

**SECTION 96(2)  
APPLICATION TO  
DA/251/2013**

**20 PACIFIC HIGHWAY,  
BENNETTS GREEN**

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# 1. INTRODUCTION

This report has been prepared by Urbis on behalf of Spotlight Property Pty Ltd and supports an application pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979* (the Act). This application seeks to modify DA/251/2013, a Staged Development Application for a Home Improvement Centre, bulky goods tenancies and restaurant on land known as 20 Pacific Highway, Bennetts Green. DA/251/2013 was approved by the Hunter and Central Coast Joint Regional Planning Panel on 5 March 2015.

This Section 96(2) Application seek to modify the approved development to facilitate the prompt development and activation of the site by accommodating specific tenant requirements. The application will ensure sustainable development of hardware and building supplies and separate bulky goods tenancies as intended in DA251/2013. Further, the application will:

- Facilitate occupation of the site by specific operators and reflect their tenancy requirements.
- Increase overall efficiency of the built form, access and circulation across the site.
- Ensure that the sites potential to provide important employment opportunities is realised.
- Provide a holistic approach to stormwater management, retaining walls and landscaping across the site.
- Remove the approved bulky goods use on a portion of the land. This is the subject of a separate and concurrent development application for a service station and take away food and drink premise.

The Section 96 Application seeks to modify DA/251/2013 in the following ways:

- Amend the building envelope of the hardware and building supplies and parking to facilitate the operational requirements of a Bunnings Warehouse.
- Make changes to access and egress arrangements for service vehicles accessing approved Lot 1.
- Include minor amendment to the bulky goods tenancy envelopes in approved Lot 2.
- Remove the turning head to the rear of the bulky goods tenancies in approved Lot 2 to increase connectivity of the rear service road.
- Reorientation and minor amendment to the building envelope of the restaurant and associated car parking and access.
- Modify the bulky goods tenancy envelopes in approved Lot 4 and minor modification of the service access arrangements.
- Removal the approved bulky goods use for a small portion of land adjacent to the main internal roundabout in approved Lot 4. This land will be subject to a future Development Application.
- Amendment to the stormwater management strategy and retaining walls relating to the whole site.
- Minor amendment to the landscape strategy relating to the whole site.
- Amend the approved subdivision layout to form three lots.
- Amend the signage approved under DA/251/2013 accounting for the new tenants/owners.

The assessment of the application outlined in this report demonstrates that the proposed modifications will result in substantially the same development as that which was originally approved and satisfies the requirements of Section 96(2) of the Act.

This report provides:

- A description of the site and locality.
- A description of the approved development.
- Summary of the background to this application.

- A description of the proposed modifications as part of this application.
- Consideration of the proposed changes against the provisions of Section 96(2) of the Act.
- An assessment of the proposed modification against the matters for consideration pursuant to Section 79C of the Act.

The application is supported by the following documentation:

Table 1 – Section 96 Application Inputs

<b>Input</b>	<b>Consultant</b>	<b>Appendix</b>
Architectural Plans	Buchan Group	A
Landscape Plans	Site Image	B
Traffic Report	Colston Budd Rogers and Kafes	C
Bushfire Report	Building Codes and Bushfire Hazard Solutions	D
Civil and Stormwater Plans/Report	Mott Macdonald	E
Ecological Assessment	Eco Logical Australia	F
Acoustic Report	Acoustic Logic	G
CPTED Assessment	Barker Ryan Stewart	H
Waste Management Plan	Elephants Foot	I
SEPP 64 Assessment	Urbis	J



## 2. THE SITE AND LOCALITY

The site consists of land adjacent to the Pacific Highway at Windale, bound by South Street to the west, Lake Road to the north and the Pacific Highway to the east. The site has a legal property description of Lot 1 in DP 1214343 and is also known as 20 Pacific Highway, Bennetts Green. The site has an area of approximately 7.89ha.

The site currently consists of a mix of native vegetation that acts as a natural buffer between the Pacific Highway and the suburban area of Windale to the west and south. The subject site is currently undeveloped with no significant buildings or structures with the exception of a skate park located in the far north of the site adjacent to Windale Police Citizens Youth Club.

*Grevillea parviflora* var. *parviflora*, a threatened species under the Threatened Species Conservation Act 1995, occurred in several areas across the central portion of the subject site. A Species Impact Statement was prepared for the site as part of DA/251/2013 which included an impact assessment of threatened species. A biodiversity offset site was established, and will be managed in perpetuity as part of a VMP and overarching Plan of Management.

Translocation of 10 individuals of *Grevillea parviflora* subsp. *parviflora* from the development footprint into a suitable area within the development lot, has been successfully undertaken in accordance with the conditions of approval.

Further to the west of the site is the residential suburb of Windale. A commercial/industrial area of Bennetts Green is located to the east of the site. To the north of the site are the Hunter Barnett and Michael Bird Sports Fields, the Windale PCYC, tennis courts, Windale Bowling Club and St Pius Primary School.

The location of the site is shown in Figure 1 – Site Aerial (NSW SIX Maps) Figure 1.



Figure 1 – Site Aerial (NSW SIX Maps)

### 3. THE APPROVED DEVELOPMENT

A Staged Development Application for the site was lodged on 22 February 2013 and approved on 5 March 2015. The approved development in DA/251/2013 is for:

*Building Products Warehouse and Showroom, Bulky Goods Premises, Restaurant, Signage, Demolition and Consolidation/subdivision, As A Staged Development.*

The development consent provides for a staged development with approval for construction of Stage 1A and a concept design for Stage 1B which is to be the subject of a future Development Application.

Stage 1A incorporates the following within land identified in the approved plans as Lots 1, 2 and 3:

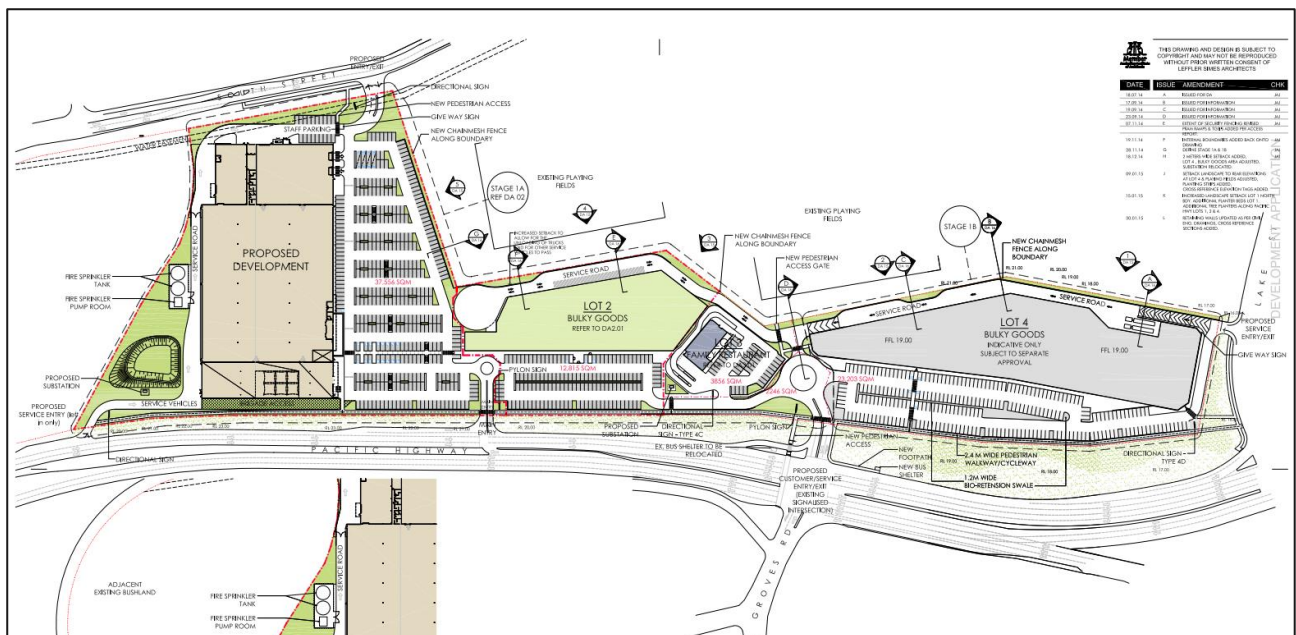
- Subdivision
- Building products warehouse
- Restaurant
- Bulky goods units 1-8
- Demolition
- Signage
- Landscaping
- Civil and stormwater
- Intersection upgrades at Pacific Highway and South Street
- Car parking and access ways associated with the building products warehouse, bulky goods units 1-8 and restaurant
- Service road at the rear of the bulky goods units 1-8, connecting with the internal round-a-bout servicing the access off the Pacific Highway and Groves Road intersection
- Public Domain Works

Stage 1B, incorporates the following on land identified in the approved plans as Lot 4:

- Bulky goods units 9-13
- Intersection upgrade at lake street
- Service road at the rear of bulky goods units 9-13
- Car parking and access ways associated with bulky goods units 9-13
- Landscaping associated with bulky goods units 9-13
- Public domain works

Development associated with Stage 1B is subject to a separate Stage 2 Development Application which is lodged concurrently with this application. The Stage 2 Application is consistent with the concept approval under DA/251/2013 and as proposed to be modified by this application.





## 4. BACKGROUND TO THIS SECTION 96(2) APPLICATION

### 4.1. DEVELOPMENT STRATEGY

DA/251/2013 was lodged with the intention to facilitate the development of a Masters Home Improvement Centre on Lot 1 and smaller bulky goods tenancies across the site. Since DA251/2013 was approved, a change in ownership of the land has been initiated which is imminent.

Spotlight Property Pty Ltd as future owners of the site seek to retain the intent of the development approved under DA/251/2013. The intention of this application is to facilitate the prompt development and activation of the site to ensure a sustainable hardware and building supplies and bulky goods retail offering as intended in DA251/2013. Importantly, the proposal will realise the sites potential to provide important employment opportunities on the site with approximately 200 operational jobs (in addition to employment created during construction). This will provide significant social and economic benefits for the Lake Macquarie LGA and prevent a key site of substantial size adjacent to the Pacific Highway from remaining vacant and undeveloped.

The development strategy for the site includes:

- Retaining all approved uses on the site being 'building products warehouse' or hardware and building supplies (as it would now be defined under the *Lake Macquarie Local Environmental Plan 2014*), bulky goods premises and restaurant.
- Accommodate a Bunnings Warehouse on Lot 1 with modification to the approved building envelope to reflect the national brand and built form requirements of this tenant.
- Retain the approved bulky good tenancies on Lot 2 with minor amendment to the building footprint and tenancy separation to reflect tenant needs.
- Retain the restaurant use on Lot 3 with minor amendments to the building envelope and access.
- Reduce the building envelope for bulky good tenancies on Lot 4 and seek approval for the detailed design of these tenancies.
- Introduction of appropriate highway uses including service station and take away food and drink premises on Lot 4 (the subject of a separate and concurrent Development Application).
- Associated modifications to the access and circulation, parking, landscaping, stormwater management and signage.

### 4.2. APPLICATIONS RELATING TO THE SITE

The development strategy for the site will be the subject of three separate planning applications which are:

1. **Section 96(2) Application:** This application seeking to amend the design approved for Lot 1, 2 and 3 and the concept building envelope associated with Lot 4. This application will also seek to remove the bulky goods use associated with a portion of the site which is proposed to be the location of a future service station and takeaway food and drinks premises. This application will be assessed by Lake Macquarie Council and determined by the Hunter and Central Coast JRPP.
2. A Stage 2 Development Application seeking approval for the design of the bulky goods tenancies on Lot 4. This application will be determined by Lake Macquarie Council.
3. A Development Application for a service station and take away food and drink premises on Lot 4. This application will be determined by Lake Macquarie Council.

These applications are lodged concurrently to facilitate clarity of the intentions for development across the site.



## 4.4. CONSULTATION WITH LAKE MACQUARIE CITY COUNCIL

The applicant has consulted with Lake Macquarie City Council during the preparation of the Section 96 Application regarding the proposed amendments and overall development intentions across the site from early 2017.

The following table summarises comments provided by Brian Gibson (Senior Development Planner) and the relevant response as it relates to this Section 96(2) Application.

Table 2 – Lake Macquarie City Council Consultation

Item	Comment
<b>12 January 2017</b>	
<ul style="list-style-type: none"> <li>Warehouse Design/Orientation/Layout – The revised design incorporates a larger footprint. The revised design provides reduced setbacks and landscaping, and is likely to present a more imposing bulk and mass to the Pacific Highway and South Street. Treatment of the external elevations of the nursery and building material areas needs to be of a high quality.</li> </ul>	<ul style="list-style-type: none"> <li>Amendments have been made to the scheme since correspondence with Council. Refer to Section 6.1 for further commentary about the built form and landscape interface.</li> </ul>
<ul style="list-style-type: none"> <li>Warehouse Delivery Vehicle Access – The stormwater and fire infrastructure is either limited in detail or not detailed at all, which noting the reduced setbacks has implications for the current revision.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to Section 6.4 for further detail regarding the engineering solution for the site, and Section 6.3 regarding bushfire hazard reduction measures.</li> </ul>
<ul style="list-style-type: none"> <li>Warehouse Car Park Layout – The revised configuration of the car parking associated with the Warehouse is subject to review by a traffic engineer to ensure safe and efficient movement through the site.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to Section 6.2 for further detail regarding the traffic and parking solution for the site.</li> </ul>
<ul style="list-style-type: none"> <li>South Street – A consideration of the original proposal was ensuring an appropriate landscape interface and to minimise acoustic impacts from the development (particularly delivery vehicles). It was further limited that only vehicles associated with the building products warehouse and showroom could exit onto South Street with all other delivery vehicles to enter via Lake Street and the Pacific Highway and to exit via the Pacific Highway. Details of the frequency and vehicle type servicing the warehouse that would use South Street would be required to consider if the modified proposal will have an increased impact.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to Section 6.1 for further detail regarding visual impact and 6.7 for further detail regarding acoustic impact.</li> <li>The one-way service road running east-west behind Bunnings is retained.</li> <li>An acoustic report has been prepared which outlines several mitigation measures including an acoustic wall at the interface with South Street.</li> </ul>
<ul style="list-style-type: none"> <li>Internal Delivery Vehicle Access – Changes to delivery vehicle access is to be considered in terms of performance of the intersections and safe and efficient movement through the site.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to Section 6.2 for further detail regarding the traffic and parking solution for the site.</li> </ul>
<ul style="list-style-type: none"> <li>Pedestrian Access – Pedestrian access through the site from the adjoining sports fields to the north to the bus stop on the Pacific Highway is to be maintained. The impacts on vehicle circulation through the development site by the kerb adjoining T1 is to be considered.</li> </ul>	<ul style="list-style-type: none"> <li>The pedestrian access has been maintained through the site.</li> <li>Direct access is maintained from the sporting fields to the bus stop on Pacific Highway to the east of the site.</li> </ul>
<ul style="list-style-type: none"> <li>Increased Building Height – The proposed increase in the building height will need to be considered in terms of the elevations particularly those facing the adjoining sporting fields and PCYC.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to Section 6.1 for further commentary about the built form and landscape interface.</li> <li>The proposal complies with the LM LEP 2014 height of buildings standard.</li> </ul>
<ul style="list-style-type: none"> <li>Northern boundary – The original approval incorporated a landscaped buffer between the development and the PCYC/Sporting Fields. The outcome sought to ensure</li> </ul>	<ul style="list-style-type: none"> <li>Landscaping including the interface with the sporting fields and the PCYC is discussed further in Section 6.1.</li> </ul>

Item	Comment
<p>safety/security and visual outcomes with landscaped outcome contained within the site.</p> <ul style="list-style-type: none"> <li>Grevillea Parviflora – The translocation of the flora onto the site into the landscaped area adjoining the cul-de-sac head has occurred. The proposed reconfiguration of the access must have regard to this.</li> <li>Crokers Creek – The revised design incorporates work closer to Crokers Creek than the original design, which was already within 40m of a water course.</li> <li>Fire Brigade Access – Access is to be maintained along the Pacific Highway elevation.</li> <li>External Referrals – The revised proposal will require referral to OEH, Mines Subsidence Board, RMS, the NOW, NSW Police, NSW Rural Fire Service, AUSGRID, DFCS and the Hunter Water Corporation.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Two new areas are now proposed for the translocation. The applicant will initiate the measures outlined in the Eco Logical Australia letter to mitigate impacts on the Grevillea Parviflora. This is discussed further in Section 6.5.</li> <li>Noted. An appropriate engineering solution can be achieved and amended GTAs are sought from NSW DPI Water.</li> <li>Fire brigade access has been maintained in the revised design.</li> <li>Noted.</li> </ul>
<b>30 March 2017</b>	
<ul style="list-style-type: none"> <li>Changes to the intersection south of Groves Road and internal changes will need to be considered by RMS.</li> <li>Grevillea Parviflora has been translocated to the area as nominated within the development site and is now in the monitoring phase. This area will need to be surveyed and works in proximity will need to be detailed to ensure no impacts on the translocated plants.</li> <li>Pedestrian access through the site needs to be considered and be direct. This includes from the sports fields through to the bus stop on the Pacific Highway, and from South Street to the Pacific Highway. Also, internal access from parking spaces to the store openings should be reviewed for the BGUs.</li> <li>Blueprint advised the layout has been maintained with regard to landscape setbacks, however Council felt some areas may need to be reviewed such as the Pacific Highway, South Street setback, pedestrian access off south street, southern boundary detail with regard to fencing and placement of infrastructure.</li> <li>A revised acoustic report will be required for to assess the impacts of the Bunnings operations on residents in South Street. The required acoustic wall under the current application is unlikely to be required.</li> <li>Indicative levels and heights for the Bunnings building were noted, and compared to the existing approval. Council requested elevations to comparing the existing and proposed to be included in the application documentation.</li> <li>Council emphasised the requirement that the elevations to the Pacific Highway and South Street to include articulation and detail as opposed to the typical Bunnings designs. These elevations are of high importance and need to be treated relative to the adjoining context/environment.</li> <li>Infrastructure at the rear of the Bunnings store was raised, particularly the adequacy of the stormwater detention basin</li> </ul>	<ul style="list-style-type: none"> <li>It is noted that the application will be referred to RMS as part of the assessment process.</li> <li>This is discussed further in Section 6.5.</li> <li>Noted, refer to Section 6.1.4 for further commentary regarding pedestrian access.</li> <li>Landscaping including setback is discussed in Section 6.1.</li> <li>An acoustic report has been prepared and concludes the acoustic wall is required and will be incorporated.</li> <li>Comparative elevations have been provided in the Architectural Plans included in Appendix A.</li> <li>Refer to Section 6.1 regarding built form and landscape interface.</li> <li>Mott McDonald have undertaken modelling of the stormwater infrastructure and confirm the OSD basin is adequate in handling potential flows.</li> </ul>



## 5. PROPOSED MODIFICATIONS

### 5.1. DESCRIPTION OF PROPOSED CHANGES

The proposed changes under this Section 96(2) application are as follows:

- Modification to the approved 'building products warehouse and showroom' building envelope in Lot 1 including signage. The envelope is proposed to be increased from 13,538 sqm to 16,806 sqm to facilitate occupation by Bunnings Warehouse.
- Minor amendment to the bulky goods envelope and tenancy divisions in Lot 2 with a change in overall GFA from 5,630 sqm to 5,905 sqm.
- Reorientation and minor adjustment to the restaurant envelope in approved Lot 3 (proposed Lot 2) with no changes to the approved GFA. Associated modifications are proposed to the access and parking arrangements.
- Amendment to the bulky goods tenancy envelope in approved Lot 4 (proposed Lot 3) with a reduction in GFA from 10,660 sqm to 8,769 sqm.
- Removal of the approved bulky goods premises use on a small portion of land adjacent to the main internal roundabout in approved Lot 4 (proposed Lot 3) of 2,100 sqm. This land is subject to a separate Development Application for a service station and take away food and drink premises lodged concurrently with this application.
- Amendment to the subdivision layout to create three lots rather than the approved four lots.
- Associated amendments to access and circulation and parking at the site, including:
  - Relocation of the southern signalised access 20 metres south on Pacific Highway.
  - Changing the service vehicle entry driveway from Pacific Highway to an exit driveway, so that service vehicles to the Bunnings Warehouse enter from South Street and exit to Pacific Highway.
  - Remove the turning head to the rear of the bulky goods tenancies in Lot 2.
  - Deletion of the service road to the west of the 'building products warehouse and showroom' adjacent to South Street.
  - A new service driveway is proposed from South Street to access the service road to the south of the Bunnings Warehouse envelope.
  - Amendment to service road on the western side of the bulky goods tenancies in Lot 2 which is to be modified to be one way only.
  - Amendment to the rear loading facilities on proposed Lot 4.
  - Reconfiguration of the parking arrangement, with the total number of spaces across the site increased from 806 to 850.
- Amendment of the stormwater management strategy across the site including resizing and redistribution of the OSD basins across the site.
- Amendment to the landscaping strategy including modification to the translocation areas for the *Grevillea Parviflora*.
- Minor amendment to services including relocation of the fire sprinkler tank/pump room east of their original location.
- Modification to the restaurant hours of operation from:
  - Mondays to Fridays 6am to 10pm, Saturdays 6am to 9pm and Sundays and Public Holidays 7am to 9pm;
  - To: Monday to Sunday – 24 hours.

- Amendments to the approved signage on the Bunnings Building, which includes the following:
  - **Northern elevation**
    - Business identification signage on either side of the pedestrian entry comprising 'Bunnings Warehouse' signage, Hammer Logo and Positioning Statement; and
    - Directional Text nominating 'Timber', 'Trade', and 'Garden Centre'

Note that none of the Northern elevation signage will be illuminated.
  - **Southern Elevation**
    - 'Bunnings Warehouse' business identification signage.
    - Hammer Logo and Positioning Statement.
  - **Western Elevation**
    - 'Bunnings Warehouse' colour wordmark on parapet.
    - Hammer logo and positioning statement on parapet.
  - **Eastern Elevation**
    - 'Bunnings Warehouse' signage measuring.
    - Hammer Logo and Positioning Statement.
- Amendments to the approved signage on the Lot 2 Bulky Goods building, which includes the following:
  - **Eastern Elevation**
    - 'Anaconda' signage on the tenancy entrance parapet.
    - 'Anaconda' signage along the main building parapet.
    - Signage zones including business identification signage and lifestyle graphic zones at each of the bulky goods tenancy entries.
    - Illuminated 'Play More Pay Less' signage measuring 7.5m wide and 4.75m tall.
    - Externally illuminated 'lifestyle graphic' measuring 4m x 2.35m.
  - **Western Elevation**
    - 'Anaconda' signage on entrance parapet.
  - **Northern and Southern Elevations**
    - 'Anaconda' parapet signage (on main building and entrance parapets).
- Amendments to the approved pylon signage, which includes the following
  - Adding a second pylon sign on the Pacific Highway frontage, adjacent to the northern vehicle entry which is consistent with the approved 12 metre high pylon signs.
  - Retaining the approved 12 metre height of the pylon signs, however reconfigure the signage area to allow for various tenancy decals for future tenants of the development.
  - The signs consist of various tenancy signage decal which are internally illuminated.



## 5.2. AMENDMENTS TO APPROVED PLANS

Condition 3 of DA251/2013 specifies the approved documentation. These references are required to be modified to reflect the amended Architectural Plans and Landscape Plans and other documentation accompanying the application.

Table 3 includes a list of the amended plans and documentation to be incorporated in Condition 3 as a result of this proposal. The amended Architectural Plans prepared by the Buchan Group are provided at **Appendix A**. The amended Landscape Plans prepared by Site Image are provided at **Appendix B**.

Table 3 – Proposed amendments to Condition 3 of DA/251/2013

Name of Plan	Drawing Number	Issue	Date
<del>Site Plan</del>	<del>DA02</del>	<del>E</del>	<del>February 2013</del>
Overall Site Plan Lot 1	ATP-200	P03	22/05/2017
<del>Floor Plan</del>	<del>DA03</del>	<del>D</del>	<del>February 2012</del>
Bunnings Warehouse Floor Plan Lot 1	ATP-221	P01	27/03/2017
<del>Roof Plan</del>	<del>DA04</del>	<del>B</del>	<del>February 2012</del>
Bunnings Warehouse Roof Plan	ATP-222	P01	27/03/2017
<del>Elevations</del>	<del>DA05</del>	<del>G</del>	<del>February 2012</del>
Bunnings Warehouse North and South Elevations Lot 1	ATP-223	P02	28/04/2017
<del>Elevations</del>	<del>DA06</del>	<del>G</del>	<del>February 2012</del>
Bunnings Warehouse East and West Elevations	ATP-224	P02	28/04/2017
<del>Sections</del>	<del>DA07</del>	<del>B</del>	<del>February 2012</del>
Bunnings Warehouse Sections Lot 1	ATP-225	P01	28/04/2017
<del>Family Restaurant Tenancy</del>	<del>DA3.01</del>	<del>B</del>	<del>September 2014</del>
Family Restaurant Tenancy Lot 2	ATP-260	P03	22/05/2017
<del>Site Plan</del>	<del>SA01</del>	<del>B</del>	<del>September 2014</del>
Not replaced	-	-	-
<del>Ancillary Signage Elevation &amp; Detail</del>	<del>SA03</del>	<del>B</del>	<del>September 2014</del>
Not replaced	-	-	-

As amended by:			
Overall Site Plan	DA01	L	February 2013
Site Plan Lot 2	ATP-251	P01	10/05/2017
Tenancy Floor and Roof Plans	DA2.01	G	September 2015
Tenancy Floor and Roof Plans Lot 2	ATP-252	P01	17/05/2017
Tenancy Elevations & Section	DA2.02	D	September 2014
Tenancy Elevations & Section Lot 2	ATP-254	P03	17/05/2017
Overall Rear Elevations	DA15	G	January 2015
Overall Rear Elevations Lot 3	ATP-290	P01	25/05/2017
Retaining Wall Sections	DA16	A	January 2015
Retaining Wall Sections	ATP-291	P01	06/06/2017
Landscape			
Landscape Masterplan	001	A	2 February 2015
Not replaced	-	-	-
Cover Sheet	000	H	30 January 2015
Cover Sheet	000	E	30/06/2017
Landscape Plan	101	H	30 January 2015
Landscape Plan 1	101	D	29/06/2017
Landscape Plan	102	H	30 January 2015
Landscape Plan	102	D	29/06/2017
Landscape Plan	103	H	30 January 2015
Landscape Plan	103	E	30/06/2017
Landscape Plan	104	H	30 January 2015
Landscape Plan	104	E	30/06/2017
Landscape Plan	105	H	30 January 2015
Landscape Plan	105	D	29/06/2017

<del>Landscape Details</del>	<del>501</del>	<del>E</del>	<del>29 September 2014</del>
Landscape Details	501	A	24/05/2017
<del>Landscape Sections</del>	<del>502</del>	<del>B</del>	<del>30 January 2015</del>
Landscape Sectional Elevations	603	B	30/06/2017
<del>Landscape Elevations</del>	<del>503</del>	<del>A</del>	<del>2 February 2015</del>
Landscape Sectional Elevations	601	D	30/06/2017
	602	B	30/06/2017

### 5.3. AMENDMENTS TO OTHER CONDITIONS

The application will require amendment to other conditions of consent for DA251/2013. A list of potential amendments are outlined in the table below.

Table 4 – Amendments to Conditions

Condition Number / Name	Comment
3 Approved Documents	To substitute the approved plans with the proposed plans.
8 Staging of Development	To modify the consent to reflect the changes to the lot numbers.
10 Concurrence Conditions by the NSW Office of Environment & Heritage	New concurrence conditions will be provided by the NSW OEH based on their review of the amended scheme.
11 General Terms of Approval – Controlled Activity under the Water Management Act 2000	New General Terms of Approval (GTAs) will be provided by NSW DPI Water based on their review of the amended scheme.
12 General Terms of Approval – Approval under Section 15 of the Mine Subsidence Act 1961	New GTAs will be provided by the NSW Mine Subsidence Board based on their review of the amended scheme.
13 Roads & Maritime Service	New requirements will be provided by the RMS based on their review of the amended scheme.
15 Stormwater Disposal	To be amended to include reference to the updated engineering plans.
18 Erosion and Sediment Control Plan	To substitute the approved engineering plans with the proposed plans.
19 Flooding	To include an updated reference to the flood report prepared for this application.
20 Bushfire – Development on Bushfire Prone Land	To include reference to updated staging and findings of the bushfire report prepared for this application.

Condition Number / Name	Comment
<b>26</b> Crime Prevention Through Environmental Design	To include an updated reference to the CPTED report prepared for this application.
<b>33</b> Landscape Plan	To include an updated reference to the landscape plan prepared for this application.
<b>39</b> Pylon Signs	To include reference to updated staging.
<b>41</b> South Street Entry	Amend condition to reflect the updated entry arrangements to/from South Street.
<b>43</b> Car Parking and Allocation of Spaces	To include reference to the amended car parking space provision.
<b>51</b> Hours of Operation	Separate hours of operation to be included for the restaurant (24/7)
<b>77</b> Acoustic Certification	To include reference to the revised acoustic report.

## 6. SECTION 96(2) ASSESSMENT

### 6.1. SECTION 96(2) OF THE ACT

The proposed modifications to development consent DA/251/2013 is sought under Section 96(2) of the *Environmental Planning and Assessment Act 1979* (the Act) which states:

*96(2) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the development to which the consent as modified relates is **substantially the same development as the development for which consent was originally granted** and before that consent as originally granted was modified (if at all), and*

*(b) it has **consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence** to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

*(c) it has **notified the application** in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has **considered any submissions** made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Under Section 96(2) the consent authority may approve an application to modify a development consent where it is satisfied that the proposed modification will satisfy the four elements of s.96(2), which the proposed modifications are assessed against in the following sections.

## 6.2. SUBSTANTIALLY THE SAME DEVELOPMENT

In accordance with Section 96(2)(a), the proposed development is substantially the same as that approved under DA251/2013 with consideration to the following:

- The proposed modifications will not alter the nature of the development. The uses forming part of the approved development being 'building supplies warehouse and showroom' or hardware and building supplies, bulky goods premises and restaurant remain unchanged as a result of this application.
- Further these uses are retained within their approved locations across the site. Lot 1 will continue to accommodate a large format hardware and building supplies. Lot 2 and Lot 3 will continue to accommodate multi tenancy bulky goods premises and Lot 2 will continue to accommodate a restaurant.
- It involves 'alteration without radical transformation' (*Sydney City Council v Ilenc Pty Ltd [1984]*). The modified development will be essentially and materially of the same essence. While the GFA will increase, the proposal will not substantially alter the appearance of the development.
- The site is a substantial land parcel of approximately 79,647sqm. As a result of the proposed modifications, the site coverage increases by 2.5% or approximately 2,000sqm. In context of the site, the increase is minimal in nature and overall the development will appear visually consistent with that approved.
  - The Bunnings Warehouse remains consistent with the approved building as a large format hardware and building supplies and continues to be orientated to the north of the site with the service road to the south.
  - The bulky goods tenancies within Lot 2 and Lot 3 remain in the approved locations along the western boundary and orientated to the east.
  - The restaurant remains as approved with the building footprint orientated to be consistent with the other development on the site.
  - The parking areas across the site are retained to the east of the site and allocated to each of the uses and buildings as approved.
  - The landscape areas remain located along the western boundary of the site and continue to assist in screening the site from the playing fields further to the west.
  - The height of the built form while varying with articulation of the tenancies, remains largely consistent overall and together with the building materials and general presentation remains substantially the same as that approved.
  - The main access points to and from the site including the intersection with Pacific Highway and Groves Road, access from Lake Street and South Street remain the same as approved.
- The modifications do not result in any substantial environmental, economic or social impacts (refer to Section 6 for further assessment).
- The development remains suitable for the site as approved.

### **6.3. CONSULTATION WITH THE RELEVANT MINISTER, PUBLIC AUTHORITY OR APPROVAL BODY**

The conditions of concurrence and General Terms of Approval issued by relevant public authorities and approval bodies will be revised as part of this modification.

The following agencies will provide comment on the amended proposal:

- NSW Office of Water/Department of Primary Industries
- NSW Roads and Maritime Service
- NSW Mine Subsidence Board
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- NSW Police
- AUSGRID
- Department of Family and Community Services
- Hunter Water Corporation

### **6.4. NOTIFICATION PROCESS**

In accordance with Section 96(2)(c) of the Act, the application will be notified and advertised in accordance with the provisions of *Lake Macquarie Development Control Plan 2014*.

### **6.5. CONSIDERATION OF SUBMISSIONS**

In accordance with Section 96(2)(d) of the Act, the applicant will consider and respond to any relevant submissions made concerning the proposed modification within the period prescribed by Lake Macquarie Development Control Plan 2014.



## 7. SECTION 79C ASSESSMENT

### 7.1. PLANNING CONTROLS

#### 7.1.1. Environmental Protection and Biodiversity Conservation Act 1999 & Threatened Species Conservation Act 1995

*Grevillea parviflora* var. *parviflora*, a threatened species under *The Threatened Species Conservation Act 1995*, occurred in several areas across the central portion of the subject site. A Species Impact Statement was prepared for the site as part of DA/251/2013 which included an impact assessment of threatened species. A biodiversity offset site was established, and will be managed in perpetuity as part of a VMP and overarching Plan of Management.

Condition 7b) of DA/251/2013 requires the following:

*The proponent must translocate ten (10) ten plants of Small-flower Grevillea from across the development footprint on Lot 10 DP 1013486 into an another area on Lot 10 DP 1013486 considered by an ecologist to have similar attributes to those supporting the local remnant population;*

The ecological assessment prepared by Eco Logical Australia and provided in Appendix F confirms that this condition of has been successfully undertaken. Modifications to the translocation area is required as part of this application. It is proposed to translocate an additional nine individuals into a new translocation area. The 10 individuals required under Condition 7b) will be accommodated across two separate areas. This is discussed further in Section 7.5.

The report concludes that while there are further translocation works proposed under this application, no further impact assessment or referral is required under the EBPC Act.

#### 7.1.2. NSW Water Management Act 2000

The southern portion of the site is located within 40m of a creek and classified as 'waterfront land'. The approved development requires a 'controlled activity' (as defined under the NSW Water Management Act 2000), following referral to the NSW Office of Primary Industries Water.

The modifications proposed in this application relate to development within 40m of waterfront land. Accordingly, this application will be referred to NSW Office of Primary Industries Water for assessment and any necessary amendments to their General Terms of Agreement.

A future application for a Controlled Activity Approval will be lodged with the NSW Office of Primary Industries Water in accordance with the conditions of consent.

#### 7.1.3. State Environmental Planning Policy (State and Regional Development) 2011

As per Clause 22 of the *State Environmental Planning Policy (State and Regional Development) 2011* and Schedule 4A of the Act, the original application was determined by the Hunter and Central Coast Joint Regional Planning Panel as the CIV of the proposal exceeded \$20 Million.

This Section 96(2) Application will be assessed by Lake Macquarie City Council and determined by the Hunter and Central Coast Joint Regional Planning Panel.

#### 7.1.4. State Environmental Planning Policy (Infrastructure) 2007

The site has access to and from the Pacific Highway which is defined as a classified road. The scale of the approved development was referred to the RMS during assessment as per Clause 104 and Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007*.

The proposed modification includes changes to the access and egress from Pacific Highway in the south of the site. The left-in only service entry is to be modified to create an exit point for service vehicles only. Accordingly, the application will be referred to RMS for comment during assessment.

### 7.1.5. State Environmental Planning Policy No. 55 – Remediation of Land

A Phase 1 Contamination Assessment was prepared as part of the original application which confirmed that the site is suitable for its intended purpose. Therefore, no further testing is required to be carried out as part of this application.

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

SEPP 64 applies to all signage, which can be displayed with or without development consent under an environmental planning instrument and is visible from any public place or public reserve.

SEPP 64 applies to the proposal, as all of the signage proposed is visible to the surrounding road network. It is noted that the SEPP will apply in the event of any inconsistency with another environmental planning instrument.

In accordance with Part 2 of the SEPP, the compliance of the proposal with the objectives of the policy and the assessment criteria in Schedule 1 needs to be assessed.

A full assessment of the proposed signage against the SEPP 64 objectives and assessment criteria has been undertaken and is included in Appendix J, which demonstrates the proposed signage can be approved under Clause 8 of SEPP 64.

### 7.1.7. Lake Macquarie Local Environmental Plan 2004

The original Development Application was lodged pursuant to *Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004)*. LMLEP 2004 has since been repealed. Under LMLEP 2004 the site was zoned 4(3) Industrial (Urban Services). Under DA/251/2013 consent was granted for the following permissible uses:

- Building products warehouse and showroom
- Bulky goods premises
- Retail plant nursery
- Restaurant

This application does not seek to introduce any new uses to the site and remains consistent with the objectives of the 4(3) Industrial (Urban Services) zone.

### 7.1.8. Lake Macquarie Local Environmental Plan 2014

The *Lake Macquarie LEP 2014* (LEP 2014) is the principal environmental planning instrument which applies to the site. Under LEP 2014, the site is zoned B7 Business Park. The proposed development would consist of the following permissible uses which are compatible with the uses approved under LMLEP 2004:

- Hardware and building supplies
- Bulky goods premises
- Plant nurseries / Garden centre
- Take away food and drink premises

It is noted that 'restaurants' are no longer permissible on the site. Consent for the restaurant use and design is provided in DA251/2013 and this application seeks only to make minor modifications to the orientation, access and parking of this use.

The B7 Business Park zone objectives are provided as follows:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To enable bulky goods premises and commercial uses that do not undermine the function of existing and future urban centres.*

- *To provide opportunities for high technology industries, scientific development and research activities.*

The proposed development is consistent with the objectives of the B7 Business Park zone as the development as modified will:

- Provide for a range of permissible uses across the site including hardware and building supplies (Bunnings Warehouse) and compatible retail uses such as landscape and gardening.
- Contribute positively through significant employment opportunities to those in the local community by providing new fulltime, part-time and casual employment for the long-term operating of the business.
- Support the uses associated with the established commercial/industrial area of Bennetts Green, located to the east of the site through the creation of a compatible Bulky Goods Centre and Bunnings Warehouse.
- Be appropriately designed to maximise visual exposure to Pacific Highway, while providing a design response sympathetic to the existing urban environment.

An assessment of the modified development against the relevant provisions of the LEP 2014 is provided in Table 5.

Table 5 – Lake Macquarie LEP 2014 Compliance Table

Clause	Control	Comment	Compliance
4.1	Minimum subdivision lot size	The amended lot layout results in lots varying from 19,000sqm to 36,000sqm and complies with the minimum lot size of 1,500 sqm.	YES
4.3	Height of Buildings	The maximum height proposed is 14.7m. Accordingly, the proposal complies with the maximum height of buildings control of 15m across the site.	YES
7.1	Acid sulfate soils	Council confirmed during the previous DA that an acid sulphate soil assessment is not required.	YES
7.2	Earthworks	The Civil and Stormwater Report prepared by Mott MacDonald and provided in Appendix F confirms that the provisions of clause 7.2 (3) are satisfied.	YES
7.3	Flood planning	A small portion of land at the north of the site is identified as a “flood planning area”. The Civil and Stormwater Report prepared by Mott MacDonald has confirmed that the provisions of clause 7.3 (3) are satisfied.	YES
7.21	Essential services	Essential infrastructure will continue to be adequately provided for the modified development to service each lot.	YES

Table 6 demonstrates that the modified development is consistent with the relevant provisions of LEP 2014.

### 7.1.9. Lake Macquarie DCP 2014

The proposed modifications are generally consistent with the relevant provisions of the Lake Macquarie Development Control Plan 2014 as described in the following table.

Table 6 – LM DCP 2014 Compliance Table

Section	Control	Comment	Complies (Y/N)
3.2 Street Setback	(1) Warehouses, bulky goods developments and the like are to be set back from the front property boundary a minimum distance of five metres for landscaping purposes. Designs must include soft and hard landscaping that provides a positive contribution to the streetscape. Where the site is a corner lot, this provision should be applied to both road frontages unless the assessing officer is satisfied that a lesser setback is appropriate for one of the frontages.	Noted. All setbacks exceed 5m and sensitive elevations are treated by landscaping.	YES
3.9 Landscape and Tree Planting in Car Parks – B7 Zone	<p>A landscaping strategy was approved under DA 251/2013. This modification application provides a landscaping solution which is consistent with the approval.</p> <p>(1) Development must include supply, installation and maintenance of at least one advanced clear trunked broad-canopy tree for every six at-grade car parking spaces.</p> <p>(2) Each landscape planting area must include at least one medium to large tree species, with suitable ground covers or low shrubs below.</p> <p>(3) Each landscape planting area must have a minimum width of two metres</p>	<p>287 trees are provided across the site, against 841 car parking spaces.</p> <p>This provision achieves the 'one in six' control.</p> <p>The trees have been deliberately scattered, with their location at the end of parking aisles and on the perimeter of the site to improve legibility within the car park areas and minimises the scale of the car parking areas when viewed from surrounding public spaces.</p> <p>Complies</p> <p>The majority of the landscaped areas meet the 2 metre width requirement, however to maximise landscaping opportunities across the site, some landscaping planting areas around the perimeter of the site have a width of less than 2m.</p>	<p>YES</p> <p>YES</p> <p>NO</p>

Section	Control	Comment	Complies (Y/N)
		Despite this, the revised scheme provides a consistent landscaping buffer at the perimeter of the site together with cluster planting for screening and legibility purposes. Overall the revised scheme presents a superior landscape outcome for the site.	
	(4) The root volume for each tree in the front setback area must be a minimum of 8m <sup>3</sup> and between 600 and 750mm deep.	Complies.	YES
	(5) The root volume must be either existing deep soil or an equivalent volume of gap graded (load bearing) soil with a porous vehicle pavement on top, which is installed to manufacturers specifications.	Complies.	YES
	(6) Each area allocated to tree planting must have a corresponding clear air space that is at least eight metres high and six metres in width.	Compliance is achieved along most perimeters of the site; however, cluster planting has been implemented in response to the site's location adjacent existing natural vegetation and to enhance the visual presentation of the site to surrounding properties including the western adjoining open space.	NO
	(7) All trees installed must be advanced stock and at least 75L container size.	Complies.	YES
	(8) All trees installed must be established and maintained for the life of the development. Any failed trees must be replaced immediately.	Noted.	N/A
3.15 Car Parking Rates	<u>Bulky goods premises:</u> Two spaces, plus one space per 40 sqm of GFA  <u>Take away food and drink premises:</u> 1 space per 25 sqm of GFA  <u>Disability parking rate:</u> One space per 50 spaces	Complies, refer to section 8.2 and Traffic report at <b>Appendix C</b> .	YES

Section	Control	Comment	Complies (Y/N)
17.1 Signage Design	<p>1. Signs must be compatible with the design, scale and architectural character of the building or the site upon which it is to be placed.</p> <p>2. Design must ensure that signs are not confused with, or reduce the effectiveness of traffic control devices.</p> <p>3. Supporting structures of signs must be of a high aesthetic appearance, and must not interfere with the visual amenity of the area.</p> <p>4. Materials used for signs must be durable, fade-proof and of a high aesthetic quality</p>	Noted. Complies. Refer to SEPP 64 assessment at <b>Appendix J</b> for further commentary.	YES
17.2 Signage Positioning	<p>1. Signs must not dominate or obscure other signs, or result in visual clutter.</p> <p>2. Signs must not endanger the public, or diminish the amenity of nearby properties.</p> <p>3. Sign must be shared where appropriate (ie: multi-tenanted premises).</p> <p>4. Signs must be located and erected on the site to which they relate, and must not be:</p> <ul style="list-style-type: none"> <li>i. Mounted on vehicles, trailers or shipping containers that stand continuously stationary for the purpose of advertising, on either public or private land;</li> <li>ii. Mounted on trees; or</li> <li>iii. Supported by people or animals.</li> </ul> <p>5. Signs must be located so as not to cause or create a traffic hazard, including obscuring views of vehicles, pedestrians or potentially hazardous road features.</p>	Noted. Complies. Refer to SEPP 64 assessment at <b>Appendix J</b> for further commentary.	YES

Section	Control	Comment	Complies (Y/N)
	6. Signs must not cover mechanical ventilation inlets or outlet vents.		
17.3 Specific Sign Dimensions	9. Pole and/or pylon signs (freestanding) must be a maximum height of six metres from ground level with a minimum clearance of 2.6 metres above ground level. The maximum width must be 3.75 metres, with a maximum depth of one metre. Signage must be limited to one freestanding sign for each business/occupancy on each street frontage, including flagpoles containing advertising material.	<p>While the proposed pylon signs do not comply with the DCP in height and width, they are consistent with the pylon signs approved under the original application and are considered appropriate in context of the site for the following reasons:</p> <ul style="list-style-type: none"> <li>• The site has an area of approximately 7.89ha with the main site frontage to the Pacific Highway which is a vehicle thoroughfare for the Lake Macquarie LGA. Accordingly, the site is prominently located and lends itself to visual signage which will indicate the site usage to passing traffic. The purpose of the signage is to advertise the retail offerings and give opportunity for passing trade to enter the site.</li> <li>• As the site is of a substantial size and accommodates 5 separate elements (being the Bunnings Warehouse, Lot 2 bulky goods tenancies, the restaurant, Lot 3 bulky goods tenancies and the service station and fast food restaurant (subject to concurrent but separate DA). Three pylon signs are deemed appropriate to communicate the range of tenants which the development will accommodate and have been located across the site with significant separation to avoid visual clutter when viewed from the surrounding streetscapes.</li> <li>• Given the scale of proposed and concept development, the size of the pylon signs are considered appropriate in context of the surrounding urban environment.</li> </ul>	NO



Section	Control	Comment	Complies (Y/N)
17.4 Illuminated, Flashing and Moving Signs	<p>1. Signs must be mounted and/or permanently fixed so that they do not flash, rotate or move in any way.</p> <p>2. Signs must not emit excessive glare or cause excessive reflection.</p> <p>3. Advertising signs must not resemble traffic warning or hazard signs</p>	Noted. Complies. Refer to SEPP 64 assessment at <b>Appendix J</b> for further commentary.	YES
17.6 Multiple Tenancy Signage	<p>1. Where the signage relates to multiple tenancy/occupancy, an entry/directory board signage structure must be used, rather than individual signs for each tenancy.</p> <p>2. Multiple tenancy/occupancy entry/directory boards and advertising panels must have an integrated theme approach to signage in the Industrial Zones and Business Zones. They must not obstruct traffic vision or create safety hazards, and be located clear of underground or overhead services. The maximum allowable height is six metres, and there must be only one entry/directory board/ advertising panel per street frontage.</p>	<p>Noted. The proposed modifications to the pylon signs have been designed to accommodate for multiple tenancies decals.</p> <p>Refer to compliance commentary above and at <b>Appendix J</b>.</p>	NO

## 8. LIKELY IMPACTS OF PROPOSED DEVELOPMENT

### 8.1. BUILT FORM AND LANDSCAPE INTERFACE

#### 8.1.1. Built Form

##### Hardware and Building Supplies: Bunnings Warehouse

The modified design for the Bunnings building has retained its original orientation with the frontage addressing the customer carpark to the north of the building. The width of the built form has remained the same as previously approved, however the built form has been extended to the east and west, resulting in an increase of approximately 3,000sqm. The proposed additional floorspace will accommodate the relocated nursery adjacent to the South Street, and a bulk landscape materials area adjacent to the Pacific Highway frontage.

The architectural style of the built form has remained generally unchanged, being largely governed by the large-format retail use of the building. The scale of the building is similarly governed by the proposed hardware and building supplies use, which requires large racking and display areas and high internal clearances.

The northern elevation is largely consistent with the approved elevation with one main branding and building identification signage and additional smaller signs. The use of branding results in the northern façade being separated into two colour blocks which provide visual interest to the façade. Like the approved building form, the Bunnings building has a main entry point and a trade and timber entry point. The entry point is marked with architectural detail such as awnings and articulated building elements, to highlight the main customer entry point.

The presentation to the South Street and Pacific Highway intersection, and the sporting fields to the north of the building have been carefully considered in the amended design to ensure an integrated landscape and architectural response. The eastern elevation to Pacific Highway is consistent with the overall presentation of the approved built form in terms of building materials and signage. The presentation of the building is compatible with the industrial nature of the precinct and clearly communicates the use of the site to passing trade.

The setback to Pacific Highway maintains fire brigade access and a consistent visual presentation to passing traffic and pedestrians. The Pacific Highway frontage includes a continuous landscape treatment comprising Spotted Gums (*Corymbia maculata*) which will provide a tree canopy of approximately 15 metres, and a groundcover mix of Blue Flax Lilly (*Dianella 'Breeze'*) and Mat Rush (*Lomandra longifolia*) which will soften the bulk of the built form when viewed from the Pacific Highway. In addition, the development benefits from the existing natural vegetation which occupies the land to the south of the site at the corner of the Pacific Highway at South Street. This vegetation appears to be remanent bushland and therefore will provide an immediate landscape screen for the proposed service area.

The modified built form design has consolidated the service area for the Bunnings building to the southern side of the building, which rationalises vehicle hardstand associated with the building. It is noted that the approved design included servicing along both the southern and western elevation of the building, however through this site redesign, the extent which service vehicles move along South Street will be reduced, with the South Street service vehicle egress point being relocated approximately 130 metres to the south of the approved South Street service egress point.

The revised service area design will consolidate the back-of-house to the southern side of the building, which will assist in both minimising visibility from the surrounding public domain, as well as improve internal operations for the Bunnings business.

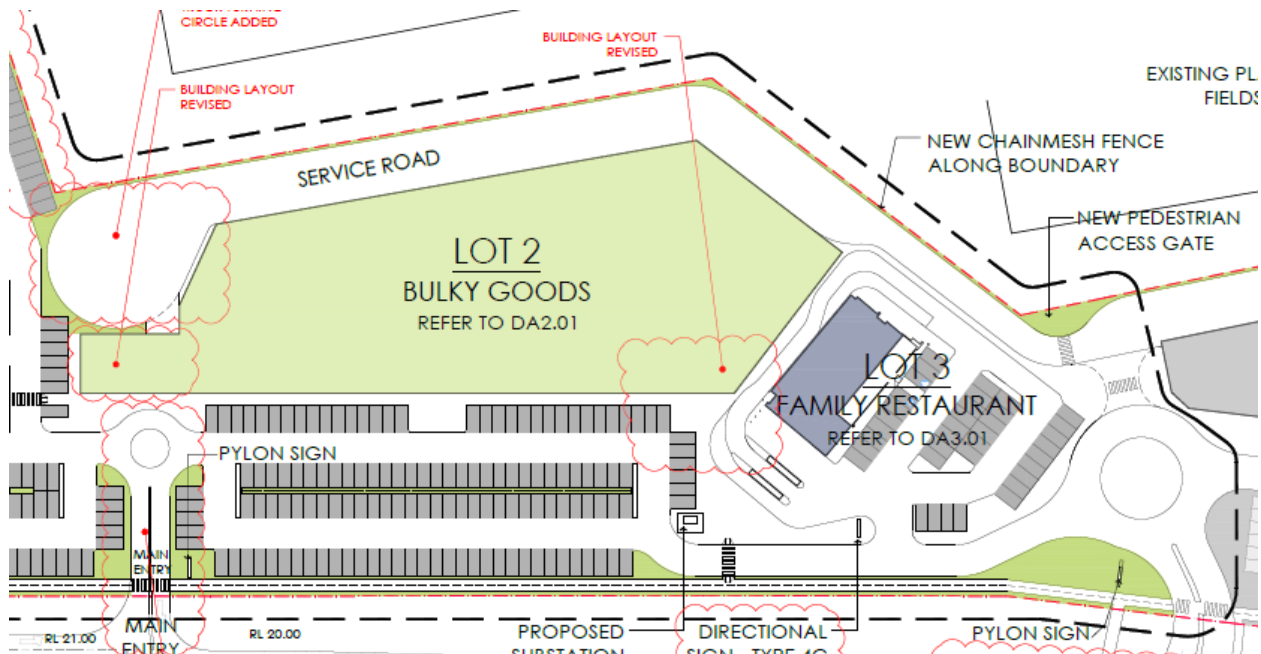
Through the rationalisation of the service area to the southern side of the Bunnings building, additional building form is proposed adjacent to the South Street boundary. This part of the building will include the nursery area. The nursery does not have a roof structure, but rather includes sail shades which are lower than the balance of the Bunnings building and provide a softer visual presentation to South Street. It is also noted that the reconfiguration of the Bunnings service area results in a reduction of the acoustic wall required along the South Street frontage. The acoustic wall of 1.5 metres is now limited to located adjacent to the south-western corner of the Bunnings building.

Accordingly, the redesign of the development adjacent to South Street will result in a more consistent setback of all built form and hardstand from the South Street frontage, which can accommodate a continuous landscaped treatment, which is discussed in detail below in **Section 8.1.2**.

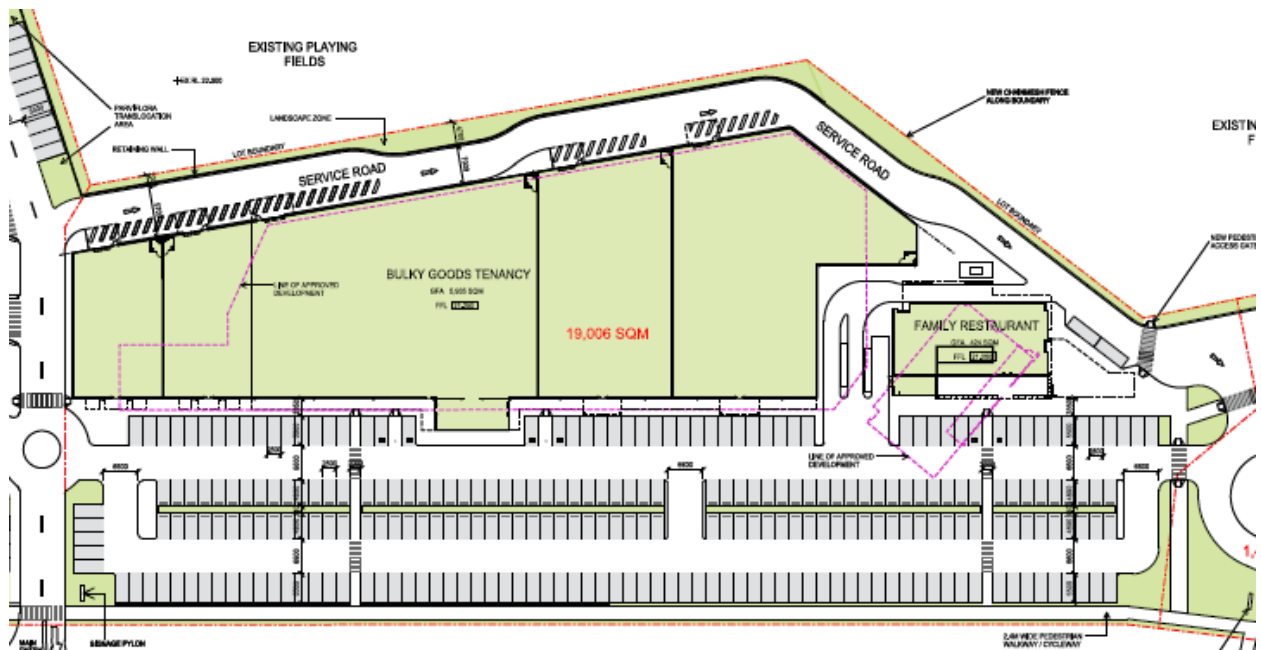
### **Bulky Goods Tenancies – Lot 2**

The proposed reconfiguration of the Lot 2 Bulky Goods tenancy building is illustrated in Figure 4 below.

Figure 4 – Approved and Proposed layout of Lot 2 Bulky Goods building, service and parking areas



Picture 1 – Approved Lot 2 Bulky Goods building layout.



Picture 2 – Proposed modified Lot 2 Bulky Goods building layout with revised service vehicle and landscaping areas.

Due to the removal of the service vehicle turning head on Lot 2, the built form of the Lot 2 bulky goods building has been reconfigured. The building has generally retained the setback from the western boundary to the adjoining sports field, however due to the redesign of the service area and the single direction of service vehicles through this area, larger landscape areas have been accommodated.

While the bulk and scale of the building remains generally consistent with the approved design for Lot 2, the increased landscape areas provide scope for an improved landscape response to the western adjoining open space, which is discussed in detail below in Section 8.1.2.

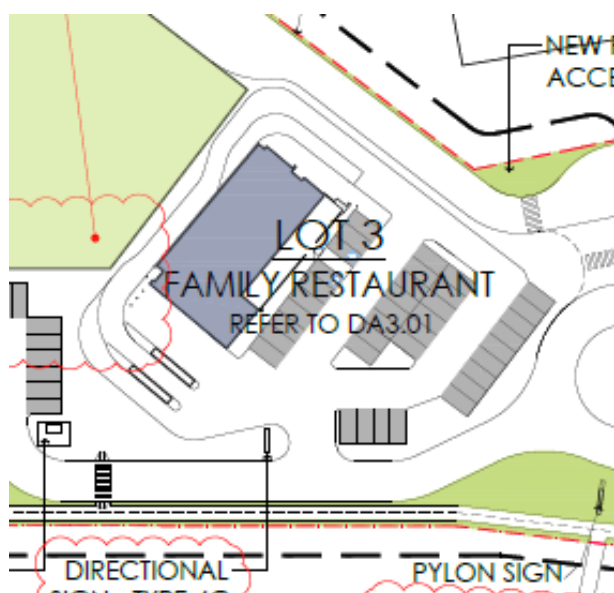
Overall, the proposal presents a similar bulk and scale to the approved development, while maintaining the same uses.

### **Restaurant**

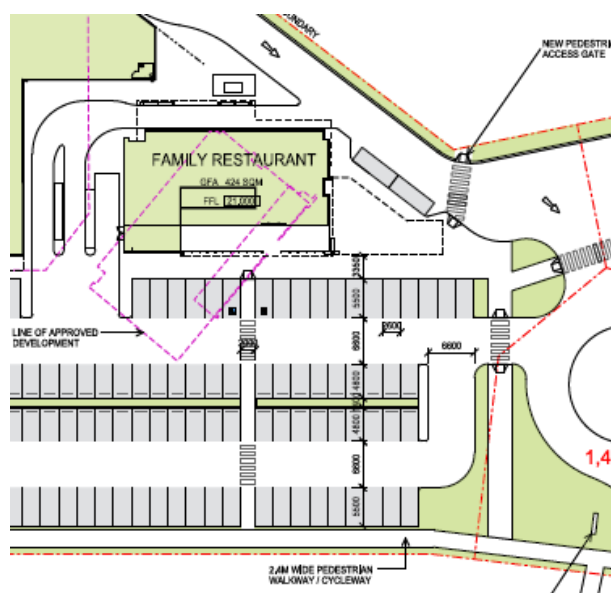
The proposed amendments to the approved Family Restaurant are illustrated in Figure 5 below.

The family restaurant remains consistent with the approved development with the orientation amended in response to the changes proposed to the adjacent bulky goods tenancies on Lot 2. The floorspace of the restaurant is not proposed to change, however will be reorientated to face the Pacific Highway frontage. The parking and access has been modified to respond to the reorientation of the restaurant building and increase efficiency of the layout in relation to circulation and access.

Figure 5 – Approved and Proposed configuration of restaurant



Picture 3 – Extract of restaurant approved under DA/251/2013



Picture 4 – Extract of proposed reconfiguration of restaurant

The reconfiguration retains the vehicle circulation around the restaurant for service vehicles and customer 'drive-through'.

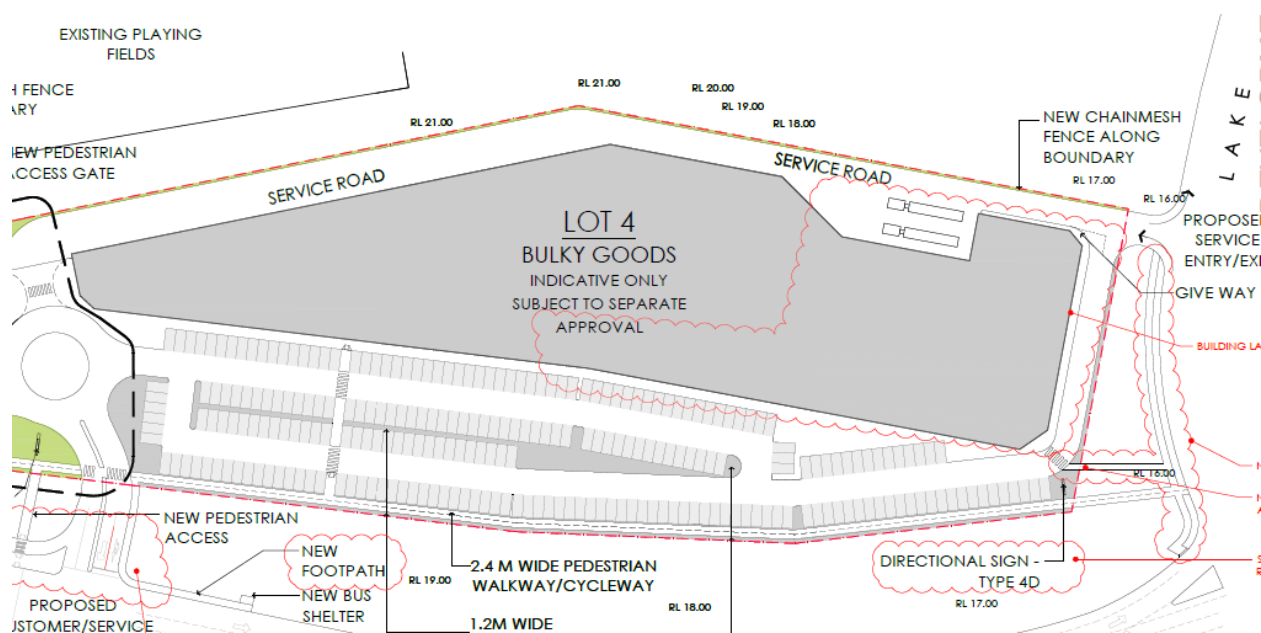
Additionally, the reconfiguration of the Lot 2 Bulky Goods building has allowed for a greater setback of the restaurant building from the Pacific Highway frontage. This has resulted in additional car parking being accommodated forward of the restaurant building, which has been included in the comprehensive landscape strategy for the site.

### **Bulky Goods Tenancies – Lot 3**

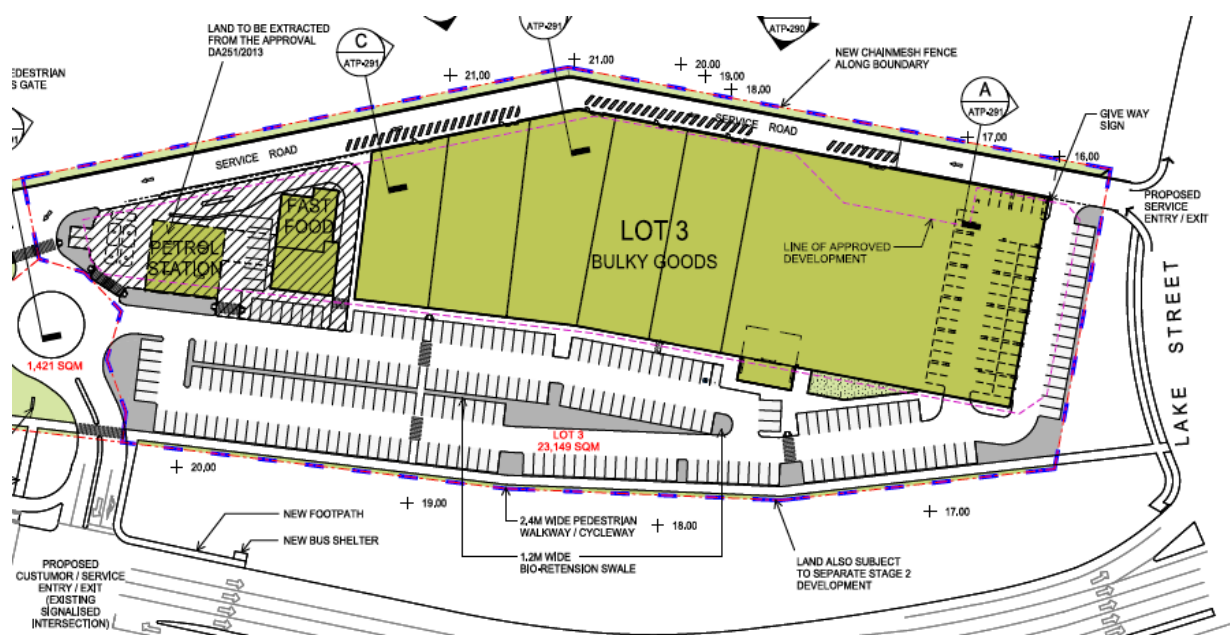
The Approved Staged Development included a conceptual envelope for a Bulky Goods building on the northern part of the site. The approval provided for 10,660sqm of bulky goods space with individual tenancies to be determined subject to a subsequent Stage 2 application.

This modification proposes to reconfigure the approved building envelope, as illustrated in Figure 6 below. It is noted that the final built form detail will be the subject of the Stage 2 Development Application.

Figure 6 – Approved and proposed modification to Lot 3 tenancy (subject to Stage 2 application)



Picture 5 – Extract of Approved Lot 3 Tenancy (Subject to Stage 2 DA)



Picture 6 – Extract of Proposed Modified Lot 3 Tenancy (Subject to Stage 2 DA)

The revised building envelope provides for 8,771sqm of floorspace, which is a reduction of approximately 1,900sqm from the approved building envelope. Building envelope has been shortened to accommodate an additional building site, which will be subject to a separate application.

The revised built form proposes a more consistent building setback from the western site boundary adjoining the open space, however the overall setback from this boundary remains generally unchanged.

More detailed consideration of the built form for Lot 3 will be provided in the Stage 2 application which will include the detailed built form for the building.



### 8.1.2. Landscaping

The landscape strategy has been revised to respond to the proposed modifications to the site layout and built form.

The landscape strategy has regard to the visual presence of the site from surrounding public spaces, and responds through providing a continuous landscape treatment which includes both canopy trees and ground covers. This strategy of providing multi-layered landscaping has been adopted throughout the site, to provide a 'green presentation' to the site when viewed from surrounding public spaces.

The revised site layout has resulted in additional landscape areas being provided along the western boundary at the rear of the Lot 2 bulky goods building. These spaces have been used for intensified landscaping, where mass tree planting can occur, and the width of these landscaping areas will accommodate the establishment of mature canopy trees which respond to the landscaping on the western adjoining open space. A photomontage of the proposed planting at maturity along this elevation is illustrated below in Figure 7.

Figure 7 – Photomontage of landscaping at maturity along the western elevation of the Lot 2 Bulky Goods building

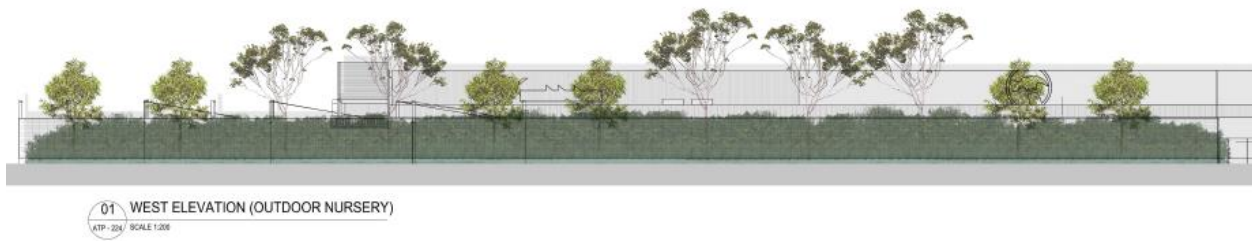


While there is limited opportunity for landscaping along the southern boundary of the site, the site benefits from the existing vegetation of the southern adjoining property (at the corner of Pacific Highway and South Street). This vegetation is well established and able to provide immediate landscape screening of the proposed Bunnings building to vehicles approaching the site from the south.

The configuration of the site results in a long frontage to the Pacific Highway. This application proposes a comprehensive landscape strategy which addresses the full extent of the Pacific Highway frontage. The landscape strategy adopts the multilayered landscaping structure along this frontage which is utilised throughout the site. The site layout results in the buildings on Lots 2 and 3 being setback from the Pacific Highway frontage with car parking located behind the landscaped setback. The location of the car parking forward of the building forms provides an additional opportunity for landscaping, with the revised design including feature planting and entry points and to punctuate parking aisles, and landscape medians between car parking rows. These landscape treatments will soften the scale of the car parking areas, as well as provide additional landscaping treatment between the Pacific Highway and the bulky goods buildings.

The amended configuration of the Bunnings building has resulted in a more consistent setback from South Street, which is the interface to the residential area. While the building is closer to the South Street frontage than currently approved, the reconfiguration of the building has resulted in the removal of the vehicle hardstand and servicing area along this frontage, and accordingly the reduction in the extent of the acoustic screen which runs along the South Street property boundary. The adoption of a multi-layered landscaping strategy provides a continuous dense landscape presentation South Street, which will reduce the visual bulk and scale of the development when viewed from the west, which is illustrated in Figure 8 below.

Figure 8 – Photomontage of landscaping at maturity along the western elevation of the Bunnings building (elevation to South Street)



### 8.1.3. Pedestrian Access

Pedestrian access through the site has been maintained as part of this modification application, and supports direct pedestrian paths throughout the site.

There is a new pedestrian gate proposed from the sports fields which enables a safe path via a series of pedestrian crossings to the bus shelter on Pacific Highway to the east of the site.

Circulation through the site and to the various bulky goods tenancies is considered to be appropriately provided for, allowing people to move through the site on foot in a safe manner.



## 8.2. TRAFFIC IMPACT

The Traffic Report prepared by Colston Budd Rogers and Kafes Pty Ltd (CBRK) and provided in Appendix C assesses the impact of the proposed modifications. The report assesses the following impacts:

- Parking provision.
- Access, servicing and internal layout.
- Traffic generation and effects.

The findings of the report are summarised below. The Traffic Report addresses the development strategy proposed across the site and the associated concurrent applications as outlined in Section 3.1 and Section 3.2 which includes the design of development and the service station and take away food and drink premises on Lot 3.

### 8.2.1. Parking Provision

The Traffic Report identifies the following in relation to parking:

- Based on Part 4 (Development in Business Zones) of the Lake Macquarie City Council Development Control Plan 2014 the hardware and building supplies on lot 1 requires 336 parking spaces. A total of 345 spaces are proposed for this use which satisfies the DCP.
- For bulky goods uses, the DCP requirement is two spaces per tenancy plus one space per 40sqm. The RMS "Guide to Traffic Generating Developments" indicates that drive-in take-away restaurants with on-site seating and drive-through facilities should provide the greater of one space per two seats (internal) or one space per three seats (internal plus external).
- Lot 2 includes 5,905sqm bulky goods and a fast food outlet with drive-through. Based on five bulky goods tenancies and 120 internal seats in the fast food outlet, the parking requirement for Lot 2 would be 218 spaces. The proposed provision for lot 2 is 263 spaces which satisfies this requirement.
- Lot 3 includes 8,769sqm of bulky goods uses. Based on six bulky goods tenancies results in a parking requirement of 231 spaces. The proposed parking provision for Lot 3 is 242 spaces which satisfies this requirement.
- The proposed provision includes appropriate disabled parking of 2% spaces (eight spaces for Bunnings and six spaces for Lots 2 and 3). Spaces for cars with trailers are also proposed for the Bunnings development.

All parking is provided in accordance with the relevant Australian Standards (AS 2890.1:2004 and AS 2890.6:2009). In summary, the proposed amendment to the parking spaces comply with the Lake Macquarie DCP provisions and the Traffic Report concludes that the parking provision is considered appropriate.

### 8.2.2. Access, Servicing and Internal Layout

A series of road works have been approved for the development including signalised access points from Pacific Highway. The proposed changes to the access at the site are:

- Relocation of the southern signalised access 20 metres to the south on Pacific Highway.
- Changing the service vehicle entry driveway from Pacific Highway to an exit driveway, so that service vehicles to the Bunnings Warehouse enter from South Street and exit to Pacific Highway. This change has been proposed to better cater for access to loading docks in the amended building layout.

The other approved access arrangements are not proposed to change. The access, servicing arrangements and internal layout will be provided in accordance with AS 2890.1:2004 and AS2890.2 – 2002.

### 8.2.3. Traffic Generation and Effects

The Traffic Report assesses the traffic generation impacts of the amended development. Based on RMS surveys of other Bunnings development (at Minchinbury and Bankstown), it was found as Bunnings stores become larger, their unit traffic generation rate reduces. This assumption is consistent with other retail development surveyed by the RMS as customers will spend longer during a visit at a larger store.

Traffic generation will have its greatest effect during weekday afternoon and Saturday peak periods when it combined with commuter traffic.

It was assumed the proposed Bunnings Warehouse would have the following two-way peak hour traffic generations:

- Weekday afternoon peak hour: 320 vehicles
- Weekend peak hour: 920 vehicles

The Traffic Report states that a significant proportion of trips to the site are likely to be linked. The proposed development would have the following additional two-way traffic generations on the surrounding road network when compared to the existing approval:

Table 7 – Comparative traffic generation impacts (approved development vs. proposed)

	Approved DA	Proposed Modification	Balance
Weekday afternoon peak	465 vehicles	480 vehicles	+ 15 vehicles
Weekend peak	1,070 vehicles	1,135 vehicles	+ 65 vehicles

The Traffic Report states that the traffic increases would be spread across various access points, and increases on any one point would be in the order of 5 vehicles per hour or less.

It is noted the following road works have already been approved and will remain as part of this modification application to cater for the additional traffic generation:

- *Fourth signalised approach to the Pacific Highway/Groves Road intersection and associated re-phasing of the intersection;*
- *Left and right turn bays on Pacific Highway for traffic turning into the site;*
- *Signalised intersection on Pacific Highway, south of Groves Road;*
- *Right turn bay in Pacific Highway at this intersection; and*
- *Amendments to bus stop on Pacific Highway.*

Noting the above, CBRK conclude *“the proposed development would have a similar traffic generation to the approved development; and with the approved road works, the road network will be able to cater for the traffic generation of the proposed development”*.

## 8.3. BUSHFIRE RISK

The site is identified as partially bushfire prone under Council's Bushfire Prone Land Map (as shown in Figure 9). The Bushfire Prone Land Map identifies Category 1 Vegetation and its associated 100 metre buffer zones at the subject site, and accordingly the application of *Planning for Bush Fire Protection – 2006* applies. Building Code and Bushfire Hazard Solutions Pty Ltd (BCBHS) have prepared a Bushfire Hazard Assessment Report (refer Appendix D) which provides recommendations on how to manage the bushfire hazard present at the site.

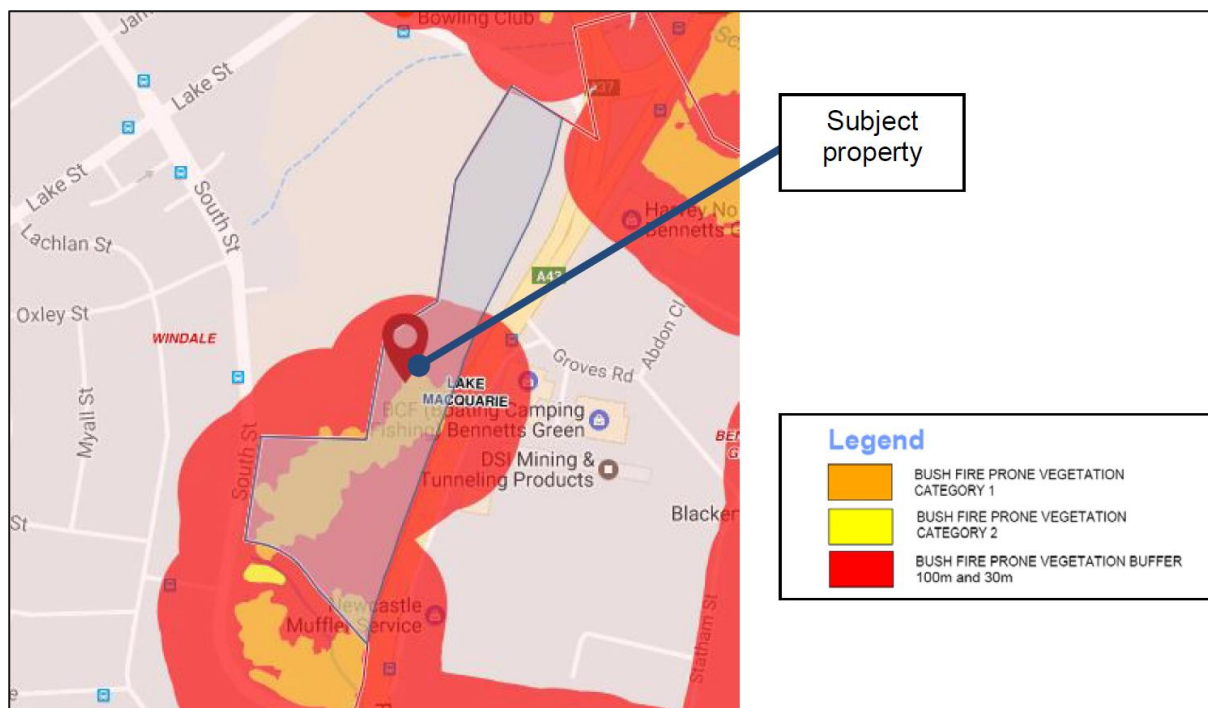


Figure 9 – Lake Macquarie Council Bushfire Prone Land Map (source: BCBHS)

*Planning for Bush Fire Protection – 2006* does not require Asset Protection Zones (APZs) to be nominated for commercial development. Instead, BCBHS have provided specific recommendations on construction, design treatment, emergency management and services supply which are considered acceptable measures to comply with the aims and objectives of PBP 2006.

- More detailed guidance is required for the Bunnings Warehouse envelope in proposed Lot 1, and bulky goods tenancies 3-7 together with the fast food outlet in proposed Lot 3;
- Tenancies 1-5 (including Anaconda) and the fast food outlet in proposed Lot 2 are not considered to be bushfire prone land.

BCBHS conclude the bushfire safety measures contained in the report, based on the consideration of a site-specific bushfire risk assessment, provide a reasonable and satisfactory level of bushfire protection, satisfying the requirements of Lake Macquarie Council and the NSW Rural Fire Service (NSW RFS).

This application will be referred to NSW RFS during assessment for comment.

## 8.4. FLOODING AND WATER MANAGEMENT

Mott MacDonald have prepared a Civil and Stormwater Report and provided in Appendix E which addresses:

- The existing stormwater conditions at the site, and the requirements for post-development flows;
- The required stormwater pipe network to convey flows throughout the site to appropriate discharge points including connections to the existing network;
- The safety of the overland flows at the site; and
- Appropriate measures to satisfy Council's water quality and quantity requirements and determine the location and area required to implement the measures.

The findings of the report are summarised below. The stormwater management strategy relates to the whole site and the associated concurrent applications as outlined in Section 3.1 and Section 3.2 which includes the design of development and the service station and take away food and drink premises on Lot 3.

### 8.4.1. Stormwater and Flood Management

DRAINS modelling was performed to calculate the sizing of the proposed pipe network and associated OSD. The results indicate that the major/minor system requirements are satisfied in accordance with Lake Macquarie Council standards.

Each lot has been designed to have one on site detention tank except for Lot 1 which accommodates two OSD tanks due to the crest running through the area. As such, four detention tanks (in total) are proposed for the stormwater design.

According to the DRAINS results, tank A9 does not achieve its permissible site discharge in the minor storm event. Accordingly, tank E7 has been designed to provide additional detention. As both tanks are within Lot 1, the site satisfies Council's requirements in both design storms.

The results of the DRAINS analysis indicate that the OSD tanks provide sufficient flow retardation and attenuation to ensure that the downstream peak post-developed discharges do not exceed those of the pre-developed scenario for the worst-case storm duration.

### 8.4.2. Sediment and Erosion Control and Water Quality Management

Lake Macquarie Council's guidelines require improved water quality of the stormwater flow from the developed site prior to discharge into the drainage system. To demonstrate compliance with Council's target water quality pollutant removal rates, treatment removal loads were analysed from pre to post development scenarios using MUSIC modelling.

The following stormwater treatments are proposed:

- *Primary treatment for stormwater runoff: HumeGuard Gross Pollutant Trap which is a pollution control device specifically designed to remove gross pollutants and coarse sediments in residential and commercial developments.*
- *Final treatment device for stormwater runoff: JellyFish filter which captures a high level of stormwater pollutants including total suspended solids, total nitrogen, total phosphorous, total copper and total zinc.*

*The position of the JellyFish system has been proposed to maximise flows and allow easy access for maintenance.*

- *Additional measures:*

*Enviropods: several surface inlet pits within the proposed Lot 3 area have been designed to be provided with pit inserts including oil absorbent media. The pit inserts will be beneath the stormwater pit grates and will collect gross pollutants, sediments, oils and grease.*

*Rainwater tanks: have been utilised as a means of water reuse within the precinct. Stormwater that discharges directly from roofed areas is generally considered 'clean' water, with the roof water from the buildings modelled to discharge directly to a rainwater harvesting tank. These tanks are to store water for re-use associated with the site. Rainwater tanks have been sized to in accordance with Council's water quality treatment requirements.*

The results of the MUSIC analysis indicate that, by including the nominated treatment train as described in this report, the post-developed water quality improvement objectives set out in Council's DCP are achieved for suspended solids, phosphorus, and nitrogen.

## 8.5. ECOLOGY

DA/251/2013 included an impact assessment of threatened species as part of a Species Impact Statement (SIS). This assessment concluded that a significant impact would occur to the sub-population of *Grevillea parviflora subsp. parviflora* resulting from the proposed development.

*Grevillea parviflora subsp. parviflora* is listed as vulnerable under the *Threatened Species Conservation Act 1995* and the *Federal Environmental Protection and Biodiversity Conservation Act 1999*.

The following conditions of consent apply to DA/251/2013:

- A biodiversity offset site is to be established, and managed in perpetuity for conservation purposes as part of a VMP and overarching Plan of Management.

- The proponent is to undertake the translocation of 10 individuals of *Grevillea parviflora subsp. parviflora* from the development footprint into a suitable area within the development lot, but outside the development area. This has been successfully undertaken in accordance with the approved scheme.

The work associated with the biodiversity offset, VMP and Plan of Management has been undertaken.

The proposed modifications have necessitated the amendment of the area where the translocation of *Grevillea parviflora subsp. parviflora* has been undertaken. The applicant is committed to ensure that compliance with the conditions of consent are met and that 10 individuals of *Grevillea parviflora subsp. parviflora* to be translocated within the site boundary.

Accordingly, it is proposed to translocate an additional nine individuals into a new translocation area. The 10 individuals will therefore be accommodated across two separate areas as shown in the Figure 10.

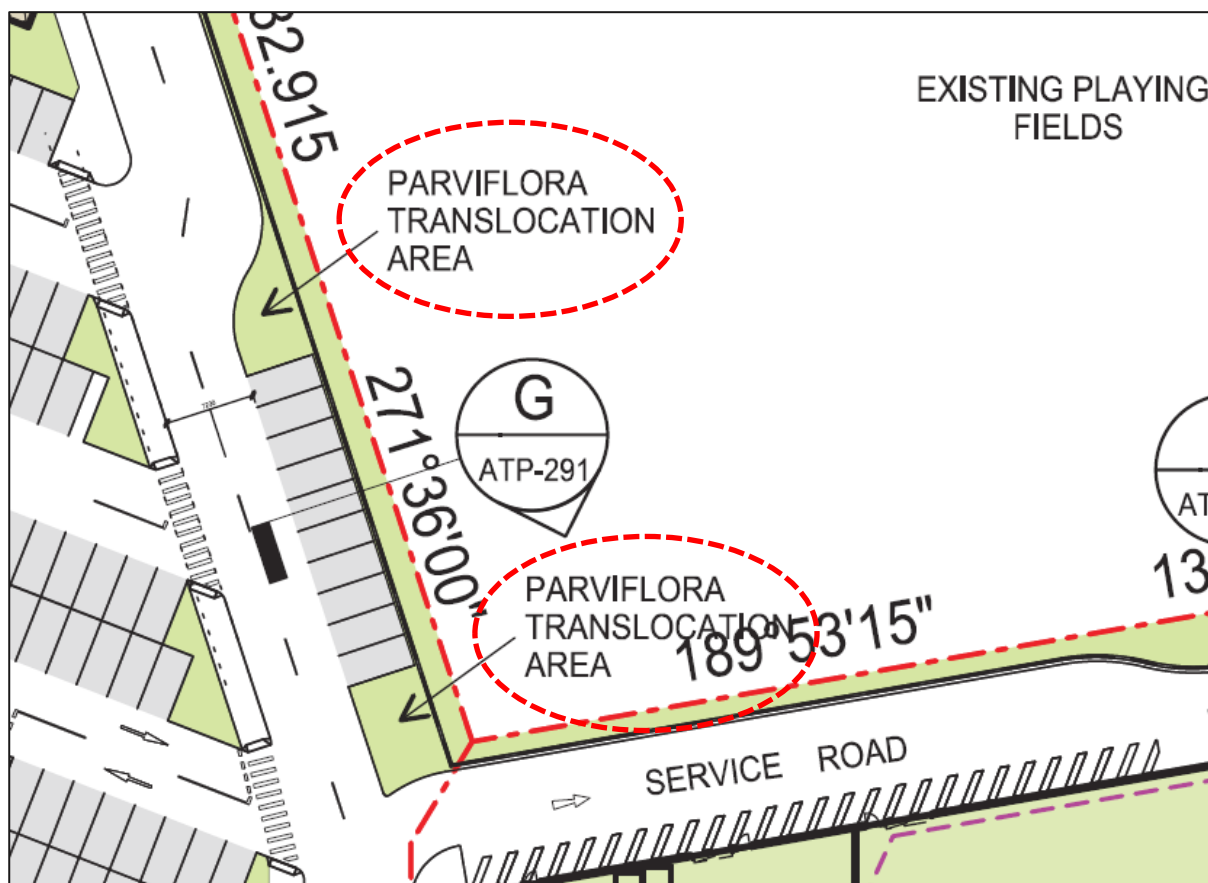


Figure 10 – Augmented section where *Grevillea parviflora subsp. parviflora* is proposed to be translocated

Eco Logical Australia have recommended the following actions to ensure the long-term survival of the translocated *Grevillea parviflora subsp. parviflora*:

- *Translocation methods are to be similar to those successfully implemented*
- *A 12 month initial maintenance and monitoring programme to be carried out*
- *Installation of protective fencing (post and rail) and interpretive signage as per the Conditions of Consent*
- *Continued ongoing maintenance and weed management by bushland regenerators on a regular basis (estimate three or four visits annually)*
- *Translocation areas to be retained at current land levels to ensure linkage to adjacent council managed native vegetation is retained*
- *Continued monitoring as per the Conditions of Consent*

The modified development will incorporate the recommendations of the Ecology Report.



## 8.6. ACOUSTIC IMPACTS

An Acoustic Assessment has been prepared by Acoustic Logic and provided in **Appendix G** The report assesses the potential cumulative noise impacts associated with the proposed modification to the approved hardware and building supplies building and bulky goods development on Lots 1 and 2.

The following diagram illustrates the site, adjoining uses and the noise measurement locations used for the report:

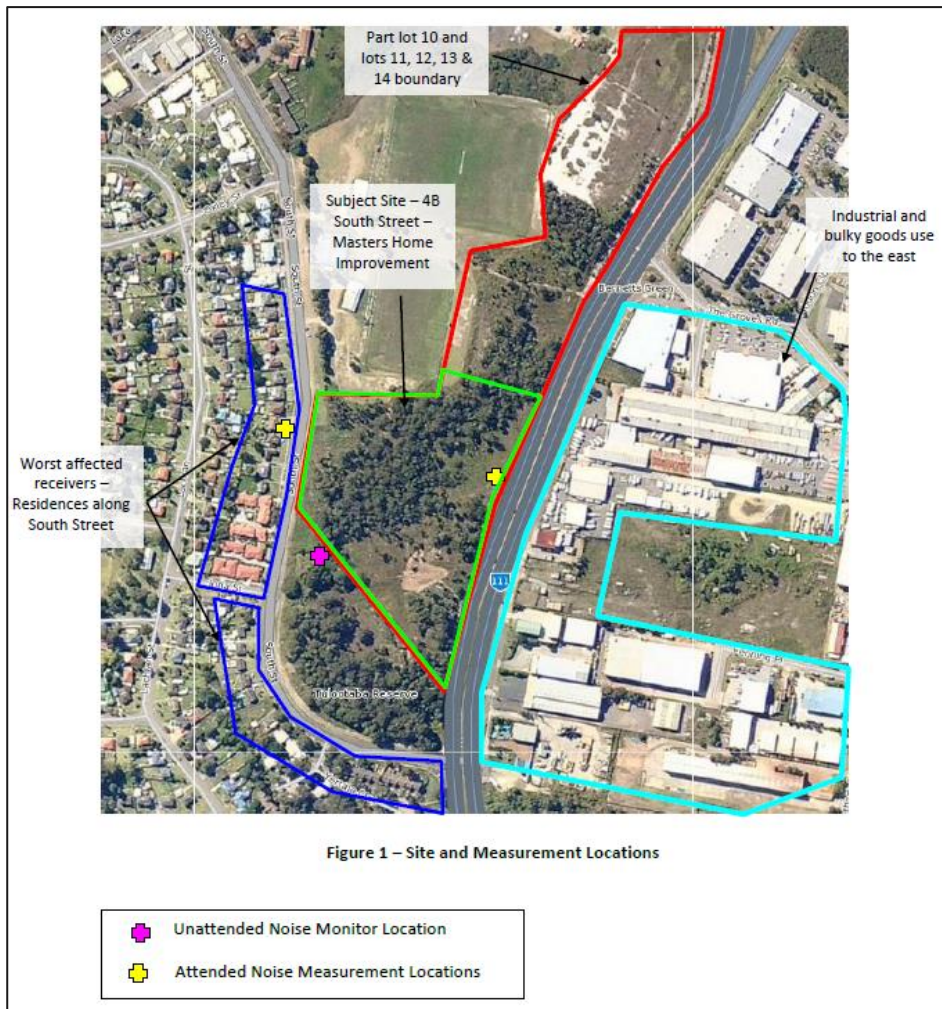


Figure 11 – Noise Measurement Locations

The assessment involved a survey of existing ambient noise levels on site using both long-term unattended noise monitoring and short-term attended noise measurements.

Acoustic Logic have identified the following primary noise sources which have the potential to cause impacts on the surrounding receivers. They have also nominated appropriate noise emission guidelines and criteria as the basis of their assessment:

Table 8 – Noise Source and applicable guideline

Noise Source	Applicable Guideline
Noise from the use of loading docks (truck manoeuvring and material handling)	EPA Industrial Noise Policy
Noise from any mechanical plant/equipment associated with the developments	EPA Industrial Noise Policy

Noise Source	Applicable Guideline
Noise from traffic generated on the surrounding public roads	EPA Road Noise Policy

The report concluded the following:

- Cumulative noise impacts associated with the lot 1 & 2 developments will comply with the project specific noise levels, at all surrounding affected receivers
- Sleep disturbance impact will also comply with the project specific noise levels
- Additional traffic generated as a result of the subject proposal will only marginally exceed the previously approved development

These conclusions are based on the following recommendations/management controls being implemented:

- A noise screen is recommended along the South Street Service vehicle entrance as illustrated below. Screen must be of a solid impermeate construct (FC sheet, lapped and capped timber, masonry etc.) and at least 1.5m high.

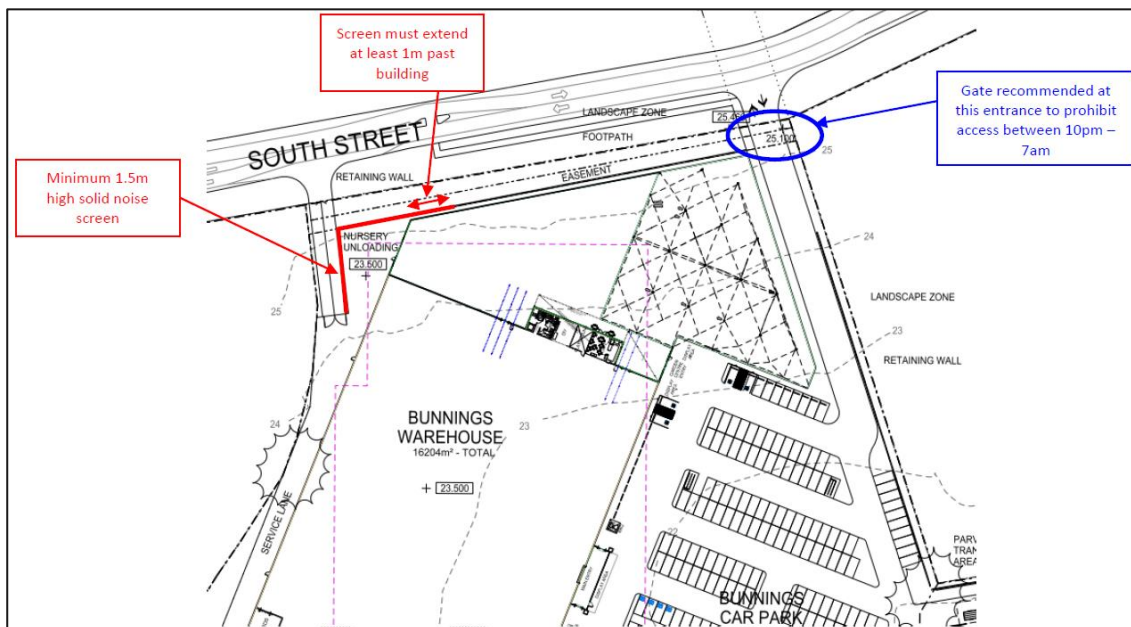


Figure 12 – Location of acoustic wall

- All service vehicles arriving at the nursery unloading area must switch off their engines during idling.
- It is recommended service vehicles turn off engines during idling or loading/unloading when using the loading dock (Lots 1 or 2).
- No forklifts are permitted in the nursery unloading area.
- All loading dock operations must commence after 7am. No external operations must occur after 6pm.
- A gate is recommended to the South Street entrance for general traffic. This access cannot be used between the hours of 10pm – 7am.
- Detailed review of all external mechanical plant and equipment associated with the subject proposal should be undertaken at construction certificate stage (once plant selections and locations are finalised). Acoustic treatments should be determined in order to control plant noise emissions to the levels set out in section 6.2 of the Acoustic report.

The modified development will incorporate the recommendations of the Acoustic Assessment.



## 8.7. CRIME PREVENTION AND SAFETY

Barker Ryan Stewart have prepared an updated CPTED assessment in accordance with the guidelines prepared by the NSW Police in conjunction with the Department of Planning and Environment.

Barker Ryan Stewart's assessment concludes that the development can be managed to minimise the potential risk of crime. This includes support of the extended trading hours of the restaurant to 24 hours, seven days per week.

The following mitigation measures are recommended:

- Maintain clear sight lines across the site.
- Clearly delineate public spaces from private areas.
- Maintain low level planting in appropriate locations to provide good visibility of the site from surrounding streets and the neighbouring open space area.
- Engage the services of security contractors to regularly inspect the site.
- The car park and external areas should be well lit at night.
- Implement an on-going maintenance plan.
- Directional signage shall be provided throughout the development. The signage is to be clear, legible and useful, to aid way finding throughout the site.
- All buildings shall have a security alarm system fitted with remote monitoring and response.
- Introduce a public address system to assist with security and management of emergencies.
- Install CCTV, especially in areas that are not clearly visible from public areas.

The report concludes that:

*“Development can be managed to minimise the potential risk of crime and a re-design of the proposal is not required.*

*The proposed trading hours 6am until 10pm at night for Bunnings and 24/7 for the fast food will maintain a regular flow of customers and staff to and from the premises for good passive surveillance.”*

For further information about the CPTED assessment, refer to the CPTED report at **Appendix H**.

## 8.8. WASTE MANAGEMENT

Elephants Foot have prepared three Waste Management Plans for:

- Lot 1 (Bunnings Warehouse) and Lot 2 (5x bulky goods tenancies and fast food restaurant);
- Lot 3 (6x large scale bulky goods tenancies and fast food restaurant);

The reports outline estimated generated waste volumes and management plans based on different types of waste product. Based on these calculations, the reports make recommendations as to the amount and types of bins, waste rooms, collection areas and the like required to service the development.

For more information, refer to **Appendix I** for more detail.

## 8.9. SIGNAGE

Signage is proposed as part of this application per the description in Section 5.1.1 in this report and illustrated in the Architectural Plan set at **Appendix A**.

Accordingly, a SEPP 64 assessment has been prepared and is included at **Appendix J**.

The proposed signs do not strictly comply with the Lake Macquarie DCP in terms of height and width – however they are considered appropriate for the following reasons:

While the proposed pylon signs do not comply with the DCP in number, height and width, they are considered appropriate in context of the site for the following reasons:

- The site has an area of approximately 7.89ha with the main site frontage to the Pacific Highway which is a vehicle thoroughfare for the Lake Macquarie LGA. Accordingly, the site is prominently located and lends itself to visual signage which will indicate the site usage to passing traffic. The purpose of the signage is to advertise the retail offerings and give opportunity for passing trade to enter the site.
- As the site is of a substantial size and accommodates 5 separate elements (being the Bunnings Warehouse, Lot 2 bulky goods tenancies, the restaurant, Lot 3 bulky goods tenancies and the service station and fast food restaurant – subject to concurrent but separate DA), three pylon signs are deemed appropriate to advertise each built form element spread across the site without cluttering the street frontage.
- Given the scale of proposed and concept development, the size of the pylon signs are considered appropriate in context of the surrounding urban environment.

## 8.10. SUITABILITY OF THE SITE

Consent was granted for the proposed facility in March 2015 and the site remains suitable for the proposed use, inclusive of the modifications sought by this application.

## 8.11. PUBLIC INTEREST

The modification development will provide significant social and economic benefits for the Lake Macquarie LGA and prevent a key site of substantial size and single ownership adjacent to the Pacific Highway from remaining vacant and undeveloped.

- It will facilitate the prompt development and activation of the site to ensure a sustainable hardware and building supplies and bulky goods retail offering as intended in DA251/2013.
- It will create significant local employment opportunities that fit the profile of the local workers, and the local context of the Bennetts Green retail precinct. The proposal will realise the sites potential to provide important employment opportunities on the site with approximately 200 operational jobs (in addition to employment created during construction). The increased direct employment provided by the proposal will increase access to full time, part time and casual work.
- It continues to support the uses associated with the established commercial/industrial area of Bennetts Green, located to the east of the site through the creation of a compatible bulky goods centre and hardware and building supplies uses.
- This type of development may encourage new people to visit Bennetts Green and contribute to enhancing the profile of the local area.

Therefore, the proposal is considered to be consistent with the public expectation for development in the locality and is in the public interest.

## 9. CONCLUSION

This Section 96(2) Application includes a range of modifications to improve the layout, efficiency and functionality of the site to more appropriately reflect the uses and future tenants.

This application will facilitate the prompt development and activation of the site to ensure a sustainable hardware and building supplies and bulky goods retail offering as intended in DA251/2013. This development strategy is the subject of three separate planning applications:

1. **Section 96(2) Application:** This application seeking to amend the design for proposed Lot 1, and 2 and the concept building envelope associated with Lot 4.
2. A Stage 2 Development Application seeking approval for design of the bulky goods tenancies on Lot 4.
3. A Development Application for a service station and take away food and drink premises on Lot 4.

These applications are lodged concurrently with this application.

In summary, this Section 96(2) Application satisfies the requirements of Section 96(2) and Section 79C of the Act as follows:

- The modified development is 'substantially the same' development as that approved. It does not alter the nature of the approved development, and in context of the site, the increase in GFA is minimal in nature and overall the development will appear visually consistent with that approved.
- The modified development is essentially and materially of the same essence. The uses forming part of the approved development being 'building supplies warehouse and showroom' or hardware and building supplies, bulky goods premises and restaurant remain unchanged as a result of this application. Further these uses are retained within their approved locations across the site.
- The modifications do not result in any substantial environmental, economic or social impacts and:
  - The modification will facilitate the prompt development and activation of the site to ensure a sustainable hardware and building supplies and bulky goods retail offering as intended in DA251/2013.
  - The proposal will realise the sites potential to provide important employment opportunities on the site with approximately 200 operational jobs (in addition to employment created during construction). This will provide significant social and economic benefits for the Lake Macquarie LGA and prevent a key site of substantial size adjacent to the Pacific Highway from remaining vacant and undeveloped.
  - Remains permissible with consent under the Lake Macquarie LEP 2014 and satisfies the various zone objectives and relevant clauses including height of building control;
  - Continues to satisfactorily mitigate environmental impacts by providing appropriate ecological requirements, accommodating bushfire measures and including a holistic stormwater solution;
  - Is consistent with the broader public interest. It continues to support the uses associated with the established commercial/industrial area of Bennetts Green, located to the east of the site through the creation of a compatible bulky goods centre and hardware and building supplies uses.
- The proposed modification does not change the suitability of the site or the approved development.

Based on the above, we conclude that the proposed modification can and should be promptly approved pursuant to the provisions of Section 96(2) of the Act.



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