprise Corridor zone. The development is consistent with most of the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 with the exception of the height of

building variation sought which has been discussed in the body of this report and is considered capable of support.

The design of the development is appropriate with regard to the controls outlined in the Wollongong DCP 2009 including the variation request to and Economic Impact Assessment, signage matters and motorbike and bicycle parking.

Some of the issues received in submissions though technically unresolved area considered to be adequately addressed either through design or by way of condition of consent. Any remaining issues are not considered sufficient to warrant refusal of the application.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

#### **4. RECOMMENDATION**

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It is recommended that the Joint Regional Planning Panel approve DA-2016/358 pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the draft conditions provided at **Attachment 6**.

## 5. ATTACHMENTS

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- 1 Plans
- 2 Aerial photograph, WLEP 2009 zoning map, site photographs and extract of deposited plan
- 3 Clause 4.6 Exception to Development Standard Statement
- 4 Wollongong DCP 2009 Assessment
- 5 Clause 8 Variation to Development Controls Statements
- 6 Draft conditions